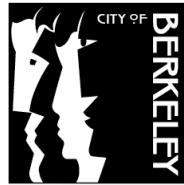


AGENDA



BERKELEY CITY COUNCIL MEETING

**Tuesday, December 14, 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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/83481524655>. 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: **834 8152 4655**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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.*

- Adjournment in Memory of Bob Meola Peace & Justice Commissioner

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.

Consent Calendar

- 1. Bayer Healthcare LLC – Amended and Restated Development Agreement**
From: City Manager
Recommendation: Adopt the second reading of Ordinance No. 7,792-N.S. to certify the Final Subsequent Environmental Impact Report, adopt Findings and a Mitigation Monitoring and Reporting Program, and approve the Amended and Restated Development Agreement between the City of Berkeley and Bayer Healthcare LLC.
First Reading Vote: All Ayes
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 2. Amendments to the Berkeley Election Reform Act**
From: Fair Campaign Practices Commission
Recommendation: Adopt the second reading of Ordinance No. 7,793-N.S amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) make public financing available to candidates for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner, (2) further clarify the use of Fair Elections funds, (3) clarify the requirements for returning unspent Fair Elections funds, (4) add a new process for requesting return of previously repaid Fair Elections funds, and (5) require the FCPC to make a cost of living adjustment to the contribution limit to candidates in January of each odd-numbered year.
First Reading Vote: All Ayes
Financial Implications: None
Contact: Sam Harvey, Commission Secretary, (510) 981-6950
- 3. Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission**
From: City Manager
Recommendation: Adopt the second reading Ordinance No. 7,794-N.S. repealing and re-enacting Berkeley Municipal Code Chapter 3.26 to create the Parks, Recreation, and Waterfront Commission, and repealing Berkeley Municipal Code Chapters 3.27 (Children, Youth, and Recreation Commission) and 3.08 (Berkeley Animal Care Commission).
First Reading Vote: Ayes – Kesarwani, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Taplin, Bartlett, Harrison
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

- 4. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**
From: City Manager
Recommendation: Adopt a Resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021 and November 16, 2021.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950
- 5. 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, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, and November 9, 2021.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998
- 6. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the council meetings of November 2 (closed), November 4 (special), November 9 (closed and regular), November 16 (closed and regular), November 18 (closed) and November 30 (closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 7. City of Berkeley's 2022 State and Federal Legislative Platform**
From: City Manager
Recommendation: Adopt a Resolution approving the City of Berkeley's 2022 State and Federal Legislative Platform.
Financial Implications: See report
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000

Consent Calendar

- 8. Extension of Interim Director of Police Accountability Appointment**
From: City Manager
Recommendation: Adopt a Resolution extending the appointment of Katherine J. Lee as Interim Director of Police Accountability and approving an employment contract to be effective January 1, 2022 at an annual salary of \$182,260.65.
Financial Implications: See report
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000
- 9. 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 \$70,000 through November 8, 2022.
Financial Implications: General Fund - \$70,000
Contact: Matthai Chakko, City Manager's Office, (510) 981-7000
- 10. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 14, 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: General Fund - \$960,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 11. Contract: RLH & Associates for Providing Temporary Governmental Financial Consulting Services for the Finance Department**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with RLH Associates for providing temporary governmental financial consulting as required by the Finance Department for an initial term of two years. The total not to exceed contract amount is \$150,000.
Financial Implications: General Fund - \$150,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

- 12. Contract: Valdes and Moreno for Professional Services for the Microbond Financing Pilot Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with Valdes and Moreno for professional services needed to establish and administer full-services consulting and other services related to a Microbond Financing Program. The total not to exceed amount is \$150,000.
Financial Implications: General Fund - \$150,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 13. Contract: Gainey Scientific for Project Management & Consulting**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Ganey Scientific. (Contractor) to provide project management and consulting services for the Fire Department (Department) from September 13, 2021 to August 31, 2022 in an amount not to exceed \$300,000 with an option to extend for an additional two years, for a total contract amount not to exceed \$900,000.
Financial Implications: See report
Contact: Abe Roman, Fire, (510) 981-3473
- 14. Revenue: FY2022 Federal COVID-19 Funding from HHS CARES Act Provider Relief Fund**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to accept payments from the Health and Human Services (HHS) CARES Act Provider Relief Fund and to execute any resultant revenue agreements and amendments to conduct and implement mitigation strategies in response to COVID-19 in the estimated amount of \$80,000 for FY 2022.
Financial Implications: See report
Contact: Abe Roman, Fire, (510) 981-3473
- 15. Revenue Contract: Funding from an Instructional Service Agreement with Los Positas College to support Fire Department Training**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to enter an Instructional Service Agreement (ISA) with Los Positas Community College (LPC) to provide contract instruction, assessment, and counseling services from July 20, 2021, to July 19, 2024 for an amount not to exceed \$250,000 per fiscal year.
Financial Implications: See report
Contact: Abe Roman, Fire, (510) 981-3473

Consent Calendar

16. **Contract: Statewide Prevention and Early Intervention Project Participation Agreement - California Mental Health Services Authority**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a Participation Agreement and any amendments with the California Mental Health Services Authority (CalMHSA) to allocate Mental Health Services Act (MHSA) funds in the amount of \$65,956 to participate in the Statewide Prevention and Early Intervention (PEI) Project, for a total amount not to exceed \$65,956 through June 30, 2022.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
17. **Contract: 2022 Community Services Block Grant**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to accept the Community Services Block Grant (CSBG) Contract Number 22F-5001 for the amount of \$274,202 to provide services for low-income people for the period January 1, 2022 to May 31, 2023.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
18. **Resolution Authorizing an Amendment to the Miscellaneous CalPers Contract Pursuant to California Government Code 20516**
From: City Manager
Recommendation: Adopt a Resolution revising Resolution No 70,081 N.S to initiate a process to amend the contract between the Board of Administration, California Public Employees' Retirement System and the City Council for the City of Berkeley pursuant to California Government Code 20516 to effectuate changes to the cost sharing agreement between the City and Unrepresented PEPRAs members in the Unrepresented Employees Group.
Financial Implications: See report
Contact: Donald E. Ellison, Human Resources, (510) 981-6800
19. **Contract 32100185 Amendment: Digital Hands for Endpoint Detection and Response (EDR) Monitoring**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend contract number 32100185 with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), increasing the previously authorized contract amount by \$381,137, for a total not to exceed amount of \$996,117 from December 15, 2021 to June 30, 2024.
Financial Implications: IT Cost Allocation Fund - \$381,137
Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000

Consent Calendar

- 20. Contract: Alcor Solutions, Inc. for Managed Services and Upgrade Support of the ServiceNow Application**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Alcor Solutions, Inc. to provide managed support services and upgrade support for the ServiceNow application from July 1, 2022 to June 30, 2024 for an amount not-to-exceed \$300,000.
Financial Implications: IT Cost Allocation Fund - \$300,000
Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000
- 21. Contract No. 31900197 Amendment: Accela, Inc. for Software Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 31900197 with Accela, Inc., for software maintenance, increasing the amount by \$133,420 for a total not to exceed \$2,192,611 from December 12, 2011 to June 30, 2023.
Financial Implications: Various Funds - \$133,420
Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000
- 22. Contract No. 114159-1 Amendment: Tyler Technologies, Inc. for Professional Services and Computer Aided Dispatch (CAD) Software**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 114159-1 with Tyler Technologies, Inc. for additional professional services and an extension of the Computer Aided Dispatch (CAD) software, increasing the amount not-to-exceed by \$733,720 for a total contract value not-to-exceed \$2,288,950, and extending the term of the contract through June 30, 2024.
Financial Implications: Various Funds - \$733,720
Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000
- 23. Donation: New Fencing for a Dog Park at Aquatic Park**
From: City Manager
Recommendation: Adopt a Resolution accepting a cash donation in the amount of \$26,566 to install fencing for a dog park at Aquatic Park.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

- 24. Contract: Cumming Management Group, Inc. for Project Management Services for the African American Holistic Resource Center**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a not-to-exceed \$900,000 contract with the Cumming Management Group, Inc. for project management services for the African American Holistic Resource Center (AAHRC) for a contract period of January 3, 2021 through June 30, 2025.
Financial Implications: Various Funds - \$900,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 25. Contract: Get IT Tech – New Electronic Gate System at the Waterfront**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract with Get IT Tech to provide a new electronic gate system at the Waterfront in an amount not-to-exceed of \$100,000, which includes a contract amount of \$91,748.67 and a 9% contingency in the amount of \$8,251.33, rescinding Resolution No. 69,929-N.S.
Financial Implications: Marina Fund - \$100,000
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 26. Contract: Best Contracting Services, Inc. for Fire Station No.3 Re-Roofing Project at 2710 Russell Street. Specification No. 20-11408**
From: City Manager
Recommendation: Adopt a Resolution:
1. Approving plans and specifications for the Fire Station No.3 Re-roofing Project, Specification No.20-11408;
2. Accepting the bid of Best Contracting Services, Inc. as the lowest responsive and responsible bidder; 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, for an amount not to exceed \$326,733.
Financial Implications: Capital Improvement Fund - \$326,733
Contact: Liam Garland, Public Works, (510) 981-6300
- 27. Purchase Order: Arata Equipment Company for one 18-yard Rear Loader**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the city to participate in Sourcewell (formerly NJPA) bid procedures and authorize the City Manager to execute a purchase order for one 18-yard rear loader with Arata Equipment Company in an amount not to exceed \$345,000.
Financial Implications: General Fund - \$345,000
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

- 28. 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

Council Consent Items

- 29. Allocating Remainder of Berkeley Relief Fund**
From: Mayor Arreguin (Author), Councilmember Robinson (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution accepting a \$28,142.38 payment from the East Bay Community Foundation of funds raised by the Berkeley Relief Fund and authorizing the City Manager to allocate these funds to the following:
\$10,000 to the Starry Plough Pub and Music Venue
\$18,142.38 to the Eviction Defense Center for the Housing Retention Program
Financial Implications: Berkeley Relief Fund - \$28,142.38
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 30. Eleventh Annual Martin Luther King Jr. Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**
From: Mayor Arreguin (Author), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), and Councilmember Hahn (Co-Sponsor)
Recommendation: 1. Adopt a Resolution co-sponsoring the 11th Annual Martin Luther King Jr. Celebration Breakfast on January 17, 2022.
2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Arreguin, to the Berkeley Rotary Endowment, the fiscal sponsor of the 11th Annual Martin Luther King Jr. celebration, 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: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 31. Resolution in Support of Bay Adapt: Regional Strategy for a Rising Bay**
From: Mayor Arreguin (Author) and Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution in support of Bay Adapt: Regional Strategy for a Rising Bay.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

- 32. Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval** (*Reviewed by the Land Use, Housing and Economic Development Policy Committee*)
From: Councilmember Rashi Kesarwani (Author) and Councilmembers Susan Wengraf, Lori Droste, and Ben Bartlett (Co-Sponsors)
Recommendation: Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels. Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage:
- ADU Universal Checklist.** A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by (1) all City staff to review ADU permit applications and (2) by customers to understand code requirements and development standards. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time. *Progress To Date:* Recently, the City of Berkeley's Planning Department has added both a Single-Family ADU/JADU Checklist and a Multi-Family ADU Checklist which clearly delineate development standards as adopted by the State of California, effective January 1, 2020. An ADU Universal Checklist would take these checklists one step farther by including current amendments to Berkeley's local ADU ordinance (once adopted) as well as the full list of fire and safety code requirements.
- Accompanying User-Friendly Webpage.** As a companion to the ADU Universal Checklist, the City should also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline for the creation of an ADU or Junior ADU, which is within a main dwelling unit. At a minimum, the webpage should include: A list of relevant fees and expected payment amounts for permits, inspections, and other requirements; Plan requirements, worksheets, and projected timelines for each step of the process; and Consolidated up-to-date state and local regulations that are easy to understand. *Progress To Date:* The City now has a dedicated webpage that contains: A Graphic Summary; Table of our local ADU ordinance; An ADU flow-chart detailing allowable development standards; A Single-Family ADU/JADU Checklist; A Multi-Family ADU Checklist; Deed Restrictions Forms; A list of Impact Fees. Additional information that could prove useful to prospective residents, builders and architects includes: Links to fire safety and emergency access requirements; A list of site conditions that do not warrant easy installation of an ADU; A list of Frequently Asked Questions; Additional frequently requested Planning and Development forms,

Council Consent Items

such as our Tree Protection Instructions and Creek Protection Instructions forms, and our Public Works Engineering forms pertaining to Curbs, Gutters, Sidewalks and Driveway Approaches listed elsewhere on the City of Berkeley website; Information about financing options; and Links to additional resources, such as The Casita Coalition, an organization that disseminates information on policies and programs, best practices, and resources throughout the state.

Recommend that the City Manager consider adoption of the following two best practices: Pre-Approved ADU Design Plans. Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of vendors with architectural designs, construction drawings, or pre-fabricated units that have already been approved by the City.

ADU Ally. Consider creation of a single point of contact e-mail address dedicated to serving those interested in ADU construction, along the lines of an "ADU Ally." The ADU Ally would be a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process. Currently, our Planning Department does have a team of planners with an expertise in ADU laws and requirements, although the public lacks an easy and efficient way to access this team.

Policy Committee Recommendation: On November 4, 2021 the Land Use, Housing and Economic Development policy committee took the following action: M/S/C (Droste/Robinson) Qualified positive recommendation with direction for the item to be updated to include progress already made in this area as described by the Planning Director.

Financial Implications: See report
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

- 33. Budget Referral: Pedestrian Crossing Improvements at Ashby and Acton**
From: Councilmember Taplin (Author)
Recommendation: That the City Council refers to the FY2023 budget process the funding of Rectangular Rapid Flashing Beacons (RRFB) at Ashby Avenue and Acton Street.

Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

- 34. Budget Referral: Russell Street Bicycle and Pedestrian Improvements**
From: Councilmember Taplin (Author)
Recommendation: That the City Council refers to the FY2023 budget process the funding of the following bicycle and pedestrian improvements along Russell Street:
Traffic Circle at Russell & King Street
Cycle Track Crossing at Russell & San Pablo Avenue
Pedestrian Hybrid Beacons at Russell & Sacramento Street

Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Council Consent Items

- 35. Commit the City of Berkeley to a Just Transition from the Fossil Fuel Economy**
(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee)
From: Councilmember Taplin (Author), Councilmember Bartlett, Councilmember Hahn, and Mayor Arreguin (Co-Sponsors)
Recommendation: Adopt a resolution (1) committing the City of Berkeley to a Just Transition from the fossil fuel economy, that secures a livable future for all Berkeleyans, combats environmental racism, ensures access to good paying jobs, and cultivates economic and social prosperity for Berkeley in the 21st century and beyond and (2) requiring that all Council reports related to climate include a Just Transition section.
Policy Committee Recommendation: On June 2, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee took the following action: M/S/C (Harrison/Robinson) to send the item to Council with a positive recommendation as submitted in the supplemental material and further revised to include a recommendation that all Council reports related to climate include a just transition section.
Financial Implications: None
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 36. Reaffirming the City Council's Endorsement of a Carbon Fee and Dividend**
From: Councilmember Taplin (Author)
Recommendation: Readopt Resolution No. 67,595–N.S urging the United States Congress to enact a national revenue-neutral carbon tax and send a copy of the resolution to Representative Barbara Lee, Senator Dianne Feinstein and Senator Alex Padilla urging them to take action.
Financial Implications: None
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 37. Health Care Facility Oversight**
From: Councilmember Bartlett (Author)
Recommendation: Refer to the City Manager and the Community Health Commission an assessment of the breadth of regulatory control the City of Berkeley can exert on skilled nursing facilities, and create a process of accountability if complaints are found to be substantiated that threaten, or could potentially escalate to the point of threatening, the wellbeing of patients and/or violate federal, state, or local law; the business license of the offending facility will be suspended until the skilled nursing facility submits a report demonstrating rectification of the situation.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130

Council Consent Items

- 38. Consideration of Expansion of Paid Parking to Support the Parking Meter Fund and Improved Pedestrian and Bicycle Facilities**
From: Councilmember Hahn (Author), Councilmember Harrison (Co-Sponsor), Councilmember Taplin (Co-Sponsor), and Councilmember Robinson (Co-Sponsor)
Recommendation: 1. Refer to the City Manager and the Transportation Commission to consider the extension of paid metered parking to include all days of the week, paralleling the calendar for off-street parking garages.
2. Consider a pilot, phasing-in, and/or exempting certain areas, and conduct broad outreach to merchants, faith-based and other institutions and organizations, neighborhood groups, and others potentially supported or impacted by change.
3. Consider allocation of potential additional revenues to help offset losses to the Parking Meter Fund incurred during COVID. Once the Fund has recovered, consider allocations to support pedestrian and bicycle facilities to help achieve Berkeley's Climate Action and Vision Zero goals on an accelerated basis.
Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
- 39. Letter to UC President Michael Drake in Support of Student Researchers United-UAW**
From: Councilmember Robinson (Author) and Councilmember Hahn (Co-Sponsor)
Recommendation: Send a letter to UC President Drake and Provost Michael Brown in support of the full recognition of the Student Researchers United-UAW labor union.
Financial Implications: None
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
- 40. Support for H.R. 4194: The People's Response Act**
From: Councilmember Robinson (Author) and Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution supporting H.R. 4194, the People's Response Act, which would create a Division of Community Safety and provide grants to local governments, state governments, and community-based organizations to support non-carceral approaches to public safety. Furthermore, send a letter of support to Representative Cori Bush, Representative Barbara Lee, Senator Alex Padilla, and Senator Dianne Feinstein.
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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

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

Action Calendar – Public Hearings

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

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

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

41. Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph ‘NN’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code”) to Restore Language Which Existed Prior to October 26, 2021

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt the second reading of an Ordinance No. 7,791-N.S. which rescinds Ordinance 7,788-N.S. and modifies the language of Paragraph ‘NN.’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and restores language which existed prior to October 26, 2021.

First Reading Vote: All Ayes

Financial Implications: None

Contact: Abe Roman, Fire, (510) 981-3473

Action Calendar – Public Hearings

- 42. Public Hearing: Implement Residential Preferential Parking (RPP) Program on the 1600 Block of Lincoln Street**
From: City Manager
Recommendation: Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25E by adding a subsection to implement Residential Preferential Parking (RPP) on both sides of the 1600 block of Lincoln Street in Area E.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 43. Fees: Vital Records**
From: City Manager
Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution establishing a new fee schedule for Vital Records effective January 1, 2022 and rescinding Resolution No. 70,116-N.S. This fee adjustment is to become effective January 1, 2022 pursuant to Assembly Bill (AB) 128 (Chapter 21, Statutes of 2021), and Health & Safety (H&S) Codes, § 103627, 100425, 100430, and 100435.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Action Calendar – New Business

- 44. FY 2021 Year-End and FY 2022 First Quarter Budget Update**
From: City Manager
Recommendation: Discuss and determine the funding allocations for FY 2022 based on the FY 2021 Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) City Manager Budget Recommendations and 3) the Council Budget Referrals approved during FY 2022 to be considered in November 2021.
Financial Implications: See report
Contact: Rama Murty, Budget Office, (510) 981-7000
- 45. Amendment: FY 2022 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt first reading of an Ordinance amending the FY 2022 Annual Appropriations Ordinance No. 7,779–N.S. for fiscal year 2022 based upon recommended re-appropriation of committed FY 2021 funding and other adjustments authorized since July 1, 2021, in the amount of \$177,309,914 (gross) and \$163,076,585 (net).
Financial Implications: See report
Contact: Rama Murty, Budget Office, (510) 981-7000

Action Calendar – Public Hearings

- 46. Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance**
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23.306] and amendments to relevant Defined Terms [BMC Chapter 23.502.020] in the Zoning Ordinance.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 47. Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns**
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of a local Ordinance enacting Chapter 12.99 (Accessory Dwelling Units in Wildfire Hazard Areas) Accessory, and amending (BMC) Chapter 23.306.
Financial Implications: None
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

- 48. Ratification of Police Accountability Board’s Standing Rules**
From: Police Accountability Board
Recommendation: Review and approve Standing Rules of the Police Accountability Board.
Financial Implications: None
Contact: Katherine Lee, Interim Director of Police Accountability, (510) 981-4950

Information Reports

- 49. City of Berkeley, State Tobacco Prevention Program (STPP) Overview**
From: City Manager
Contact: Lisa Warhuus, Health, Housing, and Community Services, (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 December 2, 2021.

Mark Numainville, City Clerk

Communications – December 14, 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.

Item #41: Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph 'NN' of Berkeley Municipal Code Section 19.48.020 ("Amendments to

the California Fire Code”) to Restore Language Which Existed Prior to October 26, 2021

1. Patricia Hart and Hans Stahlschmidt

Support the Berkeley Plastic Bag Ordinance

2. 30 similarly-worded form letters

Solano-Peralta Park

3. Amber Turley
4. Carol Hirth
5. Alyse Jacobson
6. Holly Smith
7. Csilla Kenny
8. Finn Michaelson
9. Mary Foretich
10. Kim Thompson
11. Janice Murota
12. Cherilyn Parsons
13. Jason Gardner & Maureen Phelan

Tenant Opportunity to Purchase Act (TOPA)

14. 4 similarly-worded form letters

Free Speech

15. Nilang Gor

Alta Bates Hospital

16. Praveen Soo, Chair of the Human Welfare Community Action Commission

Crime Suppression Unit

17. Diana Bohn

Fee Parking at Marina

18. Nancy Bartell

Traffic Safety Enforcement

19. Keith Nickolaus

Hopkins Street Traffic and Placemaking Study

20. Ben, Karen, Chuck, and Liza on behalf of Walk Bike Berkeley
21. Barbara Fritz

Housing & Absentee Investors

22. V. Sommer

Happy Thanksgiving

23. Dirk Neyhart

Leonard Powell

24. Diana Bohn

No masks

25. David Lerman

Elmwood Parking

26. Dona Bretherick

Pilot for Transportation Dept.

27. Sheila Goldmacher

GoBerkeley SmartSpace Parking Pilot

28. Jean H.

Banning Gendered Language

29. Jo Foley

Rapid Rehousing Funding

30. Diana Bohn

November Newsletter

31. Eden I&R

East Bay Community Energy

32. Board of Directors Agenda

Climate Change

33. Thomas Lord

Housing Crisis

34. JE

ORDINANCE NO. 7,792-N.S.

APPROVING DEVELOPMENT AGREEMENT AMENDMENT WITH BAYER
HEALTHCARE LLC

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

1. Section 1. Approval and Implementation of Amended and Restated Development Agreement Between the City of Berkeley and Bayer Healthcare LLC.

a. This Ordinance incorporates by reference that certain Amended and Restated Development Agreement (approved concurrently with this Ordinance) by and between the City of Berkeley and Bayer Healthcare LLC.

b. This Ordinance is adopted under the authority of the Development Agreement Statute (Government Code section 65864 et seq.) and City of Berkeley Ordinance No. 6033-N.S. (Berkeley Municipal Code Chapter 22.16), establishing development agreement procedures.

c. The City Council hereby finds and determines that the Amended and Restated Development Agreement (“Development Agreement”) is consistent with the policies, goals, standards, objectives, and general land uses contained in the General Plan for the City of Berkeley and the West Berkeley Plan.

d. The City Council hereby approves the Development Agreement, substantially in the form on file with the City Clerk, subject to such minor and clarifying changes as may be approved by the City Manager prior to execution thereof and subject to further revisions as may be necessary to conform that document to the City Council’s actions.

e. The City Manager is hereby authorized and directed to execute the Development Agreement on behalf of the City of Berkeley after the effective date of this Ordinance.

f. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the implementation and administration of the Development Agreement pursuant to the terms of Berkeley Municipal Code Chapter 22.16 and the Development Agreement.

g. This Ordinance shall take effect thirty (30) days after its introduction and adoption.

h. Within ten (10) days after the date upon which the City Manager executes the Development Agreement on behalf of the City, the City Clerk shall record the

Development Agreement and this Ordinance with the County Recorder of the County of Alameda.

Section 2. Building Height Standards

a. The City Council finds that the Development Agreement and documents incorporated by reference therein contain ample information demonstrating the need for the life sciences building heights on the Bayer Campus. The need for heights that exceed the standard height limits for the Mixed Manufacturing zoning district has been substantiated by engineering, land use, and environmental analyses that the City has evaluated, which are included as Exhibit F to the Development Agreement.

b. Accordingly, the City Council determines and ordains that development of the Project Site in accordance with the Development Agreement shall not necessitate the issuance of variances pursuant to the City of Berkeley Zoning Ordinance with respect to building heights.

Section 3. Alternative Percentage for Public Art on Private Projects In-Lieu Fee Approved

a. The City Council finds that Bayer' development would ordinarily be subject to the public art requirements of Berkeley Municipal Code Chapter 23C.23.

b. The City Council finds that due to the particularly high construction costs required by the Bayer Project, an in-lieu public art fee meeting the requirements of Chapter 23C.23 would be disproportionately high and would require reallocation of community benefits provided by Bayer.

b. The City Council finds that the needs and priorities of the City are best served by establishing an alternative public art in-lieu fee for this Development Agreement, in order to allocate larger portions of the community benefits payments to affordable housing, STEAM education, and the West Berkeley Fund.

c. The City Council finds that the Development Agreement, in requiring a total of \$2,482,500.00 to be paid to the Private Percent Art Fund over its term, will provide a significant and meaningful contribution toward providing public art and cultural services to the community at large.

d. Accordingly, City Council approves the public art fee amount and payment schedule as set forth in Exhibit D of the Development Agreement, which shall apply in lieu of the requirements of Chapter 23C.23.

Section 4. Adoption of SEIR.

The Council hereby certifies and adopts the Subsequent Environmental Impact Report as the environmental review for the project, and adopts the Findings set forth in Exhibit B to this Ordinance.

Section 5. Definitions.

Terms used in this Ordinance which are defined in the Development Agreement shall have the meanings identified therein.

Section 6. Expiration.

This Ordinance shall expire and be of no further force or effect upon the occurrence of either of the following events: (a) expiration of the Term of the Development Agreement; or (b) termination or cancellation of the Development Agreement in accordance with the terms of the Development Agreement or pursuant to Berkeley Municipal Code Chapter 22.16.

Section 7. Posting.

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.

Exhibits

A: Amended and Restated Development Agreement with Exhibits A-I

B: CEQA Findings

At a regular meeting of the Council of the City of Berkeley held on November 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.

AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BERKELEY AND BAYER

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT (the "Agreement") is entered into this []th day of [month], 2021, between BAYER HEALTHCARE LLC ("Bayer"), and the CITY OF BERKELEY, ("City") pursuant to the authority of Sections 65864 et seq. of the California Government Code, sections 22.16.010 et seq., of the Berkeley Municipal Code¹ establishing Development Agreement Procedures, and the "Large Site Development Process" authorized by the West Berkeley Plan, as incorporated into the Berkeley General Plan.

RECITALS AND FINDINGS

This Agreement is based on the following facts, understandings and intentions of the parties:

- A. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature enacted the Development Agreement Statute (Government Code, Section 65864 et seq.), which authorizes any city to enter into binding, long-term agreements with persons or entities having legal or equitable interests in real property, for which agreements provide for the development of the property.
- B. The City, by Ordinance No. 6033 - N.S., dated March 5, 1991, adopted procedures for the processing, consideration and implementation of development agreements, now set forth in Berkeley Municipal Code sections 22.16.010 et seq. Berkeley Municipal Code section 22.16.040 provides that a development agreement shall set forth the permitted uses of the subject property; the general location and density or intensity of uses; the general location, maximum height and size of proposed buildings; and provisions for reservation or dedication

¹ All citations to the Berkeley Municipal Code herein shall refer to the version of the Code existing upon the date of execution of this Agreement.

of land for public purposes. A development agreement may also include conditions, terms, restrictions, and requirements for Subsequent discretionary actions.

- C. The current West Berkeley Bayer Campus, and the surrounding Berkeley neighborhood, are subject to the West Berkeley Plan, which was adopted as an amendment to the General Plan in 1993. The principles of the West Berkeley Plan were enshrined in the City's legislatively sanctioned 1991 "Preferred Land Use Concept" for the West Berkeley Area Plan, which preceded formal adoption of the West Berkeley Plan. The purpose of the West Berkeley Plan is to set forth guidelines for a range of land uses in West Berkeley, and to provide important points of reference in making land use decisions on specific projects. (See West Berkeley Plan, Land Use Section, at "Goals and Policies.")

- D. Both the 1991 "Preferred Land Use Concept" for the West Berkeley Area Plan and the West Berkeley Plan set forth a "Large Site Development Process" for sites of at least 5 acres in West Berkeley that propose to use a development agreement as an alternative land use entitlement.

- C. Pursuant to Berkeley Municipal Code sections 22.16.030(E), the City Council, on April 16, 1991, determined that a development agreement was the appropriate form of entitlement for the buildout of a West Berkeley Campus for Miles, Inc., now owned and operated by Bayer, under Berkeley Municipal Code sections 22.16.010 et seq. and the 1991 "Preferred Land Use Concept," which would subsequently become the West Berkeley Plan. Accordingly, on February 25, 1992 City entered into a development agreement with Miles Inc. ("1992 Development Agreement"). Miles Inc. subsequently changed its corporate name to Bayer Corporation. Bayer HealthCare LLC is an affiliate of Bayer Corporation and is a successor in interest to the Project Site as defined herein and to the rights and obligations of the 1992 Development Agreement.

- D. The 1992 Development Agreement recitals stated that the Miles Inc. (now Bayer) campus was a large-site development project, and further concluded that the use of a development agreement for the site was appropriate under the April 9, 1991 version of the Preferred Land Use Concept for the West Berkeley Area Plan, and was consistent with the City's General Plan. The 1992 Development Agreement recitals further stated that the agreement was being entered pursuant to Ordinance No. 6033 (subsequently codified as Berkeley Municipal Code Chapter 22.16).

E. In 1993, the City of Berkeley formally amended the Berkeley General Plan to adopt the West Berkeley Plan.

F. On June 10, 1999, City entered into the First Amendment to Development Agreement between the City of Berkeley and Bayer (A Corporation Formerly Named Miles Inc.) ("1999 Amendment"), which amended the 1992 Development Agreement to reallocate square footage assigned for production and utilities uses to administration and laboratory uses, change permitted uses within particular blocks of the Bayer Campus, and change planning and architectural design guidelines along public right of ways, in all affecting 230,000 square feet of building space. On July 21, 2000, independent of the 1992 Development Agreement as amended, the City approved Use Permit #00-10000008 for 14.4 acres of property owned by Bayer located west of Seventh Street and south of Carleton Street ("South Properties Use Permit").

G. Bayer HealthCare LLC is a corporation duly organized under the laws of the State of Delaware, is in good standing thereunder, and is duly qualified to conduct business in the State of California. Bayer represents that on the Effective Date it possesses a legal or equitable interest in Parcels 54-1770-8-1, 54-1773-3-4, 54-1777-1, 54-1777-2, and 54-17482-1, within the City of Berkeley, collectively consisting of approximately 46 acres generally bounded by the Union Pacific Railroad to the west, Dwight Way to the north, Seventh Street to the east, and Grayson Street to the south, as well as a parcel located at the southeast corner of the intersection of Dwight Way and Seventh Street (collectively, "Project Site"). The Project Site consists of The North Properties at 800 Dwight Way, which comprises 31.9 acres north of Carleton Street; and The South Properties at 801 Grayson Street, which comprises 14.4 acres south of Carleton Street.

H. The Project Site is currently home to the Bayer Campus, consisting of 36 buildings developed under the 1992 Development Agreement, the 1999 Amendment, and the South Properties Use Permit.

I. City and Bayer have reached accord on, and desire to express herein, an Amended and Restated Development Agreement, extending the initial term of the 1992 Development Agreement by 30 years. This accord builds upon the 1992 Development Agreement and associated relationship between the City and Bayer and is designed to permit the continued development and operation of the Bayer Campus at the Project Site pursuant to conditions that are in the best interests of the public and the City, and at the same time facilitate an economically feasible development. It is the intent of the City to grant certain development and

use rights in the Project Site to Bayer and obligate Bayer to limit its scope of development in accordance with this Agreement, which governs permitted uses, density and intensity, height, and requirements for Subsequent discretionary actions, and to provide additional public benefits in the form of environmental mitigations, community benefits, fees, property dedications, and public improvements.

- J. The Project as defined herein is compatible with the uses authorized in the zoning district governing the Project Site, and with the existing uses of the Bayer Campus. This Agreement provides that development on the Bayer Campus shall be governed by current City land use regulations now in effect, subject to certain alternative height limits, development standards, design guidelines, and development approval procedures set forth in this Agreement, and shall comply with certain future City ordinances as set forth in Article 3 of this Agreement. As provided in the 1992 Development Agreement, to the extent the Project contains buildings which exceed the standard height limits identified in the City's standard Mixed Manufacturing zoning district, the need for these heights has been substantiated by engineering, land use, and environmental analyses that the City has evaluated, which are included as Exhibit F to this Agreement. The aesthetic impacts of this development plan have been evaluated in the Bayer HealthCare LLC Development Agreement Amendment Project's Subsequent Environmental Impact Report (SCH# 2020100559) and determined to be less than significant.
- K. Bayer is engaged in the business of developing, manufacturing and distributing therapies for human health and has been conducting this business for the last thirty years at the Project Site. Bayer's Berkeley operations currently employ approximately 1,000 employees, making Bayer Berkeley's largest private-sector employer. Bayer aims to continue the development of patient therapies based on biotechnology, maintain the capacity to pursue multiple research tracks simultaneously, and focus on the development and production of specific therapies to address significant medical needs throughout the term of this Agreement. Product development encompasses many stages from the discovery or initial research on a potential new pharmaceutical product, through regulatory approval, to initial commercialization. As a consequence, long range planning and the expedition of various stages of manufacturing is essential to Bayer's ability to deliver therapies to patients as quickly as possible.
- L. Bayer wishes to continue to use its current site in Berkeley as a world-wide center for the development and implementation of the methods and facilities discussed above. Bayer further wishes to maximize its ability to attract and retain top talent and partners by ensuring

that the campus' physical configuration and design support this goal and facilitate and enhance the Project Site's existing and future ability to support the biotech development and manufacture of medicines that improve patient outcomes. In order to accomplish this, Bayer seeks to maximize the productive utilization of the land areas and current buildings to take new treatments through biotech development and manufacturing, with a priority on commercializing new therapies using new and innovative technologies.

- M. Bayer intends to apply for various land use and building approvals in connection with the implementation of the Project during the term of this Agreement, including one or more zoning certificates, administrative use permits, design review approvals, building permits and certificates of occupancy as described more fully in this Agreement.

- N. Continued development of the Project Site in a comprehensive fashion as contemplated in this Agreement will result in substantial public benefits to West Berkeley and the City at large, its residents, and surrounding communities. Among other public benefits, the Project will further cement Berkeley's standing as a destination for research and development of therapies providing a large biotech anchor to:
 - (1) enable the continued productive use of industrial property in the City;

 - (2) expand the City's property tax base;

 - (3) provide publicly accessible open space in West Berkeley;

 - (4) continue to conduct and evolve operations in a sustainable manner that will assist in reducing greenhouse gas emissions, including the continuation and enhancement of Bayer's Transportation Demand Management Program, as outlined in **Exhibit H**, and sourcing of 100 percent renewable energy by 2030; and

 - (5) support a variety of community programs as set forth in the Exhibits to this Agreement, including funding for STEAM/career technical education, affordable housing, childcare, public art, initiatives to advance carbon neutrality, initiatives to address inequities in health status among Berkeley residents, and programs designed to support locally-owned businesses, entrepreneurship, and/or general wealth building for disadvantaged members of the community.

- O. In consideration of the approval of vested and other development rights under this Agreement, the City has negotiated for and shall receive from Bayer the community investments and benefits set forth in **Exhibit D** and **Exhibit H** of this Agreement, in the full amounts and on the schedule specified therein. The City finds these investments will benefit the public welfare and reflect the priorities of the City Council and the community.
- P. On October 20, 2021, the City Planning Commission, the initial hearing body for purposes of Development Agreement review pursuant to Government Code section 65867 and Berkeley Municipal Code section 22.16.050, at a noticed public hearing following environmental review, unanimously adopted a recommendation to approve this Agreement and its Subsequent Environmental Impact Report.
- Q. On November 30, 2021 the City Council certified the adequacy of the Subsequent Environmental Impact Report, introduced Ordinance No. 7,792-N.S. and held a public hearing for the approval of this Agreement. On December 14, 2021, following a duly noticed public hearing, the City Council adopted Ordinance 7,792-N.S approving this Amended and Restated Development Agreement and authorizing its execution; that Ordinance took effect on January 14, 2022.
- R. **[PLACEHOLDER FOR CITY FINDING OF CONSISTENCY, IF SO FOUND]**: The City Council finds that this Development Agreement furthers, and is not detrimental to, the public health, safety, and general welfare, including the health safety and welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood; that the Agreement is consistent with the City's current General Plan and the West Berkeley Plan; that the mitigations adopted in the Project's Mitigation Monitoring and Reporting Program, as identified in **Exhibit E**, have been duly considered by the City; that the Project's Subsequent Environmental Impact Report completely and accurately identifies and properly mitigates the impacts of the Project; and that this environmental review complies with the provisions of the California Environmental Quality Act. This Agreement has been approved in accordance with the City's ordinances, rules and regulations for the approval of development agreements.

AGREEMENT

ARTICLE 1: DEFINITIONS

Section 1.1. "Bayer" refers collectively to Bayer HealthCare LLC, a limited liability company organized and existing under the laws of the State of Delaware. As used in this Agreement, the

term "Bayer" includes any successor in interest to Bayer HealthCare LLC, as authorized and permitted under this Agreement.

Section 1.2. "Bayer Campus" refers to Bayer's property, operations, and buildings within the Project Site.

Section 1.3. "City" is the City of Berkeley, a municipal corporation organized and existing under the Berkeley City Charter and the laws of the State of California.

Section 1.4. "City Council" is the City Council of the City.

Section 1.5. "City Manager" is the City Manager of the City or the City staff person they designate to carry out all or part of the City's responsibilities for implementing this Agreement.

Section 1.6. "Design Review Committee" is the Design Review Committee of the City.

Section 1.7. "Days" shall refer to calendar days.

Section 1.8. "Effective Date" is the date this Agreement is executed by the City Manager pursuant to Section 6.18 hereof.

Section 1.9. "Enacting Ordinance" means City Ordinance No. [New Ord #], enacted by the City Council on [date], 202[1], approving this Agreement. This Agreement shall constitute a part of the Enacting Ordinance as if incorporated therein in full, and a copy of this ordinance is attached hereto as Exhibit I.

Section 1.10. "Existing Ordinances" means Ordinances in effect as of the Effective Date, including the Enacting Ordinance. Bayer shall have the right to waive its vested rights as to any particular vested law, regulation, development standard, or other requirement, at its sole discretion, consistent with the terms of Section 3.2 of this Agreement.

Section 1.11. "Future Ordinances" means Ordinances enacted after the Effective Date, and includes amendments which may be made to Existing Ordinances.

Section 1.12. "Ordinances" means the ordinances, resolutions, codes, rules, regulations and official policies of the City governing the permitted uses of land, density, design, improvement, and construction standards and specifications applicable to the use and development of the

Project Site. Said Ordinances include without limitation the City's General Plan, the West Berkeley Plan, Zoning Ordinances, and building standards.

Section 1.13. "Original Agreement" means the 1992 Development Agreement, as amended by the 1999 Amendment.

Section 1.14. "Planning Commission" is the Planning Commission of the City.

Section 1.15. "Project" means the planned further development of the Project Site or a portion thereof from the years 2022 to 2052 in accordance with this Agreement, including Exhibits C and H hereto.

Section 1.16. "Project Site" means that certain real property graphically depicted on Exhibit A and legally described in Exhibit B.

Section 1.17. "Reserved Discretionary Approvals" means any Subsequent land use or development permits or entitlements applied for by Bayer or its successors in interest with respect to development of the Project, the approval of which requires the exercise of discretion on the part of any City office, board, or body having jurisdiction with respect thereto. The Reserved Discretionary Approvals, as identified in Exhibit C, shall include the following as applicable to the Project, unless otherwise exempt from a discretionary approval by this Agreement:

- (a) Administrative Use Permits.
- (b) Design Review.
- (c) Variance.
- (d) Environmental Review. Any required additional environmental review or procedures that may be applicable to the above-mentioned approvals.

Section 1.18. "Subsequent" means occurring after the Effective Date.

ARTICLE 2: LIST OF EXHIBITS

- EXHIBIT A. SITE MAP
- EXHIBIT B. LEGAL DESCRIPTION OF PROJECT SITE
- EXHIBIT C. SITE DEVELOPMENT STANDARDS AND DESIGN GUIDELINES
- EXHIBIT D. COMMUNITY BENEFITS
- EXHIBIT E. MITIGATION MONITORING AND REPORTING PROGRAM
- EXHIBIT F: REPORT ON JUSTIFICATION FOR HEIGHTS IN EXCESS OF FORTYFIVE FEET
- EXHIBIT G: MANUFACTURING AND DEVELOPMENT ACTIVITIES, ENVIRONMENTAL SAFETY
- EXHIBIT H: TRANSPORTATION DEMAND MANAGEMENT PROGRAM
- EXHIBIT I: COPY OF EXISTING ORDINANCES

ARTICLE 3: DEVELOPMENT OF PROJECT SITE

Section 3.1. General. Bayer shall have the vested right to develop the Project on the Project Site and City shall have the right to regulate development and use of the Project Site in accordance with the provisions of this Agreement.

Section 3.2. Applicable Ordinances. The Ordinances that apply to the Project, and are vested, under this Agreement are as follows:

- (a) *Existing Ordinances.* Subject to the terms of this Agreement, including without limitation **Exhibit C** of this Agreement, the Existing Ordinances shall control development of the Project. Except as otherwise provided in this Agreement, to the extent that any Existing Ordinances are in conflict with this Agreement, this Agreement shall prevail, unless the parties mutually agree to amend or modify this Agreement pursuant to Article 5 hereof.
- (b) *Future Ordinances.* To the extent that any Future Ordinances, whether adopted by the City Council or by initiative, are not in conflict with this Agreement and Existing Ordinances, such Future Ordinances shall be applicable to the Project. Future Ordinances, whether adopted by the City Council or by initiative, that are in conflict with this Agreement and Existing Ordinance shall not be applicable to the Project.
- (c) *Other future regulations.* Notwithstanding any other provision of this Agreement, state, federal, building, health and safety, and other rules shall apply to the Project as set forth in Sections 3.7, 3.8, and 3.9 of this Agreement.
- (d) *Conditions of approval.* This Agreement shall not prevent the City from denying or reasonably conditioning approval of any application for a Subsequent discretionary or ministerial approval for the Project on the basis of Existing Ordinances, Future Ordinances, and/or this Agreement to the extent they are applicable to the Project Site under this Article 3 and do not conflict with vested rights under this Agreement. This provision shall not be construed in any way as a waiver of Bayer's rights against unlawful takings and exactions under state and federal law.
- (d) *Conflicting Ordinances.* For purposes of this Agreement, an Ordinance or condition shall be deemed to conflict with this Agreement or Existing Ordinances if (1) there is an express inconsistency between the language of the Ordinance or condition and the terms of this Agreement or Existing Ordinances that makes it impossible for Bayer to comply with its obligations thereunder, or (2) implementation of the Ordinance or

condition would materially limit the ability of Bayer to construct and operate the Project according to the terms of the Agreement and/or the Existing Ordinances. Examples of Future Ordinances or conditions that would conflict with the terms of this Agreement and/or Existing Ordinance include, without limitation, Future Ordinances or conditions that modify permitted uses of the Project Site, the density and intensity of such uses, the maximum height and size of proposed buildings, the requirements for reservation and dedication of land for public purposes, requirements associated with Subsequent discretionary approval processes (including without limitation the imposition of new discretionary permitting or approval processes), fee calculation methodologies, development standards, design guidelines, amendments to the City's Natural Gas Prohibition Ordinance under Berkeley Municipal Code Chapter 12.80 or the imposition of other energy requirements that render construction or operation of the Project technologically or otherwise infeasible, and any regulations materially interfering with Bayer's ability to undertake the scope of activities set forth in the Exhibits to this Agreement. However, Future Ordinances addressing solar infrastructure requirements, energy conservation, water conservation, or recycling requirements would not be in conflict with the Agreement.

- (e) *Waiver of vested rights.* Notwithstanding the above, Bayer shall have the right, at its sole election, to waive any of the foregoing vested rights, in whole or in part, in conducting construction or operations on the Project Site or in pursuing any particular Reserved Discretionary Approval or other entitlement.

Section 3.3. Reserved Discretionary Approvals. Development of the Project Site shall be subject to the Reserved Discretionary Approvals of **Exhibit C**. In reviewing applications for administrative use permits and other Subsequent discretionary approvals, City may exercise design review authority consistent with the provisions of **Exhibit C** and any Applicable Ordinances as set out in Section 3.2, and may attach such conditions and requirements as may be necessary or appropriate so long as they are consistent with such provisions of **Exhibit C** and any of the Ordinances that apply as set forth in this Article 3.

Section 3.4. Processing of Subsequent Approvals. The parties recognize that in order to implement the further development of the Project Site as contemplated in this Agreement, Bayer must obtain Subsequent land use and building approvals from City including, without limitation, administrative use permits, zoning certificates, design review approvals, building permits, demolition permits, and/or certificates of occupancy. Provided that Bayer exercises reasonable diligence, acts in good faith, pays all required processing fees, and files full and complete

applications in conformity with this Agreement and Applicable Ordinances, as set forth in this Article 3, City shall expeditiously review and process all applications for Subsequent approvals required to develop the Project. City shall use its best efforts to process and act upon all such applications within the following time periods following submission of a complete application to City and completion of any required CEQA review, or as soon thereafter as is reasonably practicable:

- (a) Administrative Use Permits – One hundred and twenty (120) Days
- (b) Staff-level Design Review – One hundred and twenty (120) Days
- (c) Design Review Committee Approval – One hundred and eighty (180) Days
- (d) Final Design Review – Within forty-five (45) Days of submitting a complete application.
- (e) Other ministerial approvals, including without limitation zoning certificates, building permit submittals, , electric, mechanical and plumbing permit submittals, and other construction-related work submitted and reviewed as part of the City's ministerial review processes. City shall complete initial plan checks and/or other necessary reviews and notify Bayer of any deficiencies within thirty (30) business days following the date the plans and supporting documentation are submitted for review and shall provide Subsequent plan checks and or other reviews, if necessary, within fifteen (15) business days from the date corrected or revised plans are submitted for review. Inspections (including final inspections) shall be conducted within three business days of Bayer's notification to the City that construction has been completed, and certificates of occupancy shall issue within five business days of a final inspection confirming improvements substantially comply with approved plans.
- (f) Applicable engineering and/or utility permits. Such permits shall be subject to the schedule for ministerial permits identified in section 3.4(e).

The above time periods shall be extended if necessary to achieve compliance with the California Environmental Quality Act or other applicable State or Federal laws or regulations. Notwithstanding the above, the City agrees to make best efforts to process any necessary negative declarations or mitigated negative declarations within six months of determining a project application is complete (or such application being deemed complete), and any environmental impact reports within one year of determining a project application is complete (or

such application being deemed complete). Provided that the City makes best efforts to meet the timelines set forth in this Section, the failure to meet any such timeline shall not be a breach of this Agreement.

Section 3.5. Development Impact and Processing Fees. All City approvals, permits, and entitlements relating to the Project shall be subject to generally-applicable application, processing, and inspection fees in effect at the time the approvals, permits, and entitlements are issued.

As to all other fees imposed by ordinance ("City Fees"), including without limitation all development impact fees, all city approvals, permits, and entitlements relating to the Project shall be subject only to those City Fees in effect at the time the Enacting Ordinance becomes effective except to the extent modified under **Exhibit D**. As used in this paragraph, the term "development impact fees" shall mean monetary exactions which are charged by City to Bayer in connection with any approval, permit, or entitlement relating to the Project, for the purpose of defraying all or a portion of the cost of public facilities, programs, or services related to the Project pursuant to BMC Section 22.20.

Section 3.6. Other Governmental Permits. At its sole expense, Bayer shall apply for and obtain such other permits and approvals as may be required from other governmental or quasigovernmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project consistent with this Agreement. To the extent City has approved an application for a Subsequent Project approval, it shall cooperate in good faith by providing any information, documents, or consents within the City's control that are consistent with the City's approvals that are reasonably necessary for Bayer to process applications for such other government approvals. The requirements of this Section shall not be construed as limiting the City's discretion to approve or deny any Subsequent Project approval or as obligating the City to undertake any new studies or analyses.

Section 3.7. Building Standards. Ordinances establishing building standards, including without limitation the California Building Code, California Energy Code, California Green Building Standards, California Electrical Code, California Plumbing Code, California Fire Code, and California Mechanical Code (including any local amendments thereto adopted by the City), which are adopted or revised during the term of this Agreement, shall apply as of the time of granting construction and building permits for development of the Project.

Section 3.8. Health or Safety Ordinances. This Agreement shall not be construed to limit the authority of City to adopt and apply to the Project Future Ordinances or other Subsequent requirements or conditions which the City determines to be necessary to protect persons from a condition that is dangerous to their health, safety, or both. Examples include, without limitation, measures applicable to access for persons with disabilities; life safety systems; hazardous materials storage, transportation or disposal; fire protection; health officer orders and directives; and seismic safety. Notwithstanding the above, the adoption of any Ordinances under this Section shall not interfere with Bayer's otherwise lawful activities and development rights as set forth in **Exhibits C and G** of this Agreement or Bayer's ability to handle materials subject to Biosafety Level 1 and Biosafety Level 2 standard practices, as defined by the United States Department of Health and Human Services Centers for Disease Control and Prevention and National Institutes of Health and according to the terms set forth in **Exhibits C and G**.

Section 3.9. State and Federal Requirements. This Agreement shall not preclude the application to the development and use of the Project Site of changes in Ordinances, the terms of which are specifically mandated by, or are necessary for the City to come into compliance with, State or Federal laws or regulations, as provided in Government Code section 65869.5. In the event that State or Federal laws or regulations, or actions by any governmental jurisdiction other than City, prevent or preclude compliance with one or more provisions of this Agreement, or require changes in approvals issued by City, this Agreement shall be modified, extended or suspended to the extent reasonably necessary to comply with such State or Federal laws or regulations or the regulations of such other governmental jurisdiction.

Section 3.10. Bayer's Obligations. The City Fees, any dedications of land, construction and financing of public improvements, and other community benefits and environmental mitigations and monitoring programs to be undertaken by Bayer in connection with the development of the Project Site shall be as set forth in **Exhibits D, E, G, and H** to this Agreement. The community benefits and mitigation measures in the foregoing Exhibits constitute the community benefits that Bayer is obligated to perform, and any and all exhibits to the 1992 Development Agreement and the 1999 Amendment are superseded and void. All monetary payments to be made by Bayer for dedications of land, construction and financing, benefits, and environmental mitigations and monitoring programs under this Agreement shall be adjusted for inflation. Such adjustments shall be applied as of the first business day of each new year following the Effective Date except that no adjustment shall be made at the beginning of **[2022]**. Adjustments for inflation and deflation shall be based upon the U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for the Bay Area (San Francisco-

Oakland/Hayward), not seasonally adjusted, using the Effective Date as a baseline for calculations, except to the extent specifically provided for in this Agreement.

The maximum buildout of the site will be in accordance with the maximum allowable levels identified in the Site Development Plan in **Exhibit C**, a level less than the aggregate amount entitled under the Original Agreement and the South Properties Use Permit. The parties acknowledge that Bayer cannot at this time predict whether Project buildout will occur to the maximum allowable levels identified in the Site Development Plan in **Exhibit C**. Future decisions with respect to actual Project buildout will depend upon a number of circumstances not entirely within the control of Bayer, including without limitation the success of its research efforts, demand for patient therapies, the development of new products, regulatory approvals, and marketing considerations. Decisions with respect to the extent of future Project buildout shall be within the exercise of Bayer's good judgment, so long as the Project is developed in accordance with the provisions of this Agreement. Bayer's decisions regarding the timing or extent of Project buildout shall not affect its obligation to provide the community benefits in accordance with this Agreement. This section does not limit or modify the procedures and remedies described in Article 4.

In the event of a third-party challenge to the City's approval of this Agreement in which the court has ordered a stay of the City's approval of this Agreement, Bayer shall not be obligated to make any community benefits payments under **Exhibit D** for so long as the stay remains in effect, unless the parties have agreed to toll the Term of this agreement. Upon termination of the stay, Bayer shall pay a pro-rated amount of the community benefits payment that would have been due for the year in which the stay is terminated. Notwithstanding the foregoing, Bayer shall not be relieved of its obligation to pay development impact fees as and when due. In the event of a successful third-party challenge to the City's approval of this Agreement, if Bayer has constructed or is operating any portion of the Project and the court order, judgment, or other decision does not require the removal of facilities or cessation of activities, the City shall not independently seek removal or cessation of such facilities or activities.

Section 3.11. Right of Way Dedication. The parties have discussed their various interests and determined that Bayer shall have no further obligations to dedicate public rights of way or other interests.

Section 3.12. General Provisions With Respect to Financing Public Infrastructure. Insofar as applicable state and federal laws and City Ordinances require the construction of public infrastructure necessary to address demands and/or impacts of Bayer and third parties, and to

the extent Bayer wishes to construct such public infrastructure in advance of governmental plans under an applicable capital improvement program or other plan, City and Bayer agree to cooperate in good faith to explore the use of reimbursement agreements and/or public financing mechanisms for the provision of public infrastructure relating to the Project Site. To the extent public infrastructure is not a negotiated benefit of this Agreement, Bayer reserves its rights to seek reimbursement for amounts exceeding its fair share contribution to the subject public infrastructure from the appropriate governmental entity.

ARTICLE 4: PERIODIC REVIEW OF AGREEMENT

This Agreement shall be subject to annual review on April 1, [2023] and each April 1 thereafter during the term of this Agreement pursuant to Berkeley Municipal Code sections 22.16.070. To meet its responsibilities under Berkeley Municipal Code section 22.16.070.A.2, Bayer must submit a report which includes, in addition to other information submitted by Bayer or reasonably determined necessary by the City Manager, the following:

- (a) The total square footage developed for private use on the Project Site, and its level of compliance with Exhibit C;
- (b) The public space constructed, by category and location;
- (c) The status of implementation of the provisions of Exhibits D and E to this Agreement;
and
- (d) Bayer's proposed schedule for further development of the Project over the remaining Term of this Agreement to the extent such is reasonably foreseeable.

In conjunction with each annual review, upon the request of either party, the parties shall meet in good faith to discuss and reasonably attempt to resolve any issues raised by that party as to the other party's compliance with this Agreement. If, following such annual review, the City Manager finds that Bayer is not in compliance with the terms of the Agreement, the City Manager shall give Bayer written notice specifying the respects in which Bayer has failed to comply, and shall set forth terms of compliance and specify a reasonable time consistent with Section 6.3 of this Agreement for Bayer to meet the terms of compliance. If Bayer does not comply with any terms of compliance within the prescribed time limits, the Agreement shall be subject to termination or modification pursuant to Berkeley Municipal Code section 22.16.080B.

The parties understand that the Site Development Standards and Design Guidelines (**Exhibit C**) reflect the maximum allowable buildout envisioned for the Project and that failure to achieve the maximum allowable buildout as reflected in the Site Development Plan shall not constitute failure to make reasonable progress toward buildout of the Project. Failure of the City to conduct a periodic review shall not constitute a waiver by the City of its rights to otherwise enforce the provisions of this Agreement, nor shall Bayer have or assert any defense to such enforcement by reason of such failure to conduct a periodic review.

ARTICLE 5: AMENDMENT

Section 5.1. In General. Except as provided in Article 4, this Agreement may be canceled, modified, or amended only by mutual written consent of the parties, in accordance with the provisions of Government Code Sections 65867, 65867.5 and 65868, as incorporated by reference into the Berkeley Municipal Code, and Berkeley Municipal Code sections 22.16.050.E, 22.16.050.G, and 22.16.080.A. Bayer intends to retain ownership of, and develop, the whole of the Project Site as contemplated in this Agreement. The parties agree that the sale of a significant portion of the Project Site would materially affect the planning assumptions underlying this Agreement, requiring an amendment hereof.

Section 5.2. Major Amendments. Any amendment to this Agreement which relates to the term, permitted uses, density or intensity of use, maximum height or maximum dimensions of buildings, requirements for reservation or dedication of land for public improvements, changes in production methods set forth in **Exhibit G**, or requirements relating to Reserved Discretionary Approvals, shall require giving of notice and shall require a public hearing before the Planning Commission and City Council pursuant to the provisions of the Berkeley Municipal Code set forth in Paragraph 5.1 above.

Section 5.3. Minor Amendments. The parties acknowledge that refinement and further implementation of the Project might demonstrate that certain minor changes might be appropriate with respect to the details and performance of the parties under this Agreement. The parties desire to retain a certain degree of flexibility with respect to the details of the Project and with respect to those items covered in the general terms of this Agreement. If and when the parties find that clarifications, minor changes, or minor adjustments are necessary and do not constitute a major amendment under Section 5.2, they shall effectuate such clarifications, minor changes, or minor adjustments through a written Minor Amendment approved in writing by Bayer and the City Manager. Unless otherwise required by law, no such Minor Amendment shall require prior notice or hearings, nor shall it constitute an amendment to this Agreement as defined by the Government Code.

Section 5.4. Approved Changes under Conceptual Plan. The Site Development Plan, including all its components as listed in **Exhibit C**, contemplates specific flexibilities in the implementation of the Project, including without limitation the transfer of certain developable areas among blocks within the Site Development Plan, the movement of internal roads, and the issuance of variances of development standards and design guidelines. Exercise of these authorized changes to the Site Development Plan in accordance with the procedures and criteria set forth in **Exhibit C** shall not be deemed a Major or Minor Amendment.

ARTICLE 6: GENERAL PROVISIONS

Section 6.1. Covenants. The provisions of this Agreement shall constitute covenants or servitudes which shall run with the land comprising the Project Site, and the burdens and benefits hereof shall bind and inure to the benefit of all estates and interests in the Project Site and all successors in interest to the parties hereto.

Section 6.2. Term. The Term of this Agreement shall commence upon the Effective Date and extend until the later of February 25, 2052 or the expiration of thirty (30) years after the Effective Date, unless sooner terminated as provided in Articles 4 of this Agreement. The provisions of this Agreement, including without limitation its vesting provisions, shall apply to any development proposal subject to an application for a Reserved Discretionary Approval that is submitted to City prior to expiration of the Term.

The Term has been established by City and Bayer as a reasonable estimate of the time required to carry out the Project and obtain the public benefits of the Project. In agreeing to the Term, City has determined that this Agreement incorporates sufficient provisions to permit the City to monitor adequately and respond to changing circumstances and conditions in granting Subsequent permits and development approvals and undertaking actions necessary to carry out the Project. Furthermore, the City has determined that this Agreement incorporates sufficient provisions to permit the City to enforce this Agreement and to terminate or modify this Agreement if necessary. If Bayer has not completed development of the Project as identified in **Exhibit C** prior to the expiration of the Term, including nine hundred and eighteen thousand (918,000) square feet of new construction and one million, seven hundred and thirty-eight thousand (1,738,000) square feet in total development, the City and Bayer may jointly elect and mutually agree, in each Party's sole and absolute discretion, to extend the Term of this Agreement for a period of up to five (5) years (the "Option"). Such an Option will not require an Amendment to the Agreement, provided the Option is approved in writing by Bayer and the City Manager prior to the expiration of the Term.

Section 6.3. Default: Remedies. Failure by either party to perform any obligation under this Agreement within thirty (30) business days after written notice thereof from the other party shall constitute a default under this Agreement, subject to extensions of time by mutual consent in writing. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured. If the nature of the alleged default is such that it cannot reasonably be cured within the thirty (30) business day period, the breaching party shall not be in default if it commences of the cure within such time period and diligently prosecutes the cure to completion. Upon a party's default, the other party, at its option, may institute legal

proceedings to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation or enforce by specific performance the obligations and rights of the parties hereto. In no event shall either party or its officers, agents or employees be liable in damages for any breach or violation of this Agreement (except to the extent the action seeks specific performance of a party's obligation to pay monetary amounts under the Agreement), it being expressly understood and agreed that the sole legal remedy available to either party for a breach or violation of this Agreement by the other party shall be a legal action in mandamus, specific performance, or injunctive or declaratory relief to enforce the provisions of this Agreement. Notwithstanding the above, in the event of default by the City, Bayer shall alternatively have the right to terminate this Agreement by giving City thirty (30) Days prior written notice of its intent to terminate. Upon giving notice of intent to terminate, City may suspend the processing of any pending permit or other application for development of the Project, and any such application shall be deemed withdrawn upon termination of this Agreement.

The waiver by either party of any default under this Agreement shall not operate as a waiver of any subsequent breach of the same or any other provision of this Agreement.

Section 6.4. Enforced Delay: Extension of Time of Performance. Performance by either party hereunder shall not be deemed to be in default where delays or defaults are proximately caused by war, insurrection, strikes, walk-outs, riots, floods, earthquakes, fires, pandemics, casualties, acts of God, or similar cause which is not within the reasonable control of the party to be excused, or where performance would be inconsistent with state or federal laws or regulations, or with a court order that is not the result of the party's actions or inactions. If written notice of such delay is given to either party within thirty (30) business days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay. This section shall not be construed to extend the term of this Agreement.

Section 6.5. Cooperation in the Event of Third-Party Legal Challenge. In the event of any legal or equitable action or proceeding instituted by a third party challenging the validity of any provision of this Agreement or the procedures leading to its adoption or the issuance of Subsequent approvals for the Project, the parties hereby agree to cooperate in defending said action or proceeding. Bayer agrees to diligently defend any such action or proceeding and to bear the litigation expenses of defense, including attorney's fees. City retains the option to employ independent defense counsel at its expense. Bayer further agrees to hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments, or other losses (including without

limitation, attorneys' fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval of this Agreement or approval of any Reserved Discretionary Approval. Bayer shall have a right to terminate this Agreement by written notice of termination to the City in the event a third party files a legal challenge to the City's adoption of this Agreement or any concurrent approval so long as the notice of termination is given no later than one hundred and eighty (180) Days after the Effective Date so long as the City files a Notice of Determination with respect to its certification of the Project's Subsequent Environmental Impact Report and, otherwise, no later than two hundred and seventy (270) Days after the Effective Date, and Bayer has not constructed any Project facilities. Upon giving notice termination, any pending permit or other application for development of the Project shall be deemed withdrawn.

Section 6.6. Effect of Termination. Termination of this Agreement shall not affect Bayer's obligation to comply with the standards, terms, and conditions of any land use approvals issued with respect to the Project Site or any portion thereof, nor shall it affect any covenants of Bayer which are specified in this Agreement to continue after termination.

The following provisions of this Agreement shall survive and remain in effect following termination or cancellation of this Agreement for so long as necessary to give them full force and effect: (1) Section 6.5 (Cooperation in the Event of Third-Party Legal Challenge); (2) Section 6.3 (Default; Remedies); (3) Section 6.7 (Legal Actions; Attorneys' Fees); and (4) Section 6.9 (Hold Harmless).

Section 6.7. Legal Actions; Attorneys' Fees; Voluntary Arbitration. In any legal action for breach or enforcement of this Agreement, the prevailing party shall be entitled to recover all litigation expenses, including reasonable attorney's fees and court costs. If both parties mutually agree, each in their sole and absolute discretion, the parties may submit an action for breach of this Agreement to non-binding arbitration before a mutually acceptable retired Superior Court or Appellate Court judge. If the parties cannot agree on the selection of a retired Superior Court or Appellate Court judge, then they shall each select a retired Superior Court or Appellate Court judge, and the two selected judges will jointly select a third retired Superior Court or Appellate Court judge to serve as the arbitrator. The arbitrator shall issue such procedural and remedial orders as he/she may deem appropriate. The arbitrator's fees shall be shared equally between the City and Bayer.

Section 6.8. Construction of Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of California and City, as they may be amended, provided

that such amendments do not substantially alter the rights granted to the parties by this Agreement. Both parties and their legal counsel have reviewed this Agreement and agree that any rule that ambiguities are to be construed against the drafting party shall not apply. This Agreement, including the text and all exhibits hereto, is intended to be interpreted as an integrated whole. Where provisions appear to be in conflict, they will be harmonized if possible. In the event that an irreconcilable conflict exists between the Agreement text and one or more of the exhibits, the text shall control.

Section 6.9. Hold Harmless. Except for claims, costs and liabilities caused solely by the active negligence, gross active negligence, or willful misconduct of City, its elected and appointed representatives, officers, agents or employees ("City Officials"), Bayer hereby agrees to defend, save and hold City Officials harmless from claims, costs and liabilities for any personal injury, death or property damage which arises, directly or indirectly, from the development or operation of the Project, or from any activities performed under this Agreement by Bayer or Bayer's contractors, subcontractors, agents or employees, whether such activities were performed by Bayer or by any of Bayer's contractors, subcontractors, by any one or more persons directly or indirectly employed by, or acting as agent for, Bayer or any of Bayer's contractors or subcontractors.

Section 6.10. No Joint Venture, Partnership, or Agency. It is specifically understood and agreed by City and Bayer that the development of the Project Site according to the Development Plan is a purely private development. No partnership, joint venture, agency, or other association of any kind between City and Bayer is formed by this Agreement. The only relationship between City and Bayer is that of a governmental entity regulating the development. City and Bayer agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Bayer joint venturers, partners, or agents of one another.

Section 6.11. Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

Section 6.12. Further Documents. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments

and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement.

Section 6.13. Notices. Any notice or communication required hereunder between City or Bayer must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) business days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. Notwithstanding the foregoing, if due to shelter-in-place restrictions or any other reason a party requests in writing to receive notices by electronic mail, then notices to that party thereafter shall be given by electronic mail until such time as the party rescinds the request, provided that if notice sent electronically to the address given is blocked, returned, or otherwise undeliverable, the party may be noticed by the other methods prescribed in this section. Each Party representative noticed by email shall provide acknowledgement of receipt as soon as reasonably possible, and notice by electronic mail shall be deemed given on the date acknowledged. If the sender does not receive an acknowledgement within five (5) business days, that notice will nevertheless be deemed to have been received when originally sent by email if no more than ten (10) business days later the sender delivers a written copy of that notice as otherwise provided in this Agreement. If a party sending an email notice under this Agreement receives a machine-generated message that delivery has failed, written notice shall be provided as otherwise set forth in this Agreement. Any party hereto may at any time, by giving ten (10) business days' written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth on the below:

If to City:

City Manager
2180 Milvia Street
Berkeley, CA 94704

With copy to:

City Attorney
2180 Milvia Street
Berkeley, CA 94704

If to Bayer:

Law & Patents
Bayer HealthCare LLC
800 Dwight Way
Berkeley, CA 94710

With copies to:

Vice President of Site Engineering
Bayer HealthCare LLC
800 Dwight Way
Berkeley, CA 94710

Section 6. 14. Assignment. Bayer has represented to City that it possesses the experience, qualifications and financial resources to carry out the Project and develop the Project Site in the manner specified in the Development Plan. It is because of such qualifications and representations of Bayer that City is entering into this Agreement. Accordingly, certain restrictions on the right of Bayer to assign or transfer its interest under this Agreement are necessary in order to assure the achievement of the goals, objectives, environmental mitigations and community benefits of this Agreement. The rights and obligations of Bayer hereunder shall not be assigned or transferred, except that on thirty (30) Days written notice to City, Bayer may assign all or a portion of Bayer's rights and obligations thereunder to any person or persons, partnership, or corporation who purchases all of Bayer's right, title, and interest in the Project and the Project Site, provided such assignee or grantee assumes in writing each and every obligation of Bayer hereunder yet to be performed with respect to the assigned portion of the Project, and further provided that Bayer obtains the written consent of City to the assignment, which consent shall be given so long as the City determines that the assignee has experience, qualifications, and the financial resources sufficient to comply with the terms of this Agreement, which determination shall not be unreasonably delayed or withheld. The notice to City shall include the identity of any such assignee and a copy of the written assumption of the assignor's obligations hereunder pertaining to the portion assigned or transferred. After such notice and the receipt of such consent, the assignor shall have no further obligations or liabilities hereunder. The City Manager shall act on behalf of City regarding any actions concerning the assignment of this Agreement. Within ten (10) Days thereafter, Bayer or any interested person may appeal to the City Council the decision of the City Manager regarding the assignment of this Agreement. If the City fails to consent to an assignment under this section, Bayer shall have the right to terminate this Agreement by thirty (30) days prior written notice to the City. Upon receipt of a notice of intent to terminate, the City may suspend processing of any permit or other applications for the Project, and such applications shall be deemed withdrawn upon termination. City consent to assignment or other transfer under this Section shall not be required for an assignment or transfer resulting from a corporate

reorganization, restructuring, merger, or name change involving Bayer and affiliated entities, so long as there is no substantial change in the management or control of Bayer, and Bayer provides City with prior notice of the assignment.

Section 6.15. Right to Lease Project Facilities. The parties acknowledge and agree that Bayer, as owner of the real estate, has the right to lease, sublease or license any portion of the real estate situated at the Project (each a "Project Component") to affiliated or third parties for any purpose consistent with the terms of this Agreement, including, but not limited to constructing, operating, subleasing, and any other use related to producing therapies and medicines. Any such lease, license, or sublease ("Lease") of a Project Component shall require the tenant or occupant to comply with the obligations and requirements of this Agreement that would be applicable to such tenant or occupant, including without limitation obligations to limit activities to those set forth in **Exhibit G** of this Agreement and the handling of materials subject to Biosafety Level 1 and Biosafety Level 2 standard practices, as defined by the United States Department of Health and Human Services Centers for Disease Control and Prevention and National Institutes of Health and set forth in more detail in **Exhibit G**. Bayer shall provide City with at least thirty (30) Days prior notice of any such Lease of a Project Component. No consent by the City is required to the extent the aggregate square footage of a Project Component or Project Components subject to a Lease or Leases would comprise, cumulatively, less than three hundred and fifty thousand (350,000) of the usable floor area on the Project Site (the "350,000square-foot Threshold"). To the extent a Lease would convey rights to use space in excess of the 350,000-square-foot Threshold, the City shall have the right to disapprove the conveyance if it determines, in its reasonable discretion, that the lessee lacks sufficient experience, qualifications, or financial resources to comply with the terms of this Agreement, and the City gives Bayer notice of the disapproval within thirty (30) Days after the City's receipt of the foregoing notice. Notwithstanding any Lease of a Project Component, Bayer shall remain fully liable for its obligations under this Agreement.

Section 6.16. Entire Agreement. This written Agreement, including the exhibits hereto, contains all the representations and the entire agreement between the parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, drafts, memoranda, agreements, warranties, or representations are superseded in total by this Agreement. By way of illustration and not limitation, there terms of and any and all exhibits to the 1992 Development Agreement and the 1999 Amendment ("Outdated Exhibits") are void and no longer in effect. The provisions of the exhibits to this Agreement supersede any and all obligations and requirements set forth in the Outdated Exhibits.

Section 6.17. Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

Section 18. Warranty of Authority. The person(s) executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party, if not an individual, is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

Section 6.19. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original Agreement, and all of which shall constitute one and the same Agreement.

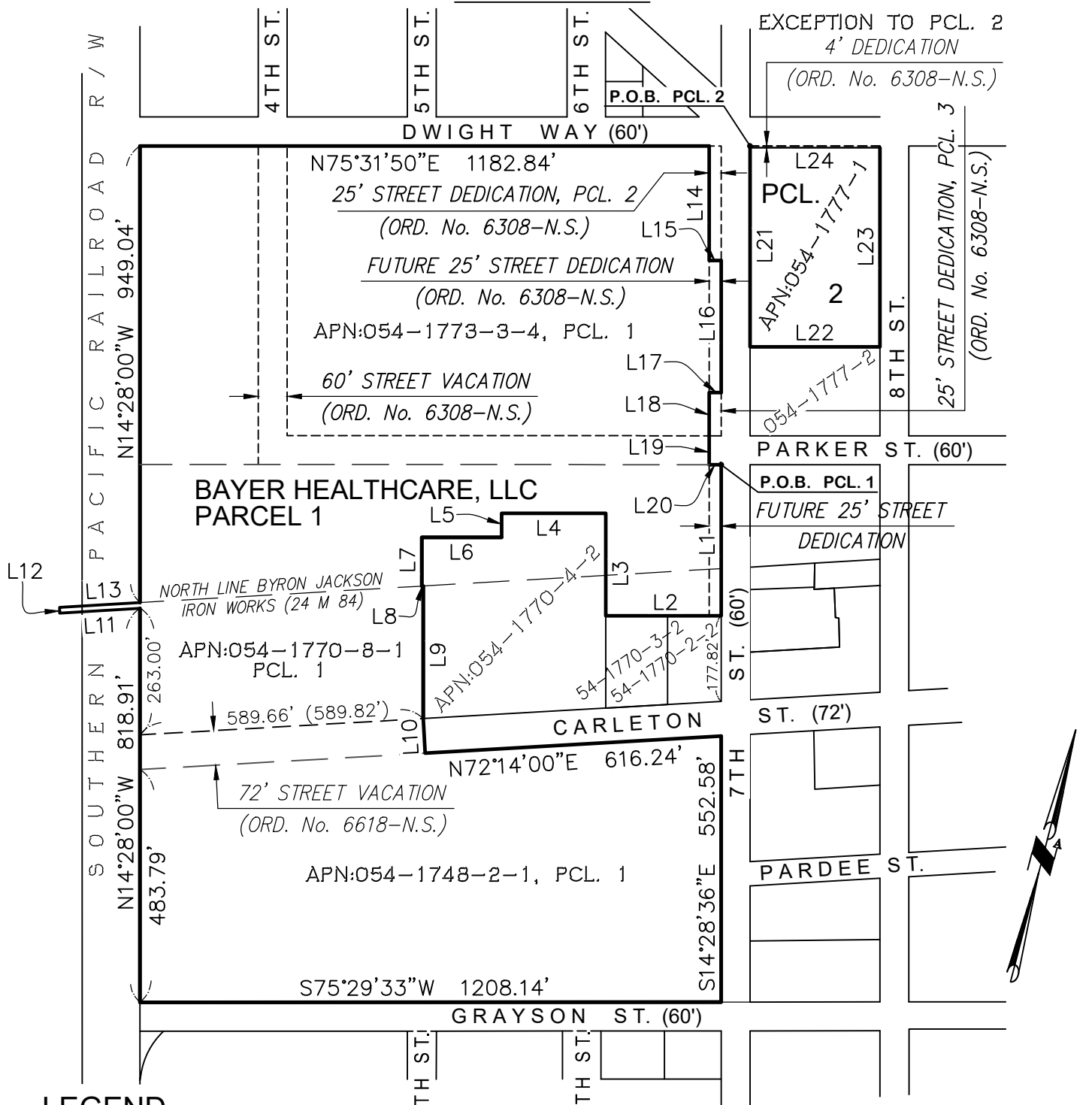
Section 6.20. Recordation. Within ten (10) Days after the Enacting Ordinance takes effect, the City Manager shall execute this Agreement on behalf of City, and the City Clerk shall record this Agreement with the Alameda County Recorder. If this Agreement is terminated, modified or amended pursuant to Article 4 or 5 of this Agreement, the City Clerk shall record notice of such action with the Alameda County Recorder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

[SIGNATURE BLOCKS TO FOLLOW]

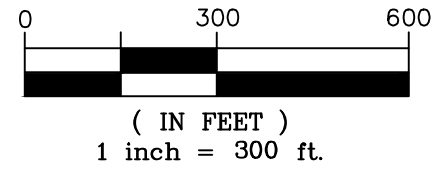
EXHIBIT

EXHIBIT A



LEGEND

- P.O.B. POINT OF BEGINNING
- BAYER HEALTHCARE PROPERTY LINE
- ADJACENT PROPERTY LINE
- () RECORD DATA SEE SHEET 2 FOR LINE TABLE



CITY OF BERKELEY ALAMEDA COUNTY CALIFORNIA



Civil Engineers
Traffic Engineers
Surveyors

Aliquot Associates, Inc.
1390 S. Main St. - Ste. 310
Walnut Creek, CA 94596
Telephone: (925) 476-2300
Fax: (925) 476-2350

Subject DEVELOPMENT AGREEMENT PLAT
Job No. 220040 Scale 1" = 300'
By MM Date 7/21/2021 Chkd. VJD
SHEET 1 OF 51 2

EXHIBIT A

PARCEL 1

APN'S: 054-1773-3-4, 054-1770-8-1, &
054-1748-2-1

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S14°28'36"E	314.26'
L2	S75°32'00"W	240.11'
L3	N14°28'00"W	213.04'
L4	S75°32'22"W	216.04'
L5	S14°28'00"E	50.00'
L6	S75°32'22"W	166.04'
L7	S14°28'00"E	101.25'
L8	N72°11'00"E	2.87'
L9	S14°28'00"E	275.52'
L10	S17°46'00"E	72.00'
L11	N72°11'00"E	167.38'
L12	S14°28'00"E	12.00'
L13	S72°11'00"W	167.38'
L14	S14°28'36"E	238.00'
L15	N75°31'24"E	25.00'
L16	S14°28'36"E	274.49'
L17	N75°31'24"E	25.00'
L18	S14°28'36"E	89.88'
L19	N14°28'36"W	60.00'
L20	N75°32'22"E	25.00'

PARCEL 2

APN: 054-1777-001

LINE TABLE		
LINE #	BEARING	DISTANCE
L21	S14°28'36"E	417.67'
L22	N75°31'50"E	270.10'
L23	N14°28'17"W	417.67'
L24	S75°31'50"W	270.13'

CITY OF BERKELEY

ALAMEDA COUNTY

CALIFORNIA

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Fax: (925) 476-2350Subject DEVELOPMENT AGREEMENT PLATJob No. 220040 Scale N/ABy MM Date 7/21/2021 Chkd. VJDSHEET 2 OF 52

EXHIBIT B

Legal Description
(consisting of sub-exhibits A & B herein)

EXHIBIT 'A'
LEGAL DESCRIPTION OF
THE BAYER HEALTHCARE, LLC BOUNDARY
FOR A DEVELOPMENT AGREEMENT

All that real property situated in the City of Berkeley, County of Alameda, State of California, being more particularly described as follows:

Parcel 1:

Beginning at the point of intersection of the south line of Parker Street (60.00 feet wide) with the west line of 7th Street (60.00 feet wide), as said streets are shown on the "Map showing subdivisions of the Lands of T. and E. Hardwick in Plot No. 59 of the V. and D. Peralta Ranchos, Berkeley, Oakland Township, Alameda County, Cal.", filed November 16, 1877, in Book 6 of Maps, at Page 15 (6 M 15) in the Office of the County Recorder of Alameda County;

thence along said west line of 7th Street, South 14°28'36" East, 314.26 feet (L1) to a point being 177.82 feet from the intersection with the north line of Carleton Street (72.00 feet wide) as shown on the "Map of Byron Jackson Iron Works Property, Berkeley, Cal.", filed July 14, 1909, in Book 24 of Maps, Page 84 (24 M 84) Alameda County Records;

thence leaving said west line of 7th Street, South 75°32'00" West, 240.11 feet (L2) to the west line of Block Q as shown on said map (24 M 84);

Thence along the west line of said Block Q and its northerly extension, North 14°28'00" West, 213.04 feet (L3) to the easterly direct extension of the north line of Lot 3, Block 155 (6 M 15);

Thence along said easterly direct extension and north line of said Lot 3, South 75°32'22" West, 216.04 feet (L4) to the west line of said Lot 3;

Thence along said west line of Lot 3, South 14°28'00" East, 50.00 feet (L5) to the north line of Lot 21 in said Block 155 (6 M 15);

Thence along said north line of said Lot 21 and the westerly extension thereof, South 75°32'22" West, 166.04 feet (L6) to the centerline of Fifth Street as shown on said (6 M 15);

Thence along said centerline of Fifth Street, South 14°28'00" East, 101.25 feet (L7) to the southerly line of said (6 M 15), said line also being the northerly line of said (24 M 84);

Thence along said southerly and northerly line of said maps, North 72°11'00" " East, 2.87 feet (L8) to a point on the west line of the lands of Macaulay Foundry, Inc. as described in the deed recorded March 18, 2004 as Instrument No. 2004-113321, Alameda County Records;

Thence along said west line, South 14°28'00" East, 275.52 feet (L9) to a point on the north line of Carleton Street, said point being 589.66 feet (589.82 feet as described in Instrument No. 2004-113321) easterly from the east right of way line of the Southern Pacific Railroad Company as shown on said (24 M 84);

Thence leaving said north line of Carleton Street, at right angles, South 17°46'00" East, 72.00 feet (L10) to a point on the south line of Carleton Street;

Thence along said south line of Carleton Street, North 72°14'00" East, 616.24 feet to a point on said west line of 7th Street;

EXHIBIT 'A'
LEGAL DESCRIPTION OF
THE BAYER HEALTHCARE, LLC BOUNDARY
FOR A DEVELOPMENT AGREEMENT

Thence along said west line of 7th Street, South 14°28'36" East, 552.58 feet to a point on the north line of Grayson Street (60.00 feet wide) as shown on the "Map of Grayson Tract, Berkeley, Cal.," filed June 1, 1892, in Book 13 of Maps, at Page 43 (13 M 43) Alameda County Records;

Thence along said north line of Grayson Street, South 75°29'33" West, 1208.14 feet to said east right of way line of the Southern Pacific Railroad Company shown on said (24 M 84);

Thence along said east line of the Southern Pacific Railroad Company right of way, North 14°28'00" West, 818.91 feet to a point distant 263.00 feet north of the north line of the Carleton Street;

Thence leaving said east line of the Southern Pacific Railroad Company right of way, South 72°11'00" West, 167.38 feet (L11) to a point on the west line of the 23.41 acre tract described as Parcel 1 in the deed from Byron Jackson Machine Works to Byron Jackson Iron Works, dated and recorded on April 11, 1907 in Book 1322, at Page 343 of Deeds, Alameda County Records;

Thence northerly along said west line of the 23.41 acre tract, North 14°28'00" West, 12.00 feet (L12) to a point on the westerly direct extension of the north line of the Byron Jackson Iron Works Property shown on said map (24 M 84);

Thence along said westerly extension, North 72°11'00" East, 167.38 feet (L13) to a point on said east line of the Southern Pacific Railroad Company right of way;

Thence along said east line of the Southern Pacific Railroad Company right of way, North 14°28'00" West, 949.04 feet to a point on the south line of Dwight Way (60.00 feet wide) as shown on said (6 M 15);

Thence along said south line of Dwight Way, North 75°31'50" East, 1182.84 feet to a point distant 25.00 feet west from said west line of 7th Street, said point also being the northwest corner of Parcel 2 as described and shown in the Dedication of 7th Street and Dwight Way in the City of Berkeley City Ordinance No. 6308-N.S. finally adopted on January 9, 1996, and in effect on February 08, 1996;

Thence along the west line of Parcel 2 of said Dedication, South 14°28'36" East, 238.00 feet (L14) to the southwest corner of said Parcel 2;

Thence, at right angles, North 75°31'24" East, 25.00 feet (L15) to a point on said west line of 7th Street;

Thence along said west line of 7th Street, South 14°28'36" East, 274.49 feet (L16);

Thence, at right angles, South 75°31'24" West, 25.00 feet (L17) to the northwest corner of Parcel 3 of said Dedication;

Thence along the west line of Parcel 3 of said Dedication, South 14°28'36" East, 89.88 feet (L18) (called 90.00 feet in the City Ordinance No. 6308-N.S.) to a point on said north line of Parker Street, said point also being 25.00 feet west from the west line of 7th Street;

Thence parallel with and distant 25.00 feet west from said west line of 7th Street, South 14°28'36" East, 60.00 feet (L19) to a point on the south line of Parker Street, said point also being 25.00 feet west from the west line of 7th Street;

EXHIBIT 'A'
LEGAL DESCRIPTION OF
THE BAYER HEALTHCARE, LLC BOUNDARY
FOR A DEVELOPMENT AGREEMENT

Thence along said south line of Parker Street, North 75°32'22" East, 25.00 feet (L20) to the **Point of Beginning**.

Containing an area of 1,903,365 square feet, more or less, or 43.69 acres measured in ground distances and shown on the plat entitled Exhibit "B" attached and made a part hereof for reference only.

APN's: 054-1773-003-4; 054-1770-008-1; 054-1748-002-1

Parcel 2:

Beginning at the point of intersection of the south line of Dwight Way (60.00 feet wide) with the east line of 7th Street (60.00 feet wide), as said streets are shown on the "Map showing subdivisions of the Lands of T. and E. Hardwick in Plot No. 59 of the V. and D. Peralta Ranchos, Berkeley, Oakland Township, Alameda County, Cal.", filed November 16, 1877, in Book 6 of Maps, at Page 15 (6 M 15) in the Office of the County Recorder of Alameda County;

Thence along said east line of 7th Street, South 14°28'36" East, 417.67 feet (L21) (called 455.14 feet in deed description);

Thence leaving said east line of 7th Street, North 75°31'50" East, 270.10 feet (L22) to a point on the west line of 8th Street;

Thence along the west line of 8th Street, North 14°28'17" West, 417.67 feet (L23) (called 419.14 feet in deed description) to a point on said south line of Dwight Way;

Thence along said south line of Dwight Way, South 75°31'50" West, 270.13 feet (L24) to the **Point of Beginning**.

EXCEPTING THEREFROM a strip of land of uniform width of 4 feet lying southerly of the south line of Dwight Way between 7th Street and 8th Street as described and shown in the Dedication of 7th Street and Dwight Way in the City of Berkeley City Ordinance No. 6308-N.S. finally adopted on January 9, 1996, and in effect on February 08, 1996.

Containing an area of 111,740 net square feet, more or less, or 2.56 acres measured in ground distances and shown on the plat entitled Exhibit "B" attached and made a part hereof for reference only.

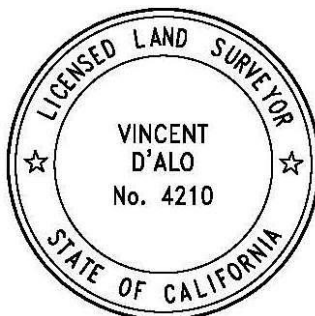
APN: 054-1777-001

END OF DESCRIPTION

Prepared by:

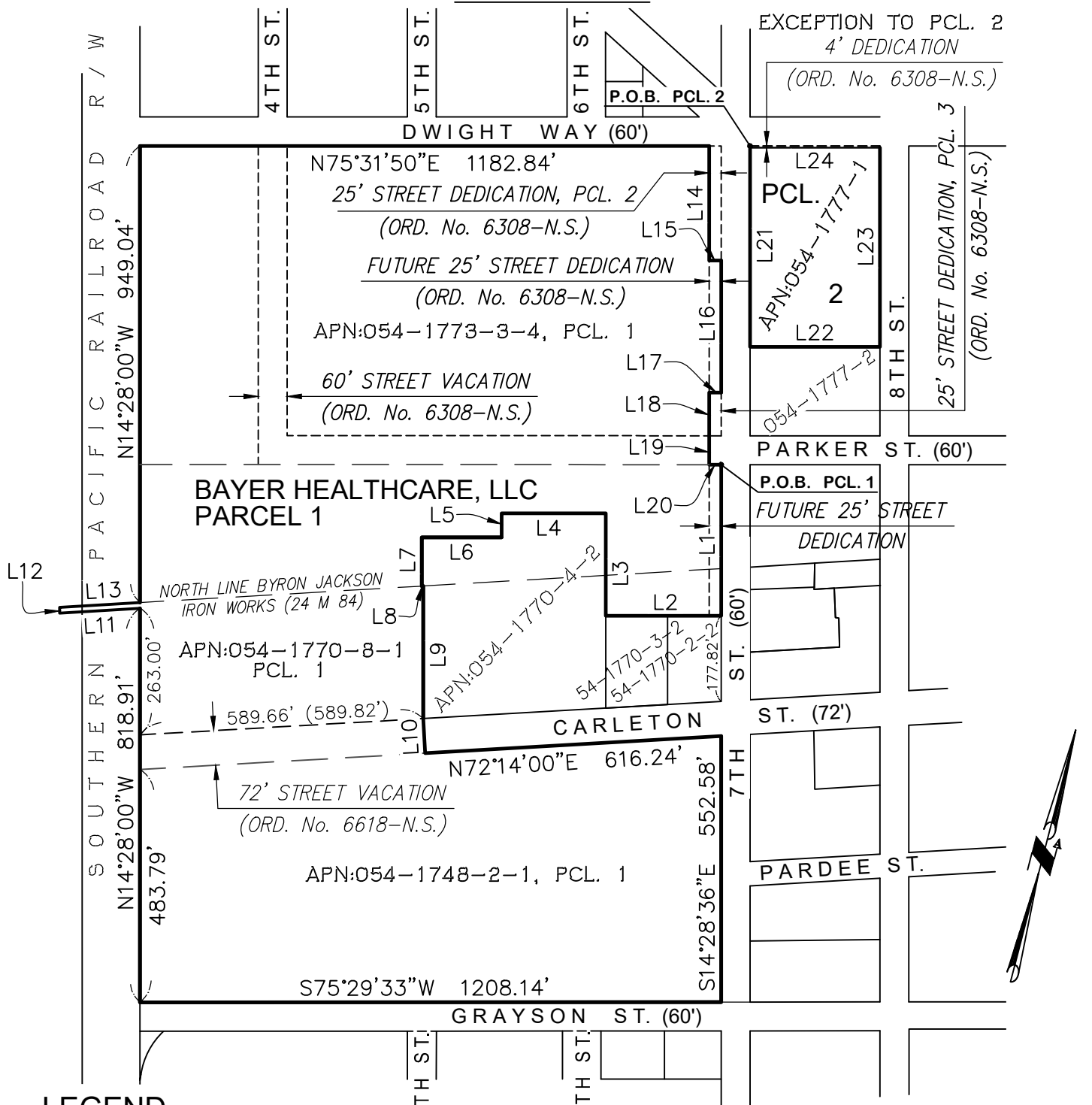


Vincent J. D'Alo
LS 4210



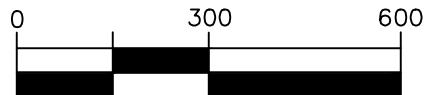
July 21, 2021
Date

EXHIBIT B



LEGEND

- P.O.B. POINT OF BEGINNING
- BAYER HEALTHCARE PROPERTY LINE
- ADJACENT PROPERTY LINE
- () RECORD DATA SEE SHEET 2 FOR LINE TABLE



(IN FEET)
1 inch = 300 ft.



CITY OF BERKELEY

ALAMEDA COUNTY

CALIFORNIA



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Traffic Engineers
Surveyors

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Subject DEVELOPMENT AGREEMENT PLAT
 Job No. 220040 Scale 1" = 300'
 By MM Date 7/21/2021 Chkd. VJD
 SHEET 1 OF 57 2

EXHIBIT B

PARCEL 1

APN'S: 054-1773-3-4, 054-1770-8-1, &
054-1748-2-1

LINE TABLE		
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L15	N75°31'24"E	25.00'
L16	S14°28'36"E	274.49'
L17	N75°31'24"E	25.00'
L18	S14°28'36"E	89.88'
L19	N14°28'36"W	60.00'
L20	N75°32'22"E	25.00'

PARCEL 2

APN: 054-1777-001

LINE TABLE		
LINE #	BEARING	DISTANCE
L21	S14°28'36"E	417.67'
L22	N75°31'50"E	270.10'
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L24	S75°31'50"W	270.13'

CITY OF BERKELEY

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EXHIBIT C

Site Development Standards and Design Guidelines

The overall Site Development is based upon an Urban Campus concept, with the purpose of ensuring efficient and productive operations. The organizational approach is to provide a campus layout that prioritizes pedestrian travel, limits vehicle circulation, and improves outdoor gathering spaces, in order to help foster easier staff collaboration.

Table of Contents

1. Administration and Implementation
2. Zoning and Permitted Uses
3. Development Standards
4. Design Guidelines

1. Administration and Implementation

1.1 Purpose and Intent

These conditions pertain to the processing and issuance of the Reserved Discretionary Approvals for the Project. Terms used herein which are defined in the body of the Agreement shall have the meanings previously identified.

1.2 Special Determinations

The City shall grant Reserved Discretionary approvals for the Project Site so long as the following Specified Determinations can be made, supported by substantial evidence:

- A. General findings:
 - A.1 The application for the Reserved Discretionary Approval sought is complete.
 - A.2 The requested approval, together with conditions attached thereto, is consistent with applicable Ordinances and this Agreement.
 - A.3 Bayer is in compliance with the provisions of the Development Agreement as set forth in the project application for the subject Reserved Discretionary approval.
 - A.4 The project and the Bayer Campus have demonstrated compliance with all applicable mitigations measures as set forth in the Bayer Healthcare DA Amendment Subsequent Environmental Impact Report (EIR) via the included compliance checklist in Appendix B.
- B. Bayer has entered into agreements with, or obtained necessary permits and approvals from, other regional, State or Federal agencies with jurisdiction over all or part of the Project, to the extent necessary for the approval sought.

- C. To the extent necessary for the approval sought, the requirements of the California Environmental Quality Act (CEQA) have been satisfied. It is anticipated that future applications for discretionary land use approvals needed prior to actual construction of production buildings, parking structures and other improvements will be reviewed to determine whether the Final Supplemental EIR adequately identifies, analyzes and mitigates, as appropriate, significant project-level environmental impacts, including any significant adverse impacts on Aquatic Park. Where the impacts of proposed development activities are not adequately addressed, supplemental environmental analysis will be conducted and appropriate mitigation, as determined by the City pursuant to CEQA Guidelines Sections 15091-15093, shall be required.
- D. The requested approval is consistent with the Site Development Plan and Site Development Standards. The use, location, size and height of any proposed building will be deemed to be appropriate if it complies with the Site Development Plan and Site Development Standards, and deviations therefrom are permitted insofar as the City makes an express finding supporting a variance as described below.
- E. In undertaking the project or activity subject to an approval set forth in Table 1, the applicant meets or commits to meet, to the City's reasonable satisfaction, the City's applicable standard conditions (as provided in Appendix C), which are not in conflict with this Agreement.
- F. The proposal will not adversely affect the public health or safety.

In the event that any of the Specified Determinations required herein for issuance of a Reserved Discretionary Approval cannot be made, approval may nevertheless be granted if unique or special circumstances exist or there are overriding public benefits or considerations with respect to the Project that warrant granting the requested approval consistent with the applicable Ordinances and this Agreement, notwithstanding the inability to make all the special determinations.

Failure of the City to strictly comply with the requirements of this Section shall not invalidate any approval issued by the City in good faith and reasonably relied upon by Bayer.

1.3 Steps in Discretionary Permit Application Process

Table 1 – Permit Requirements

Development Type	Required Permit	Design Review
Signage not visible from the public right-of-way.	Building Permit	N/A
Guard stations (per Section 3.1.2.F).		
Demolition of buildings subject to permitting processes herein, except to extent subject to Mitigation Measures in the SEIR, as outlined in Appendix B.		
Interior renovations		

Temporary buildings (trailers or structures).		Plan Check Design Review
Temporary surface parking.		
Active interior private-open space (i.e., fitness usage, barbeque areas, etc.).		
Signage visible from the public right-of-way.		
Fencing		
Construction of buildings or exterior renovation of building areas of less than 40,000 square feet.	Zoning Certificate	Staff-Level Review
Towers, antennae etc. (per Section 3.1.2.D)		
Construction of buildings or exterior renovation of building areas of 40,000 square feet or greater.	Administrative Use Permit	Design Review Committee
Construction of buildings over 45' in height and buildings visible to pedestrians from the adjacent right of way.		
Seventh Street publicly accessible open space plan for zero-build height zone.		
Parking Garages and pedestrian bridge.		

Notes:

Staff, or the Design Review Committee for purposes of review of the parking garages, shall have final approval for the projects described in the table above per the DA outlined processes and shall not be subject to administrative appeal or referral.

Demolition or renovation of structures necessary for the development of the Project Site shall not be subject to the review by the Landmarks Preservation Board nor other requirements of Chapter 3.24, Chapter 23C.08, and 23E.76 of the Berkeley Municipal Code),

- A. Pre-application discussion with City, if requested by Bayer.
- B. Mitigation by mitigation verification that Bayer Campus in general and project in specific complies with all mitigation measures of the Supplemental Draft EIR.
- C. File Application for Administrative Use Permit.
- D. Environmental initial study and further environmental review, if required.
- E. Design Review to the extent necessary. Staff shall have final design review approval for all projects except parking garages and Seventh Street publicly accessible open space, which shall be reviewed by the Design Review Committee.
- F. Zoning Officer review, as applicable.
- G. Administrative Use Permit issued.
- H. Building Permit Application(s) filed.

I. Building Permit issued.

1.4 List of Required Items for Complete Reserved Discretionary Approval Applications

- A. All applications for approvals set forth in Table 1 shall include all of the following, unless explicitly waived by the City at the time of application:
- A.1 Relevant Application Forms.
- A.2 Applicant's Statement – a written summary of the project including description of proposed building or addition, organisms to be used in the building, basis for making the findings required by Section 7.2. This requirement not applicable to: (a) demolition of buildings; and (b) guard stations.
- A.3 Fees – application fees required by City Council Resolution as may be amended from time to time.
- A.4 Completed Development Standards Conformity Review table (included in Appendix A below). This requirement not applicable to signs, fencing, and antennae visible and not visible from public right-of-way.
- A.5 Completed Mitigation Measure Conformity Review (included in Appendix B). This requirement not applicable to: (a) signs visible and not visible from public right-of-way; (b) guard stations; (c) antennae; and (d) fencing.
- A.6 Updated bicycle and vehicular parking count pre- and post- project. This requirement not applicable to: (a) signs visible and not visible from public right-of-way; (b) guard stations; (c) antennae; and (d) fencing.
- A.7 Transportation Demand Management ministerial checklist confirming that Bayer's operations include the program elements listed in Exhibit I.
- A.8 Design Review Application – where required for new construction and changes to building exteriors. Including application form and other submittal requirements for design review. This requirement not applicable to: (a) signs not visible from public right-of-way; and (b) guard stations.
- A.9 Vicinity Map – to show project in context of the site and the neighborhood. This requirement not applicable to demolition of buildings.
- A.10 Drawings, Plans, and Perspectives:
- A.10.1 Drawings – two sets of the following full site plans and one reduction to 8-1/2" x 11". Project address, scale, north arrow, legend must appear on each sheet.
- A.10.2 Site Plan – show proposed and existing buildings, parking spaces, driveways, property lines, fences, streets, curbs, sidewalks, landscape, and

natural features. Indicate dimensions of property, building, setbacks, and parking.

- A.10.3 Floor Plans – overhead view of each floor, mezzanine, basement, mechanical service area. Label rooms/areas with the use and dimensions of all spaces. Differentiate graphically existing from proposed walls, doors, windows, stairs, counters, and fixtures.
- A.10.4 Elevations – front, rear and side views of buildings. Show exterior walls, fences, landscaping, signs, etc. Include windows, doors, exterior finishes, and roof and eave lines.
- A.10.5 Rendered Perspective – for new buildings as viewed from the public street.
- A.10.6 Grading Plans – to show slope, excavation and fill areas.
- A.10.7 Landscaping Plans – show plant locations, size, and species.
- A.10.8 These requirements are not applicable to demolition of buildings.
- A.11 For Buildings Along the Public Right-of-Way – include two separate façade design concepts, a primary and an alternative, with varying exterior colors and materials that comply with the objective design guidelines stated herein, with City having the discretion to pick between the two alternatives.
- A.12 For Production Buildings – description of water conservation measures incorporated in the design. This requirement not applicable to: (a) demolition of buildings; and (b) guard stations.
- A.13 For Production Buildings – description of energy conservation measures incorporated in the design. This requirement not applicable to: (a) demolition of buildings; and (b) guard stations.
- A.14 Other information which may be reasonably requested by the City to complete review of the application consistent with the City’s generally applicable application requirements.
- B. Variances – A variance shall be considered concurrently with other project approvals, and shall be a discretionary approval considered by staff with appeal rights to the Zoning Adjustments Board \. A variance shall be issued to the extent the City may find the following findings, supported by substantial evidence:
 - B.1 That there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, and/or uses in the same zoning district and the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner; or
 - B.2 Strict application of the standard or requirement would result in practical difficulties or unnecessary hardships; and

- B.3 That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare, and safety and benefit the City as a whole.
- C. Applications for permits other than Administrative Use Permits and Variances shall include the following:
- C.1 Zoning Certificate.
- C.2 Design Review Application – Where applicable law so requires, for new construction and changes to building exteriors, including application form and other submittal requirements for design review. Refer to Table 1 for applicable projects.
- C.3 Building and other Ministerial Permit Applications – all submittals required for complete building permit application. The Mitigation Monitoring and Reporting Program must be printed on the second sheet of the building permit plans and must include the required conformance review.
- D. Design Review:
- D.1 Applicability
- D.1.1 Projects which are subject to either a Zoning Certificate or Administrative Use Permit, as dictated in Table 1, shall be reviewed for design criteria by Staff.
- D.1.2 Standalone parking garages and Seventh Street publicly accessible open space are subject to Design Review Committee, as dictated in Table 1. Parking garages below grade are not subject to Design Review Committee, but shall be processed otherwise in accordance with Table 1.
- D.2 Design Review Criteria. Staff or the DRC, whichever is applicable per Section D.1 and Table 1, shall review design applications for buildings on the Bayer Campus governed by the approved Development Agreement, based on the following criteria:
- D.2.1 The design of the proposed building is in substantial compliance with the intent of the Design Guidelines contained in the approved Development Agreement for the Bayer property.
- D.2.2 The project conforms to the Development Standards contained in the approved Development Agreement approved for the Bayer property.
- D.2.3 As outlined in Table 1, the size, location, and intensity of the project are in compliance with the Site Development Plan and Development Standards contained in the approved Development Agreement.

- D.2.4 Project details, materials, signage, and landscaping are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design and buildings on the Bayer campus.
- D.2.5 Landscaping is designed to be compatible with and enhance the architectural character and features of the buildings on-site, and help relate the building to the surrounding landscape. Proposed planting materials avoid conflicts with views, lighting, infrastructure, utilities, and signage.

2. Zoning and Permitted Uses

Table 2 – Permitted Uses within the Site

Use	Block			
	A	B	C	D
Production	P	P	P	-
Laboratories	P	P	P	-
Maintenance	P	P	P	-
Parking	P	P	P	P
Utility	P	P	P	-
Administration	P	P	P	P
Warehouse	P	P	P	-
P = Permitted within this block - = Not permitted within this block				

Table 3 – Definitions of Permitted Uses within the Site

Use	Definition
Administration	Administration buildings provide: offices for management and support functions, conference rooms, computer rooms, fitness/health facilities, site security stations, training rooms, library spaces, and cafeteria spaces. In addition, offices for campus management are placed in buildings throughout the site according to function and discipline.
Laboratories	Laboratories provide areas in which research into production and manufacturing technologies can be accomplished. These areas also provide quality assurance examination and testing of therapeutic pharmaceuticals produced on-site. Laboratory related offices and utilities are permitted in these areas.
Maintenance	Maintenance provides areas to conduct necessary repair, replacement, and preventive maintenance activities in support of site operations. Generally, these activities require workshops and maintenance bays. Maintenance related offices parking, and utilities are permitted in these areas.
Parking	Parking areas are covered or uncovered parking for vehicles.
Production	Production uses may include pilot plants, production facilities and fill and finishing facilities. Pilot plants are used to develop and scale up processes and to support new drug applications. Production facilities are comprised of various processing areas with support offices. The interior spaces are among the most complex in the industry, with numerous data, safety, storage, air-handling, and testing systems technologies equipping the buildings. Fill and finishing areas involve processing the product into transportable containers and final packaging. Production related laboratories, offices, and utilities are permitted in these areas.

Utility	Utility buildings are used to house monitored water distillation operations, refrigeration equipment, electrical equipment, compressed air, and steam generation equipment. Additional functions may include a water retention basin. Utilities which support specific buildings may be located adjacent or in close proximity to those buildings which they support.
Warehouse	The warehouse area is used to hold products for distribution on-site and off-site. Warehouse related offices, utilities, and parking are permitted in these areas.

3. Development Standards

The Development Standards are the required standards govern the physical development of the site and supersede the City of Berkeley Zoning Ordinance. These Standards are intended to supplement and clarify the Site Development Plan and, where these Standards are silent with regard to any standard or definition, the standards and definitions in the City of Berkeley Zoning Ordinance shall apply as vested pursuant to Section 3.2 of the Development Agreement. In the event of a conflict between the Site Development Standards and the Site Development Plan, the Site Development Plan shall govern.

The conceptual development plan at year 30 of the extended Development Agreement is shown below in Figure 1, with the six Permitted Uses identified, as well as their conceptual distribution. This configuration represents the most reasonably foreseeable layout based on Bayer’s estimated long-term planning needs, although it is envisioned that densities of various Permitted Uses can be transferred to different portions of the site without increasing the overall site density.

Conceptual illustrations and tables showing the orientation of access, parking, and circulation, as well as phasing for years 10 and 30, are shown in later chapters of this exhibit. Consistent with Section 3.10 [to be updated pending final numbering of sections in DA] of the Development Agreement, buildout of the Project Site might not occur to the maximum extent predicted in these conceptual illustrations and tables, but to a lesser extent, and the final configuration of buildings and parking areas might not match these conceptual drawing.

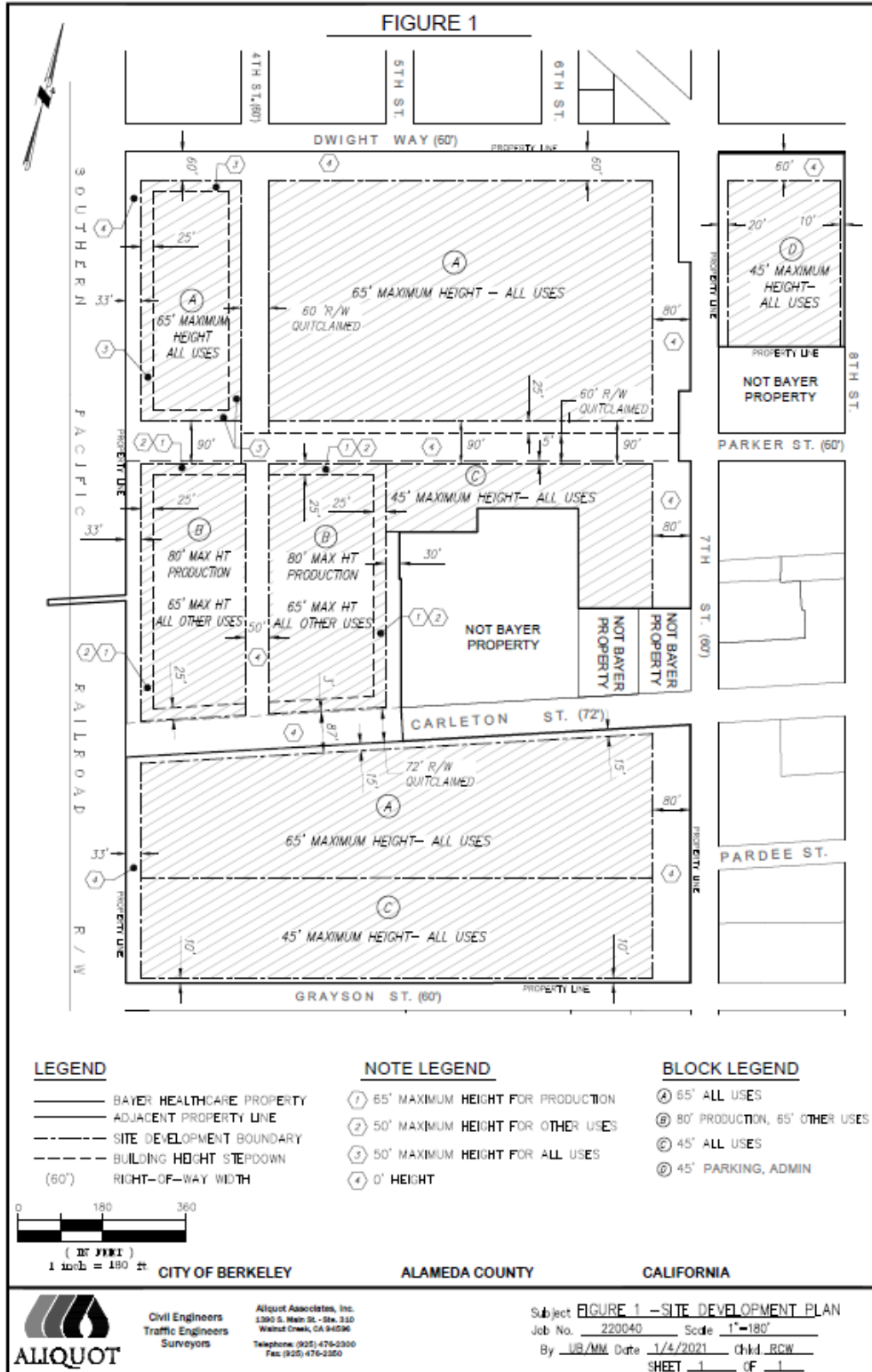
3.1 Building Design: Development Standards

Table 4 – Building Development Standards

Development Standard	Block			
	A	B	C	D
Maximum Height	65 feet	80 feet for manufacturing uses, 65 feet for all other uses	45 feet	45 feet
Stepbacks	Within stepback zone shown on-site development plan (Figure 1); all buildings must step down 15 feet from main building maximum allowed height.			

Note: See Section 3.1.2 for instructions on measuring height.

Figure 1 – Site Development Plan



3.1.1 Height Districts

- E. Height Districts define the height limitations for buildings within the Site Development Plan, where the term “building” means any enclosed structure having a roof and supported by columns or walls, consistent with the 2021 Berkeley Municipal Code. The Height Districts are sensitive to adjacent neighborhoods, relate to the scale and massing of existing buildings, support Production and Laboratory operations and accommodate future development within the Site Development Plan Area (refer to the Site Development Plan in Figure 1).

3.1.2 General

- A. Building Height Calculation: Allowable building heights are to be calculated by determining the average height from finished grade of a structure not to exceed the height limit for the Height Districts which the building is located as defined in the Site Development Plan.
- B. Finished grade for new development shall be the minimum amount necessary to account for drainage, sea level rise needs, or other applicable regulations, unless otherwise agreed to by the City and Bayer.
- C. Average building height is the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to: in the cases of sloped, hipped or gabled roofs, the average height of the roof between the ridge and where the eave meets the plate; in the case of a roof with parapet walls, to the top of the parapet wall; in the case of a gambrel roof the average height of the roof between the ridge and the point where the uppermost change in the roof’s slope occurs; in the case of a mansard roof, to the height of the deck; and in the case of a shed roof, to the height of the roof ridge.
- D. Towers, antennas and poles used for the transmission of electricity, telephone, telegraph, cable television, or other messages; except for electromagnetic signals for cellular radiotelephone service and wireless telecommunications; and flag poles, chimneys, water tanks, heating and air conditioning equipment, skylights, solar energy equipment, vents, pipes and similar structures and necessary mechanical appurtenances may be built and used to a greater height than the limit established for the height district in which the building is located. Roof-mounted wireless telecommunication antennas shall not extend or project more than 15 feet above the height limit of the district and shall require an Administrative Use Permit.
- E. Any projection not listed in the foregoing paragraph is prohibited except upon issuance of an Administrative Use Permit, including, but not limited to, mechanical penthouses, elevator equipment rooms, and cupolas, domes, turrets, and other architectural elements which exceed a District’s height limit. No such structure shall represent more than fifteen percent (15%) of the average floor area of all of the building’s floors; and no tower or similar structure shall be used as habitable space or for any commercial purpose, other than that which may accommodate the mechanical needs of the building.

- F. Guard stations and non-habitable structures may be located in the Zero Height Districts. Guard stations and non-habitable structures will not exceed twelve feet in height and 120 square feet of floor area. Guard stations shall only be located near ingress and egress locations and only as necessary for security purposes. Guard stations shall be subject to the building permit process as described in Table 1. Non-habitable structures shall not be located in Zero Height Districts along public streets.
- G. To the extent the Colgate Tower (B83) is refurbished, its height need not be reduced to conform to existing Height Districts.
- H. Fencing:
- H.1 Fencing along Seventh Street frontage adjacent to publicly accessible open space:
- H.1.1 Fencing around open space accessible to the public is permitted, with lockable gates.
- H.1.2 Fencing around publicly accessible open space, while functional, should also be decorative.
- H.1.3 Fencing shall not exceed eight feet in height at any point.
- H.1.4 Fencing shall not be constructed in a manner or of materials that would substantially prohibit views into or out of the publicly accessible open space.
- H.1.5 Fencing around open space accessible to the public shall not be constructed with chain link.
- H.1.6 No fence, or portion of a fence, shall contain strands of barbed or razor wire, nor shall sharp or jagged glass, metal such as, but not limited to razor-spikes, or similar materials be attached to a fence.
- H.1.7 Fencing around open space shall be subject to staff level design review.
- H.2 All other fencing along perimeter of and within closed portions of the campus:
- H.2.1 Fencing is permitted, with lockable gates.
Bayer shall not construct fencing in excess of 12 feet in height at any point.
- H.2.2 Fencing can be constructed with a variety of materials, including, but not limited to, chain link, rod iron, or masonry.
- H.2.3 A fence, or any portion of a fence, along the campus, may have, but not limited to, razor-spikes or strands of barbed or razor wire, provided that the lowest strand is more than five feet above the ground.
- H.2.4 Fencing along the campus perimeter shall be subject to staff level design review.

3.1.3 Additional Building and Site Layout Development Standards (Refer to the Site Development Plan in Figure 1)

- A. General: These additional standards support and provide the framework for the future development of the Site Development Plan. Primary objectives:
 - A.1 The distance between buildings only need comply with California Building and Fire Codes.
 - A.2 Project physical improvements, including, but not limited to, backflow preventers, canopies, landscape walls, fire department connections, may be connected to existing buildings subject to applicable codes.
 - A.3 Buildings may span adjacent blocks, as depicted on the Site Development Plan, and encroach in a limited manner into open spaces within blocks depicted on the Site Development Plan, provided all other limitations of the Development Agreement are met and the building meets development standards of underlying block. This provision does not allow encroachment of buildings into identified setback areas.
 - A.4 Transfer of developable area for Permitted Uses is allowed between blocks, as depicted on the Site Development Plan, and open space areas, provided all other limitations of the Site Development Plan are met (e.g., requirements related to allowable square footage, cumulative open space, applicable building setbacks, building heights and proximity of parking; *see, e.g.*, Section 3.2 and Table 5).

3.1.4 Building Footprint, Setbacks, and Stepbacks

- A. Building Footprint: Building footprints will be determined by the setbacks defined in the Site Development Plan with the clarifications set forth below.
 - A.1 Setbacks:
 - A.1.1 Setbacks only apply to the above grade portion of any building.
 - A.1.2 No building setback is required adjacent to open space or adjacent to other structures; only setbacks depicted on the Site Development Plan govern site development.

3.1.5 Projections

- A. Service roads are permitted within setback areas to the extent necessary to comply with the California Fire Code, material delivery, or site production requirements. Pipe racks and other utilities can be located within setback areas to the extent they comply with the provisions of Section 3.4 below.
- B. Non-occupiable architectural features such as arcades, columns, overhangs, awnings, and trellises may extend a maximum of 10' within a setback of a public street as follows:

B.1 As determined by the City Traffic Engineer, lines of sight for pedestrians and on-coming vehicles along the public street are not blocked or impaired as to affect pedestrian and vehicular safety.

B.2 The maximum height does not exceed ten feet (10'-0").

C. Stepbacks that apply are those identified on the Site Development Plan.

3.2 New Construction Limits: Development Standards

A. Total new building floor area of the overall campus will not exceed 918,000 square feet with plans to keep approximately 820,000 square feet of existing facility floor area. Table 5 below provides the maximum square feet per block that is allowed. The purpose of these block limits (that cumulatively, exceed 918,000 square feet) is to allow for location flexibility for where the total allowable 918,000 square feet of new floor area is constructed.

Table 5 – Total Maximum Allowed Development

	Block			
	A	B	C	D
Total Maximum Allowed Floor Area (sq.ft) per block	1,500,000	495,000	400,000	30,000

B. Buildings proposed to be retained may be replaced in kind and/or remodeled and will not be counted against the new maximum allowed floor area.

C. Surface and structural parking shall not be counted towards maximum allowed floor area nor allowed floor area ratio (FAR).

3.3 New Construction and Demolition Phasing: Development Standards

	Values in Sq. Ft.				
	Existing ³	Year 10	Year 30		Net Increase to Existing (New - Demo)
	2020	2032	2052	Total	
North Property (Current DA)	567,000	672,000	1,122,000		
Existing	567,000	567,000	672,000		
Demolition		(140,000)	0	(140,000)	
New Construction		245,000	450,000	695,000	555,000
South Property (Use Permit)	520,000	516,000	616,000		
Existing	520,000	520,000	516,000		
Demolition		(127,000)	0	(127,000)	
New Construction		123,000	100,000	223,000	96,000
Entire Campus (North + South) Combined	1,087,000	1,188,000	1,738,000		
Existing	1,087,000	1,087,000	1,188,000		
Demolition	0	(267,000)	0	(267,000)	
New Construction	0	368,000	550,000	918,000	651,000

3.4 Parking and Loading: Development Standards

- A. The number of parking spaces will comply with the parking requirement stipulated in Table 6 below.
- B. Adequate parking will be provided at any time during the project build-out for all uses on-site at issuance of a certificate of occupancy.
- C. Parking requirements will be determined by buildings’ principal use, defined to be the use occupying the greatest square footage within a given building.

Table 6 – Parking Requirements

Use	Automobile Parking Requirements	Bicycle Parking Requirements
Production	1 space per 1,000 square feet of floor area	1 space per 2,000 square feet of floor area
Laboratory		
Warehouse	1 space per 5,000 square feet of floor area	
Utility		
Administration	1 space per 500 square feet of floor area	

- D. The parking standards in Table 6 can be adjusted through the processes set forth in Table 1 in cases when the specific number of employees for a specific building can be verified and/or Transportation Demand Management programs to which Bayer commits demonstrate a verifiable reduction in parking demand.
- E. Unoccupied space is not counted as floor area when figuring required number of parking spaces. These standards can be adjusted in cases when the specific number of employees for that building can be verified. For purposes of clarification, only space occupied by employees shall be counted as floor area when figuring required number of vehicular or bicycle parking spaces. Unoccupied space, including without limitation mechanical spaces and rooms, stairwells, closets, storage, and penthouses shall not count as floor area when calculating parking requirements. Employee amenities, whether standalone or collocated with other facilities, including without limitation cafeteria space and fitness rooms, shall also not count as floor area when calculating parking requirements.
- F. Bayer will include cumulative building areas and provide calculations related to require vehicle and bicycle parking requirements, which will include both existing parking and necessary sitewide parking to demonstrate the necessary amount of parking is being provided.
- G. Vehicular and bicycle parking will be calculated on a sitewide basis, based on square footage in accordance with Sections D and E above. Permitting will be conducted in

accordance with Table 1. Parking spaces shall not be required within any specific distance of a specific building so long as the parking is located within the Bayer Campus.

- H. Approval of parking structures shall conform with the approval process identified in Table 1 and the foregoing requirements in Section 3.2 and no further entitlements are necessary to approve parking at any specific location.
- I. Off-street loading docks for individual buildings will not be required provided that delivery and shipping of materials to and from the site occurs from a central warehouse(s) only, and the size and number of loading docks at the warehouse(s) will be adequate for the volume and traffic at the warehouse(s), as approved with the building approval in accordance with Table 1.

3.5 Landscape and Open Space: Development Standards

- A. The open space areas depicted in Figure 2 create an ‘Urban Campus’ environment, which integrates urban structures with significant amounts of open space. Open space areas accessible to Bayer employees will consist of fields, sports courts, pedestrian trails, bicycle trails, outdoor eating areas, landscaping, and similar uses. Open space along the Seventh Street frontage will be accessible to the public and will consist of urban park facilities, as shown in Table 7 below.

Table 7 – Allowed Uses for Open Spaces within the Site

Allowed Uses within Restricted Access Open Space	Allowed Urban Park Facilities within Publicly Accessible Open Space
Fields	Pedestrian and/or bicycle trails
Sport Courts	Hardscape and softscape surfacing areas
Pedestrian and Bicycle Trails	Benches and tables
Outdoor eating areas	Landscaping
Landscaping	

- B. The Site Development Plan enhances the existing view corridors from the Berkeley Hills by establishing Zero Height Districts (see Figure 1) within, and setbacks from, the public streets, and maintaining view corridors along Parker and Carleton Streets. The pedestrian experience has been enhanced along Seventh Street and Dwight Way through increased setbacks, inclusion of landscaping, and publicly accessible open space. This publicly accessible open space shall be operated and maintained by Bayer. This area is also intended to be passive open space to provide a buffer from new buildings and also possibly include walking and bike paths, benches, public art, trees, hardscape and softscape surfacing areas, and landscaping (as identified in the Design Guidelines below). This area will be open to the public during daylight hours and for longer durations at the discretion of Bayer.

- C. The Site Development Plan ‘consolidates’ Height Districts that allow for taller buildings, generally aligning them along an east-west axis, to mitigate the view corridor impacts. The consolidation of the Height Districts minimizes the impact and benefits the view corridor from the Berkeley Hills.
- D. Open spaces identified in Figure 2 do not reflect exact locations within the Site Development Plan's planning area, but rather that an open space area will occur within a general location. Development of these open spaces will correspond to building development defined in the Site Development Plan. The conceptual development plan contains the following open space commitments: Bayer will provide
- a minimum of 0.8 acres of publicly available open space along Seventh Street at Year 5,
 - a minimum of six acres of open space that includes 1.6 acres of publicly accessible open space area along Seventh Street at Year 10, and
 - a minimum of nine acres of open space at Year 30.

Any administrative Use Permit or other land use entitlement submitted for the improvement of open space pursuant to Table 1 shall be separate and independent of any land use permits or other entitlements submitted for project buildings and other improvements, and accordingly shall be considered for approval separately and independently by the City.

- E. Landscape and site improvements associated with, or adjacent to, a proposed building should be installed at the time of construction of the building. This may include, but is not limited to: plant materials, street trees, automatic irrigation, sidewalks, internal roads, and open space plazas.

Figure 2 – Conceptual Open Space Areas



3.6 Access and Circulation: Development Standards

- A. Access to the site is separated by Visitor, Staff, Service, and Delivery access.
- B. Visitor entries/exits, staff access entries/exits, service entries/exits, and delivery entries/exits are depicted in Figures 3a and 3b, below.
- C. On-site streets as shown on the Site Development Plan shall be aligned generally as depicted. Minor modifications to existing private roads and new private roads within the campus not depicted on the Site Development Plan can be located and sized to meet Bayer's circulation needs and corporate specifications, so long as they comply with the California Fire Code, and no modification to the Development Agreement or variance need be issued. Any new or modified private streets shall be reviewed with the Public Works Department as part of the associated application.
- D. Pipe racks and other utilities can be located within, beneath, or over circulation network components so long as they do not result in violations of the California Fire Code. Pipe racks shall not exceed 40 feet in height. Notwithstanding anything else in the Development Agreement or its exhibits, to the extent pipe racks or other utilities are located over circulation network components, the height to the bottom of the pipe rack shall be no more than is required for truck clearance.
- E. Parking demand for any one building can be satisfied with any parking area located within the Site Development Plan.

- F. Temporary surface parking lots and temporary structures (Ten years (10) or less) can be located anywhere on-site. Notwithstanding the above, temporary parking structures cannot be located in Zero Height Districts (see Figure 1 above).
- G. The Site Development Plan includes an option to integrate some parking into other new buildings located along the northeast perimeter of the site, near the intersection of Dwight Way and Seventh Street, new buildings near the intersection of Seventh Street and Parker Street, and in new buildings adjacent to the B83 near the intersection of Seventh Street and Carleton Street, in order to potentially reduce the amount of area allocated solely to parking. However, these underground parking locations would not increase total parking, but rather accommodate a redistribution of parking inventory.
- H. Conceptual illustrations and tables showing the orientation of access at the time of development phasing, are shown in Figures 3a and 3b below. To the extent that buildout of the Site is ultimately less than the amount depicted in these conceptual drawings and tables, parking inventory shall be reduced below the parking supply amounts therein by a commensurate amount so long as parking supply is provided consistent with the provisions set forth in Section 3.4.
- I. Service and Utilities: The flow of site services and utilities should be consolidated and efficiently routed, prioritizing pedestrian movements along inner streets. These services include deliveries, material flows, and waste movement and removal. There should be designated access points for fire service and a shared surface in the green corridor which can also be used by fire trucks in emergency situations. See Figures 3a and 3b below.

Figure 3a – Campus Access Points Year-10 of Development



Figure 3b – Campus Access Points Year-30 of Development



3.7 Signage: Development Standards

- A. Ground-floor marquee signs are permitted at any main site entrance and shall not exceed 6 feet in height.

- B. The sign area of wall signs shall not exceed fifteen (15) percent of the building face of the premises or eight hundred (800) square feet, whichever is less.

4. Design Guidelines

The guidelines outlined in this section establish general parameters for the continued development of the Bayer campus in terms of urban planning, building design, landscape design, and sustainable design strategies. They are intended to provide for both consistency with existing conditions (as guided by the previous Development Agreement) and the positive evolution of the campus during the next 30 years. They outline a consistent framework for development across the entire site in order to provide a unified campus environment. They provide a framework for the continuation of the mutually supportive relationship between Bayer and the adjacent neighborhoods of West Berkeley, paying special attention to transition zones where the campus meets the City. They will assist Bayer in delivering a world class campus that attracts and retains the best talent, as well as forging links with partner companies and innovators. The guiding principles outlined here will drive the continued development of a safe, sustainable, modern working environment that exists in harmony with its urban context. Provided that the project as whole meets the intent of the guidelines, the issuance of any variance from the guidelines is unnecessary. In no case shall a guideline be implemented in a manner that would operate to modify or render more restrictive, directly or indirectly, one of the development standards or the Site Development Plan and, where a conflict between a development standard or Site Development Plan and a design guideline exists, the development standard or Site Development Plan shall prevail.

The design guidelines will also be used by the City, as outlined in Table 1, to review the design of future buildings.

4.1 Signage: Design Guidelines and Approval Process

- A. Prior to the issuance of a building permit for a sign, staff level design review shall only be conducted if it's determined by City Staff that the proposed signage is visible from the public right-of-way. Signage visible from the public right-of-way shall be subject to staff-level design review.

Section	Sub Topic	Design Guideline
Building Design	Entrances	Primary building entrances must be clearly defined to promote visual interest and architectural presence. Building entrances shall be clearly identifiable by use of scale change and material changes. Emphasize using features such as glazing, panel color, size and accent stripes.
	Building Design	Large, blank walls along the public streets shall be avoided. Blank walls (facades without doors, windows, landscaping treatments, or other elements of pedestrian interest) shall be less than 30 feet in length for buildings 75 feet or longer or 20 feet in length for buildings less than 75 feet. Building facades along public streets shall incorporate features, including but not limited, the treatments below to mitigate blank walls: <ul style="list-style-type: none"> • windows • doors • canopies • landscaping • decorative materials and textures • building wall offsets, including projections and recesses (relief and reveal depths shall be a minimum of three-quarter inch)
		All buildings shall employ at least two of the following techniques: <ul style="list-style-type: none"> • Change material or color with each building module to reduce the perceived mass, or: • Vary the height of a wall plane or building module, or: • Change roof form to help express the different modules of the building mass, or: • Change the arrangement of windows and other facade articulation features, such as columns or strapwork, that divide large wall planes into smaller components.
		Through the use of transparency and activity, the building should create an environment that promotes and spurs a strong connection back to the campus. When feasible, for buildings with public facing facades, incorporate science windows (transparent windows at the ground-floor that encourage visibility into buildings) facing onto the adjacent right-of-way.

	Rooftop Equipment	Integrate roof equipment screens and/or penthouses with building design. Use similar or same color and materials as on building exterior.
	Building Color/Materials ¹	The materials and finishes selected shall focus on sustainability and functionality, ensuring long-term durability and ease of maintenance.
		Accent colors may be used and shall be compatible with the overall color scheme. Reserve bolder colors as accents for building details, ornamentation, or special features.
		The design principals followed in façade design are: <ul style="list-style-type: none"> • Simple palette of durable and sustainable materials • Repetition of materials on various facades to create a unified composition for the building • Facades designed to control solar glare and gain • Materials should reflect and support the function contained within the spaces • Vertical and horizontal breakup of the façade using materials such as shading and solar fins, facility access means, or other functional structure
		New buildings will be designed to include varying materials, color, texture, ornamentation, and/or other facade details to provide visual interest.
		Recommended exterior building finish materials include: glass curtainwall, aluminum or other coated metal panel, natural materials panels as accents, or similar sustainable materials.
		New buildings will target 100% bird-safe glass or similar bird-safe treatments as specified in Mitigation Measure BIO-2 (i.e., in the west-facing facades of new, expanded, and renovated buildings adjacent to or directly visible from Aquatic Park). In other portions of the project site not addressed by Mitigation Measure BIO-2, Bayer shall target for new and renovated facilities 100% bird-safe glass or similar treatments

¹ For Buildings Along the Public Right-of-Way – include two separate façade design concepts, a primary and an alternative, with varying exterior colors and materials that comply with the objective design guidelines stated herein, with City having the discretion to pick between the two alternatives.

		unless inclusion of such would compromise the ability of a given facility to meet or exceed Title 24 standards.
Landscape and Open Space	Tree Canopy	For new interior roads, site coverage of tree canopy at maturity shall be a minimum of twenty percent (20%) for the existing right-of-way, excluding intersections. Trees shall be planted upon establishment of new interior road segments to meet this canopy requirement.
		For new surface parking lots, site coverage of tree canopy at maturity shall be a minimum of fifty percent (50%) of the total outdoor surface area. Trees shall be planted upon establishment of new surface parking lots to meet this canopy requirement.
	Landscaping	Examples of potential landscape design elements include: different scaled parks, open common areas, circulation corridors, and green roofs.
		Plant selection will be based on compatibility with the local climate. All plants shall be drought tolerant, be low maintenance, and at least 70% native and/or wildlife supporting. The selection of plants shall provide variety between different types of spaces but also provide consistency across the site creating a unified, landscaped campus. Planting zones shall combine different species, heights, and colors of planting to create visual interest and variety.
		Landscape elements shall be compatible with the California Energy Commission, Climate Zone 3 and California Water Efficient Landscape Ordinance, as amended.
		All projects shall be designed to meet or exceed the California Department of Water Resources Model Water Efficient Landscape Ordinance ("MWELO") or any other equivalent standard.
Access and Circulation	Access	Campus circulation shall be designed to separate service corridors from pedestrian and bicycle corridors similar to the manner conceptually shown below in Figure 4.
		Provide pedestrian access between buildings.
Lighting	Lighting	Exterior lighting shall illuminate the open space for vehicular, bicycle and pedestrian paths, provide for security in public areas and reinforce the style and ambiance of the surrounding area, including the additional security measures as set forth in Mitigation Measure PS-1: Security Measures in the Supplemental EIR.
		Any permanent lighting shall not blink, flash, or be of unusually high intensity or brightness.

		Outdoor lighting shall be shielded and directed, with a full cut off fixture of no more than 2.5% of lamp lumens at or above 90°, and no more than 10% of lamp lumens at or above 80°.
		Lighting fixtures shall be energy efficient.
		All outdoor lighting fixtures shall be designed and installed so that light rays are not emitted across property lines, to the extent feasible. Lighting shall be located to minimize glare and/or impact on adjacent neighborhoods, be architecturally integrated with the character of project structures, be energy-efficient and fully shielded or recessed, and must completely turn off or be significantly dimmed at the close of business hours when the exterior lighting is not essential for security and safety.
		Wherever feasible, require motion sensors or timers to prevent unnecessary energy use and light pollution.
		Outdoor lighting shall be no brighter than 3000 Kelvin.
New Construction and Demolition	Phased Development	The campus shall be developed through a combination of renovating existing buildings, demolishing buildings where appropriate, and adding new structures using a phased approach. See Figures 5, 6, and 7 below for conceptual renderings of the campus' potential buildout.
Signage	Illumination	No illuminated signs shall face Aquatic Park.
		Signs are allowed to be illuminated, except as noted above, but shall not move or flash. Any illuminated signs shall be maintained and kept in functioning order.
Sustainability	Building Materials	Incorporate protections for birds as set forth in the Mitigation Measure BIO-2: Bird Strike Avoidance of the Supplemental EIR for window area of the west-facing façades of new, expanded, and renovated buildings adjacent to or directly visible from Aquatic Park.
	Energy Efficiency	Building designs shall be energy efficient utilizing site-wide energy efficiency programs and standards and exceed California Title 24 Standards.
	Building Design	All buildings shall be designed using the LEED certification process.
	Water	Where feasible and not compromising sanitation, incorporate water capture, retention, and reuse for new buildings.

Parking	Parking Garage	Consistent with Mitigation Measure AES-1: Parking Structure Design in the Supplemental EIR, structured parking adjacent to public streets that includes a frontage onto the street should use appropriate design (such as faux facades, plantings and landscaping, green walls, public murals, etc.) to minimize its visual impact.
	Access	Provide identifiable pedestrian paths in the parking lots which lead to the building entrances. Parking structures shall fit within designed parking and circulation patterns and shall be linked to the pedestrian circulation system. Consider pedestrian routes to and from parking structures.
	Parking Garage and Pedestrian Bridge Design	Materials and colors shall be compatible with adjacent buildings, as set forth in Mitigation Measure AES-1: Parking Structure Design in the Supplemental EIR.

Figure 4 – Service and Utility Zones

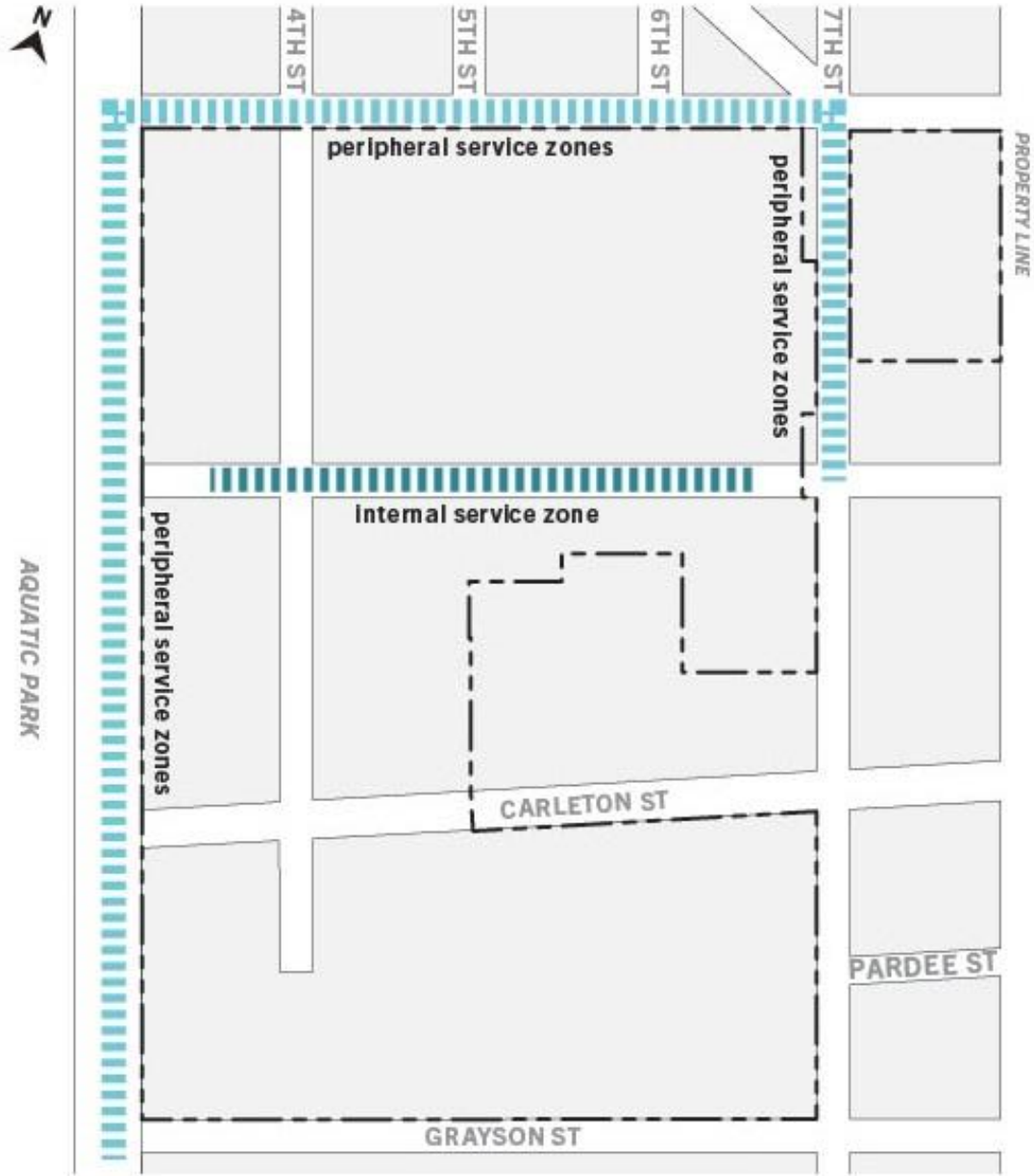
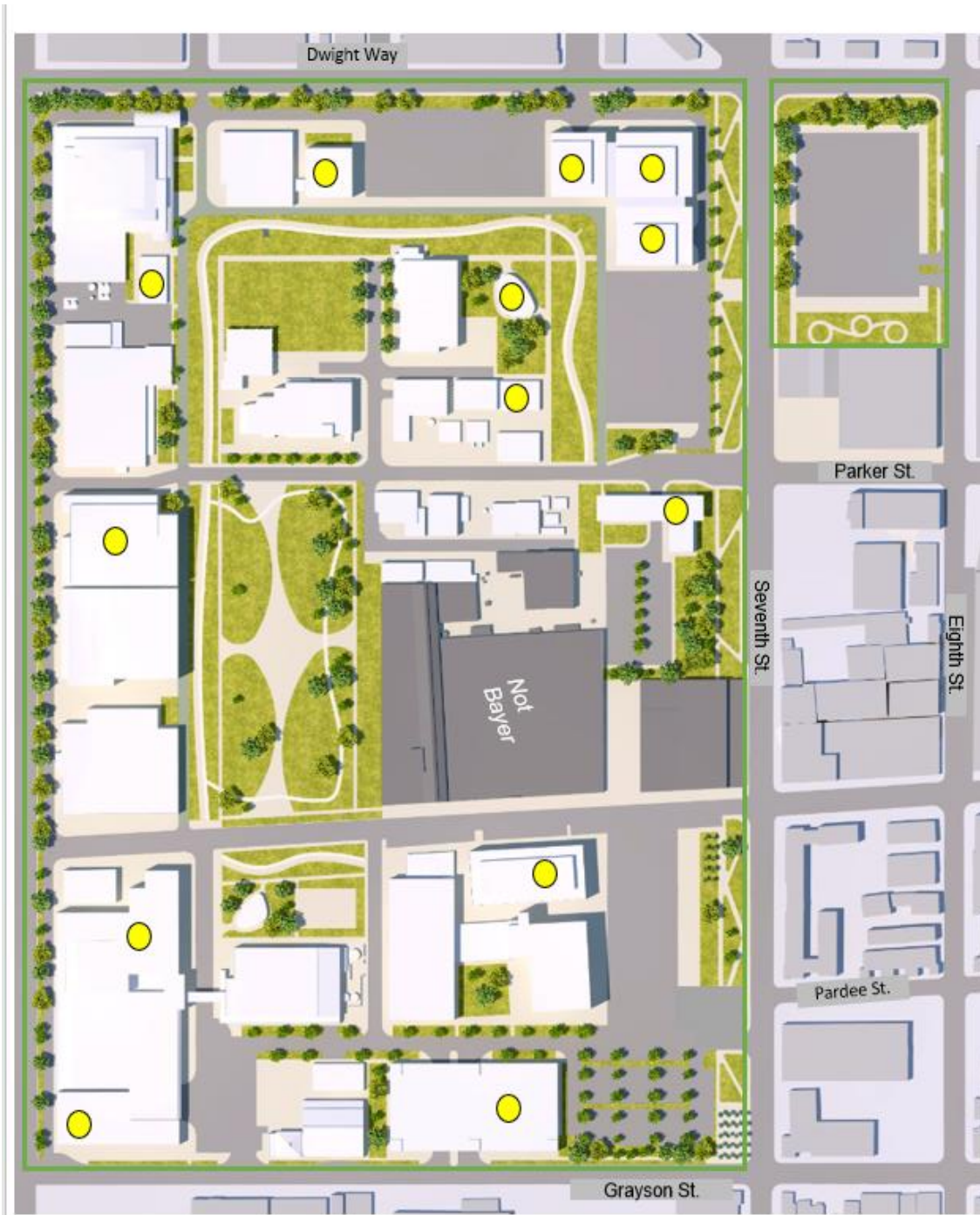


Figure 5 – Conceptual Year-30 Plan



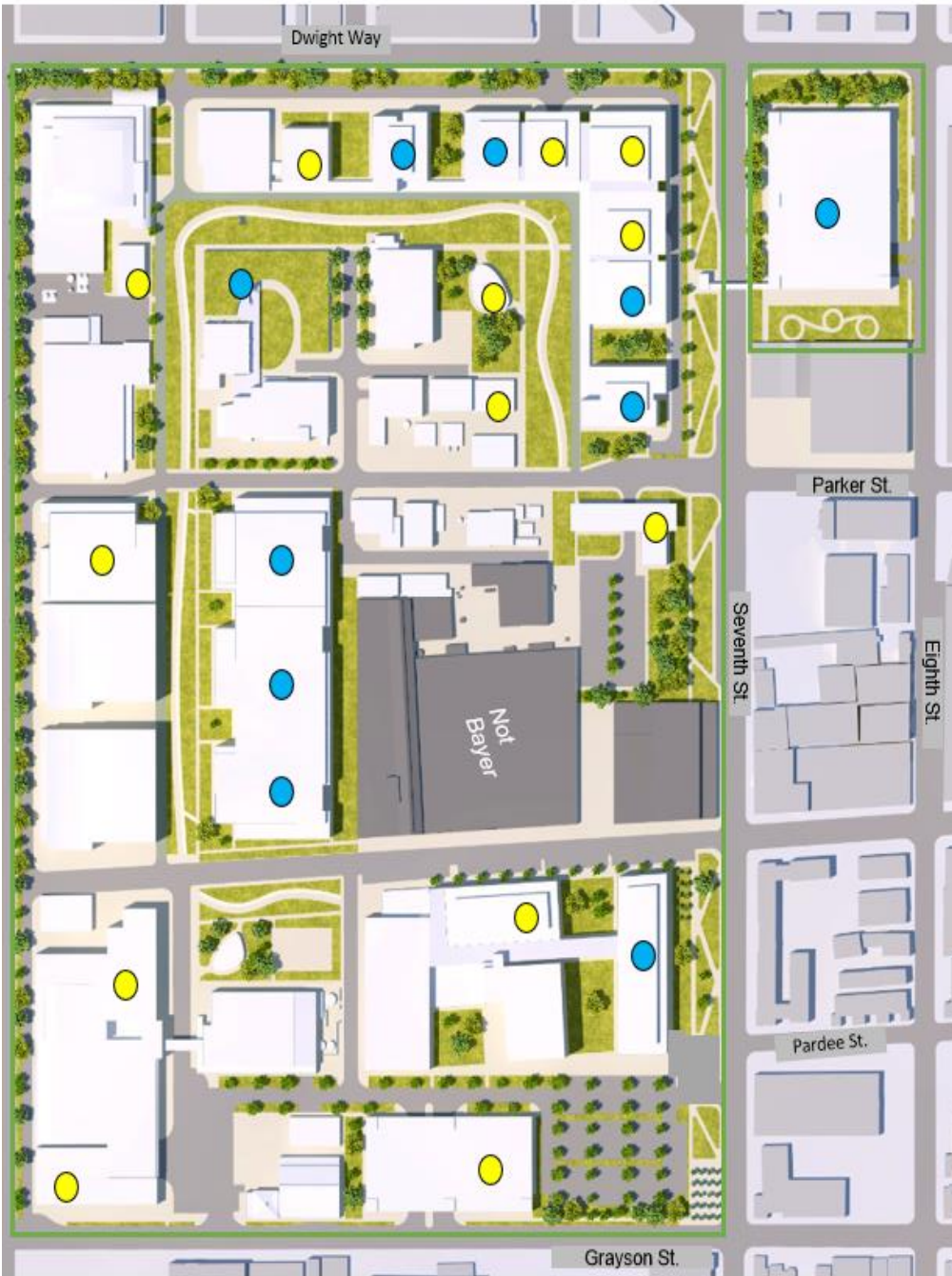
- RETAIN BUILDINGS
- REPURPOSE/ REFURBISH
- FUTURE DEMOLISH

Figure 6 – Conceptual Year-10 of Development



● New at Year 10

Figure 7 – Conceptual Year-30 of Development



- New at Year 30
- New at Year 10

Appendix A: Development Standards Conformity Review

The table below provides a template of which is required for all applicable projects to complete.

Standard	DA Source	Standard Per DA	Proposed Project	Plan Set Source
Block Standards				
Project Block				
Permitted Land Use				
Max. Height				
Average Height				
Stories				
Max Floor Area within Project's Block				
Site Development Standards				
Gross Floor Area (sq. Ft.)		n/a		
Setbacks				
(insert applicable setback requirements)				
Stepbacks				
(insert applicable stepback requirements)				
Fencing Height				
Fencing Materials				
Special Requirements for portions of buildings above 45' in height				
Top floor max floor area				
Top floor stepback				
All walls above 45' stepped back from west property line				
Façade length				
Footprint Diagonal Length				

Standard	DA Source	Standard Per DA	Proposed Project	Plan Set Source
Campus-Wide Standards				
Vehicle Parking – Campus Wide				
Bicycle Parking – Campus Wide				
Open Space – Campus Wide				

EXHIBIT D
Community Benefits

Bayer shall provide community benefits and impact fees to the City of Berkeley as set forth below:

I. ANNUAL COMMUNITY INVESTMENT

A. Bayer¹ shall provide the community with the following annual investments by September 1 of each calendar year, as follows:

Investment Schedule			
Year	Investment No.		Amount
2022	1	\$	800,000
2023	2	\$	832,320
2024	3	\$	848,966
2025	4	\$	865,946
2026	5	\$	883,265
2027	6	\$	900,930
2028	7	\$	918,949
2029	8	\$	937,328
2030	9	\$	956,074
2031	10	\$	975,196
2032	11	\$	994,699
2033	12	\$	1,014,593
2034	13	\$	1,034,885
2035	14	\$	1,055,583
2036	15	\$	1,076,695
2037	16	\$	1,098,229
2038	17	\$	1,120,193
2039	18	\$	1,142,597
2040	19	\$	1,165,449
2041	20	\$	1,188,758
2042	21	\$	1,212,533
2043	22	\$	1,236,784
2044	23	\$	1,261,519
2045	24	\$	1,286,750
2046	25	\$	1,312,485
2047	26	\$	1,338,734
2048	27	\$	1,365,509
2049	28	\$	1,392,819
2050	29	\$	1,420,676
2051	30	\$	1,461,537

¹ All capitalized terms refer to those terms defined in the Amended and Restated Development Agreement.

Total 33,100,000

- B. The aggregate amount of those investments set forth in Section I.A during the thirty-year (30-year) term of the Agreement amounts to thirty-three million, one hundred thousand dollars (\$33,100,000).² Nothing in this Exhibit shall be construed to require Bayer to make investments exceeding this amount.

- C. Except as otherwise provided herein, any City actions or approvals required or authorized by this Exhibit D shall be undertaken by the City Manager on behalf of the City.

II. ALLOCATION OF FUNDS

The amounts set forth in Section I of this Exhibit will be allocated as follows:

Forty-Eight and One Half Percent (48.5%)	Science, Technology, Engineering, Arts and Math ("STEAM") Education / Career Technical Education Partners
Twenty Percent (20.0%)	West Berkeley Fund (community infrastructure and resiliency)
Twenty Percent (20.0%)	City of Berkeley Affordable Housing Trust Fund (the "Housing Investment") ³
Four Percent (4.0%)	City of Berkeley Affordable Childcare Fund (the "Childcare Investment")
Seven and One Half Percent (7.5%)	City of Berkeley Private Percent for Art Fund

Each of the foregoing programs and funds are described in more detail in Sections III and IV of this Exhibit.

The allocation schedule of funds in Section I is set forth in Figure 1 below.

Figure 1

² In general, annual investments under this Section I escalate by 2 percent each year. The exception is that in year 2, the investment amount escalates by 4.04 percent and in year 30, the investment amount escalates by 2.88 percent. These increased escalators exist so as to provide the City with the negotiated amount of \$33.1 million in community benefits and impact fees.

³ Note that the allocation to the City of Berkeley Housing Trust fund is significantly greater than the amount that would be required to mitigate the Affordable Housing Impacts of Bayer's development under the Agreement

Investment Schedule

Year	Investment No.	Total Annual Investment Amount	STEAM Investment Portion	West Berkeley Fund Investment Portion	Affordable Housing Investment Portion	Affordable Childcare Investment Portion	City of Berkeley Private Percent for Art Fund Investment Portion
2022	1	\$800,000	\$388,000	\$160,000	\$160,000	\$32,000	\$60,000
2023	2	\$832,320	\$403,675	\$166,464	\$166,464	\$33,293	\$62,424
2024	3	\$848,966	\$411,749	\$169,793	\$169,793	\$33,959	\$63,672
2025	4	\$865,946	\$419,984	\$173,189	\$173,189	\$34,638	\$64,946
2026	5	\$883,265	\$428,384	\$176,653	\$176,653	\$35,331	\$66,245
2027	6	\$900,930	\$436,951	\$180,186	\$180,186	\$36,037	\$67,570
2028	7	\$918,949	\$445,690	\$183,790	\$183,790	\$36,758	\$68,921
2029	8	\$937,328	\$454,604	\$187,466	\$187,466	\$37,493	\$70,300
2030	9	\$956,074	\$463,696	\$191,215	\$191,215	\$38,243	\$71,706
2031	10	\$975,196	\$472,970	\$195,039	\$195,039	\$39,008	\$73,140
2032	11	\$994,699	\$482,429	\$198,940	\$198,940	\$39,788	\$74,602
2033	12	\$1,014,593	\$492,078	\$202,919	\$202,919	\$40,584	\$76,094
2034	13	\$1,034,885	\$501,919	\$206,977	\$206,977	\$41,395	\$77,616
2035	14	\$1,055,583	\$511,958	\$211,117	\$211,117	\$42,223	\$79,169
2036	15	\$1,076,695	\$522,197	\$215,339	\$215,339	\$43,068	\$80,752
2037	16	\$1,098,229	\$532,641	\$219,646	\$219,646	\$43,929	\$82,367
2038	17	\$1,120,193	\$543,294	\$224,039	\$224,039	\$44,808	\$84,014
2039	18	\$1,142,597	\$554,160	\$228,519	\$228,519	\$45,704	\$85,695
2040	19	\$1,165,449	\$565,243	\$233,090	\$233,090	\$46,618	\$87,409
2041	20	\$1,188,758	\$576,548	\$237,752	\$237,752	\$47,550	\$89,157
2042	21	\$1,212,533	\$588,079	\$242,507	\$242,507	\$48,501	\$90,940
2043	22	\$1,236,784	\$599,840	\$247,357	\$247,357	\$49,471	\$92,759
2044	23	\$1,261,519	\$611,837	\$252,304	\$252,304	\$50,461	\$94,614
2045	24	\$1,286,750	\$624,074	\$257,350	\$257,350	\$51,470	\$96,506
2046	25	\$1,312,485	\$636,555	\$262,497	\$262,497	\$52,499	\$98,436
2047	26	\$1,338,734	\$649,286	\$267,747	\$267,747	\$53,549	\$100,405
2048	27	\$1,365,509	\$662,272	\$273,102	\$273,102	\$54,620	\$102,413
2049	28	\$1,392,819	\$675,517	\$278,564	\$278,564	\$55,713	\$104,461
2050	29	\$1,420,676	\$689,028	\$284,135	\$284,135	\$56,827	\$106,551
2051	30	\$1,461,537	\$708,845	\$292,307	\$292,307	\$58,461	\$109,615
Total		33,100,000	16,053,499	6,620,000	6,620,000	1,324,000	2,482,500

III. IMPACT FEES

- A. In order to ensure that affordable housing and affordable childcare impacts are timely addressed throughout the term of the Agreement, Bayer and the City shall ensure that the payments to the Affordable Housing Trust Fund and the Affordable Childcare Trust Fund are sufficient to cover the development impact fees required for the Project as those fees become due. Impact fees shall be assessed on each Project application for a Reserved Discretionary Approval which is associated with a construction and/or demolition proposal under the Agreement

("Implementation Project"). The impact fees for each Implementation Project shall be paid in a single lump sum due upon issuance of the Occupancy Permit for the building shell.

- B. Bayer's impact fee payments shall be calculated in accordance with the affordable housing and affordable childcare impact fee requirements in effect as of the Effective Date (City Council Resolutions 66,617 N.S. and 66,618 N.S., or "Existing Fee Requirements"), subject to annual

adjustments based on the Consumer Price Index, All Urban Consumers, San Francisco Bay Area (“CPI”), as required by the Existing Fee Requirements. Per Existing Fee Requirements, impact fees shall be assessed on new construction⁴ associated with each Implementation Project under the Agreement.

- C. Under the Community Benefits investment schedule set forth in Figure 1, Bayer will be making annual investments in the Affordable Housing Trust Fund and Affordable Childcare Trust Fund. These annual investments may be made in advance of the time when the affordable housing and childcare impact fees will be due for a given Implementation Project. Accordingly, Bayer shall receive a credit toward the applicable impact fees for all such investments made before the fees are due. That is, investments to the Affordable Housing Trust Fund shall be credited toward the affordable housing mitigation fee, and investments to the Affordable Childcare Trust Fund shall be credited toward the affordable childcare mitigation fee, as such fees become due. The amount of available credit for application to a fee due shall be the sum of all annual Housing Investments or Childcare Investments, as applicable, made prior to the due date of the fee, less the amounts previously applied to earlier fees. In calculating that sum, the amount of each Housing Investment and Childcare Investment shall be adjusted annually by CPI for the period of time between when such an Investment was made and the time of calculation. If the available credit exceeds the amount of fees due, the exceedance shall be carried over and be applied as a credit to future impact fees, if any. If the credits are insufficient to pay the amount of fees due, Bayer shall pay the difference, and the amount of the difference shall be subtracted in full from the amount Bayer is required to pay for its next Housing Investment or Childcare Investment, as applicable, and if the difference exceeds the amount of that payment, the exceedance will be carried over and subtracted in full from the following Housing or Childcare Investment, and so on, until the full amount of the difference has been applied, or all of the Housing or Childcare Investments have been completed.
- D. Because the Project will be developed in multiple phases spanning numerous Implementation Projects, it is possible that a particular Implementation Project may include more demolition than new development, resulting in a net decrease in new gross floor area. Similarly, an Implementation Project may include a net increase in new gross floor area, but the increase may be below the threshold amount that ordinarily triggers the fee requirement. The parties acknowledge that impact fees are intended to apply to the cumulative net development actually built for the Project. Accordingly, if a particular Implementation Project does not include a net increase in gross floor area in excess of the threshold 7,500 square feet that triggers the fee requirement (or if it includes a remodel of less than 7,500 square feet that would otherwise qualify for impact fees), then any net increase or net decrease in gross floor area, or any square footage of the remodel, associated with that Implementation Project (a “**Gross Floor Area Carryover**”) shall be carried over and applied to the calculation of new gross floor area for the next Implementation Project.
- E. The Parties expect that the total amount to be paid into the Affordable Housing and Affordable Childcare Trust Funds over the life of the Agreement, \$7,944,000.00 in nominal dollars, will substantially exceed the aggregate amount of impact fees likely due over the life of the Agreement, which is estimated at \$4,952,230.00 in nominal dollars. The ultimate amount of impact fees that will be due will depend on a number of factors, including the timing and extent

⁴ “**New construction**” means (1) the net additional, newly constructed floor area for a given Implementation Project, which is equal to the total square footage of proposed new construction minus the total square footage of existing square footage that will be demolished or replaced, or (2) the alteration of existing buildings that have been substantially vacant of all uses for at least three (3) years if there is a change of use that is intended to intensify employment on the site, consistent with the terms of the Existing Fee Requirements.

of each Implementation Project, and the possibility of minor amendments to the site plan or phasing plan that do not require amendment of the Agreement. To the extent the approximately \$3,000,000 of payments in excess of expected impact fees is not needed to satisfy impact fees due, it shall be retained by the City as an additional Community Benefit investment towards affordable housing. In the unlikely event that the actual aggregate amount of impact fees due exceeds \$7,944,000, Community Benefit monies shall be reallocated per the City’s direction to the Affordable Housing and/or Affordable Childcare Trust Funds, as applicable, in the amount of the deficiency.⁵

- F. The City shall maintain a ledger (“Ledger”) to account for the payment of monies into the Affordable Housing and Affordable Childcare Trust Funds, the annual CPI adjustment of those payments, and amounts credited or paid to satisfy Bayer’s impact fee obligations. The Ledger shall also account for any Gross Floor Area Carryover as described in Section III.D. Within thirty (30) days of submittal of annual investments by Bayer, the City shall provide Bayer with an updated Ledger confirming the City's receipt of the annual investments, that such investments have been placed in the appropriate trust funds, the cumulative amount of credits, if any, to be carried forward, and any floor area Carryover for each use category set forth in the Existing Fee Requirements, including with respect to any replacement Implementation Projects.⁶

IV. PARAMETERS GOVERNING COMMUNITY BENEFIT PROGRAMS AND CITY DEVELOPMENT FEE FUNDS

A. STEAM Education / Career Technical Education Partners

Bayer shall provide the following community benefits, and according to the following terms:

- 1. Subcategories for investment include: Transitional Kindergarten to 8th Grade; high school career technical education and paid internships; and community college STEAM career pathways and paid internships. Monies allocated toward STEAM Education under this Section shall be sub-allocated as follows:
 - a. Transitional Kindergarten through 8th Grade programs – Ten Percent (10%)
 - b. High School career technical education and paid internships – Fifty Percent (50%)
 - c. Community college STEAM career pathways and paid internships – Forty Percent (40%)
- 2. Bayer shall convene a committee charged with administering the issuance of grants for the purposes and according to the allocations set forth in this Section IV.A, subject to the following terms:
 - a. A grant committee of stakeholders shall include representatives from Bayer, education experts, and community leaders. Education experts

⁵ Nothing in this Exhibit shall be construed to require Bayer to make investments exceeding \$33,100,000.

⁶ A replacement project is the scope of development identified in Section 3.2(A) and (B) of Exhibit C.

shall have experience working in STEAM education serving students from populations historically underrepresented in STEAM majors and careers. Grant committee members shall serve on a volunteer basis. Such committee is not a municipal committee and is not exercising any municipal authorities (and is not authorized to do so), but is a private committee of individuals per the terms of this Exhibit, and for the grant award purposes set forth in this Exhibit.

- b. The grant committee shall consist of nine (9) or fifteen (15) persons, as the parties may mutually agree.
- c. The City shall have the right to select one or more community leaders and one or more education experts to serve on the private committee, constituting 1/3 of the committee membership. The City and Bayer, by mutual agreement, shall have the right to select one or more community leaders and one or more education experts to serve on the private committee, constituting 1/3 of the committee membership. Representatives from Bayer selected by Bayer shall constitute 1/3 of the committee membership. Grant committee members shall each serve terms of four (4) years, and shall be reappointed or replaced upon expiration of their terms (or earlier replaced for cause) in the manner described above for their appointment.
- d. Grant committee members shall meet at least annually and shall not make any decision unless a quorum of committee members participate, where a quorum shall be fifty (50) percent of committee members. Decisions of the grant committee shall be made by majority vote.
- e. Grant award protocols shall be established by written policies and procedures established by the grant committee. Grant awards shall be directed towards Berkeley's public-school students with an emphasis on serving students from populations historically underrepresented in STEAM majors and careers and contribute to diversifying the STEAM Career Pipeline. The policies and procedures shall provide that the issuance and/or award of grants, the evaluation of awardees using evidence-based metrics and practices directed towards serving underrepresented students in STEAM, and the termination of grants shall be made on the basis of criteria and outcome metrics established in writing and provided to prospective grantees and incorporated as applicable into grant agreements.
- f. To the extent feasible and consistent with the terms of the Agreement, the parties shall establish the grant committee within six (6) months of the Effective Date, and in no event later than 60 days prior to the first required Community Benefits payment.
- g. Grants funded by monies under this Section IV.A shall be awarded by the grant committees follows:

- 1 For the first year of the Agreement, grant monies shall be awarded by August 1, 2022 and disbursed by Bayer to grantees by September 1, 2022 for purposes consistent with the terms of this Section IV.A and consistent with the terms of the Agreement.
 - 2 For all years after the first year, grant monies shall be awarded by March 1 and disbursed by Bayer to grantees by September 1 in each calendar year during the remaining term of the Agreement for purposes consistent with the terms of this Section IV.A and consistent with the terms of the Agreement.
- h. The foregoing grant committee shall not be dissolved prior to the end of the term set forth in the Agreement unless Bayer and the City mutually consent to dissolution in writing, and have agreed on alternative procedures for awarding grants under this Section IV.A.
 - i. The grant committee shall award grants with a five-year (5-year) term to eligible recipients with grant review of performance annually, and with an option to extend any awarded grants according to criteria and performance standards established pursuant to this Section IV.A.
3. By mutual agreement, the City and Bayer may authorize the committee to use (A) a portion of first year funding, not to exceed thirteen percent (13%) of the first year allocation of funds under this Section IV.A, to create a framework for program outcomes, selection process, and outcomes monitoring, and (B) a portion of each subsequent year's funding, not to exceed five percent (5%) of that years allocation, to assist with implementation of the framework and other administrative expenses, including third-party consultants. Otherwise, all monies allocated must be allocated to grantees.

B. West Berkeley Fund Committee

1. Bayer shall convene a committee, tentatively to be named the West Berkeley Fund Committee, charged with administering the issuance of grants for the purposes and according to the allocations set forth in this Section IV.B, subject to the following terms:
 - a. Grants awarded by the committee shall be used to finance charitable and/or educational programs that support community infrastructure and resiliency programs for the benefit of the community within the boundaries of the City's West Berkeley Plan. Grantee programs shall focus on three charitable objectives: climate action, health equity, and economic resiliency. Such grant amounts are to be distributed in equal portions to address these three charitable objectives.
 - b. The grant committee shall include representatives from Bayer and community leaders. Grant committee members shall serve on a volunteer basis. Such committee is not a municipal committee and is not exercising any municipal authorities (and is not authorized to do so), but is a private

committee of individuals per the terms of this Exhibit, and for the grant award purposes set forth in this Exhibit.

- c. The grant committee shall consist of nine (9) or fifteen (15) persons, as the parties may mutually agree.
 - d. The City shall have the right to select one or more community leaders to serve on the private committee, constituting 1/3 of the committee membership. The City and Bayer, by mutual agreement, shall have the right to 1/3 of the committee membership. Representatives from Bayer selected by Bayer shall constitute 1/3 of the committee membership. Community members unaffiliated with Bayer shall constitute a majority of the committee. Grant committee members shall each serve terms of four (4) years, and shall be reappointed or replaced upon expiration of their terms (or earlier replaced for cause) in the manner described above for their appointment.
 - e. All grant decisions shall be made by the vote of more than two-thirds of the members of the grant committee.
 - f. Grant award protocols shall be established by written policies and procedures established by the grant committee. The policies and procedures shall provide that the issuance and/or award of grants, the evaluation of awardees against performance standards, and the termination of grants shall be made on the basis of criteria and performance standards established in writing and provided to prospective grantees and incorporated as applicable into grant agreements.
 - g. To the extent feasible and consistent with the terms of the Agreement, the parties shall establish the grant committee within six (6) months of the Effective Date, and in no event later than 60 days prior to the first required Community Benefits payment.
 - h. To the extent it is feasible to do so, community benefits payments shall be made by Bayer to grant recipients in the same calendar year that grant recipients are identified by the committee.
 - i. The foregoing grant committee shall not be dissolved prior to the end of the term set forth in the Agreement unless Bayer and the City mutually consent to dissolution in writing, and have agreed on alternative procedures for awarding grants under this Section IV.B. .
 - j. The grant committee shall award grants with at least a three-year (3-year) term to eligible recipients, with grant review of performance annually, and with an option to extend any awarded grants according to criteria and performance standards established pursuant to this Section IV.B.
2. By mutual agreement, the City and Bayer may authorize the committee to use (A) a portion of first year funding, not to exceed twenty-five percent (25%) of the

first year allocation of grants under this Section IV.B, to create a framework for program outcomes, selection process, and outcomes monitoring, and (B) a

portion of each subsequent year's funding, not to exceed ten percent (10%) of that year's allocation, to assist with implementation of the framework and other administrative expenses, including third-party consultants. Otherwise, all monies allocated must be allocated to grantees.

C. Affordable Housing Trust Fund

1. The Affordable Housing Trust Fund is that municipal fund identified in Chapter 22.20 of the Berkeley Municipal Code.
2. Monies allocated to the Affordable Housing Trust Fund pursuant to this Exhibit D shall be utilized by the City in the same manner prescribed in: Chapter 22.20 of the Berkeley Municipal Code, as it might be amended from time to time; any resolutions, regulations, or official policies adopted by the City in implementing and/or administering the Affordable Housing Trust Fund; and any applicable state or federal law.

D. Affordable Childcare Trust Fund

1. The City of Berkeley Affordable Childcare Fund is that municipal fund identified in Resolution 66,618.
2. Monies allocated to the Affordable Childcare Fund pursuant to this Exhibit D shall be utilized by the City in the same manner prescribed in Resolution 66,618, as it might be amended from time to time; any resolutions, regulations, or official policies adopted by the City in implementing and/or administering the Affordable Childcare Fund; and any applicable state or federal law.

E. Private Percent for Art Fund

1. The City of Berkeley Private Percent for Art Fund is that municipal fund identified in the Public Art in Private Development Program Guidelines that is associated with the City's collection of the in-lieu fee to the City as set forth in section 23C.23.070 of the Berkeley Municipal Code.
2. Monies allocated to the Private Percent for Art Fund pursuant to this Exhibit D shall be utilized by the City in the same manner prescribed in Chapter 23C.23 of the Berkeley Municipal Code, as it might be amended from time to time; any resolutions, regulations, or official policies adopted by the City in implementing and/or administering the Private Percent for Art Fund; and any applicable state or federal law.

V. IN-KIND CONTRIBUTIONS

In addition to the monetary investments toward community benefits set forth in this Exhibit, Bayer shall provide the following non-monetary, in-kind contributions:

A. Bayer employee volunteerism hours and mentorships. To this end, each year Bayer shall:

1. Maintain its commitment to provide mentors for up to:

a. Fifteen (15) high school summer internships of at least one hundred and twenty (120) hours each, on an annual basis.

b. Eight (8) community college year-round internships of at least eight hundred (800) hours each, on an annual basis.

2. Provide at least six hundred and twenty (620) volunteer hours on an annual basis in Berkeley, including at least twenty (20) hours to support requested teacher development support and/or student career exploration engagement.

B. Local hiring outreach and promotion. To this end, Bayer shall:

1. Commit to focused community outreach about Bayer's open career positions to Berkeley residents via social media, local publications, job fair participation and engagement at Berkeley educational institutions. Any hiring decision must comply with applicable law, and Bayer strictly prohibits hiring discrimination on any basis protected by local, state, or federal law.

2. Report annually, in conjunction with annual review processes that apply to the Amended and Restated Development Agreement, on hires from among:

a. Berkeley residents; and

b. Graduates of Bayer-funded high school and community college internships.

C. Promotion of neighborhood events (e.g., community-building events, community meetings, and mailers for Bayer sirens and alarm systems). To this end, Bayer shall:

1. At the request of City leaders or community partners, promote at least two West Berkeley neighborhood community-building events per year to Bayer employees and encourage volunteerism.

2. Mail postcards to Bayer neighbors with information on Bayer's siren and alarm systems in an annual basis, where such postcards will be delivered to postal addresses of residents living south of University Avenue, north of Ashby Avenue, and West of San Pablo Avenue.

3. Host biennial community meetings (virtual or in person, at Bayer's discretion) to connect with neighbors on issues of shared concern and to report on Bayer's community engagement.
- D. Non-monetary support for one (1) Career Technical Education ("CTE") program receiving funding from the grant committee identified in Section IV.A (i.e., hosting qualified CTE internship programs on site as well as administrative and Information Technology support for internships). To this end, Bayer shall:
1. Provide on-site administrative space for internship coordination organization(s) identified under STEAM grant allocations identified in Section V.A up to a maximum of ten (10) people consistent with current Bayer administrative space practices.
 2. Provide information technology support for the aforesaid internship coordination organization(s).
- E. Identification and, where possible, pursuit of an increase of specific commitments to contracting with minority-owned businesses. To this end, Bayer shall, every three years, at the request of the City's Office of Economic Development, and to the extent consistent with applicable law:
1. Provide an update on its supplier inclusion and diversity program.
 2. Identify potential categories where Berkeley or Bay Area minority-owned businesses may be suppliers based on information provided by the City and refer suppliers already qualified through City of Berkeley Minority Business Enterprise ("MBE") programs to be evaluated as potential Bayer vendors.
 3. Engage major suppliers for its Berkeley operations to encourage them to source from diverse suppliers.
- F. Sustainability commitments beyond those required mitigation measures identified through CEQA process, including those bird-safe glass provisions, native planting requirements, and other sustainability practices programmed into Bayer's design review guidelines, as set forth in Exhibit C to the Amended and Restated Development Agreement.
- G. Use of facilities, if available and reasonably appropriate (e.g., does not interfere with site operations), for Berkeley Fire Department training, pursuant to the following terms:
1. At the request of Berkeley Fire Department, each year Bayer will host at least one training on community-facing emergency skills in Building 83 and Building 84.
 2. When Building 84 is removed, Bayer will no longer be obligated to host community facing training events at this building, and when Building 83 is

renovated, Bayer will no longer be obligated to host community facing training events at this building.

EXHIBIT E

Mitigation Monitoring and Reporting Program

The Subsequent Environmental Impact Report (SEIR) for the Bayer HealthCare LLC Development Agreement Amendment Project identifies mitigation measures to reduce the potential impacts of the project. The California Environmental Quality Act (CEQA) requires a public agency to adopt a monitoring and reporting program for ensuring compliance with required mitigation measures.

The following table lists mitigation measures identified in the SEIR and identifies the timing of and responsibility for monitoring each measure. The project proponent will have the responsibility for implementing the measures, and the various listed City of Berkeley departments will have the primary responsibility for monitoring and reporting the implementation of the mitigation measures.

The Development Agreement, Exhibit C, Site Development Standards and Design Guidelines, may include more stringent measures than those required in the EIR. As required by Exhibit C, applications for approvals set forth in Table 1 of Exhibit C must include a completed Development Standards Conformity Review table and completed Mitigation Measure Conformity Review.

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
AESTHETICS						
Mitigation Measure AES-1: Parking Structure Design (Updated 1991 EIR MM)						
The proposed parking structure between Dwight Way, Seventh Street, Eighth Street, and Parker Street shall be designed to maximize visual compatibility with the low-rise, low intensity uses to the north and east, in terms of the parking structure’s massing, color, and adjacent landscaping. The Eighth Street façade of the garage shall be articulated to add texture and depth to the structure. A setback as well as landscape and streetscape amenities shall be provided on the perimeter of the parking structure. Stepbacks shall also be provided along Eighth Street.	Review design of parking structure to ensure it maximizes compatibility with adjacent uses, is articulated, and provides setbacks and stepbacks.	Prior to issuance of building permits	City of Berkeley Department of Planning & Development			
Mitigation Measure AES-2: Glare Reduction (Updated 1991 EIR MM)						
For new and renovated buildings along and visible from the western property line, the use of reflective glass or other glazing that would cause glare as the sun sets shall be prohibited.	Review design of new and renovated buildings along and visible from western property line to ensure the use of reflective glass and glazing that would cause glare is not used.	Prior to issuance of building permits	City of Berkeley Department of Planning & Development			
AIR QUALITY						
Mitigation Measure AQ-1: Construction Emissions Measures						
Demolition, grading and construction activities shall comply with the current Bay Area Air Quality Management District’s basic control measures for reducing construction emissions (Table 8-2, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the May 2017 BAAQMD CEQA Guidelines or equivalent as updated by BAAQMD).	Review all demolition, grading, and building permits to ensure compliance.	Prior to issuance of building or engineering permit	City of Berkeley Department of Planning & Development			
Mitigation Measure AQ-2: Tier 4 Construction Equipment						
Demolition, grading and construction activities shall utilize at least 90 percent Tier 4 equipment (or better) through 2032 and all Tier 4 equipment (or better) after 2032. If the use of such equipment is not commercial available, the applicant shall prepare a project-specific air quality assessment to evaluate construction-related criteria air pollutant. If the project-specific air quality assessment finds that construction emissions would exceed any of the applicable BAAQMD thresholds, the air quality assessment shall identify	Review all demolition, grading, and building permits to ensure compliance. If the use of Tier 4 equipment is not commercially available,	Prior to issuance of building or engineering permit and during demolition, grading and construction	City of Berkeley Department of Planning & Development and Public Works Department			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>emission reduction measures to reduce emissions below the thresholds and the applicant shall implement the measures. Measures may include, but would not be limited to, some or all of the following, as necessary:</p> <ul style="list-style-type: none"> ▪ Equip construction equipment with Tier 3 or Tier 4 certified engines or CARB-certified Level 3 diesel particulate filters. All diesel particulate filters shall be kept in working order and maintained in operable condition according to manufacturer’s specifications. ▪ Minimizing the idling time of diesel-powered construction equipment to two minutes. ▪ Use late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available. ▪ Use low-sulfur fuel or other non-diesel for stationary construction equipment. ▪ Use low-emission on-site stationary equipment. ▪ Use alternatively-fueled construction equipment (e.g., natural gas, electric). ▪ Schedule soil import and/or export to reduce the number of daily haul truck trips. ▪ Phase construction activities to reduce daily equipment use. ▪ Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time to reduce the amount of disturbed ground surfaces at any one time. 	<p>require and review a project-specific air quality assessment.</p>					

BIOLOGICAL RESOURCES

Mitigation Measure BIO-1: Nesting Bird Surveys and Avoidance

<p>Demolition, grading, construction and tree removal activities shall be conducted outside of the migratory bird nesting season (February 1 through August 31) to reduce any potentially significant impact to birds that may be nesting in the project site. If construction and tree removal activities must occur during the migratory bird nesting season, an avian nesting survey of the project site shall be conducted for active nests of protected migratory birds. The avian nesting survey shall be performed by a qualified wildlife biologist within seven days prior to the start of ground or vegetation disturbance or building demolition activities. The survey will consist of a qualified biologist conducting a visual inspection of the disturbance area plus a 200-foot buffer and vicinity, as is feasible depending on possible access and/or line-of-site</p>	<p>If construction and tree removal activities must occur during the migratory bird nesting season, review and approve avian nesting survey.</p> <p>If an active bird nest is found, review all demolition, grading, and</p>	<p>Prior to issuance of building and engineering permits</p>	<p>City of Berkeley Department of Planning & Development</p>			
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Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>constraints, to detect any suitable nesting locations and determine if any nests occur. If an active bird nest is found, the nest shall be flagged and mapped on the construction plans, along with an appropriate no disturbance or protection buffer based on site conditions, which shall be determined by the biologist based on the species sensitivity to disturbance (generally, standard buffers can be 50-250 feet for passerines and 250-500 feet for raptors and special-status species, but site- and species-specific adjustments can be made within the discretion of the biologist, with different buffers established with respect to different levels of disturbance). Work within the nest avoidance buffer shall be prohibited or otherwise restricted per requirements determined by the biologist until the juveniles have fledged. The nest buffer shall be demarcated in the field with flagging and stakes or construction fencing.</p>	<p>building permits to ensure nests are buffered have been flagged and mapped.</p>	<p>Ongoing during construction activities</p>				
<p>Mitigation Measure BIO-2: Bird Strike Avoidance</p>						
<p>New structures or structures undergoing exterior renovations shall include the following:</p> <ul style="list-style-type: none"> ▪ One hundred (100) percent of the window area of the west-facing façades of new, expanded, and renovated buildings adjacent to or directly visible from Aquatic Park shall consist of verified bird-safe glazing products, e.g., American Bird Conservancy-endorsed products such as Arnold Glass Ornilux Mikado, Acopian Birdsavers, Bendheim Channel Glass, GlasPro Bird Safe Glass, Guardian Glass SunGuard SN68, Viracon, or others. Alternatively, The reflective or transparent surface area visible to the west-facing frontage of the property shall employ bird-safe glazing treatments, including fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior of glazing or UV patterns visible to birds. To qualify as bird-safe glazing treatment, vertical elements of the window patterns shall be at least 1/4-inch wide at a maximum spacing of 4 inches, or have horizontal elements at least 1/8-inch wide at a maximum spacing of 2 inches. ▪ Automatic shades shall be installed on windows and shall be programmed to operate between 10:00 p.m. and sunrise on new building facades facing the western boundary of the project site. Non-emergency exterior lighting shall be shielded to minimize light emission. ▪ Transparent glass shall not be allowed on rooftops of new, expanded, and renovated buildings, including in conjunction with green roofs. 	<p>Review building permits to ensure compliance with bird strike avoidance measures.</p>	<p>Prior to issuance of building permits</p>	<p>City of Berkeley Department of Planning & Development</p>			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments

- The cumulative area of glass façades for newly constructed or expanded buildings facing the project site's westerly boundary shall not exceed 2,250 square feet.

CULTURAL RESOURCES

Mitigation Measure CR-1: Architectural History Evaluation

Demolition or alteration of a building or structure that is at least 40 years old at the time of permit application and has not previously been evaluated for demolition or renovation within the last five years from the time demolition or alternation is proposed shall be subject to review at the request of the City by a qualified architectural historian who meets the Secretary of the Interior's Professional Qualifications Standards (PQS) in architectural history or history. The qualified architectural historian or historian shall conduct an intensive-level evaluation in accordance with the guidelines and best practices recommended by the State Office of Historic Preservation to identify if the building or structure proposed for demolition or alteration qualifies as a historical resource under CEQA guidelines. Buildings and structures shall be evaluated within their historic context and documented in a technical report and on Department of Parks and Recreation Series 523 forms. The report shall be submitted to the City for review and approval prior to the issuance of a building permit. If no historic resources are identified, no further analysis is warranted. If historic resources are identified, the applicant shall be required to implement Mitigation Measure CR-2.

If applicable, require and review historical resources evaluation to ensure compliance.

Prior to issuance of building permits

City of Berkeley Department of Planning & Development

Mitigation Measure CR-2: Architectural History Mitigation

For renovations involving Building B83 or historical resources identified through the process described in the architectural history evaluation mitigation measure (CR-1), project activities shall comply with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (Standards). During the project planning phase (prior to any construction activities), input shall be sought from a qualified architectural historian or historic architect meeting the *Secretary of the Interior's Professional Qualifications Standards* to ensure project compliance with the Standards for Rehabilitation. This input will ensure the avoidance of any direct/indirect physical changes to historical resources. The findings and recommendations of the architectural historian or historic architect shall be documented in a Standards Project Review Memorandum at the schematic design phase. This memorandum shall analyze all project components for compliance with the Standards for Rehabilitation.

Review project plans and Standards Project Review Memorandum to ensure compliance.

Prior to issuance of building permits

City of Berkeley Department of Planning & Development

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>The memorandum should recommend design modifications necessary to bring projects into compliance with the Standards for Rehabilitation, which shall be incorporated into project designs to ensure compliance with the Standards. The memorandum shall be submitted to the City for review and approval prior to the issuance of a building permit.</p>						
Mitigation Measure CR-3: Cultural Resources Desktop Analysis						
<p>Prior to demolition, grading, new construction, or underground work such as utility installation, a cultural resources Desktop Analysis, consisting of a review of existing information regarding cultural resources on a given project site, shall be conducted. The Desktop Analysis shall include, but not be limited to, a review of the project description and extent of proposed ground disturbance, a review of recent cultural resources records on file at the California Historical Resources Information System, and a review of available historic maps and aerial photography. If a project would solely involve the refurbishment of an existing building and no ground disturbance would occur, this measure would not be required. If no resource impacts are identified, no further analysis is warranted. If potential impacts to resources are identified, the applicant shall be required to implement Mitigation Measure CR-4. If the desktop analysis identifies that an area has been subject to a Phase I cultural resources study in the previous five years, Measure CR-4 would not be required. If the Desktop Analysis identifies that no further analysis is warranted, the results will be documented in a memorandum for review and approval by the City prior to issuance of a building permit.</p>	<p>Review desktop analysis to ensure compliance.</p>	<p>Prior to issuance of building permits</p>	<p>City of Berkeley Department of Planning & Development</p>			
Mitigation Measure CR-4: Phase I Archaeological Resources Study						
<p>If the desktop analysis described in Mitigation Measure CR-3 identifies the potential to encounter cultural resources, a Phase I cultural resources study shall be performed by a qualified professional meeting the Secretary of the Interior's (SOI) Professional Qualifications Standards (PQS) for archaeology (National Park Service 1983). The Phase I cultural resources study shall include a pedestrian survey of the project site and sufficient background research and fieldwork to determine whether archaeological resources may be present. Archival research shall include a records search of the California Historical Resources Information System and a Sacred Lands File search with the Native American Heritage Commission. The report will be submitted to the City for review and approval prior to the issuance of a building permit. Recommendations in the Phase I Report must be implemented prior to and/or during construction to avoid or reduce impacts on archaeological resources.</p>	<p>If applicable, review Phase I report to ensure compliance.</p>	<p>Prior to issuance of building and engineering permits</p>	<p>City of Berkeley Department of Planning & Development</p>			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>Adherence to recommendations included in the Phase I report shall be documented as appropriate for verification by the City. If the Phase I identifies an archaeological site and/or a high likelihood of subsurface deposits, Measure CR-5 shall be implemented.</p>						
Mitigation Measure CR-5: Extended Phase I Testing						
<p>For any projects proposed within 100 feet of a known archaeological site or in areas that have not been subject to previous archaeological testing, monitoring, or other subsurface investigation, as determined by the Desktop Analysis (Mitigation Measure CR-3) or Phase I Report (Mitigation Measure CR-4), the project applicant shall retain a qualified archaeologist to conduct an Extended Phase I (XPI) study to determine the presence/absence and extent of archaeological resources on the project site. If the boundaries of the archaeological site are already well understood based on previous work and are clearly interpretable as such by a qualified cultural resource professional, or if there is documentation that fill is already present to the depth of the current project, XPI testing will not be required. XPI testing shall include a series of shovel test pits and/or hand augured units and/or mechanical trenching to establish the boundaries of archaeological site(s) on the project site. All archaeological excavation shall be conducted by a qualified archaeologist(s) under the direction of a principal investigator meeting the SOI's PQS for archaeology (National Park Service 1983). The results of the XPI will be documented in a technical report and submitted to the City for review and approval prior to the issuance of a building permit. If the archaeological resource(s) of concern are Native American in origin, the qualified archaeologist shall confer with local California Native American Tribe(s) and, if applicable, a Native American monitor shall be present in accordance with Mitigation Measure TCR-2. Recommendations in the XPI Report shall be implemented for all ground disturbance activities and documented as appropriate for verification by the City.</p>	<p>If applicable, review XPI study to ensure compliance.</p>	<p>Prior to issuance of building and engineering permits</p>	<p>City of Berkeley Department of Planning & Development and Public Works Department</p>			
Mitigation Measure CR-6: Archaeological Site Avoidance						
<p>Avoidance will be the preferred treatment measure for an archaeological site identified on the Bayer campus. Any identified archaeological sites will be avoided by project-related construction activities, to the maximum extent feasible to still be able to fulfill the project objectives as determined by Bayer and confirmed by the City. The determination of feasibility will include an assessment of project redesign options, including but not limited to relocation of a proposed building, realignment of utilities, redesign of building plans to</p>	<p>Review all demolition, grading, and building permits to ensure compliance.</p>	<p>Prior to issuance of building and engineering permits and during construction</p>	<p>City of Berkeley Department of Planning & Development and Public Works Department</p>			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>build above the existing ground surface and/or to minimize the proposed depth of disturbance, or other options as appropriate for a given project. A barrier (temporary fencing) and flagging will be placed between the work location and any resources within 60 feet of a work location to minimize the potential for inadvertent impacts. The 60-foot avoidance buffer may be reduced as appropriate if recommended by the qualified archaeologist. If the feasibility of avoidance of an archaeological resource of Native American origin is not immediately apparent, Bayer and the City of Berkeley shall contact consulting Tribes to discuss appropriate treatment of the resource, including the implementation of MM CR-7 and CR-8. If, after a good faith effort at resolution, the City, Bayer, and consulting Tribe conclude that agreement is not possible, MM CR-7 shall be implemented.</p>						
Mitigation Measure CR-7: Phase II Site Evaluation						
<p>If the results of the Phase I Report and/or XPI indicate the presence of archaeological resources that cannot be avoided by the project and that have not been adequately evaluated for CRHR listing at the project site, the project applicant shall retain a qualified archaeologist to conduct a Phase II investigation to determine if intact deposits are present and if they may be eligible for the CRHR or qualify as unique archaeological resources.</p> <p>A Phase II evaluation shall include necessary archival research to identify significant historical associations and mapping of surface artifacts, collection of functionally or temporally diagnostic tools and debris, and excavation of a sample of the cultural deposit. The sample excavation will characterize the nature of the site, define the artifact and feature contents, determine horizontal and vertical boundaries, and retrieve representative samples of artifacts and other remains.</p> <p>If the archeologist and, if applicable, a Native American monitor or other interested tribal representative from a locally affiliated Tribe as listed by the Native American Heritage Commission determine it is appropriate, cultural materials collected from the site shall be processed and analyzed in a laboratory according to standard archaeological procedures. The age of the materials shall be determined using radiocarbon dating and/or other appropriate procedures; lithic artifacts, faunal remains, and other cultural materials shall be identified and analyzed according to current professional standards. The significance of the sites shall be evaluated according to the criteria of the CRHR. The results of the investigations shall be presented in a technical report following the standards of the California Office of Historic Preservation publication "Archaeological Resource Management Reports:</p>	<p>If applicable, review the Phase II evaluation to ensure compliance.</p>	<p>Prior to issuance of building and engineering permits</p>	<p>City of Berkeley Department of Planning & Development and Public Works Department</p>			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>Recommended Content and Format (1990 or latest edition).” The report shall be submitted to the City for review and approval prior to the issuance of any building or engineering permits that could disturb identified resources. Recommendations in the Phase II report shall be implemented for all ground disturbance activities and documented as appropriate for verification by the City.</p>						
<p>Mitigation Measure CR-8: Phase III Data Recovery</p>						
<p>If the Phase II site evaluation identifies resources that meet CRHR significance standards and if the resources cannot be avoided, the project applicant shall incorporate recommendations for mitigation of archaeological impacts into the final design as per CR-7 above prior to construction. If the resource is significant for its data potential and if recommended by the archaeologist and approved by consulting Tribes if appropriate, Phase III data recovery may be required, including excavation, to exhaust the data potential of significant archaeological sites, and shall be carried out by a qualified archaeologist meeting the SOI standards for archaeology according to a research design reviewed and approved by the City and prepared in advance of fieldwork and using appropriate archaeological field and laboratory methods consistent with the California Office of Historic Preservation Planning Bulletin 5, Guidelines for Archaeological Research Design (1991 or the latest edition thereof). Methods of artifact disposition may include reburial onsite within a tribal cultural resources easement as identified in TCR-3 or curation. The final Phase III Data Recovery reports shall be submitted to the City of Berkeley prior to issuance of any building permit for grading or construction. Recommendations contained therein shall be implemented throughout all ground disturbance activities.</p>	<p>Review all demolition, grading, and building permits to ensure compliance that all feasible recommendations for mitigation of archaeological impacts are incorporated.</p>	<p>Prior to issuance of building and engineering permits</p>	<p>City of Berkeley Department of Planning & Development and Public Works Department</p>			
<p>Mitigation Measure CR-9: Worker’s Environmental Awareness Program</p>						
<p>Prior to any ground disturbing activities, the project applicant shall retain an SOI qualified archaeologist to conduct a Worker’s Environmental Awareness Program (WEAP) training. The WEAP training shall be focused on archaeological sensitivity and shall be provided to all construction personnel prior to the commencement of any ground-disturbing activities. The WEAP training shall include a description of the types of cultural material that may be encountered, cultural sensitivity issues, the regulatory environment, and the proper protocol for treatment of the materials in the event of a find. Attendance at the WEAP training shall be documented with a sign-in sheet to be submitted to the City for verification of adherence to this measure. This</p>	<p>Monitor compliance with WEAP training.</p>	<p>Prior to ground disturbing activities</p>	<p>City of Berkeley Department of Planning & Development</p>			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
WEAP training may be presented in tandem with the training required under TCR-1.						
Mitigation Measure CR-10: Archaeological Monitoring						
If recommended by the Desktop Analysis, Phase I, XPI, Phase II, or Phase III studies, the project applicant shall retain a qualified archaeologist (Monitor) to observe project-related ground-disturbing activities. The Monitor will have the authority to halt and redirect work if any archaeological resources are identified during monitoring. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find must be evaluated for listing in the CRHR. Archaeological monitoring may be reduced or halted at the discretion of the monitors, in consultation with the lead agency, as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 60 percent of ground disturbance. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance activity moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). Following the completion of monitoring, a report documenting the monitoring effort shall be prepared and submitted to the City of Berkeley and the Northwest Information Center.	If applicable, ensure retention of a qualified archaeologist.	Prior to issuance of building and engineering permits	City of Berkeley Department of Planning & Development			
	Monitor ongoing compliance.	Ongoing during construction				
Mitigation Measure CR-11: Unanticipated Discovery of Archaeological Resources						
If archaeological resources are encountered during ground-disturbing activities, whether or not an archaeological monitor is present, work within 60 feet shall be halted. The project applicant shall notify the City and retain an archaeologist meeting the SOI's Professional Qualification Standards for archaeology (National Park Service 1983) to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for CRHR eligibility. If the discovery proves to be eligible for the CRHR and impacts cannot be avoided, data recovery excavation may be required. Reports prepared to document and/or evaluate unanticipated discoveries and their treatment shall be submitted to the City of Berkeley for review and approval. Recommendations contained therein shall be implemented throughout the remainder of ground disturbance activities.	If applicable, ensure retention of a qualified archaeologist. Monitor compliance with required measures in the event of unanticipated discovery of archaeological resources.	Ongoing during construction.	City of Berkeley Department of Planning & Development			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
GEOLOGY AND SOILS						
Mitigation Measure GEO-1: Discovery of Paleontological Resources						
<p>If a project would solely involve the refurbishment of an existing building and no ground disturbance would occur, this measure would not be required. Prior to ground-disturbing activities, the project applicant shall retain a qualified paleontologist to provide on-call services in the event of an unanticipated discovery. A qualified paleontologist is defined by the Society of Vertebrate Paleontology (SVP) standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010). Prior to the start of construction, the qualified paleontologist shall conduct a Paleontological Worker Environmental Awareness Program (WEAP), a training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The WEAP shall be fulfilled at the time of a preconstruction meeting at which a Qualified Paleontologist shall attend.</p> <p>In accordance with SVP (2010) guidelines, all work shall halt in the immediate vicinity of a find and the qualified paleontologist shall evaluate the discovery. The qualified paleontologist shall determine the significance of the discovery and identify whether additional mitigation or treatment is warranted. Measures may include testing, data recovery, reburial, archival review and/or transfer to the appropriate museum or educational institution, such as the University of California Museum of Paleontology. All testing, data recovery, reburial, archival review or transfer to research institutions related to monitoring discoveries shall be determined by the qualified paleontologist and shall be reported to the City. Work in the area of the discovery may resume after the find is properly documented and authorization is given to resume construction work.</p>	<p>Ensure retention of a qualified paleontologist.</p> <p>Monitor compliance with WEAP training and SVP guidelines.</p>	<p>Prior to permit approval.</p> <p>Ongoing during construction.</p>	<p>City of Berkeley Department of Planning & Development and Public Works Department</p>			
GREENHOUSE GAS EMISSIONS						
Mitigation Measure GHG-1 Renewable Electricity Resources						
<p>Electricity used at the site shall be sourced from 100 percent renewable energy resources by 2030. Bayer shall submit documentation showing as such to the City every five years, or at intervals required by the City, to ensure compliance.</p>	<p>Review documentation of electricity sourced from renewable energy.</p>	<p>Every five years when documentation submitted</p>	<p>City of Berkeley Department of Planning & Development</p>			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
HAZARDS AND HAZARDOUS MATERIALS						
Mitigation Measure HAZ-1 Property Assessment – Phase I and II Environmental Site Assessments (ESA)						
<p>The project applicant shall prepare a site-specific Phase I ESA for each development area / Block, in accordance with standard ASTM methodologies, to assess the land use history of the project site. Phase II ESAs (i.e., soil, groundwater, soil vapor subsurface investigations) shall be completed where a building is proposed south of Carleton Street or based on the results of the Phase I ESAs. Specifically, if the Phase I ESAs identify recognized environmental conditions or potential concern areas, a Phase II ESA would be conducted to determine whether the soil, groundwater, and/or soil vapor has concentrations exceeding regulatory screening levels for commercial/industrial land uses.</p> <p>If the Phase II ESA concludes that the site is or may be impacted and could affect the planned development, then an assessment, remediation, or corrective action (e.g., removal of contaminated soil, in-situ treatment, capping, engineering controls) shall be conducted prior to or during construction under the oversight of federal, state, and/or local agencies (e.g., USEPA, DTSC, SFB RWQCB, City of Berkeley TMD, Alameda County DEH) and in full compliance with current and applicable federal and state laws and regulations. Additionally, Voluntary Cleanup Agreements may be used for parcels where remediation or long-term monitoring is necessary.</p>	Review Phase I and Phase II ESAs.	Prior to issuance of building or engineering permits	City of Berkeley Department of Planning & Development and Public Works Department			
Mitigation Measure HAZ-2: Regulatory Agency UST Involvement – City of Berkeley TMD and SFB RWQCB						
<p>Because the project site and immediately adjacent properties are associated with open and closed LUST and Cleanup Program cases overseen by the SFB RWQCB, the project applicant shall notify the SFB RWQCB of the following:</p> <ul style="list-style-type: none"> ▪ Development plans for each Block located south of Carleton Street and for Block B North east of Fourth Street ▪ Completion of subsequent Phase I ESAs ▪ Identification of unanticipated stained or odorous soils during demolition, grading, and/or construction activity ▪ Identification of additional underground tanks and associated piping, or other underground features such as railroad spurs or ties, unknown piping, cisterns, wells, waste/burn pits, etc., if encountered <p>Additionally, all onsite UST removals and associated assessment work shall be completed under the direction of the City of Berkeley TMD and/or the SFB RWQCB. To the extent there are any pending LUST and Cleanup Program cases</p>	Review Phase I and Phase II ESAs to ensure compliance. Maintain correspondence with SFB RWQCB throughout development. Maintain correspondence with SFB RWQCB and City of Berkeley TMD throughout construction, as necessary.	Prior to issuance of building or engineering permits and during construction	City of Berkeley Department of Planning & Development and Public Works Department			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>on the project site, the UST closure and agency approval documents shall be reviewed and approved by the City of Berkeley TMD and/or the SFB RWQCB prior to issuance of building permits for grading or any other ground disturbance.</p> <p>Upon identification of stained soil, odorous soil, USTs, or other underground features onsite, City of Berkeley TMD and/or SFB RWQCB could require actions such as: preparation of removal action workplans; obtaining permits for removal of USTs or other underground features; excavation and offsite disposal of soil; assessment of soil and/or groundwater beneath the excavation; and/or completion of UST removal reports or case closure documents.</p>						
<p>Mitigation Measure HAZ-3: Regulatory Agency Subsurface Involvement – ACPWA, SFB RWQCB and City of Berkeley</p>						
<p>The City of Berkeley TMD and the SFB RWQCB shall continue to provide agency oversight of assessment and remediation of the open Cleanup Program case (case #01S0045) on the project site. Additionally, the applicant shall notify the City of Berkeley and SFB RWQCB Cleanup Program project manager of the following:</p> <ul style="list-style-type: none"> ▪ Development plans for Block B North east of Fourth Street and development south of Carleton Street ▪ Onsite use of 14 hydraulic elevators that may have contained oils containing PCBs (Farallon, 2020) ▪ Onsite use of above-ground storage tanks used to store diesel for generators (Farallon, 2020) ▪ Other regulatory UST case listings (City of Berkeley and SFB RWQCB) and assessment work that will be completed under the direction of other regulatory agencies ▪ All former environmental documents completed for the site of development disturbance, including this SEIR <p>Upon notification of the information listed above, the City of Berkeley and the SFB RWQCB could require actions such as: preparation of subsurface investigation workplans; completion of soil, soil vapor, and/or groundwater subsurface investigations; installation of soil vapor or groundwater monitoring wells; excavation and offsite disposal of soil; completion of human health risk assessments; and/or completion of remediation reports or case closure documents.</p> <p>If groundwater wells or soil vapor monitoring probes are identified within the construction area during demolition, subsurface demolition, or construction at the project site, they will be abandoned/destroyed under permit from the</p>	<p>Review all demolition, grading, and building permits to ensure oversight by City of Berkeley TMD and the SFB RWQCB.</p> <p>Coordinate with City of Berkeley TMD and the SFB RWQCB to ensure compliance with required measures.</p>	<p>Prior to permit approval.</p> <p>Ongoing during cleanup.</p>	<p>City of Berkeley Department of Planning & Development</p>			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>Alameda County Public Works Agency (ACPWA). Demolition activities will be documented in a letter report submitted to the ACPWA and SFB RWQCB within 60 days of the completion of abandonment activities. Abandonment of sub-slab vapor points will be completed with SFB RWQCB approval and demolition activities will be documented in a letter report to SFB RWQCB. The SFB RWQCB non-objection, concurrence, no further action, closure, and/or agency approval documents shall be delivered to and reviewed by the City of Berkeley prior to issuance of any building permit authorizing grading or construction on the site. The SFB RWQCB may determine that City of Berkeley TMD or DTSC may be best suited to perform the lead agency duties for assessment and/or remediation at the project site, in which case this and other mitigation measures will still apply.</p>						
<p>Mitigation Measure HAZ-4: Soil and Groundwater Management Plan</p>						
<p>The project applicant shall implement the recommendations of the Soil and Groundwater Management Plan (SGMP) prepared by Farallon Consulting LLC dated December 28, 2020. The SGMP shall be reviewed by the City of Berkeley Toxics Management Division prior to issuance of permits for grading or other ground disturbance and the report shall be updated if needed. The SGMP recommendations are related to:</p> <ul style="list-style-type: none"> ▪ Management of Unanticipated Subsurface Conditions ▪ Health and Safety Requirements ▪ Onsite Soil Management ▪ Groundwater Management ▪ Stormwater Management ▪ Soil and Groundwater Management Plan Reporting Requirements <p>Construction workers shall be informed about environmental conditions and measures to mitigate potential risks to the environment, construction workers, and other nearby receptors from potential exposure to hazardous substances that may be associated with unknown conditions or unexpected underground structures, and known contaminated soil or groundwater encountered during construction activities.</p> <p>The SGMP shall be updated and the updated recommendations shall be implemented in the following cases:</p> <ul style="list-style-type: none"> ▪ A change in project site uses; ▪ Receipt of additional information pertaining to project site environmental conditions; ▪ Updated chemical toxicity information for contaminants detected at the project site based on revised regulatory screening levels; or, 	<p>Review and approve updated SGMP and review all demolition, grading, and building permits to ensure compliance.</p>	<p>Prior to issuance of building or engineering permits.</p>	<p>City of Berkeley Department of Planning & Development</p>			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<ul style="list-style-type: none"> New legal or regulatory soil or groundwater management requirements applicable to the project site. 						
Mitigation Measure HAZ-5: Hazardous Materials Safety Plan (Updated 1991 EIR MM)						
<p>The project applicant shall prepare a Hazardous Materials Safety Plan to address potential issues that may be encountered during project operation involving the use, storage, transport, and disposal of biohazardous and chemical materials. The Hazardous Materials Safety Plan shall be updated annually and reviewed by Berkeley’s Toxics Management Division. The Plan shall include, but not be limited to, the following information and measures:</p> <ul style="list-style-type: none"> Documentation of ongoing compliance with all applicable federal, state, and local regulations related to biohazardous safety, storage, transport, and disposal procedures, and emergency response preparedness, including biosafety guidelines published by the NIH and CDC. Documentation that current and future operations would prohibit the use of biohazardous agents within Risk Groups 3 and 4. Documentation of ongoing coordination for emergency preparedness with the City of Berkeley, including preparation of an emergency response plan and an emergency disaster procedures manual for release of hazardous biological materials. The disaster preparedness plan shall include annual training for and coordination with City of Berkeley emergency responders as to the nature of hazards on site, types of organisms likely to be encountered, where to take exposed persons to receive appropriate treatment, and staging semi-annual mock disaster drills. Updates to and continued compliance with the site’s Risk Management Prevention Plan (RMPP) for the use of ammonia. The RMPP shall be subject to review and approval by the USEPA. Updates to and continued compliance with the Hazardous Materials Release Response Plan and inventory and Risk Management and Prevention program required by CalEPA. 	Review and approve Hazardous Materials Safety Plan.	Annually	City of Berkeley Department of Planning & Development			
HYDROLOGY AND WATER QUALITY						
Mitigation Measure HWQ-1: Best Management Practices (Updated 1991 MM)						
<p>The project applicant shall prepare documentation of Best Management Practices to minimize the potential for water pollution. Typical elements of such a document would include addressing the possibility of substituting less</p>	Review all demolition, grading, and building permits to ensure compliance.	Prior to issuance of building and engineering permits	City of Berkeley Department of Planning & Development			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
toxic compounds in manufacturing and research and development and proper handling of those toxic compounds used.			and Public Works Department			
Mitigation Measure HWQ-2: Source Control (Updated 1991 MM)						
The project applicant shall manage pollutants on the project site such that they are not easily mobilized and discharged into stormwater runoff. This shall involve configuring fuel storage under roofed areas and preventing on-site runoff from flowing through these areas. Hazardous materials stored in uncovered areas shall be fully contained or covered such that they do not come into contact with rainfall.	Review all demolition, grading, and building permits to ensure compliance.	Prior to issuance of building and engineering permits.	City of Berkeley Department of Planning & Development and Public Works Department			
	Monitor compliance during operation.	Ongoing				
Mitigation Measure HWQ-3: Water Quality Monitoring (Updated 1991 MM)						
The project applicant shall perform sampling and testing of stormwater runoff from the project site four times per year. The extent and location of this monitoring will be based upon the degree of source runoff controls implemented. Monitoring shall be used primarily to ensure source controls are working and to detect any additional or accidental pollutants in stormwater runoff.	Review sampling and testing of stormwater runoff to ensure compliance.	Quarterly	City of Berkeley Department of Planning & Development and Public Works Department			
Mitigation Measure HWQ-4: Pollutant Removal (Updated 1991 MM)						
The project applicant shall install systems to remove pollutants before stormwater runoff leaves the project site. This may involve physical removal or chemical or biological treatment depending on the type of pollutants that would be present. Uncovered parking areas shall receive street sweeping monthly to remove pollutants, oils, and greases before they are mobilized by runoff. Storm drains downstream of hazardous materials storage areas shall be equipped with manual shut-off valves. In the event of a spill, these valves shall be immediately closed, and shall remain closed until clean-up has been completed.	Review all demolition, grading, and building permits to ensure compliance.	Prior to issuance of building and engineering permits.	City of Berkeley Department of Planning & Development and Public Works Department			
	Monitor compliance during operation.	Ongoing				
Mitigation Measure HWQ-5: Management of Underground Tanks (Updated 1991 MM)						
The project applicant shall protect from damage existing wells that monitor potential releases of pollutants from underground tanks and may be required to relocate them if they would be affected by construction. Remediation or excavation of soil contaminated by underground tank releases, if necessary, shall be completed before construction of permanent foundations.	Review all demolition, grading, and building permits to ensure compliance.	Prior to issuance of building and engineering permits	City of Berkeley Department of Planning & Development and Public			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
			Works Department			
Mitigation Measure HWQ-6: Monitoring and Remediation of Seepage into Aquatic Park (Updated 1991 MM)						
The project applicant shall contribute to the funding of (as determined by the City), or perform, periodic groundwater sampling and monitoring where groundwater seeps from the 10- to 12-foot high embankment along the western edge of the Southern Pacific Railroad. If the City determines that the Bayer Campus' use of hazardous material has contributed to contamination of groundwater seepage which supports the narrow freshwater wetland between the main lagoon at Aquatic Park and the railroad, Bayer shall contribute to the funding of remediation, if necessary. If the City determines that contamination of groundwater seepage originates from properties outside the Bayer Campus, then the project applicant shall not be responsible for funding remediation of such contamination.	Review results of groundwater sampling and, if applicable, require funding.	Ongoing	City of Berkeley Department of Planning & Development and Public Works Department			
Mitigation Measure HWQ-7: Source Control for Groundwater Contamination (Updated 1991 MM)						
The project applicant shall implement standard safeguards, monitoring, and contingency measures to minimize the potential for future contamination of the local groundwater. Such measures include roofing and/or berming of storage areas, lining storage areas to prevent infiltration, and/or installing shutoff valves in downslope storm drain lines.	Review all demolition, grading, and building permits to ensure compliance and monitor compliance during operation.	Ongoing	City of Berkeley Department of Planning & Development and Public Works Department			
NOISE						
Mitigation Measure N-1: Construction-Related Noise Reduction Measures						
The following measures shall be implemented during construction for the purpose of reducing construction-related noise impacts:	Monitor compliance with noise reduction measures.	Monitoring during construction	City of Berkeley Department of Planning & Development			
<ul style="list-style-type: none"> ▪ Neighbor Notification. At least two weeks prior to initiating construction activities requiring the use of two or more pieces of heavy construction equipment at the project site, the applicant shall provide notice to businesses and residents within 500 feet of the project site construction areas, including: (1) a description of the Project; (2) a description of construction activities; (3) a daily construction schedule (i.e., time of day) and expected duration (number of weeks or months); (4) the name and phone number of the "Noise Management Individual" for the Project; (5) a commitment to notify neighbors at least four days in advance of any 						

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>authorized extended work hours and the reason for extended hours; (6) notice that construction work is about to commence; and (7) the designated "Disturbance Coordinator" responsible for responding to any local complaints about construction noise. The noise manager would determine the cause of the noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.</p> <ul style="list-style-type: none"> ▪ Disturbance Coordinator. The applicant shall designate a disturbance coordinator who shall be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. A telephone number and webpage for the disturbance coordinator shall be conspicuously posted at the construction site outside the gate visible to passersby (the campus is closed). ▪ Noise Reduction Program. The applicant shall develop a site-specific construction noise reduction program prepared by a qualified acoustical consultant to reduce construction related noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer or a delegate. The noise reduction program shall include time limits for construction and all technically and economically feasible measures to ensure that construction complies with the City of Berkeley Municipal Code Section 13.40.070. The program shall include, but is not limited to, the following available controls to reduce construction noise levels to as low as practical: <ul style="list-style-type: none"> ▪ Temporary Noise Barrier. The applicant shall construct eight-foot high solid plywood fences along construction site boundaries adjacent to off-site noise sensitive residences or other noise-sensitive land uses (e.g., school uses) to meet applicable thresholds. These fences shall be outfitted with noise control blanket barriers where necessary to effect reductions that result in compliance with the City's quantified noise construction thresholds, as determined by the noise control plan. ▪ Mufflers. Construction equipment shall be properly maintained and all internal combustion engine driven machinery with intake and exhaust mufflers and engine shrouds, as applicable, shall be in good condition and appropriate for the equipment. During 						

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
<p>construction, all equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers, consistent with manufacturers' standards.</p> <ul style="list-style-type: none"> ▪ Electrical Power. The applicant shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists. The applicant shall select hydraulically or electrically powered equipment where feasible and avoid pneumatically powered equipment where feasible. ▪ Equipment Staging. All stationary noise-generating equipment shall be located as far as possible from sensitive receivers when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible. ▪ Equipment Idling. Unnecessary idling of internal combustion engines shall be prohibited. Construction equipment that would not be used for more than five minutes should be turned off completely. ▪ Construction Vehicles. Construction-related traffic shall be routed along major roadways and away from sensitive receivers, where feasible. ▪ Workers' Radios. All noise from workers' radios shall be controlled such that radios are not audible at sensitive receivers near construction activity. ▪ Smart Back-up Alarms. Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction. ▪ Additional Noise Attenuation Techniques. For development on the portion of the site east of Seventh Street, implement the measures set forth in the Noise Reduction Program and either: (1) erect temporary noise control blanket barriers, where necessary, along building facades facing construction sites; (2) restrict construction to weekdays; or (3) implement other noise reductions alternatives that could feasibly reduce noise to achieve the City's quantified noise construction thresholds. 						

PUBLIC SERVICES

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
Mitigation Measure PS-1 Security Measures (Updated 1991 MM)						
<p>The project applicant shall continue implementing the following measures recommended by the Berkeley Police Department including but not limited to:</p> <ul style="list-style-type: none"> ▪ Prepare a Crime Prevention Evaluation Analysis Report in coordination with the Police Department; ▪ Employ a highly visible security guard; ▪ Provide adequate lighting in parking areas and around buildings in use in the evenings; and ▪ Utilize solid walls, burglar alarms, and/or safety glazing on the windows for buildings containing pharmaceuticals. 	Review all demolition, grading, and building permits to ensure implementation of security measures.	Prior to issuance of building permits	City of Berkeley Department of Planning & Development			
RECREATION						
Mitigation Measure REC-1 Aquatic Park Funding (Updated 1991 MM)						
The project applicant shall contribute to park maintenance and improvements related to Aquatic Park through an upfront payment of \$385,000. The contribution shall be paid to the City of Berkeley Parks, Recreation, and Waterfront Department by February 25, 2022.	Require contribution of a fair share of the cost of park maintenance.	Once prior to February 25, 2022	City of Berkeley Department of Planning & Development			
TRANSPORTATION						
Mitigation Measure T-1 Transportation Demand Management Program (Updated 1991 EIR MM)						
<p>The project applicant shall continue to implement and update the Transportation Demand Management (TDM) Program to reduce single-occupant automobile trips generated by the project site. The TDM Program shall be reviewed and approved by the City of Berkeley prior to issuance of building permits for development allowed under the amended DA. In addition, the TDM Program shall be updated by Bayer and approved by the City every five years, or at intervals required by the City, to ensure that services are consistent with best practices to reduce the use of single-occupant automobile trips to and from the project site.</p> <p>The TDM Program may include, but not be limited to, the following information and measures:</p> <ul style="list-style-type: none"> ▪ Continued funding and implementation of the West Berkeley Shuttle with regular service and expansion to meet demand; ▪ Pre-tax commuter benefits; ▪ Travel coordination, via a Transportation Coordinator and regularly disseminated transportation and commute information; ▪ On-site amenities such as eating and recreation facilities; 	Review and approve TDM program.	Every five years, or at intervals required by the City of Berkeley Transportation Division	City of Berkeley Department of Planning & Development and Public Works Department (Transportation Division)			

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments

- Telecommute program; and,
- Bicycle parking, repair stations and education, as well as employee showers, changing facilities and lockers.

TRIBAL CULTURAL RESOURCES

Mitigation Measure TCR-1 Worker’s Environmental Awareness Program

Prior to ground disturbing activities, the project applicant will retain a locally affiliated tribal member who represents a tribal organization that was contacted as part of Assembly Bill 52 outreach to conduct a Worker’s Environmental Awareness Program (WEAP) training. The WEAP training shall be provided to all construction personnel (in conjunction with the cultural resources WEAP) prior to the commencement of ground-disturbing activities. The WEAP training shall include a description of the types of materials that may constitute Tribal Cultural Resources, the reasons for their traditional cultural significance and importance to tribal members, the stop work authority of the Native American monitor, and the proper protocol for the respectful treatment of the resource in the event of an unanticipated discovery. Attendance at the WEAP training shall be documented with a sign-in sheet for submittal to the City for verification of adherence to this measure. This WEAP training may be presented in tandem with the training required under CR-9.

Monitor compliance with WEAP training.

Prior to ground disturbing activities

City of Berkeley
Department of
Planning &
Development

Mitigation Measure TCR-2 Native American Monitoring

If recommended by the Desktop Analysis, Phase I, Extended Phase I (XPI), Phase II, or Phase III studies required under Mitigation Measures CR-1 through CR-8, the project applicant shall retain a qualified local Native American monitor to observe all ground disturbance, including archaeological excavation, associated with development facilitated by the project. Native American monitoring shall be provided by a locally affiliated tribal member. Monitors will have the authority to halt and redirect work if any tribal cultural resources are identified during monitoring. If tribal cultural resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find must be evaluated. Native American monitoring may be reduced or halted at the discretion of the monitors, in consultation with the lead agency, as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 60 percent of ground disturbance. If monitoring is reduced to spot-checking,

If applicable, confirm a qualified Native American monitor has been retained and review all demolition, grading, and building permits to ensure compliance with required monitoring and measures in the event that tribal cultural resources are identified.

Prior to issuance of building permits.

City of Berkeley
Department of
Planning &
Development

Mitigation Measure	Action Required	Monitoring Timing	Monitoring Agency	Compliance Verification		
				Initial	Date	Comments
spot-checking shall occur when ground-disturbance moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). Following the completion of monitoring, a report documenting the monitoring effort shall be prepared and submitted to the lead agency and the California Historical Resources Information System.	Monitor ongoing compliance.	Periodically throughout construction activities, or as determined by the Native American monitor.				
Mitigation Measure TCR-3 Cultural Resources Open Space Easement						
The project applicant will set aside an area that could be used as a Tribal Cultural Resources Open Space Easement in the event that tribal cultural resources are encountered during construction activities and are unable to be avoided. The purpose of the Cultural Resources Open Space Easement will be to provide an onsite location for reinterment of sensitive Native American cultural resources and/or human remains, as well as other associated funerary objects. If said remains are encountered, a Cultural Resource Open Space Easement will be developed and granted by the project applicant in consultation with the identified Most Likely Descendant(s), and other affiliated tribes identified by the NAHC as applicable. Should an easement be necessary, the following actions would be prohibited on the land subject to said easement, except as required for the reburial of sensitive cultural resources: grading; excavation; placement of soil, sand, rock, gravel or other material; clearing of vegetation with machinery; construction; erection or placement of a building or structure; vehicular activities; trash dumping; installation of wet or dry infrastructure, such as irrigation systems; or for a purpose other than as open space for tribal use only. Exceptions include the following: <ul style="list-style-type: none"> ▪ Placement and reburial of sensitive Native American cultural resources or human remains. ▪ Access shall be provided for identified Most Likely Descendant(s), and other affiliated tribes identified by the NAHC in perpetuity. ▪ Selective clearing of vegetation by hand if required by fire authorities for the purpose of reducing an identified fire hazard or the removal of vegetation using chemicals for vector control purposes where required by the Department of Environmental Health. ▪ The installation of a bench, marker, or other amenity if desired by the consulting Tribe(s). 	Confirm area has been identified that could service as a cultural resources open space easement.	Prior to ground disturbing activities	City of Berkeley Department of Planning & Development			

EXHIBIT F

REPORT ON JUSTIFICATION FOR HEIGHTS IN EXCESS OF FORTY-FIVE FEET

Pursuant to Recital J of the Amended and Restated Development Agreement between the City of Berkeley and Bayer HealthCare LLC, the attached letter from Urban Planning Partners Inc. comprises the engineering, land use, and environmental analyses demonstrating the need for buildings which exceed the standard height limits identified in the current iteration of the West Berkeley Plan and the Berkeley General Plan.

March 29, 2021

Leslie Mendez, Senior Planner
City of Berkeley
Department of Planning and Development
1947 Center Street, 3rd Floor
Berkeley, CA 94704

Dear Ms. Mendez:

Attached you will find our compiled research for the justification and reasoning for building height as it relates to life sciences building height on the Bayer Campus. The following information was compiled by conducting interviews with industry professionals, personal experience, and other research.

EXECUTIVE SUMMARY

Since the Bayer Campus (previously the Miles Inc./Cutter Biological campus) was first developed over 40 years ago, the needs of life sciences campuses have and continues to rapidly evolve. Previously single- and two-story height, but long, warehouse style buildings were seen as the ideal fit for these types of facilities. However, product demand and changing operations for life sciences companies have changed and resulted in different ideologies when constructing these types of structures.

To stay flexible and responsive to demand, life sciences buildings need to be adaptable to whatever uses that might be necessary now, but also other uses in the future – having the appropriate height, both in terms of individual floor design and total building stories, can play a vital role in that adaptability. Height is also necessary for core life sciences operations for equipment, air circulation, and structural integrity.

While much of this discussion highlights some of the operational needs of technical life science buildings, not all buildings will require such demanding physical requirements. Buildings such as those that perform administrative purposes are also required – allowing for additional building height at these facilities plays a pivotal role too. Height plays an indirect, but important role in freeing up the floor area that can result in the development of amenities and open spaces that will provide a social benefit, as well as help attract and retain talent. Lastly, building height, especially in the context of a town such as Berkeley, will help to create a more aesthetically pleasing environment for employees and surrounding communities by breaking up the monotony of low-rise industrial buildings, all the while having little aesthetic impacts.

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LIFE SCIENCES OPERATIONS

The operations on the Bayer campus drive height requirements for individual floors and multi-story requirements. Many of the findings described in this section are reflective of Bayer's most recent work related to the development of its CCTC_{2/3} building for which future development is likely to be of a similar vein.

A. Life Sciences Equipment Accommodation and Maintenance

Life sciences operations typically require very specialized infrastructure and equipment, and thus require very specialized buildings. Much of the necessary equipment can be quite large and tall and would otherwise not be able to be hosted in buildings with traditional floor to floor heights. As such, life science buildings, especially those that involve production and manufacturing, require the appropriate floor-to-floor heights to not only fit large equipment and machines, but also allow additional space for overhead maintenance and appropriate access to components. All building equipment and systems must undergo routine maintenance, which typically involves replacement of filters, valve elastomers, gaskets, and drive belts in fans and motors, as well as calibration of instruments and collection of samples for quality control. These maintenance requirements necessitate physical access to all systems, instruments, and components that require servicing, which in turn drives space requirements and floor-to-floor heights. This access is critical, as it allows for quick and efficient maintenance during therapy production operations, which are extremely sensitive.

B. Flexibility of Multiple Product Types

At its Berkeley, CA site, Bayer develops and produces commercial biopharmaceuticals that are distributed globally. Bayer intends to develop and market a wide variety of biopharmaceutical products employing an array of technologies/modalities such as protein therapeutics, cell therapy and gene therapy, while maintaining flexibility to respond to shifting product modalities or product volumes driven by patient demand. The range of modalities being considered are consistent with research, development and manufacturing efforts being pursued by biotechnology companies in the San Francisco Bay Area and around the globe.

A robust physical infrastructure is needed in order to develop, manufacture and perform lab testing on the spectrum of products that may be developed and manufactured at the Berkeley site. Future buildings will need several capabilities, including: transportation routes of the campus roads and walkways, site security, utilities, and amenities. The refined site development plan was designed to meet the following needs:

- Manufacturing buildings that handle raw materials, in-process intermediates, drug substance and drug product;
- Facilities to receive and store raw materials to develop, manufacture and test products;

- Closed processing areas to protect manufacturing personnel and the products being manufactured;
- Environmental controls such as cleanrooms, airlocks, and facility segregation to protect manufacturing personnel and products;
- Laboratories to develop products, processes and analytical methods for various therapy types, and to test the safety of products manufactured in order to release those products to patients;
- Spaces that ensure biosafety measures can be implemented per National Institutes of Health (NIH)/Center for Disease Control (CDC) guidelines (up to Basics of Biosafety Level [BSL] 2);
- Facilities and equipment to produce and distribute utilities, including clean, GMP utilities as well as standard utilities for heating, cooling and electrical power;
- Emergency power generation capability to protect the inventory of work-in-progress and finished goods or critical process steps in progress;
- Workshops and spare parts storage to maintain manufacturing, laboratory and utility equipment and instruments on site;
- Office space for manufacturing, quality control, development, maintenance, quality assurance, engineering, HSES, regulatory affairs, supply chain, procurement, accounting, legal, information technology, human resources, and managerial personnel;
- Storage space for work-in-progress material and finished goods under ambient, refrigerated (+2°C to +8°C) or frozen conditions (-20°C to -196°C); and
- Receiving and shipping facilities to accept truck traffic required to bring raw materials to the site, ship out finished goods or work-in-progress material, and to haul away waste.

One of the critical components required for operation of production facilities is the accommodation of a system that provides flexible modules that can be readily reconfigured to produce a wide variety of therapies in a range of volumes. This flexibility requires that the design of production module floorplates measure a certain size and shape to enable process steps for anticipated cell therapy modules. Another feature that enables the required level of flexibility is stacked production floorplates. This vertical configuration allows future production processes to have unit operations distributed on different levels. The time sensitivity of the performance of certain unit operations, as well as the delicacy of processing materials such as cells (especially refrigeration requirements), drive *intra*-module horizontal proximity and *inter*-module vertical adjacency. This drives the requirement for colocation of the modules in a single facility in a stacked arrangement. These requirements between unit operations are reflected in the design of facilities. The viability and functionality of facilities will be lost if these adjacency requirements are not met

C. Flexibility to Pivot

In contrast to the point above, the ability to produce a single product is also important and is facilitated by building height. When considering the wide range of products under development in cell and gene therapy, it's likely that during development and testing that breakthroughs could lead

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to production efforts shifted to produce a distinct product. Pivoting manufacturing to only one item may require the utilization of production equipment and spaces typically used in another production processes, including cell culture technology (suspension verses adhesion), separation, purification, formulation, and primary packaging.

Technology, modern medicine, and consumer needs are continuously changing and advancing. With this change, life sciences must stay nimble and ready to adapt as necessary. This is especially apparent in COVID times where the global pandemic has prompted possibly the largest and fastest mobilization of the global scientific community we've ever seen. The current crisis demonstrates the importance of life science buildings that can adapt to a wide range of uses where many life sciences companies have had to modify and dedicate their facilities towards finding treatments or producing vaccines to meet demand. Constructing buildings with additional height will help to facilitate built-in flexibility for the future – creating a building that is currently appropriate for production and manufacturing may need to shift products or research purposes (and vice versa). With additional height, since floors are segregated, uses can change quickly on a floor-by-floor basis.

For example, the purpose of the CCTC2/3 building is to design and construct a building to house facilities for the production of Advanced Therapy Medicinal Products (ATMPs) for use in late-stage clinical trials and in early commercial launch. Specifically, the aim of the facility is to produce both cell therapy and gene therapy products, and to have the flexibility to produce different products in the future with minimal reconfiguration, and even to produce one single product in larger volumes. Floors 1 and 3 would contain manufacturing, inspection, and support functions associated with biopharmaceutical production, along with offices for Bayer production employees. Both floors would contain their own "module" (for a total of 2 modules). The Gene Therapy Module production space would be located on Floor 1 and the Cell Therapy Module production space would be located on Floor 3. After being used to produce a product that shows promise in clinical trials, the CCTC2/3 building may be modified to focus on producing larger quantities of that product for commercial use. An example of the flexibility incorporated into the CCTC2/3 building includes some space on the 2nd floor and the ground floor module, which can be reconfigured to accommodate a cell maturation step that will enable the building as designed to deliver product to a much larger patient population. Furthermore, the high-level concept is that a module can be constructed and used for a variety of purposes, or even re-purposed after initial fit-out. As shown in the image below, by orienting support spaces such as utility, warehouse/logistics areas, offices, and cleanroom transition airlocks at the building perimeter, a large central process area can be left available so that it can be configured and re-configured to accommodate a desired purpose.

CCTC Modular Design

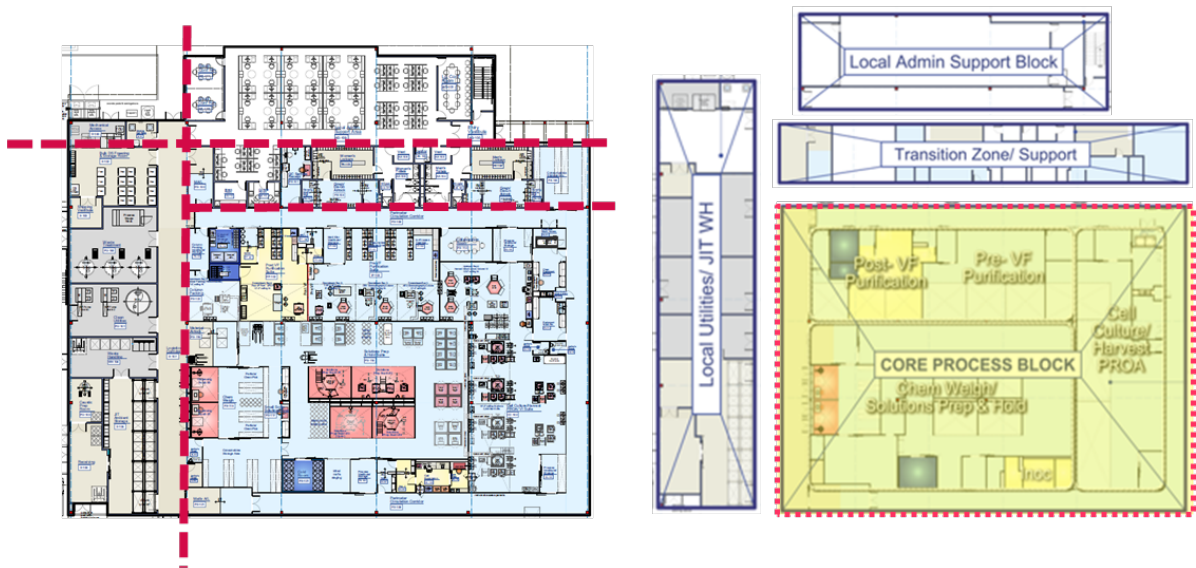


Figure 1: CCTC2/3 Module Configuration

The life sciences field is highly competitive when it comes to acquiring funding and research. Companies that are quickly able to adapt their needs and bring products to market quickly are more successful at acquiring both. Height, as demonstrated throughout, facilitates flexibility and is necessary for an operator to remain competitive and deliver therapies to patients as quickly as possible.

D. Time Sensitive Testing

During the course of production processes, various “just-in-time” tests are needed to verify the quality of the products being produced. In many cases, there is a critical time sensitivity of these tests which leads to requirements of testing facilities to be located in close proximity to the original production spaces. Given the sensitivity of the products (living cells), several production process constraints must be considered, including:

- Storage conditions, especially temperature;
- Time tolerances for processing steps/transfers;
- Shear force sensitivity;
- Pressure sensitivity; and
- Temperature and light sensitivity during processing.

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With these constraints, the physical proximity of two modules and their processing trains becomes critical to ensure complete production capabilities are provided. When considering the need for upstream and/or downstream equipment proximity simultaneously, in concert with other process constraints, the vertical adjacency of the two modules becomes a technical requirement. This vertical arrangement allows the potential use of gravity to manage transfers without damaging cells and the close process step adjacency to manage time/temperature/light constraints. The separate modules allow for routine flexibility with segregated independent operations. The stacked configuration illustrated in Figure 1 allows the facility to ensure future product manufacturing capabilities as well as efficient building design. All these factors dictate the need for production buildings to be taller than 45 feet. Furthermore, by placing testing facilities in the shared 2nd floor of the building (as shown in Figure 1 below), the travel time for the test samples is reduced. If these particular facilities were located further away from each other because of horizontal distances, the time required to transfer cells from the cell culture area through the airlocks into a different filling facility would be longer than the time allowed for the cells to be out of refrigeration, which could lead to compromised products. Success or failure of these processes is often a matter of seconds, and adjacency is therefore a key consideration.

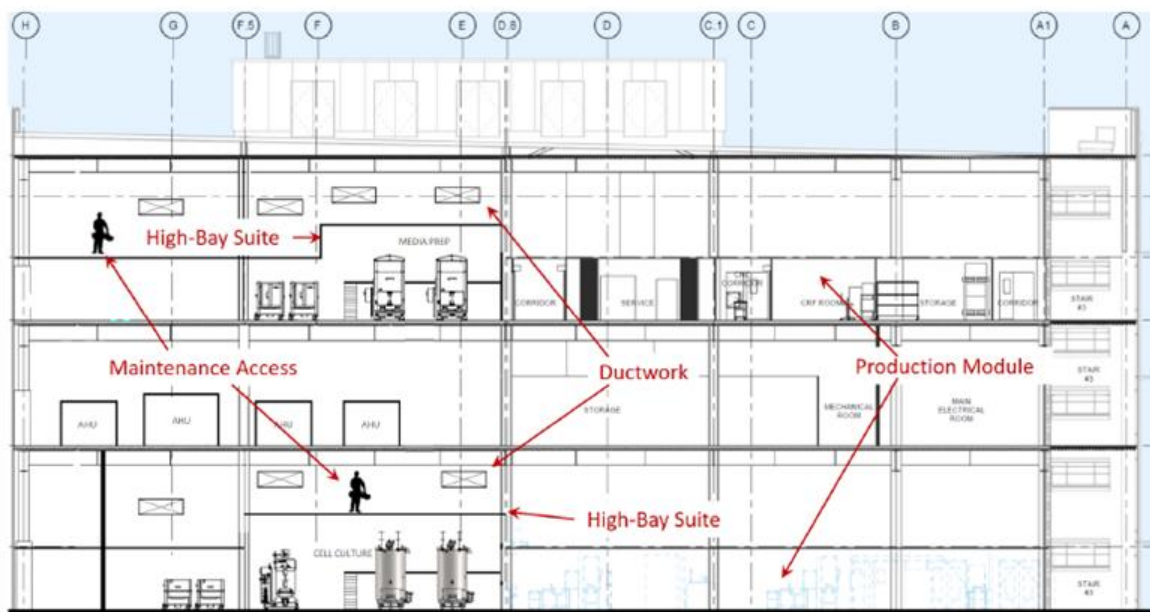


Figure 2: CCTC2/3 Building Configuration

E. Reduction of Cross-Contamination

Life science operations are moving away from large-scale bulk production of single products to multiproduct facilities as the demand for small-volume, personalized medicines has increased. In other words, the future of therapies for illness will become more personalized, abandoning a "once-

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size-fits-all" model. As a result, production of multiple products requires meticulous tracking and increases the potential for cross-contamination; however, increased building height can help to reduce this potential. As previously discussed, future production buildings are anticipated to involve multiple cell culture production suites to be run simultaneously. Because of this, additional measures are required to protect the cells in one suite from incompatible cells or other agents that could be introduced from another suite. While safety protocols are in place to reduce cross-contamination of the various operations occurring in life science manufacturing and production, creating physical separation of modules via verticality creates a clear and obvious physical barrier where separate functions and/or products can be developed on separate floors. Allowing for additional floors allows for multiple product development without out the worry for other separation methods that might otherwise be required if they were on the same floor in a longer and shorter building, which would ultimately increase the needed floor area if it were a single-floored building.

An additional measure to mitigate cross-contamination is the use of dedicated ductwork and HVAC systems on the 2nd floor to serve each module, rather than using shared systems. While this results in a greater number of total HVAC systems, its energy impact is offset by the reduced length of airducts due to the close proximity to production areas, as opposed to a longer building which would result in more energy required to push air through longer airduct systems.

F. Other Operational Support Functions

Another important requirement for life sciences buildings is the need for adequate air circulation. Many buildings follow a "once in, once out" model, where air is circulated into the building, run through the facilities, then filtered and released. This process is vital in ensuring that potential contamination of both operations and outdoor air is eliminated. This requirement for air circulation is much more intensive than traditional office, manufacturing, or research and development needs, and thus requires specialized air conduction systems. An example of this is in the CCTC2/3 building where nearly the entire 2nd floor is dedicated to mechanical space that would serve both the 1st and 3rd floors, which reduces the amount of noise generated that might otherwise be if it were located externally.

For buildings with limited horizontal space, load-bearing floors and vertical height are important structural considerations for life sciences buildings. Based on discussions with industry professionals, floorplates of approximately 30,000 square feet and floor-to-floor heights of 16 feet are seen as instrumental to the operational success of life science buildings. These specifications allow for the structural integrity required of these types of buildings due to internal circulation of people and materials, allow for appropriate load-bearing for large specialized equipment, adequate airflow (as discussed above), and provides for flexibility for the future (as discussed in greater detail below).

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INCREASED OPEN SPACE AND LANDSCAPING

Allowing for increase vertical configuration not only serves the technical demands of life sciences buildings, but also serves many important urban planning goals. Since the original adoption of the Development Agreement in 1991, many of the core ideologies of urban planning have shifted. Many of the benefits of increasing accessibility and open space are essential tenants of “smart-growth” and increasing height for social benefits is now the expectation, not the exception.

The current Development Agreement allows for taller buildings, but in scattered locations throughout the campus. Meanwhile, the Mixed Manufacturing zoning district that would apply in the absence of the Development Agreement only allows for building heights of up to 45 feet, even within interior portions of large properties that are not readily visible from public streets and open spaces. As discussed above, that creates several challenges and inefficiencies, but also limits the available open space on the campus. One of the biggest urban planning benefits to increases in vertical height of buildings is that it increases open space at the ground floor level that would otherwise be occupied by ground floor building area. This freed-up space can in turn be used for other uses, and in this instance, primarily amenities and more open space within and along the edges of the campus. Campuses that provide common spaces for peers help to create a sense of community by creating flexible and adaptable spaces that allow for a variety of working styles and spontaneous interactions with colleagues. Providing such amenities in the biopharmaceutical industry, is necessary to attract and retain top talent, for which there is fervent competition among companies.

Open spaces are important to help create aesthetically-pleasing spaces for not only employees, but the surrounding communities. In the instance of the Bayer Campus, under the Development Agreement Extension, allowing for more building height will allow the campus to be setback further west of Seventh Street than currently plausible, allowing for development of a public promenade, as shown in the visual simulations below.



Figure 3: Current Conditions at the corner of Seventh and Carleton Street, looking southwest



Figure 4: Proposed Conditions at the corner of Seventh and Carleton Street, looking southwest

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As demonstrated, by increasing the height of the building along Seventh Street, the building is allowed to be more setback into the campus, freeing up space between the building and the right-of-way. If approved, this newly generated space is currently planned to be reprogrammed to be used as a promenade that would extend along most of Seventh Street. The open space area along Seventh Street would be expanded to approximately 1.6 acres. Creating additional open space would not only beautify the area, but has also been shown to improve the physical and mental well-being of nearby residents.¹ The majority of Berkeley is transit rich, and known as a very walkable and bikeable area.² There are some exceptions to this however, and West Berkeley isn't quite as connected as some other areas. Clearing the ground floor allows Bayer to put in trail networks for employees in campus and along frontages, further enhancing pedestrian and bicycle connectivity for West Berkeley.

This effect can be even more dramatic when looking at the Bayer Campus as a whole. As shown in the images below, by modifying height limits in most of the areas, facilities in existing buildings can be relocated into newer, taller buildings, creating additional free space to be reprogrammed as open space and landscaping. Meanwhile, by carefully locating taller buildings within the campus



Figure 6: Bayer Campus under Baseline Conditions

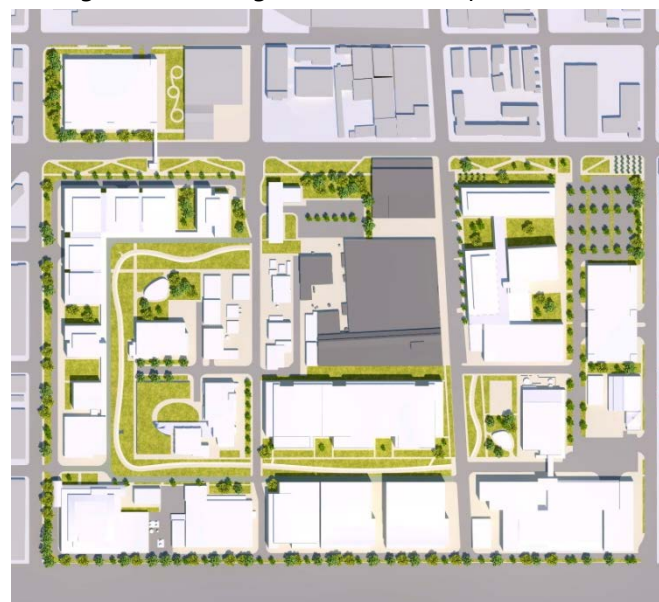


Figure 5: Bayer Campus under Proposed Conditions

and along east-west axes, this reallocation of space can occur without causing any significant

¹ Bratman et al, 2012. The impacts of nature experience on human cognitive function and mental health.

² According to WalkScore.com, Berkeley has a walk score of 83, transit score of 59, and bike score of 82. See <https://www.walkscore.com/CA/Berkeley> for more information.

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aesthetic impacts (discussed in more detail below). The amended DA includes at least nine acres of open space, which would exceed the existing three acres on-site. Open space would consist of fields, sports courts, pedestrian trails, bicycle trails, outdoor eating areas, and landscaping.

ACQUIRING AND MAINTAINING TALENT

The needs for life sciences buildings aren't the only thing that has changed over time – the needs of workers and employees has changed too. One of the key reasons why open space, amenities, state-of-the-art facilities, and a sense of community are important to the life sciences field is the competition for talent. It has also been proven that increasing access to open space can help reduce stress and can improve our physical and emotional well-being, which can be essential for not only attracting talent, but also ensuring that workers are happy.³ Life sciences companies have always competed with the technology and information sectors for highly skilled workers such as data scientists, programmers and engineers. Now, both life sciences and tech companies are also competing with financial institutions, business and professional services firms, and nearly every other industry as they work to redefine their businesses using data sciences, machine learning and artificial intelligence. Life sciences companies are in an increasingly competitive landscape for access to skilled talent in the fields of science, technology, engineering and mathematics. To draw in high-quality talent, life sciences companies need to take every measure possible to have a competitive edge, which is why having amenities open space that might not otherwise be possible to have without building height, especially for such a small campus such as Bayer's. Open space also helps promote the health of employees through wellness features, such as open green space, pedestrian and bicycle circulation, and other amenities, and create a unified campus with consistent design principles that creates a sense of place within the campus and that integrates with the surrounding community.

To secure and maintain talent, many of the competitors in the life sciences field are taking significant measures and investing in high-quality buildings, open spaces, and amenities. One example of this is at the Gilead Campus in Foster City, where Gilead has proposed to eliminate a surface parking lot to construct a private outdoor park with a promenade, amphitheater, and outdoor garden.

³ Song et al, 2016. Association between Urban Greenness and Depressive Symptoms: Evaluation of Greenness Using Various Indicators.

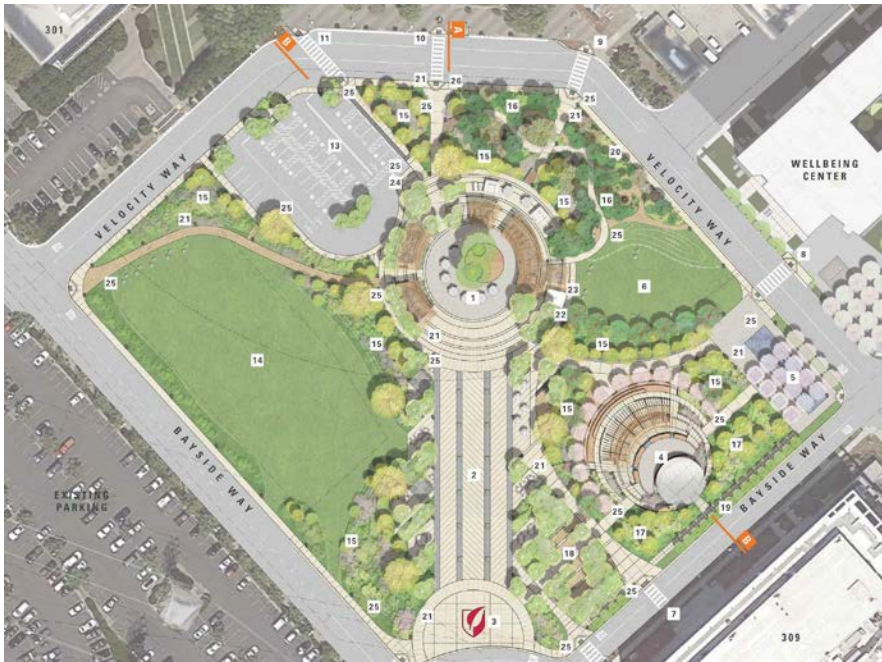


Figure 7: Gilead's Planned Private Park

Another example of this is the Genentech Campus in South San Francisco, which contains a massive 207-acre campus with numerous open spaces and dedicated facilities for amenities, including cafeterias and gyms.



Figure 8: Genentech Campus in South San Francisco

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Gilead and Genentech are located in suburban communities and are much larger campuses. In comparison, Bayer is located in an urban environment and has a more condensed campus. Given the suburban nature of their campuses, Gilead and Genentech have more flexibility in laying out their campus and providing green/open space and employee amenities throughout the campus. Being in an urban location, Bayer does not have the same opportunities to develop the type of buildings necessary or provide the green space/open space and employee amenities that are necessary to compete with their competitors, who are primarily located in suburban settings, to attract high quality employees without buildings that are taller than 45 feet. Given the urban environment around the campus, it is possible to provide taller buildings in strategic locations within the context of the surrounding neighborhood. Without the ability to “build out”, the only option is to “build up”. By increasing building verticality, additional opportunities for open spaces and amenities are created (as described above). This all plays a vital part in ensuring the best and brightest come to work at Bayer and live in Berkeley.

AESTHETICS

Land use in West Berkeley is characterized by a wider range of activities than in any other section of Berkeley, but is primarily considered Berkeley’s manufacturing and wholesaling district. As such, the areas near the Bayer Campus are primarily occupied with expansive low-rise industrial, manufacturing, and warehouse buildings, which can sometimes occupy the equivalent of entire, or even multiple, city blocks. In doing so, the industrial nature of West Berkeley can create uninviting places and restrict mobility due to sheer amount of ground floor area occupied by industrial land uses and buildings. Areas where these types of buildings are congregated are also usually lacking in visual character and can be an eyesore, especially in the context of such an urban city like Berkeley. By diversifying height and visual character of buildings in the area, a more aesthetically pleasing environment can be facilitated. Furthermore, increasing height can help to create clear sight lines that foster a sense of expansiveness, which might otherwise might not be available, especially in denser urban neighborhoods. Increased height could be perceived as an aesthetic problem in an area where single-floor homes, businesses, and industrial facilities would be located, but being located in a neighborhood with diverse building design and massing lends itself well to a flexibility of building design and massing that might not otherwise be possible.

The buildings with additional height have been strategically located to minimize visual impacts to the community. To illustrate this point, FirstCarbon Solutions (FCS) conducted an analysis to determine if implementation of the Development Agreement Extension Project would create any significant aesthetics impacts. The project site is located in a mixed urban area with office, commercial, and residential uses as well as Aquatic Park. The proposed conditions would not change the visual character of the project site or surrounding areas, and would retain an urban look with implementation of the project. Taller buildings would also not impair views of any protected scenic corridors, nor would it significantly impact other surrounding views, including views from

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Aquatic Park, which are mostly already obstructed from views due to the existing landscape (as shown in the images below). Proposed conditions with the taller buildings would retain the baseline visual character by renovating baseline buildings, improving project frontages, and constructing new buildings that better utilize the proposed project for office and commercial uses and use exterior materials that ensure buildings are visually interesting and fit in with the urban environment.

Lastly, there would be a marginal increase in net new shadows cast as the impact would be contained solely on the Bayer Campus, adjacent roadways, and the railroad tracks (also shown below). While the project would cast new shadow on the eastern perimeter of Aquatic Park, it would only cast shadow on areas currently covered in landscaping, of which already causes shading in that respective vicinity. As such, the shading with new buildings will not be significantly different than the existing conditions.



Figure 9: Existing View of Bayer Campus from Berkeley Hills



Figure 10: Proposed View of Bayer Campus from Berkeley Hills



Figure 11: Existing View from Carleton and Seventh Street



Figure 12: Proposed View from Carleton and Seventh Street



Figure 13: Existing View from Grayson Street



Figure 14: Proposed View from Grayson Street



Figure 15: Existing View from Aquatic Park Trail



Figure 16: Proposed View from Aquatic Park Trail



Figure 17: Existing View from Southern Aquatic Park



Figure 18: Proposed View from Southern Aquatic Park



Figure 19: Existing View from Northern Aquatic Park



Figure 20: Proposed View from Northern Aquatic Park

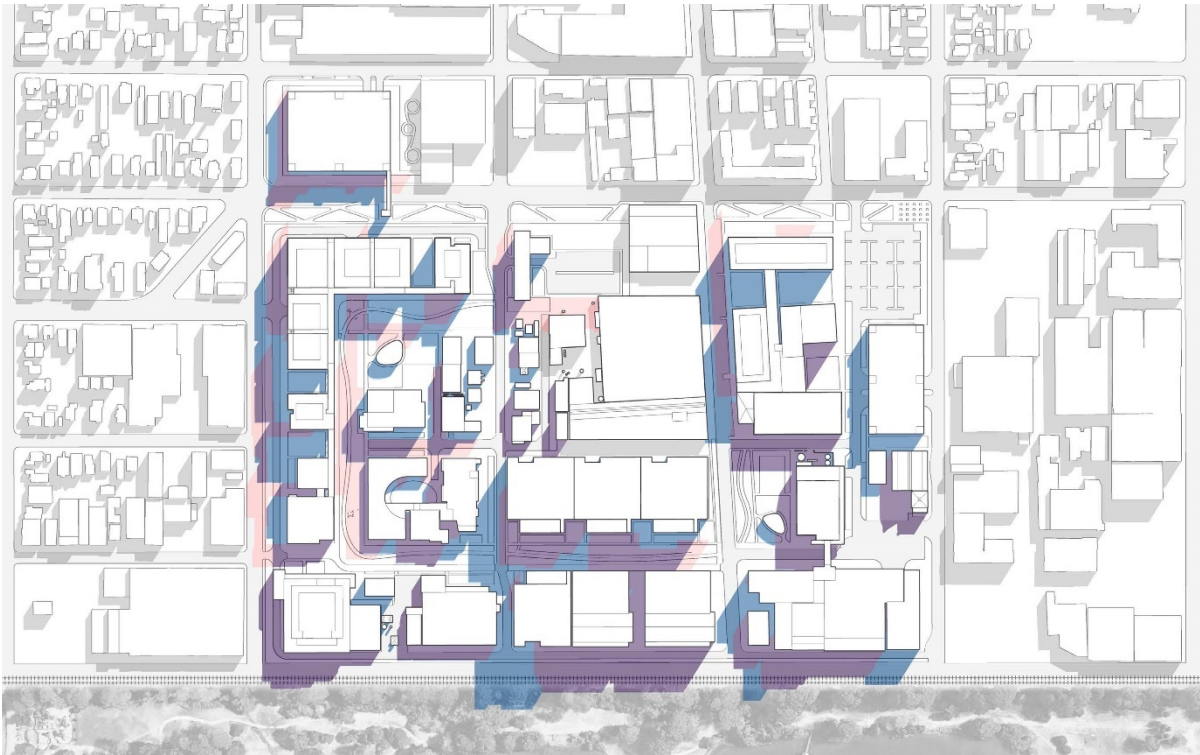


Figure 21: Proposed Shadow Conditions

As demonstrated in the above images, construction of the Bayer Campus at full build out would not significantly impair surrounding views while also creating new opportunities for open spaces, both from within and outside of the campus. The proposed design and land use configuration would, ultimately, confer aesthetic benefits compared to baseline development, and even development under Mixed Manufacturing zoning development standards.

EXHIBIT G**DEVELOPMENT AND MANUFACTURING ACTIVITIES, ENVIRONMENTAL SAFETY**

- A. Bayer produces commercial and clinical biopharmaceuticals at its Berkeley, California site that are distributed globally. Bayer intends to develop and market a wide variety of biopharmaceutical products employing many different modalities. Site operations shall include the manufacturing and development of products and associated research, and not discovery research. The range of modalities being considered is consistent with development and manufacturing efforts being pursued by biotechnology companies in the San Francisco bay area and around the globe. A number of these products will be developed and manufactured at the Berkeley site since the San Francisco Bay Area is recognized as an important locus for biopharmaceutical technology and innovation. This document will outline the spectrum of products that may be developed and manufactured at the Berkeley site and outline the facilities that will be needed to support the development and manufacture of such products. Bayer will continually modernize and adapt its site to meet business goals and objectives.
- B. As detailed further below, insofar as Bayer introduces new biological agents into site operations, Bayer will only use biological agents that can be contained at Biosafety Levels 1 and 2 (“Levels 1 and 2”), as defined by guidelines published by the National Institutes of Health Recombinant Advisory Committee and the Center for Disease Control. For purposes of clarification, agents requiring Level 1 containment include biological agents that are found in the environment and do not cause disease in healthy humans. Agents requiring Level 2 containment include moderate-risk agents that occur in the community and are associated with human disease of varying severity, and risks associated with such are generally similar to the risks one encounters at an outpatient medical facility. For the past 30 years, Bayer’s work at the site has involved research and manufacture of therapies using agents requiring Level 1 and 2 containment. Consistent with past practice and in satisfaction of mitigation requirements, in handling the foregoing biological agents, Bayer shall follow the standard practices established by the Center for Disease Control, the National Institutes of Health, and the Recombinant DNA Advisory Committee of the National Institutes of Health.
- C. Many of the development and manufacturing activities carried out on the site will utilize methods, technologies, and techniques of biotechnology. Examples of biopharmaceutical products which may be developed and manufactured at the Berkeley site and techniques and technologies that will be used include, but are not limited to, the following:
- a) Cloning and subcloning of existing hybridoma and recombinant cell lines.

- b) Initiating or enhancing the biosynthesis of potential therapeutic molecules in existing eukaryotic cell lines utilizing established recombinant techniques, the transfer of genetic information will be only into those host systems which, should they be inadvertently released from the culture vessel, would not survive and therefore would pose no practical threat to the surrounding environment.
 - c) The insertion of promoter/enhancer sequences into existing recombinant cell lines.
 - d) Polymerase chain reaction ("PCR") testing, and the construction of probes and sequences related to PCR testing.
 - e) Large- and small-scale cell culture to produce protein therapeutics.
 - f) Creating new cell lines for manufacture of protein therapeutics, viral vectors, or cell therapies using gene editing technologies such as clustered regularly interspaced short palindromic repeats ("CRISPR").
 - g) Manufacture of gene editing reagents. These include short- and long-chain ribonucleic acids ("RNAs"), nucleases, plasmids and synthetic nanoparticles. RNA molecules may be manufactured via chemical synthesis or in vitro transcription methods. Nucleases and plasmids may be manufactured using prokaryotic cells.
 - h) Manufacture of non-replication-competent viral vectors.
 - i) Manufacture of cell therapy products derived from stem cells or other donor cells. Cell therapy products may include engineered tissues for engraftment into humans.
- D. The following are activities that will not be performed at Bayer's Berkeley campus:
- a) Deliberate formation of recombinant deoxyribonucleic acid ("DNA") containing genes for the biosynthesis of toxic molecules lethal to humans, animals and plants, at an LD50 of less than 100 nanograms per kilogram weight of the organism. Examples of such toxins are botulinum toxin, tetanus toxin, diphtheria toxin and Shigella dysenteriae neurotoxin.
 - b) Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally if such acquisition could compromise the use of the drug to control disease agents in human or veterinary medicine or agriculture.
 - c) Insofar as Bayer incorporates new biological agents or materials into site operations, use of biological agents that must be contained at Biosafety Levels 3 and 4 ("Level 3 and Level 4"), as defined by the by the National Institutes of

Health Recombinant Advisory Committee and the Center for Disease Control, including but not limited to:

- i) Use of agents that must be contained at Level 3 or Level 4 as hosts for recombinant DNA vectors.
 - ii) Use of DNA from agents that must be contained at Level 3 or 4 which have not been demonstrated to be a totally and irreversibly defective fraction of the agents' genome for transfection into a host cell. (Note - Recombinant DNA molecules which contain less than two-thirds of the genome of any eukaryotic virus are considered defective.)
 - iii) Use of defective animal viruses that must be contained at Level 3 or Level 4 in vectors for transfection of eukaryotic cells containing a specific helper virus.
- d) Heritable alterations to the human germline (i.e., embryos, ova, spermatozoa).
- e) Genetic manipulation of viral particles designed to enhance pathogenicity. For the sake of clarity, pathogenicity is defined as the ability to cause disease.
- E. Bayer will require specialized facilities to support its product development and production operations, as well as ancillary facilities to support these operations, set forth in further detail below. All facilities will comply with local, state, and federal regulations governing the operation of such facilities. The following is a non-restrictive list of examples of facilities that Bayer might require to develop and manufacture therapies:
- a) Bayer will require facilities to receive and store raw materials to develop, manufacture and test products as described in sections B and C. Ambient temperature, refrigerated and frozen storage capabilities (-20°C to -196°C) will be required. Bayer will also require the ability to store work-in-progress material and finished goods under refrigerated or frozen conditions. Truck traffic will be required to bring raw materials to the site, ship out finished goods or work-in-progress material, and to haul away waste.
 - b) Bayer will require facilities to manufacture raw materials, in-process intermediates, drug substances and drug products described in Sections B and C. Closed processing will be employed where possible to protect manufacturing personnel and the products being manufactured. Where closed processes are not feasible or provide insufficient protection, environmental controls such as cleanrooms, airlocks and facility segregation may be employed to protect

manufacturing personnel and products. Personnel protective equipment will be used by manufacturing personnel as specified by government regulations, site procedures and risk assessments.

- c) For some therapies, cells may be irradiated to prevent proliferation after administration to the patient, and Bayer will install up to two fully protected gamma irradiation devices.¹ The Berkeley site may construct facilities to perform such irradiation and will comply with all associated regulations governing such operations.
- d) Bayer will require laboratories to test products manufactured as described in Sections B and C in order to release those products for use. Environmental controls and personnel protective equipment will be employed in the laboratory facilities as specified by government regulations, site procedures and risk assessments. These measures include:
 - i) For all laboratory facilities, standard microbiological standard practices.
 - ii) For Level 2 facilities, personal protective equipment, such as eye protection, gowns, and gloves. Secondary barriers, such as hand washing sinks, self-closing and locking laboratory doors, limited laboratory windows that do not open to the building exterior, use of biological safety cabinets, vacuum lines protected with liquid disinfectant traps, eye-wash stations, and waste decontamination facilities, will be available to reduce potential exposure and release.
- e) Bayer will require laboratories to develop products, processes and analytical methods for therapy types described in Sections B and C Bayer will employ gene editing techniques to develop new cell lines. In order to assess the safety of therapeutics under development, Bayer may use well-characterized animal model viruses in a Level 2 containment facility, as commonly practiced within the biotech industry. Environmental controls and personnel protective equipment will be employed in the laboratory facilities as specified by government regulations, site procedures and risk assessments.
- f) Preclinical development of the biopharmaceutical therapies mentioned in Section CC will require testing in animal models to demonstrate efficacy or a lack of

¹ Fully protected gamma irradiation devices have a de minimis radiation output at their surface (i.e., a dose rate of less than 3 μ Sv/h). They require no additional protection measures to reduce radiation output, and no radiation surveillance with dosimeters is required for staff.

toxicity. Bayer may elect to re-establish a vivarium on its Berkeley site to support such studies.

- g) Bayer will require facilities and equipment to produce and distribute utilities for manufacturing facilities, laboratories and office spaces. These include clean, Good Manufacturing Practice utilities (as identified by the International Society for Pharmaceutical Engineering) or its equivalent, as well as standard utilities for heating, cooling and electrical power. Emergency power generation capability will be required to protect the inventory of work-in-progress and finished goods or critical process steps in progress. Utility systems will be established, operated and maintained in compliance with applicable local, state and federal regulations.
 - h) Bayer will require workshops and spare parts storage to maintain manufacturing, laboratory and utility equipment and instruments on site.
 - i) Bayer will require office space for manufacturing; quality control; development; maintenance; quality assurance; engineering; Health, Safety, Environment, and Security ("HSES"); regulatory affairs; supply chain; procurement; accounting; legal; information technology; human resources; and managerial personnel. Office areas shall also include auditoriums conference rooms to host meetings. Bayer will provide parking for employees commuting to work and will also sponsor programs that encourage employees to use public transportation. Bayer will also provide amenities, such as a cafeteria, for site employees.
- F. Bayer will prepare a Hazard Operability ("HAZOP") Study for the existing phosphoric acid and caustic storage tanks and for the Pilot Plant phosphoric acid tanks. Bayer will also conduct a HAZOP Study and an Off-site Consequence Analysis for any 100,000 gallon fuel storage tank or any future fuel storage tanks of 10,000 gallons or more. Bayer will utilize state-of-the-art safety measures for the construction and operation of all fuel storage tanks. In addition, if Bayer wishes to install a fuel tank larger than 25,000 gallons, Bayer will provide the City with a report of its investigation into the feasibility of obtaining an uninterrupted fuel supply, including an explanation of why the tank is needed if that should be the case. Bayer will consult with the City as to the location of this tank, and the siting of the tank shall be subject to the approval of the City Manager or his designee. Moreover, the location of this tank will be no closer than 200 feet from Dwight Way, Seventh Street and Carleton Street and shall be readily accessible to emergency response vehicles. HAZOP studies will also be conducted for all subsequent facilities containing bulk hazardous chemical storage. Summaries of all HAZOP studies will be provided to the City.
- G. Bayer will implement an Emergency Preparedness Program consisting of the following elements:

- a) Bayer will prepare an Emergency Response/Business Plan for existing operations which goes beyond current requirements for business plans, including, but not limited to, identification of classes of organisms used in each building on the site.
 - b) Bayer will conduct emergency preparedness training for onsite emergency response teams. Additionally, Bayer will revise its existing Emergency Procedures Manual. Bayer will at all times maintain on-site fire suppression capabilities, as a supplement or back-up to the City system. Bayer and the City Fire Department will jointly assess on-site fire suppression capabilities within 12 months of approval of the Agreement. Should this assessment identify the need for additional on-site fire suppression capability, Bayer will employ measures to meet that capability. These measures may include on-site fire water retention vaults and distribution systems; generators, pumps, and hoses to draw water from Aquatic Park; and chemical suppression systems.
 - c) Bayer will conduct annual on-site training of the City's emergency responders. The training would consist of familiarization with the procedures of the on-site emergency response team; delivery, distribution, and storage of hazardous materials (including radioactive, chemical and bio-hazards); and the site layout. The training will consist of an initial session and annual updates.
- H. Bayer will supply appropriate medical assistance in case of accidental release of viruses.
- I. Bayer will inform suppliers of bulk hazardous materials that carriers must use truck routes that are approved by the City. Bulk hazardous materials carriers are limited to use of the Ashby Avenue exit from I-80 and the use of 7th street and Grayson Street to the Bayer site.
- J. Through coordination with City staff, Bayer will conduct annual Emergency Response Exercises. These Exercises will include participation by City emergency responders, local medical treatment facilities and community members. Prior to implementation, a detailed outline of the Emergency Preparedness Program will be submitted to the City six months after approval of the Amended Development Agreement.
- K. Bayer will implement a seismic safety program for all new buildings. To reduce the potential for damage to structures from ground shaking, Bayer will comply with the following:
- a) New structures will be designed to withstand the effects of ground shaking. This includes compliance with the seismic requirements of the most current Uniform Building Code, incorporation of the best current knowledge about earthquake-resistant design and incorporation of engineering recommendations by a qualified geotechnical engineer.

- b) All building foundations will be constructed on strong native soil areas, or property engineered fill as approved by a geotechnical engineer.
 - c) All proper engineering procedures are undertaken to reduce the potential for structural damage to the site and foundation preparation from an earthquake during construction.
 - d) Potentially hazardous chemical and industrial processes will be designed with redundant and back-up safety systems.
 - e) A qualified structural engineer will evaluate all existing occupied buildings. A copy of the structural engineer's report shall be filed with the City.
- L. Amendments or modifications to the above restrictions on biological agents and permitted activities will require an amendment to the Development Agreement. Should Bayer request such an amendment, the City may, at its discretion, hire a qualified consultant with credentials as a biosafety officer or other professional biosafety accreditation (e.g. Association for Biosafety and Biosecurity [“ABSA”] Registered Biosafety Professional or ABSA Certified Biosafety Professional), to assist the City in evaluating the request. Bayer will pay the reasonable costs of hiring the consultant. The City's evaluation will determine whether the proposed modification(s) will require a major or minor amendment to the Agreement.

EXHIBIT H

TRANSPORTATION DEMAND MANAGEMENT PROGRAM

Bayer will develop and implement a transportation demand management program ("TDM Program") to reduce the use of single-occupant cars and encourage alternative transportation by Bayer employees. This program will have the components listed below in Sections 1 through 5 of this Exhibit I.

1. **Transit Program:** Bayer shall implement the following measures:
 - A. ***Shuttle Program.***
 - a. Bayer will continue to contract for services for an employee shuttle that seats approximately sixteen (16) passengers and is free to employees between the Ashby BART station and the Bayer Campus running on a regular schedule at the A.M. and P.M. peak hours, which as of September 1, 2021 are approximately 6:00 – 10:00 A.M and 3:00 – 7:00 P.M, which coordinate with Bayer's dayshift schedule. Bayer shall change hours of operation to the extent it changes its dayshift schedule.
 - b. Bayer shall expand shuttle service by increasing the frequency of shuttle headways, providing larger shuttles, or increasing bus capacity via other means in the event that bus service capacity, as measured by the difference between maximum bus capacity and Bayer employee ridership (i.e., ridership subtracted from maximum bus capacity), on average during a calendar month falls below ten percent.
 - c. Shuttle service shall be sufficient to provide for headways of no more than approximately twenty (20) minutes unless BART service is reduced during pandemics, emergency, or other circumstances, in which case headways shall be spaced to align with any reduced BART service.
 - d. Shuttle service information shall be disseminated through the communication channels identified in Measure 2.B, below, including information about pick-up location(s) at the Ashby BART station.
 - e. The shuttle service shall make stops at a minimum of two pick-up and drop-off locations, which are currently provided at Seventh Street at Parker Street and Dwight Way at Sixth Street. Bayer may relocate these pick-up and drop-off locations to better serve its employees with the consent of the City. These locations shall be maintained by Bayer so that they are visible, accessible as identified in Section 1.A.f, below, and identified with signage.

- f. The shuttle shall comply with the Americans with Disabilities Act and include bicycle storage/transport to facilitate multi-modal travel. The cost of operating the shuttle can be shared with other Berkeley employers or property owners.

B. *Pre-Tax Commuter Benefits.*

- a. To the extent permitted by state and federal tax laws, Bayer shall offer pre-tax commuter benefits to allow employees to pay for public transit passes¹ (e.g., train, BART, light rail, bus, and ferry) and related parking expenses if they are a part of their daily commute to work with before-tax payroll deductions. Employees need to enroll and they can determine to opt in/opt out, along with how much to contribute, each month. The maximum contribution limit is determined by the Internal Revenue Service for parking-related expenses and transportation-related expenses.
- b. Bayer shall offer a convenience service that employees may use to purchase stored value cards that are accepted by transit operators (i.e. Clipper, BART, MUNI, AC Transit, Caltrain, and others) directly from their pre-tax commuter dollar contribution account.

2. *Travel Coordination:* The following measures shall be undertaken by Bayer or, at Bayer's election, a qualified third-party operator hired by Bayer:

- A. ***Designation of Transportation Coordinator.*** Bayer will appoint or otherwise retain a Transportation Coordinator to be responsible for the vehicle trip reduction and transportation demand management program. The Transportation Coordinator will be a trained transportation professional.
- B. ***Transportation and Commute Information.*** The Transportation Coordinator shall provide information about transportation via an electronic messaging board or other means (e.g., Bayer intranet or other internal digital communications system), which will contain transportation information such as Emergency Ride Home, transit schedules, bike maps, carpooling/ride-matching, taxi/ride-hailing, and real-time transportation information such as transit arrivals and departures, including shuttle arrivals and departures, and shared mobility (short-term rental) service availability (bicycle, electric scooter, and car sharing) to the extent that transit providers make information reasonably available in an accessible format. Information will be updated by the designated Transportation Coordinator when there are service changes. Information will also be provided at the time an employee is hired as part of new employee orientation.

¹ At the time of preparation of this Exhibit, pre-tax benefits for bicycle commuting are not available under applicable tax laws but, insofar as pertinent tax laws allow for such in the future, Bayer shall offer such benefits to its employees.

3. **On-site Amenities:**

- A. ***On-site Eating and Recreation Facilities.*** Bayer will continue to provide on-site eating facilities for employees as part of the trip reduction program. On-site amenities within the Bayer campus shall also include fields, sport courts, pedestrian and bicycle trails, and/or outdoor eating areas.
- B. ***Parking Designated for Carpooling/Car-Sharing.*** Four (4) percent of new parking spaces associated with new or renovated buildings shall be designated/marked for carpooling and/or car-sharing.

4. **Telecommute Program:** Bayer shall encourage telecommuting where feasible, and shall provide its employees with electronic notice of approved telecommuting options during orientation for new hires and otherwise at least once per year. The telecommute program shall include a hybrid offering, where a hybrid model means a mix of work completed on site and work completed at an off-site location convenient to the employee, including the primary residence of an employee. The specific scheduling will vary across roles based on the type of work that is performed. Within these schedules, the number of days spent on site will vary based on the demands and needs of various departments.

5. **Bicycle Measures:**

- A. ***Bicycle Parking.*** Bayer shall provide bicycle parking at a ratio of one (1) space per two thousand (2,000) square feet of gross floor area for new floor area construction and expansions irrespective of land use type. New bicycle parking shall be located within perimeter security fencing and near to entrances to new and renovated buildings. Ten (10) percent of new bicycle parking spaces shall include access to electric outlets for e-bikes. A combination of covered and uncovered bicycle parking, to be located near the entrances of new or renovated buildings, will be evaluated during the architectural design phase and implemented so long as the design does not conflict with site manufacturing requirements (e.g., material deliveries, pedestrian pathways, waste management, and emergency access) as determined within the sole discretion of Bayer engineers.
- B. ***Bicycle Repair Station.*** Bayer shall include on its campus bicycle repair stations consisting of designated, secure areas where bicycle maintenance tools and supplies are readily available on a permanent basis and offered in good condition to encourage bicycling. Bayer currently operates two bicycle repair stations on the campus, which it shall continue to maintain, though relocation of such facilities is permitted, and Bayer shall provide one (1) additional bicycle repair station for every additional five hundred (500) employees above one thousand (1,000 employees) that Bayer adds to the campus, for a maximum total of four bicycle repair stations.
- C. ***On-site Employee Showers/Changing Facilities and Lockers.*** The Bayer campus shall also include changing rooms with showers and lockers for

employees using alternative transportation. For new and renovated buildings, Bayer shall provide one combination changing/shower stall per new or renovated building and one locker per assigned building employee so long as inclusion of changing/shower stalls and lockers does not conflict with site manufacturing requirements (e.g., material deliveries, pedestrian pathways, waste management, and emergency access) as determined within the sole discretion of Bayer engineers. Changing/shower stalls and lockers need not be co-located.

D. *Bicycle Promotion and Education.*

- a. Bayer shall offer employees the following bicycle-related services: repair clinic, urban riding classes, and memberships to local bicycle organizations.
- b. Bike-share locations and bike supply/service stores within ¼ mile of campus shall be disseminated through the communications channels set forth in Measure 2.B, above.
- c. Bayer sponsored programs to encourage health and wellness initiatives shall include promotion of biking to work.

6. City Review:

- A. ***Regular Review.*** Consistent with the terms of this Section 6.A., the TDM Program shall subject to review by the City of Berkeley's Traffic Engineer every five years, or at a three-year interval if requested by the City, to ensure that services are consistent with best practices to reduce the use of single-occupant automobile trips to and from the project site. As used herein, "best practices" means the selection of TDM Measures necessary, to the extent feasible, to reach a goal whereby 20 percent of total dayshift employees² are electing to commute using travel modes other than single occupant vehicles ("SOVs"). If evidence shows the TDM Program is not meeting the foregoing performance standard, the City of Berkeley's Traffic Engineer may elect to require substitute or additional feasible TDM measures, and any changes shall be memorialized in an updated version of this Exhibit. Such adjustments are within contemplation of the Amended and Restated Development Agreement and shall not require an amendment thereto, but can be administratively adopted by the City of Berkeley's Traffic Engineer. The City shall not make any changes to the TDM Program if evidence shows the TDM Program is meeting the aforementioned performance standard.
- B. ***Monitoring and Reporting Program.*** As part of its annual review process, as set forth in the Amended and Restated Development Agreement, Bayer shall include in its annual report to the City the following information:

² Dayshift employees are those Bayer employees, inclusive of employees electing to telecommute, who are scheduled to work shifts with arrival or departing times during a.m. and p.m. peak hours (i.e., 6:00 a.m. to 10 a.m. and 3:00 p.m. to 7:00 p.m.).

- a. A list of TDM Program measures offered consistent with the measures identified in Sections 1 through 5 of this Exhibit I, as might be updated pursuant to the review process set forth in Section 6.A.
- b. A census of the current number of total Bayer Berkeley employees by shift.
- c. A report of whether the TDM Program is meeting the 20 percent goal, as set forth in Section 6.A, according to gate count information consisting of the number of employees driving to the site for work shifts. If the 20 percent goal is not being met then Bayer shall also report the number of users, by shift, of transportation mode splits. An employee survey or other methodology determined to be appropriate by the Transportation Coordinator may be used to provide this information.
- d. A report of shuttle capacity and average ridership.

C. *Review Upon Submission of Building Permits.*

- a. Compliance with this TDM Program and the associated monitoring and reporting program shall be subject to a consistency review by the City of Berkeley's Traffic Engineer prior to issuance of building permits for development allowed under the DA. The City shall find there is compliance if Bayer has shown evidence it has offered the TDM Program measures outlined in Sections 1 through 5 of this Exhibit, as might be updated pursuant to the review process set forth in Section 6.A, through use of the checklist provided below.
- b. This consistency review shall not include any update to the TDM Program as contemplated in Section 6.A, but shall be a ministerial review to ensure all TDM Program elements, as identified above, have been incorporated into Bayer operations.³ The table below, as periodically updated pursuant to Section 6.A, shall be completed and submitted by Bayer as part of its building permit application with reasonably appropriate evidence, and the completed table shall guide the City's ministerial consistency determination.

³ The process for updating the TDM Program, as set forth in Section 6.A, shall occur separate and independent of the TDM compliance review set forth in this Section 6.C, and the update process in Section 6.A shall not delay the City's processing of building permit or other project-related applications.

TDM Program Compliance Checklist		
Standard	Standard Per DA	Compliance
Transportation Demand Management Standards		
Bicycle parking	1 space per 2,000 square feet	<input type="checkbox"/> Yes <input type="checkbox"/> No
Bicycle repair stations	1 station for every 500 employees	<input type="checkbox"/> Yes <input type="checkbox"/> No
Changing/shower stalls	1 changing/shower stall per new or renovated building (unless confirmed by Bayer engineer in writing that inclusion of amenity would conflict with development and/or manufacturing of therapies)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Lockers	1 lockers per each employee assigned to building (unless confirmed by Bayer engineer in writing that inclusion of amenity would conflict with development and/or manufacturing of therapies)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Current number of Bayer employees	No.: _____	
Number of Bayer employees assigned to subject new or renovated building.	No.: _____	
List of Transportation Demand Management Measures		
Transit Program	<i>Shuttle Program</i>	
	Employ a shuttle that seats approximately 16 passengers	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Shuttle running on a regular schedule at the A.M. and P.M. peak hours (6-10 am, 3-7 pm)	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Regular headways of no more than approximately 20 minutes	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Disseminate shuttle service information through communication channels	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Provide a minimum of two shuttle stops	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Shuttle shall comply with the Americans with Disabilities Act	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Shuttle shall include bicycle storage/transport	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<i>Other Transit Support</i>	
	Offer pre-tax commuter benefits to pay for transit passes (e.g., train, BART, light rail, bus, and ferry) and related parking expenses.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Offer a convenience service that employees may use to purchase stored value cards that are accepted by transit operators (i.e. Clipper, BART, MUNI, AC Transit, Caltrain, and others) directly from their pre-tax commuter dollar contribution account	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Travel Coordination	Appoint or otherwise retain a Transportation Coordinator	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Provide electronic messaging board or other means containing transportation information; for example: transit schedules, emergency ride home programs, bike maps, carpooling/ridematching, taxi/ride sharing, and/or real-time	<input type="checkbox"/> Yes <input type="checkbox"/> No

	information about transit arrivals and departures to the extent transit providers make information reasonably available in an accessible format		
	Provide electronic messaging board or other means containing information about bike-share locations and bike supply/service stores within 1/4 mile of Bayer site	<input type="checkbox"/> Yes	<input type="checkbox"/> No
On-site Amenities	Provide on-site eating facilities for employees within Bayer campus	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Provide on-site fields, sport courts, pedestrian and bicycle trails, and/or outdoor eating areas within Bayer campus.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Four (4) percent of new parking spaces associated with new or renovated buildings shall be designated/marked for car-pooling and/or car sharing.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Telecommute Program	Incorporate a telecommute program	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Bicycle Measures	New bicycle parking spaces located at secure locations within perimeter security fencing near each entrances to new or renovated building subject to application.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Ten (10) percent of new bicycle parking spaces include access to electric outlets for e-bikes.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Maintain one bicycle repair station per five hundred (500) employees	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Include changing rooms with showers and lockers for employees using alternative transportation as noted above.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Offer employees bicycle-related urban riding classes, bicycle-related repair clinic, and memberships to local bicycle organizations	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Promotion of biking to work	<input type="checkbox"/> Yes	<input type="checkbox"/> No

EXHIBIT I
Copy of Existing Ordinances

[TO BE PROVIDED IN FINAL DEVELOPMENT AGREEMENT]

DRAFT CEQA Findings
PLANNING COMMISSION

Bayer HealthCare LLC Development Agreement Amendment Project

**Pursuant to Sections 15091 and 15093 of the
State CEQA Guidelines and Section 21081 of the Public Resources Code**

The Subsequent Environmental Impact Report (SEIR) prepared by the City of Berkeley (City) for the Bayer Healthcare LLC Development Agreement Amendment Project (project) consists of the Draft Subsequent EIR (Draft SEIR) and Final SEIR / Responses to Comments on the Draft SEIR. The City finds that the inclusion of certain mitigation measures as part of project approval will reduce all impacts to a less than significant level. As a result, there are no unavoidable significant impacts requiring overriding considerations; therefore, these CEQA Findings do not contain a Statement of Overriding Considerations.

As required by CEQA, the City, in adopting these CEQA Findings, also adopts a Mitigation Monitoring and Reporting Program (MMRP) for the project. The City finds that the MMRP, which is incorporated by reference, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project. In accordance with CEQA and the *CEQA Guidelines*, and having received, reviewed, and considered the SEIR and other information in the Record of Proceedings, the City adopts the below findings as part of the project approval. Pursuant to Public Resources Code Section 21082.1(c)(3), the City also finds that the Subsequent EIR reflects the City’s independent judgment as the lead agency for the project.

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SECTION 1: INTRODUCTION

1.1 Statutory Requirements for Findings

Section 15091 of the *CEQA Guidelines* states that:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.*
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.*

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that will otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency.¹

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.² The *CEQA Guidelines* state in section 15093 that:

“If the specific economic, legal, social, technological, or other benefits of a propos[ed] project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

1.2 Record of Proceedings

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City’s decision on the project consists of: a) matters of common knowledge to the City, including, but not limited to, federal, State and local laws and regulations; and b) the following documents which are in the custody of the City:

- Notice of Preparation and other public notices issued by the City in conjunction with the project dated October 29, 2020 (see Appendix NOP of the Draft SEIR for the Notice of Preparation);
- The Draft SEIR, which was made available for public review on May 21, 2021;
- All written and verbal comments submitted by agencies, organizations and members of the public during the public comment period and responses to those comments (see Responses to Comments on the Draft SEIR, dated October 2021), and applicant’s supplemental submissions to the City clarifying certain topics raised in the course of public comments, including without limitation applicant’s letters dated August 23, 2021 and August 26, 2021;

¹ *CEQA Guidelines*, 2019. Section 15091 (a), (b).

² Public Resources Code Section 21081(b).

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- The Mitigation Monitoring and Reporting Program;
- All findings and resolutions adopted by the City in connection with the project, and all documents cited or referred therein;
- All final reports, studies, memoranda, maps, correspondence, and all planning documents prepared by the City or consultants, or responsible or trustee agencies with respect to: a) the City's compliance with CEQA; b) development of the project site; or c) the City's action on the project;
- All documents submitted to the City by agencies, members of the public, or applicant in connection with the project; and
- The June 1991 Draft Environmental Impact Report and Final EIR for the Miles Inc./Cutter Biological Long Range Plan and associated technical appendices.

1.3 Organization / Format of Findings

Section 2 of these findings sets forth the objectives of the project and contains a summary description of the project and project alternatives. Section 3 identifies the potentially significant effects of the project which were determined to be mitigated to a less-than-significant level. All numbered references identifying specific mitigation measures refer to numbered mitigation measures found in the Initial Study or Draft SEIR and Responses to Comments document. Section 4 identifies the project's potential environmental effects that were determined not to be significant and do not require mitigation. (The SEIR did not identify any unavoidable significant impacts.) Section 5 discusses the feasibility of project alternatives.

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SECTION 2: THE BAYER HEALTHCARE LLC DEVELOPMENT AGREEMENT AMENDMENT PROJECT

This section lists the objectives of the proposed project, provides a brief description of the project, and lists the project alternatives evaluated in the Draft SEIR.

2.1 Project Objectives

The applicant's three objectives for the project are as follows:

- Maximize Bayer's ability to attract and retain top talent and partners by ensuring that the Berkeley campus facilities are at the forefront of scientific innovation, and that the campus' physical configuration and design support this goal and facilitate and enhance the site's existing and future ability to support the biotech development and manufacture of medicines that improve patient outcomes.
- Promote health of employees through wellness features, such as open green space, pedestrian and bicycle circulation, and other amenities, and create a unified campus with consistent design principles that creates a sense of place within the campus and that integrates with the surrounding community.
- Maximize the productive utilization of the land areas and current buildings to take new treatments through biotech development and manufacturing, with a priority on commercializing new therapies using new and innovative technologies, and ensure that: (1) there is sufficient biotech development space to develop advanced therapies that are tailored to individual patients, with development proceeding at a rate that maximizes the ability to deliver successful therapies to patients in a timely manner; (2) there is sufficient biological research and manufacturing capacity to support the production of sufficient quantities of medicine through the numerous phases of clinical trials that are required to prove safety, purity, and efficacy for human use; (3) there is sufficient space to scale up proven medicines for commercial launch in quantities sufficient to meet worldwide demand; (4) the development plan retains flexibility to take advantage of unforeseen opportunities and challenges; and (5) there is an efficient site configuration that maximizes open space needs and other amenities benefiting employees and the community.

The City's objectives for the project are as follows:

- Grant certain development and use rights in the project site to Bayer and obligate Bayer to limit its scope of development to development in accordance with the Development Agreement, which governs permitted uses, density and intensity, height, and requirements for subsequent discretionary actions, and provide additional public benefits in the form of environmental mitigations, community benefits, fees, property dedications, and public improvements.
- Create employment opportunities for Berkeley residents, encourage appropriate economic and business development, and promote the development of manufacturing and life sciences activities, in accordance with the goals and strategies established in the City of Berkeley General Plan and West Berkeley Plan.

2.2 Project Description

The Bayer Campus (project site) consists of approximately 46 acres generally bounded by the Union Pacific Railroad to the west, Dwight Way to the north, Seventh Street to the east, and Grayson Street to the south. The site comprises two primary areas: the North Properties at 800 Dwight Way, which includes 31.9 acres north of Carleton Street; and the South Properties at 801 Grayson Street, which includes 14.4 acres south of Carleton Street. The Bayer campus currently develops and produces commercial biopharmaceuticals that are distributed globally. Bayer's existing 30-year Development Agreement (DA) with the City of Berkeley, covering the North Properties, was approved in 1992 and is set to expire in 2022. Because Bayer acquired the South Properties after the 1999 major amendment to the 1992 DA, the South Properties are not included in the original DA's project area.

The proposed project would include the following amendments to the existing DA:

- Extend the DA duration an additional 30 years until February 2052

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- Add the South Properties to be covered by the DA
- Allow buildout of a conceptual development plan, which proposes to rearrange the campus layout through proposed phased demolition of nine existing buildings; construction of approximately twelve new buildings for production, laboratory, and administrative uses; and replacement of surface parking with two new parking structures and new underground parking facilities.

The existing 30-year DA with the City of Berkeley was the subject of the 1991 Miles Inc./Cutter Biological Long Range Plan EIR, which studied the effects of proposed buildout of the full Bayer Campus as envisioned in 1991. The SEIR is a program-level document, studying the environmental effects of the 30-year conceptual development plan under the proposed Amended DA to the extent possible and consistent with CEQA. As a default and consistent with CEQA statutes, guidelines, and applicable case law addressing supplemental environmental review, the SEIR conservatively compares the effects under projected buildout of the proposed Amended DA to a baseline consisting of:

- For the North Properties, the maximum allowable development entitled under the existing 30-year DA and studied under the 1991 EIR
- For the South Properties, existing on-site development

For the specific issues of greenhouse gas emissions and vehicle miles traveled, which were not analyzed in the 1991 EIR, the SEIR conservatively evaluates these topics and conservatively adopts a baseline of existing on-site development for both the North Properties and the South Properties.

More detail about the proposed project and the SEIR baseline is included in Section 2, *Project Description*, of the Draft SEIR, incorporated herein by this reference.

2.3 Alternatives

Based on the project objectives and anticipated environmental consequences, and pursuant to Section 15126.6 of the *CEQA Guidelines*, the following project alternatives were selected for analysis:

- **Alternative 1: No Project / No Construction Alternative.** The No Project/No Construction Alternative assumes that, upon the existing DA's expiration in February 2022, the proposed amended DA would not be adopted and there would be no change to the existing configuration of the Bayer Campus. The total floor area of existing buildings is approximately 1,087,000 square feet, including 567,000 square feet on the North Properties and 520,000 square feet on the South Properties. Existing development on the project site accommodates six land uses: production, laboratories, warehouses, administration, utilities, and maintenance. Eight surface parking lots with a total of approximately 1,082 spaces are dispersed around the project site.
- **Alternative 2: No Project / Zoning Conformance Alternative.** The No Project/Zoning Conformance Alternative assumes that the proposed amended DA is not approved, in which case the existing DA would expire in February 2022 while the Use Permit for the South Properties would remain in effect. Upon expiration of the DA, future development on the Bayer Campus would be required to conform to applicable standards in the Berkeley Municipal Code for underlying zoning on the project site. The main body of the project site to the west of Seventh Street would be subject to Mixed Manufacturing (MM) zoning standards, while the remainder of the site to the east of Seventh Street (an existing parking lot) would be subject to Mixed Use-Light Industrial (MU-LI) zoning standards. This alternative does not specify an exact amount of buildout that could occur because it would depend on the number and size of individual projects that are proposed and approved. However, it is likely that, because development would occur intermittently as reviewed and approved by the City, buildout would be reduced compared to what is analyzed in the SEIR for the proposed amended DA. This analysis assumes that buildout would be further reduced under this alternative and that future discretionary projects on the Bayer Campus would be required to undergo CEQA analysis on a project-by-project or Master Use Permit basis when proposed.

- **Alternative 3: Reduced Parking Alternative.** The Reduced Parking Alternative assumes that the parking structure planned on the property between Dwight Way, Seventh Street, Parker Street, and Eighth Street would not be constructed. The planned parking structure east of Seventh Street is expected to accommodate 925 of the 1,825 parking spaces contemplated in the proposed project for the whole Bayer Campus. Under this alternative, the property east of Seventh Street would remain a surface parking lot with 250 parking spaces. This alternative would not add more parking spaces than proposed on the rest of the Bayer Campus. As a result, the Bayer Campus would have 675 fewer parking spaces. Except for the proposed parking garage east of Seventh Street, this alternative would allow for the same buildout of program space as compared to the proposed project.

Refer to Chapter 6, *Alternatives*, of the Draft SEIR for the complete alternatives analysis.

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SECTION 3: EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS

The Initial Study and Draft SEIR identified certain potentially significant effects that could be mitigated to less-than-significant-levels. The City finds for each of the significant or potentially significant impacts identified in this section (Section 3) that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the Initial Study and Draft SEIR,³ and discussed in further detail below, and, thus, that adoption of the mitigation measures set forth below will reduce these significant or potentially significant effects to less-than-significant levels. Adoption of the mitigation measures will effectively make the mitigation measures part of the project. In addition, City Conditions of Approval and compliance with City and other regulations will further reduce project impacts.

Therefore, the City finds that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the Initial Study and Draft SEIR⁴.

For all of the topics below, cumulative impacts were analyzed in the Draft SEIR. For all topics discussed in this section, any impacts, including cumulative impacts, which were determined to have a less than significant effect without mitigation are not the discussed or not discussed at length in these findings consistent with applicable law. A full discussion and analysis of all environment impacts, including those found to be less than significant, are located in Chapter 4 of the Draft SEIR and the associated facts and conclusions are incorporated herein by this reference.

3.1 Aesthetics (Initial Study)

The proposed amended DA includes a proposed parking structure to the south of Dwight Way between Seventh Street and Eighth Street which could present a massive and unvaried façade to the land uses on the east side of Eighth Street. Therefore, this component of the proposed amended DA would have a potentially significant impact on visual quality. However, Mitigation Measure AES-1 would reduce impacts on visual quality to a less than significant level.

Mitigation Measure AES-1: Parking Structure Design (Updated 1991 EIR MM).

The proposed parking structure between Dwight Way, Seventh Street, Eighth Street, and Parker Street shall be designed to maximize visual compatibility with the low-rise, low intensity uses to the north and east, in terms of the parking structure's massing, color, and adjacent landscaping. The Eighth Street façade of the garage shall be articulated to add texture and depth to the structure. A setback as well as landscape and streetscape amenities shall be provided on the perimeter of the parking structure. Stepbacks shall also be provided along Eighth Street.

Pages 5C-14 and 5C-22 of the 1991 EIR find that glass windows on new buildings along the western property line could generate glare that is hazardous to motorists on I-80 and annoying to users of Aquatic Park. While the project would largely maintain existing buildings along the western property line, it would still involve the construction of new or renovated buildings in this area. Therefore, it could introduce significant new sources of glare near the western property line and result in potentially significant impacts related to glare. However, Mitigation measure AES-2 would reduce impacts on glare to a less than significant level.

Mitigation Measure AES-1: Glare Reduction (Updated 1991 EIR MM).

For new and renovated buildings along and visible from the western property line, the use of reflective glass or other glazing or highly reflective exterior materials that would cause glare as the sun sets shall be prohibited.

3.2 Air Quality (Subsequent EIR)

Construction activities under the proposed amended DA would result in the temporary generation of criteria air pollutants, which would affect local air quality. However, Mitigation Measures AQ-1 and AQ-2 would ensure construction emissions would not exceed applicable BAAQMD thresholds and reduce impacts on air quality to a less than significant level.

CEQA Guidelines, 2012. Section 15091.

⁴ *CEQA Guidelines*, 2019. Section 15091

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Mitigation Measure AQ-1: Construction Emissions Measures.

Demolition, grading and construction activities shall comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions (Table 8-2, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the May 2017 BAAQMD CEQA Guidelines or equivalent as updated by BAAQMD).

Mitigation Measure AQ-2: Tier 4 Construction Equipment.

Demolition, grading and construction activities shall utilize at least 90 percent Tier 4 equipment (or better) through 2032 and all Tier 4 equipment (or better) after 2032. If the use of such equipment is not commercially available, the applicant shall prepare a project-specific air quality assessment to evaluate construction-related criteria air pollutants. If the project-specific air quality assessment finds that construction emissions would exceed any of the applicable BAAQMD thresholds, the air quality assessment shall identify emission reduction measures to reduce emissions below the thresholds and the applicant shall implement the measures. Measures may include, but would not be limited to, some or all of the following, as necessary:

- Equip construction equipment with Tier 3 or Tier 4 certified engines or CARB-certified Level 3 diesel particulate filters. All diesel particulate filters shall be kept in working order and maintained in operable condition according to manufacturer's specifications.
- Minimize the idling time of diesel-powered construction equipment to two minutes.
- Use late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available.
- Use low-sulfur fuel or other non-diesel for stationary construction equipment.
- Use low-emission on-site stationary equipment.
- Use alternatively-fueled construction equipment (e.g., natural gas, electric).
- Schedule soil import and/or export to reduce the number of daily haul truck trips.
- Phase construction activities to reduce daily equipment use.
- Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time to reduce the amount of disturbed ground surfaces at any one time.

3.3 Biological Resources (Initial Study)

The project site is located in an urbanized part of Berkeley. However, the Bayer Campus includes some trees in landscaped strips around buildings and parking lots that could potentially provide habitat for migratory birds protected by the California Fish and Game Code, serving as nesting sites. Buildout under the proposed amended DA would involve vegetation removal as part of redevelopment of the Bayer Campus over the 30-year period of the amended DA. Impacts to protected nesting birds could occur if active nests are present in vegetation to be removed, or if birds in the vicinity are disturbed. However, Mitigation Measure BIO-1 would reduce impacts on nesting birds to a less than significant level.

Mitigation Measure BIO-1: Nesting Bird Surveys and Avoidance.

Demolition, grading, construction and tree removal activities shall be conducted outside of the migratory bird nesting season (February 1 through August 31) to reduce any potentially significant impact to birds that may be nesting in the project site. If construction and tree removal activities must occur during the migratory bird nesting season, an avian nesting survey of the project site shall be conducted for active nests of protected migratory birds. The avian nesting survey of areas that would be affected by construction and tree removal activities shall be performed by a qualified wildlife biologist within seven days prior to the start of ground or vegetation disturbance or building demolition activities. If an active bird nest is found, the nest shall be flagged and mapped on the construction plans, along with an appropriate

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no disturbance or protection buffer based on site conditions, which shall be determined by the biologist based on the species sensitivity to disturbance (generally, standard buffers can be 50-250 feet for passerines and 250-500 feet for raptors and special-status species, but site- and species-specific adjustments can be made within the discretion of the biologist, with different buffers established with respect to different levels of disturbance). Work within the nest avoidance buffer shall be prohibited or otherwise restricted per requirements determined by the biologist until the juveniles have fledged. The nest buffer shall be demarcated in the field with flagging and stakes or construction fencing.

Potential buildout under the proposed amended DA would also allow the construction of new multi-story buildings that can cause injury or mortality in birds. Although the project would maintain the existing DA's overall height limit of 80 feet, new multi-story buildings allowed under this height limit could cause "bird strikes." This refers to birds in flight mistaking reflective glass for open air and colliding with windows, resulting in injury or death. Furthermore, the project site's proximity to important bird habitats like the Eastshore Wetlands (100 feet east of site) increases the likelihood of bird strikes. However, Mitigation Measure BIO-2 would reduce impacts of bird strikes to a less than significant level.

Mitigation Measure BIO-2: Bird Strike Avoidance.

New structures or structures undergoing exterior renovations shall include the following:

- One hundred (100) percent of the window area of the west-facing façades of new, expanded, and renovated buildings adjacent to or directly visible from Aquatic Park shall consist of verified bird-safe glazing products, e.g., American Bird Conservancy-endorsed products such as Arnold Glass Ornlux Mikado, Acopian Birdsavers, Bendheim Channel Glass, GlasPro Bird Safe Glass, Guardian Glass SunGuard SN68, Viracon, or others. Alternatively, the reflective or transparent surface area visible to the west-facing frontage of the property shall employ bird-safe glazing treatments, including fritting, netting, permanent stencils, frosted glass, exterior screens, physical grids placed on the exterior of glazing or UV patterns visible to birds. To qualify as bird-safe glazing treatment, vertical elements of the window patterns shall be at least 1/4-inch wide at a maximum spacing of 4 inches, or have horizontal elements at least 1/8-inch wide at a maximum spacing of 2 inches.
- Automatic shades shall be installed on windows and shall be programmed to operate between 10:00 p.m. and sunrise on new building facades facing the western boundary of the project site. Non-emergency exterior lighting shall be shielded to minimize light emission.
- Transparent glass shall not be allowed on rooftops of new, expanded, and renovated buildings, including in conjunction with green roofs.
- The cumulative area of glass façades for newly constructed or expanded buildings facing the project site's westerly boundary shall not exceed 2,250 square feet.

Prior to issuance of a building permit, Bayer shall provide to the City site plans or specifications demonstrating compliance with the above bird-safe construction requirements.

In addition to Mitigation Measure BIO-2, the City also recognizes that under the "Building Color/Materials" Design Guidelines of Exhibit C to the proposed amended DA of the proposed project, for all other portions of the project site not addressed by Mitigation Measure BIO-2, Bayer shall target for new and renovated facilities 100% bird-safe glass or similar treatments unless inclusion of such would compromise the ability of a given facility to meet or exceed Title 24 standards.

3.4 Cultural Resources (Subsequent EIR)

The proposed amended DA would involve renovation of Building B83, which is a historical resource under CEQA. Moreover, there is potential for additional properties which are older than 40 years old to be altered and demolished under the terms of the 30-year DA. However, Mitigation Measures CR-1 and CR-2 would identify historical resources and avoid impacts to the greatest extent feasible, resulting in a less than significant impact to historical resources, and ensuring that impacts to historic resources would not be cumulatively considerable.

Mitigation Measure CR-1: Architectural History Evaluation.

Demolition or alteration of a building or structure that is at least 40 years old at the time of permit application and has not previously been evaluated for demolition or renovation within the last five years from the time demolition or alternation is proposed shall be subject to review at the request of the City by a qualified architectural historian who meets the Secretary of the Interior's Professional Qualifications Standards (PQS) in architectural history or history. The qualified architectural historian or historian shall

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conduct an intensive-level evaluation in accordance with the guidelines and best practices recommended by the State Office of Historic Preservation to identify if the building or structure proposed for demolition or alteration qualifies as a historical resource under CEQA guidelines. Buildings and structures shall be evaluated within their historic context and documented in a technical report and on Department of Parks and Recreation Series 523 forms. The report shall be submitted to the City for review and approval prior to the issuance of a building permit. If no historic resources are identified, no further analysis is warranted. If historic resources are identified, the applicant shall be required to implement Mitigation Measure CR-2.

Mitigation Measure CR-2: Architectural History Evaluation.

For renovations involving Building B83 or historical resources identified through the process described in the architectural history evaluation mitigation measure (CR-1), project activities shall comply with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (Standards). During the project planning phase (prior to any construction activities), input shall be sought from a qualified architectural historian or historic architect meeting the *Secretary of the Interior's Professional Qualifications Standards* to ensure project compliance with the Standards for Rehabilitation. This input will ensure the avoidance of any direct/indirect physical changes to historical resources. The findings and recommendations of the architectural historian or historic architect shall be documented in a Standards Project Review Memorandum at the schematic design phase. This memorandum shall analyze all project components for compliance with the Standards for Rehabilitation. The memorandum should recommend design modifications necessary to bring projects into compliance with the Standards for Rehabilitation, which shall be incorporated into project designs to ensure compliance with the Standards. The memorandum shall be submitted to the City for review and approval prior to the issuance of a building permit.

Cultural resources records search identified twelve previously recorded cultural resources within a 0.25-mile radius of the project site, indicating that the area is archaeologically sensitive. Buried archaeological resources may exist on the project site, and ground disturbance within the site has the potential to impact archaeological resources. However, Mitigation Measures CR-3 to CR-11 would reduce impacts to archaeological resources to a less than significant impact, and ensuring that impacts to cultural resources would not be cumulatively considerable.

Mitigation Measure CR-3: Cultural Resources Desktop Analysis.

Prior to demolition, grading, new construction, or underground work such as utility installation, a cultural resources Desktop Analysis, consisting of a review of existing information regarding cultural resources on a given project site, shall be conducted. The Desktop Analysis shall include, but not be limited to, a review of the project description and extent of proposed ground disturbance, a review of recent cultural resources records on file at the California Historical Resources Information System, and a review of available historic maps and aerial photography. If a project would solely involve the refurbishment of an existing building and no ground disturbance would occur, this measure would not be required. If no resource impacts are identified, no further analysis is warranted. If potential impacts to resources are identified, the applicant shall be required to implement Mitigation Measure CR-4. If the desktop analysis identifies that an area has been subject to a Phase I cultural resources study in the previous five years, Measure CR-4 would not be required. If the Desktop Analysis identifies that no further analysis is warranted, the results will be documented in a memorandum for review and approval by the City prior to issuance of a building permit.

Mitigation Measure CR-4: Phase I Archaeological Resources Study.

If the desktop analysis described in Mitigation Measure CR-3 identifies the potential to encounter cultural resources, a Phase I cultural resources study shall be performed by a qualified professional meeting the Secretary of the Interior's (SOI) Professional Qualifications Standards (PQS) for archaeology (National Park Service 1983). The Phase I cultural resources study shall include a pedestrian survey of the project site and sufficient background research and fieldwork to determine whether archaeological resources may be present. Archival research shall include a records search of the California Historical Resources

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Information System and a Sacred Lands File search with the Native American Heritage Commission. The report will be submitted to the City for review and approval prior to the issuance of a building permit. Recommendations in the Phase I Report must be implemented prior to and/or during construction to avoid or reduce impacts on archaeological resources. Adherence to recommendations included in the Phase I report shall be documented as appropriate for verification by the City. If the Phase I identifies an archaeological site and/or a high likelihood of subsurface deposits, Measure CR-5 shall be implemented.

Mitigation Measure CR-5: Extended Phase I Testing.

For any projects proposed within 100 feet of a known archaeological site or in areas that have not been subject to previous archaeological testing, monitoring, or other subsurface investigation, as determined by the Desktop Analysis (Mitigation Measure CR-3) or Phase I Report (Mitigation Measure CR-4), the project applicant shall retain a qualified archaeologist to conduct an Extended Phase I (XPI) study to determine the presence/absence and extent of archaeological resources on the project site. If the boundaries of the archaeological site are already well understood based on previous work and are clearly interpretable as such by a qualified cultural resource professional, or if there is documentation that fill is already present to the depth of the current project, XPI testing will not be required. XPI testing shall include a series of shovel test pits and/or hand augured units and/or mechanical trenching to establish the boundaries of archaeological site(s) on the project site. All archaeological excavation shall be conducted by a qualified archaeologist(s) under the direction of a principal investigator meeting the SOI's PQS for archaeology (National Park Service 1983). The results of the XPI will be documented in a technical report and submitted to the City for review and approval prior to the issuance of a building permit. If the archaeological resource(s) of concern are Native American in origin, the qualified archaeologist shall confer with local California Native American Tribe(s) and, if applicable, a Native American monitor shall be present in accordance with Mitigation Measure TCR-2. Recommendations in the XPI Report shall be implemented for all ground disturbance activities and documented as appropriate for verification by the City.

Mitigation Measure CR-6: Archaeological Site Avoidance.

Avoidance will be the preferred treatment measure for an archaeological site identified on the Bayer campus. Any identified archaeological sites will be avoided by project-related construction activities, to the maximum extent feasible to still be able to fulfill the project objectives as determined by Bayer and confirmed by the City. The determination of feasibility will include an assessment of project redesign options, including but not limited to relocation of a proposed building, realignment of utilities, redesign of building plans to build above the existing ground surface and/or to minimize the proposed depth of disturbance, or other options as appropriate for a given project. A barrier (temporary fencing) and flagging will be placed between the work location and any resources within 60 feet of a work location to minimize the potential for inadvertent impacts. The 60-foot avoidance buffer may be reduced as appropriate if recommended by the qualified archaeologist. If the feasibility of avoidance of an archaeological resource of Native American origin is not immediately apparent, Bayer and the City of Berkeley shall contact consulting Tribes to discuss appropriate treatment of the resource, including the implementation of MM CR-7 and CR-8. If, after a good faith effort at resolution, the City, Bayer, and consulting Tribe conclude that agreement is not possible, MM CR-7 shall be implemented.

Mitigation Measure CR-7: Phase II Site Evaluation.

If the results of the Phase I Report and/or XPI indicate the presence of archaeological resources that cannot be avoided by the project and that have not been adequately evaluated for CRHR listing at the project site, the project applicant shall retain a qualified archaeologist to conduct a Phase II investigation to determine if intact deposits are present and if they may be eligible for the CRHR or qualify as unique archaeological resources. A Phase II evaluation shall include necessary archival research to identify significant historical associations and mapping of surface artifacts, collection of functionally or temporally diagnostic tools and debris, and excavation of a sample of the cultural deposit. The sample excavation will characterize the nature of the site, define the artifact and feature contents, determine horizontal and vertical boundaries, and retrieve representative samples of artifacts and other remains.

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If the archeologist and, if applicable, a Native American monitor or other interested tribal representative from a locally affiliated Tribe as listed by the Native American Heritage Commission determine it is appropriate, cultural materials collected from the site shall be processed and analyzed in a laboratory according to standard archaeological procedures. The age of the materials shall be determined using radiocarbon dating and/or other appropriate procedures; lithic artifacts, faunal remains, and other cultural materials shall be identified and analyzed according to current professional standards. The significance of the sites shall be evaluated according to the criteria of the CRHR. The results of the investigations shall be presented in a technical report following the standards of the California Office of Historic Preservation publication "Archaeological Resource Management Reports: Recommended Content and Format (1990 or latest edition)." The report shall be submitted to the City for review and approval prior to the issuance of any building or engineering permits that could disturb identified resources. Recommendations in the Phase II report shall be implemented for all ground disturbance activities and documented as appropriate for verification by the City.

Mitigation Measure CR-8: Phase III Data Recovery.

If the Phase II site evaluation identifies resources that meet CRHR significance standards and if the resources cannot be avoided, the project applicant shall incorporate recommendations for mitigation of archaeological impacts into the final design as per CR-7 above prior to construction. If the resource is significant for its data potential and if recommended by the archaeologist and approved by consulting Tribes if appropriate, Phase III data recovery may be required, including excavation, to exhaust the data potential of significant archaeological sites, and shall be carried out by a qualified archaeologist meeting the SOI standards for archaeology according to a research design reviewed and approved by the City and prepared in advance of fieldwork and using appropriate archaeological field and laboratory methods consistent with the California Office of Historic Preservation Planning Bulletin 5, Guidelines for Archaeological Research Design (1991 or the latest edition thereof). Methods of artifact disposition may include curation for historic-era archaeological resources and reburial onsite within a tribal cultural resources easement as identified in TCR-3 for tribal cultural resources. Curation is not appropriate for tribal cultural resources unless agreed to and/or requested by consulting tribes.

The final Phase III Data Recovery reports shall be submitted to the City of Berkeley prior to issuance of any building permit for grading or construction. Recommendations contained therein shall be implemented throughout all ground disturbance activities.

Mitigation Measure CR-9: Worker's Environmental Awareness Program.

Prior to any ground disturbing activities, the project applicant shall retain an SOI qualified archaeologist to conduct a Worker's Environmental Awareness Program (WEAP) training. The WEAP training shall be focused on archaeological sensitivity and shall be provided to all construction personnel prior to the commencement of any ground-disturbing activities. The WEAP training shall include a description of the types of cultural material that may be encountered, cultural sensitivity issues, the regulatory environment, and the proper protocol for treatment of the materials in the event of a find. Attendance at the WEAP training shall be documented with a sign-in sheet to be submitted to the City for verification of adherence to this measure. This WEAP training may be presented in tandem with the training required under TCR-1.

Mitigation Measure CR-10: Archaeological Monitoring.

If recommended by the Desktop Analysis, Phase I, XPI, Phase II, or Phase III studies, the project applicant shall retain a qualified archaeologist (Monitor) to observe project-related ground-disturbing activities. The Monitor will have the authority to halt and redirect work if any archaeological resources are identified during monitoring. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find must be evaluated for listing in the CRHR. Archaeological monitoring may be reduced or halted at the discretion of the monitors, in consultation with the lead agency, as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 60 percent of ground disturbance. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance activity moves to a new location

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within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). Following the completion of monitoring, a report documenting the monitoring effort shall be prepared and submitted to the City of Berkeley and the Northwest Information Center.

Mitigation Measure CR-11: Unanticipated Discovery of Archaeological Resources.

If archaeological resources are encountered during ground-disturbing activities, whether or not an archaeological monitor is present, work within 60 feet shall be halted. The project applicant shall notify the City and retain an archaeologist meeting the SOI's Professional Qualification Standards for archaeology (National Park Service 1983) to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for CRHR eligibility. If the discovery proves to be eligible for the CRHR and impacts cannot be avoided, data recovery excavation may be required. Reports prepared to document and/or evaluate unanticipated discoveries and their treatment shall be submitted to the City of Berkeley for review and approval. Recommendations contained therein shall be implemented throughout the remainder of ground disturbance activities.

3.5 Geology and Soils (Initial Study)

The West Berkeley Project EIR found that no paleontological resources are known to exist in West Berkeley, and no documentation suggests that they occur on the South or North Properties. It is anticipated that most ground disturbance on the North and South Properties during buildout of the amended DA would occur in already disturbed areas that were graded for earlier development on the Bayer Campus or for historic industrial uses, where it is unlikely that intact fossil resources would be encountered. However, construction activities could potentially uncover and disturb paleontological resources beneath the surface. Therefore, Mitigation measure GEO-1 would ensure the protection of fossil discoveries if unearthed during ground-disturbing activities, and reduce impacts to geology and soils to a less than significant level.

Mitigation Measure GEO-1: Discovery of Paleontological Resources.

If a project would solely involve the refurbishment of an existing building and no ground disturbance would occur, this measure would not be required. Prior to ground-disturbing activities, the project applicant shall retain a qualified paleontologist to provide on-call services in the event of an unanticipated discovery. A qualified paleontologist is defined by the Society of Vertebrate Paleontology (SVP) standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010). Prior to the start of construction, the qualified paleontologist shall conduct a Paleontological Worker Environmental Awareness Program (WEAP), a training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The WEAP shall be fulfilled at the time of a preconstruction meeting at which a Qualified Paleontologist shall attend.

In accordance with SVP (2010) guidelines, all work shall halt in the immediate vicinity of a find and the qualified paleontologist shall evaluate the discovery. The qualified paleontologist shall determine the significance of the discovery and identify whether additional mitigation or treatment is warranted. Measures may include testing, data recovery, reburial, archival review and/or transfer to the appropriate museum or educational institution, such as the University of California Museum of Paleontology. All testing, data recovery, reburial, archival review or transfer to research institutions related to monitoring discoveries shall be determined by the qualified paleontologist and shall be reported to the City. Work in the area of the discovery may resume after the find is properly documented and authorization is given to resume construction work.

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3.6 Greenhouse Gases (Subsequent EIR)

The project's construction and operation would generate temporary and long-term increases in GHG emissions. Construction GHG emissions mainly derive from site preparation and grading; Operational GHG emissions associated with land use development mainly derive from electricity and natural gas usage, mobile sources, solid waste disposal, water usage, wastewater generation, and landscaping equipment; Operational GHG emissions associated with stationary sources mainly derive from emergency generators and boilers. The project's use of 100 percent carbon-free electricity is consistent with Bayer's 2030 Sustainability Initiative and natural gas usage is expected to decrease due to BMC Chapter 12.80, which would prohibit the installation of natural gas infrastructure in the new administration, production, maintenance, and warehouse buildings. Implementation of Mitigation Measure GHG-1 would reduce GHG emissions associated with the land use development component of the project below existing conditions, thus not exceeding the de minimis threshold of 0 MT of CO₂e per year, resulting in less than significant impacts.

Mitigation Measure GHG-1: Renewable Electricity Sources.

Electricity used at the site shall be sourced from 100 percent renewable energy resources by 2030. Bayer shall submit documentation showing as such to the City every five years, or at intervals required by the City, to ensure compliance.

3.7 Hazards and Hazardous Materials (Subsequent EIR)

There are known releases of hazardous substances within and adjacent to the project site with potentially localized contamination or concentrations of hazardous substances. Additionally, there are several historical uses of the property and adjacent properties that may have resulted in the presence of hazardous materials or wastes in onsite soil, soil vapor, and/or groundwater. Although the project would be required to comply with existing regulations related to known hazardous materials and wastes, unanticipated hazardous materials and wastes could be disturbed during demolition, grading, and other soil or groundwater disturbance under the proposed amended DA, and expose workers to hazardous materials during construction activities. However, Mitigation Measures HAZ-1 to HAZ-4 would ensure identification of potential hazards associated with demolition, grading (soil and groundwater disturbance), and construction; access of potential or known presence of contaminants; involvement of regulatory agency for oversight of UST or underground feature removal, soil, soil vapor and groundwater assessment, and remediation; identification and management of potential safety issues during demolition, grading and construction. Implementation of these Mitigation Measures would reduce impacts on hazards and hazardous materials to a less than significant level and ensure that the project would not contribute to a cumulative hazards or hazardous materials impact.

Mitigation Measure HAZ-1: Property Assessment – Phase I and Phase II Environmental Site Assessments (ESA).

The project applicant shall prepare a site-specific Phase I ESA for each development area / Block, in accordance with standard ASTM methodologies, to assess the land use history of the project site. Phase II ESAs (i.e., soil, groundwater, soil vapor subsurface investigations) shall be completed where a building is proposed south of Carleton Street or based on the results of the Phase I ESAs. Specifically, if the Phase I ESAs identify recognized environmental conditions or potential concern areas, a Phase II ESA would be conducted to determine whether the soil, groundwater, and/or soil vapor has concentrations exceeding regulatory screening levels for commercial/industrial land uses.

If the Phase II ESA concludes that the site is or may be impacted and could affect the planned development, then an assessment, remediation, or corrective action (e.g., removal of contaminated soil, in-situ treatment, capping, engineering controls) shall be conducted prior to or during construction under the oversight of federal, state, and/or local agencies (e.g., USEPA, DTSC, SFB RWQCB, City of Berkeley TMD, Alameda County DEH) and in full compliance with current and applicable federal and state laws and regulations. Additionally, Voluntary Cleanup Agreements may be used for parcels where remediation or long-term monitoring is necessary.

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Mitigation Measure HAZ-2: Regulatory Agency UST Involvement – City of Berkeley TMD and SFB RWQCB.

Because the project site and immediately adjacent properties are associated with open and closed LUST and Cleanup Program cases overseen by the SFB RWQCB, the project applicant shall notify the SFB RWQCB of the following:

- Development plans for each Block located south of Carleton Street and for Block B North east of Fourth Street
- Completion of subsequent Phase I ESAs
- Identification of unanticipated stained or odorous soils during demolition, grading, and/or construction activity
- Identification of additional underground tanks and associated piping, or other underground features such as railroad spurs or ties, unknown piping, cisterns, wells, waste/burn pits, etc., if encountered

Additionally, all onsite UST removals and associated assessment work shall be completed under the direction of the City of Berkeley TMD and/or the SFB RWQCB. To the extent there are any pending LUST and Cleanup Program cases on the project site, the UST closure and agency approval documents shall be reviewed and approved by the City of Berkeley TMD and/or the SFB RWQCB prior to issuance of building permits for grading or any other ground disturbance.

Upon identification of stained soil, odorous soil, USTs, or other underground features onsite, City of Berkeley TMD and/or SFB RWQCB could require actions such as: preparation of removal action workplans; obtaining permits for removal of USTs or other underground features; excavation and offsite disposal of soil; assessment of soil and/or groundwater beneath the excavation; and/or completion of UST removal reports or case closure documents.

Mitigation Measure HAZ-3: Regulatory Agency Subsurface Involvement – ACPWA, SFB RWQCB and City of Berkeley.

The City of Berkeley TMD and the SFB RWQCB shall continue to provide agency oversight of assessment and remediation of the open Cleanup Program case (case #01S0045) on the project site. Additionally, the applicant shall notify the City of Berkeley and SFB RWQCB Cleanup Program project manager of the following:

- Development plans for Block B North east of Fourth Street and development south of Carleton Street
- Onsite use of 14 hydraulic elevators that may have contained oils containing PCBs (Farallon, 2020)
- Onsite use of above-ground storage tanks used to store diesel for generators (Farallon, 2020)
- Other regulatory UST case listings (City of Berkeley and SFB RWQCB) and assessment work that will be completed under the direction of other regulatory agencies
- All former environmental documents completed for the site of development disturbance, including this SEIR

Upon notification of the information listed above, the City of Berkeley and the SFB RWQCB could require actions such as: preparation of subsurface investigation workplans; completion of soil, soil vapor, and/or groundwater subsurface investigations; installation of soil vapor or groundwater monitoring wells; excavation and offsite disposal of soil; completion of human health risk assessments; and/or completion of remediation reports or case closure documents.

If groundwater wells or soil vapor monitoring probes are identified within the construction area during demolition, subsurface demolition, or construction at the project site, they will be abandoned/destroyed under permit from the Alameda County Public Works Agency (ACPWA). Demolition activities will be documented in a letter report submitted to the ACPWA and SFB RWQCB within 60 days of the

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completion of abandonment activities. Abandonment of sub-slab vapor points will be completed with SFB RWQCB approval and demolition activities will be documented in a letter report to SFB RWQCB. The SFB RWQCB non-objection, concurrence, no further action, closure, and/or agency approval documents shall be delivered to and reviewed by the City of Berkeley prior to issuance of any building permit authorizing grading or construction on the site. The SFB RWQCB may determine that City of Berkeley TMD or DTSC may be best suited to perform the lead agency duties for assessment and/or remediation at the project site, in which case this and other mitigation measures will still apply.

Mitigation Measure HAZ-4: Soil and Groundwater Management Plan.

The project applicant shall implement the recommendations of the Soil and Groundwater Management Plan (SGMP) prepared by Farallon Consulting LLC dated December 28, 2020. The SGMP shall be reviewed by the City of Berkeley Toxics Management Division prior to issuance of permits for grading or other ground disturbance and the report shall be updated if needed. The SGMP recommendations are related to:

- Management of Unanticipated Subsurface Conditions
- Health and Safety Requirements
- Onsite Soil Management
- Groundwater Management
- Stormwater Management
- Soil and Groundwater Management Plan Reporting Requirements

Construction workers shall be informed about environmental conditions and measures to mitigate potential risks to the environment, construction workers, and other nearby receptors from potential exposure to hazardous substances that may be associated with unknown conditions or unexpected underground structures, and known contaminated soil or groundwater encountered during construction activities.

The SGMP shall be updated and the updated recommendations shall be implemented in the following cases:

- A change in project site uses;
- Receipt of additional information pertaining to project site environmental conditions;
- Updated chemical toxicity information for contaminants detected at the project site based on revised regulatory screening levels; or,
- New legal or regulatory soil or groundwater management requirements applicable to the project site.

Implementation of the proposed amended DA would include operation of Laboratory, Production, Storage, and manufacturing buildings that could involve the use, storage, disposal, or transportation of hazardous materials, including biohazardous and chemical materials. Upset or accident conditions at the project site could involve the release of hazardous materials into the environment. However, the proposed amended DA includes numerous use restrictions under Exhibit G that further ensure biosafety-related risks are minimal and less-than-significant, as discussed and further clarified in the Responses to Comments on the Draft SEIR, dated October 2021, and Bayer's table of clarifying information in response to Public Comments, delivered to the City on August 26, 2021, which are incorporated herein by this reference. Furthermore, adherence to existing federal, state, and local regulations and implementation of Mitigation Measure HAZ-5, as documented in the administrative record of proceedings, would reduce impacts concerning hazardous materials during construction activities to a less than significant level and ensure that the project would not contribute to a cumulative hazards or hazardous materials impact.

Mitigation Measure HAZ-5: Hazards Materials Safety Plan (Updated 1991 EIR MM).

The project applicant shall prepare a Hazardous Materials Safety Plan to address potential issues that

may be encountered during project operation involving the use, storage, transport, and disposal of biohazardous and chemical materials. The Hazardous Materials Safety Plan shall be updated annually and reviewed by Berkeley's Toxics Management Division. The Plan shall include, but not be limited to, the following information and measures:

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- Documentation of ongoing compliance with all applicable federal, state, and local regulations related to biohazardous safety, storage, transport, and disposal procedures, and emergency response preparedness, including biosafety guidelines published by the NIH and CDC.
- Documentation that current and future operations would prohibit the use of biohazardous agents within Risk Groups 3 and 4.
- Documentation of ongoing coordination for emergency preparedness with the City of Berkeley, including preparation of an emergency response plan and an emergency disaster procedures manual for release of hazardous biological materials. The disaster preparedness plan shall include annual training for and coordination with City of Berkeley emergency responders as to the nature of hazards on site, types of organisms likely to be encountered, where to take exposed persons to receive appropriate treatment, and staging semi-annual mock disaster drills.
- Updates to and continued compliance with the site's Risk Management Prevention Plan (RMPP) for the use of ammonia. The RMPP shall be subject to review and approval by the USEPA.
- Updates to and continued compliance with the Hazardous Materials Release Response Plan and inventory and Risk Management and Prevention program required by CalEPA.

3.8 Hydrology and Water Quality (Initial Study)

The proposed amended DA would allow for construction activities on the Bayer Campus that have the potential to cause soil erosion from exposed soil, an accidental release of hazardous materials used for equipment such as vehicle fuels and lubricant, or temporary siltation from storm water runoff. Soil disturbance would occur during excavation for proposed building foundations, demolition of existing buildings, and grading activity. If uncontrolled during construction, soil erosion and water pollutants could have adverse offsite effects on water quality, for instance at nearby wetlands in Aquatic Park. However, future development on the project site would be required to comply with state and local water quality regulations designed to control erosion and protect water quality during construction. This includes compliance with the requirements of the State Water Resources Control Board (SWRCB) Construction General Permit, which requires preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) and Best Management Practices (BMPs) for projects that disturb one acre or more of land. Construction activity therefore would not result in the degradation of water quality in receiving waters, resulting in less than significant impacts on construction-related water quality.

New development under buildout of the project would be subject to continuing water quality requirements included in the proposed amended DA, which establish a Surface Water Run-off Program that requires quarterly sampling of surface water discharge prior to entering the City's storm drain system, to ensure that waste from the Bayer Campus does not discharge into the system. In addition, it requires that Bayer use BMPs in accordance with NPDES guidelines to reduce contamination of surface waters. Sampling of surface water discharge must demonstrate no contribution to degradation of surface waters at Aquatic Park. New development on the project site also would be subject to the requirements of the currently applicable Municipal Regional Stormwater NPDES Permit issued by the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB). This permit regulates the City of Berkeley's stormwater discharges to San Francisco Bay.

Water quality in stormwater runoff is also regulated locally by the City. Provision C.3 of MRP2 or similar provisions in the applicable NPDES Permit addresses post-construction stormwater requirements for new development and redevelopment projects that add and/or replace 10,000 square feet or more of impervious area or special land use categories that create and/or replace 5,000 square feet of impervious surfaces. These "regulated" projects are required to meet certain criteria: 1) incorporate site design, source control, and stormwater treatment measures into the project design; 2) minimize the discharge of pollutants in stormwater runoff and non-stormwater discharge; and 3) minimize increases in runoff flows as compared to pre-development conditions. Additionally, projects in Berkeley that drain to a natural water body must also construct and maintain hydromodification measures to ensure that estimated post-project runoff peaks and durations do not exceed estimated pre-project peaks and duration. Compliance with the applicable state, local,

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and DA requirements described above would increase infiltration of stormwater, decrease stormwater runoff, promote capture and use, and would reduce the risk of water contamination within the project site from operation of new and existing activities on the site to the maximum extent practicable. However, Mitigation Measures from the 1991 EIR would continue to apply to the proposed project to avoid adverse impacts on surface water quality from stormwater runoff.

Mitigation Measure HWQ-1: Best Management Practices (Updated 1991 EIR MM).

The project applicant shall prepare documentation of Best Management Practices to minimize the potential for water pollution. Typical elements of such a document would include addressing the possibility of substituting less toxic compounds in manufacturing and research and development and proper handling of those toxic compounds used.

Mitigation Measure HWQ-2: Source Control (Updated 1991 EIR MM).

The project applicant shall manage pollutants on the project site such that they are not easily mobilized and discharged into stormwater runoff. This shall involve configuring fuel storage under roofed areas and preventing on-site runoff from flowing through these areas. Hazardous materials stored in uncovered areas shall be fully contained or covered such that they do not come into contact with rainfall.

Mitigation Measure HWQ-3: Water Quality Monitoring (Updated 1991 EIR MM).

The project applicant shall perform sampling and testing of stormwater runoff from the project site four times per year. The extent and location of this monitoring will be based upon the degree of source runoff controls implemented. Monitoring shall be used primarily to ensure source controls are working and to detect any additional or accidental pollutants in stormwater runoff.

Mitigation Measure HWQ-4: Pollutant Removal (Updated 1991 EIR MM).

The project applicant shall install systems to remove pollutants before stormwater runoff leaves the project site. This may involve physical removal or chemical or biological treatment depending on the type of pollutants that would be present. Uncovered parking areas shall receive street sweeping monthly to remove pollutants, oils, and greases before they are mobilized by runoff. Storm drains downstream of hazardous materials storage areas shall be equipped with manual shut-off valves. In the event of a spill, these valves shall be immediately closed, and shall remain closed until clean-up has been completed.

Mitigation Measure HWQ-5: Management of Underground Tanks (Updated 1991 EIR MM).

The project applicant shall protect from damage existing wells that monitor potential releases of pollutants from underground tanks and may be required to relocate them if they would be affected by construction. Remediation or excavation of soil contaminated by underground tank releases, if necessary, shall be completed before construction of permanent foundations.

Mitigation Measure HWQ-6: Monitoring and Remediation of Seepage into Aquatic Park (Updated 1991 EIR MM).

The project applicant shall contribute to the funding of (as determined by the City) or perform periodic groundwater sampling and monitoring where groundwater seeps from the 10- to 12-foot-high embankment along the western edge of the Southern Pacific Railroad. If the City determines that the Bayer Campus' use of hazardous material has contributed to contamination of groundwater seepage which supports the narrow freshwater wetland between the main lagoon at Aquatic Park and the railroad, Bayer shall contribute to the funding of such remediation, if necessary. If the City determines that contamination of groundwater seepage originates from properties outside the Bayer Campus, then the project applicant shall not be responsible for funding remediation of such contamination.

Mitigation Measure HWQ-7: Source Control for Groundwater Contamination (Updated 1991 EIR MM).

The project applicant shall implement standard safeguards, monitoring, and contingency measures to minimize the potential for future contamination of the local groundwater. Such measures include roofing

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and/or berming of storage areas, lining storage areas to prevent infiltration, and/or installing shutoff valves in downslope storm drain lines.

3.9 Noise (Subsequent EIR)

During implementation of the proposed amended DA, residences and businesses located adjacent and nearby to new development would be exposed to temporary construction and demolition noise during phased development implementation of the North and South Properties. Demolition of existing buildings and construction of new buildings under the amended DA would be expected to require the use of heavy construction equipment, such as scrapers, bulldozers, water trucks, haul trucks, and pickup trucks. Noise levels during construction and demolition was modelled for closest noise sensitive receptors situated north, east, south, and west of the North and South Properties. The modelled noise levels would exceed the City's most conservative weekday and weekend thresholds of 60 dBA and 50 dBA $L_{eq(h)}$ for R-1 residential zone receivers and exceed the City's thresholds of 70 dBA and 60 dBA $L_{eq(h)}$ for receiving commercial/industrial zone receivers. Modeled construction and demolition noise would also exceed the City's daytime interior noise level standard of 45 dBA L_{eq} at noise sensitive receivers adjacent to Bayer Campus. In addition, maximum and hourly average construction noise levels would result in temporary increases in ambient noise levels in the project vicinity. However, Mitigation Measure N-1 would reduce construction-related noise impacts to a less than significant level and ensure compliance with the City's exterior and interior noise thresholds.

Mitigation Measure N-1: Construction-Related Noise Reduction Measures (Updated 1991 EIR MM).

The following measures shall be implemented during construction for the purpose of reducing construction-related noise impacts:

- **Neighbor Notification.** At least two weeks prior to initiating construction activities requiring the use of two or more pieces of heavy construction equipment at the project site, the applicant shall provide an ongoing website of on-site construction activities and written notice to businesses and residents within 500 feet of the project site construction areas, including: (1) a description of the Project; (2) a description of construction activities; (3) a daily construction schedule (i.e., time of day) and expected duration (number of weeks or months); (4) the name and phone number of the "Noise Management Individual" for the Project; (5) a commitment to notify neighbors at least four days in advance of any authorized extended work hours and the reason for extended hours; (6) notice that construction work is about to commence; and (7) the designated "Disturbance Coordinator" responsible for responding to any local complaints about construction noise. The noise manager would determine the cause of the noise complaints (e.g., starting too early, bad muffler) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval prior to issuance of a building permit.
- **Disturbance Coordinator.** The applicant shall designate a disturbance coordinator who shall be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site outside the gate visible to passersby (the campus is closed).
- **Noise Reduction Program.** The applicant shall develop a site-specific construction noise reduction program prepared by a qualified acoustical consultant to reduce construction related noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer or a delegate prior to issuance of a building permit. The noise reduction program shall include time limits for construction and all technically and economically feasible measures to ensure that construction complies with the City of Berkeley Municipal Code Section 13.40.070. The program shall include, but is not limited to the following available controls to reduce construction noise levels to as low as practical:
 - **Temporary Noise Barrier.** The applicant shall construct eight-foot high solid plywood fences along construction site boundaries adjacent to off-site noise sensitive residences or other noise-

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sensitive land uses (e.g., school uses) to meet applicable thresholds. These fences shall be outfitted with noise control blanket barriers where necessary to effect reductions that result in compliance with the City's quantified noise construction thresholds, as determined by the noise control plan.

- **Mufflers.** Construction equipment shall be properly maintained and all internal combustion engine driven machinery with intake and exhaust mufflers and engine shrouds, as applicable, shall be in good condition and appropriate for the equipment. During construction, all equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers, consistent with manufacturers' standards.
- **Electrical Power.** The applicant shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists. The applicant shall select hydraulically or electrically powered equipment where feasible and avoid pneumatically powered equipment where feasible.
- **Equipment Staging.** All stationary noise-generating equipment shall be located as far as possible from sensitive receivers when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- **Equipment Idling.** Unnecessary idling of internal combustion engines shall be prohibited. Construction equipment that would not be used for more than five minutes should be turned off completely.
- **Construction Vehicles.** Construction-related traffic shall be routed along major roadways and away from sensitive receivers, where feasible.
- **Workers' Radios.** All noise from workers' radios shall be controlled such that radios are not audible at sensitive receivers near construction activity.
- **Smart Back-up Alarms.** Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.
- **Additional Noise Attenuation Techniques.** For development on the portion of the site east of Seventh Street, implement the measures set forth in the Noise Reduction Program and either: (1) erect temporary noise control blanket barriers, where necessary, along building facades facing construction sites; (2) restrict construction to weekdays; or (3) implement other noise reductions alternatives that could feasibly reduce noise to achieve the City's quantified noise construction thresholds.

3.10 Public Services (Initial Study)

Buildout of the Bayer Campus under baseline conditions would total 1,866,000 square feet. The project would involve a net reduction of 128,000 square feet in buildout relative to baseline conditions. Because the project would not allow for an increase in development potential, the 1991 EIR's finding that buildout of the existing DA would not necessitate additional employees and equipment, with adherence to proper security precautions, would continue to apply. However, Mitigation Measure PS-1 in the 1991 EIR would still be necessary to reduce the risk of on-site crime that requires police protection services, and reduce impacts on police protection to a less than significant level.

Mitigation Measure PS-1: Security Measures (Updated 1991 EIR MM).

The project applicant shall continue implementing the following measures recommended by the Berkeley Police Department including but not limited to:

- Prepare a Crime Prevention Evaluation Analysis Report in coordination with the Police Department;
- Employ a highly visible security guard;

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- Provide adequate lighting in parking areas and around buildings in use in the evenings; and
- Utilize solid walls, burglar alarms, and/or safety glazing on the windows for buildings containing pharmaceuticals.

3.11 Recreation (Initial Study)

The proposed project would result in an estimated 2,000 employees by 2052. This represents a net increase of 108 employees beyond baseline conditions, or 5.7 percent more employees on the Bayer Campus. By increasing the number of employees on-site, the project would increase demand for recreational facilities in Berkeley. Additional employees who reside in the Berkeley area could use City parks outside of work hours. However, park use by 108 additional employees would have a marginal effect on overall use of City parks and would not substantially contribute to physical deterioration of park facilities. Furthermore, the project would add at least nine acres of open space in the form of fields, sports courts, pedestrian trails, bicycle trails, outdoor eating areas, and landscaping only open to Bayer employees. The proposed expansion of recreational space serving employees on the Bayer Campus would reduce demand for off-site parks including Aquatic Park during work hours. However, it is expected that some Bayer employees would continue to use Aquatic Park, resulting in the physical deterioration of the park. Implementation of Mitigation Measure REC-1 would ensure continued funding for park maintenance and improvements, which would reduce impacts on existing parks and facilities to a less than significant level.

Mitigation Measure REC-1: Aquatic Park Funding (Updated 1991 EIR MM).

The project applicant shall contribute to park maintenance and improvements related to Aquatic Park through an upfront payment of \$385,000. The contribution shall be paid to the City of Berkeley Parks, Recreation, and Waterfront Department by February 25, 2022.

3.12 Transportation (Subsequent EIR)

The proposed amended DA would not conflict with applicable policies addressing transit, bicycle and pedestrian facilities, as detailed in Section 4.6 of the DEIR, and further clarified in the Responses to Comments on the Draft SEIR, dated October 2021, and applicant's August 23, 2021 Letter to the City of Berkeley in Response to Traffic-Related Public Comments on the Draft SEIR, incorporated herein by this reference. The proposed project would be consistent with the City's General Plan and West Berkeley Plan goals and policies, which generally promote non-automobile trips over automobile trips. Under the existing entitlement, Bayer is required to implement a Transportation Demand Management (TDM) Program to reduce single-occupant automobile trips generated by the project site. As part of the TDM Program, Bayer is required to continue to provide funding for the West Berkeley Shuttle, which provides free shuttle service between the project site and the Ashby BART station. Without continued implementation of the TDM Program, operation under the amended DA may conflict with General Plan and West Berkeley Plan policies that encourage vehicle trip reduction and increased transit use, including General Plan Policies T-7 and T-10 and West Berkeley Plan Policy 1.7, and General Plan Policy T-2, which calls for local efforts to maintain and enhance public transportation services. However, Mitigation Measure T-1 would require the continued implementation of the TDM Program which would ensure consistencies with programs, plans, ordinances or policies addressing the circulation system.

Mitigation Measure T-1: Transportation Demand Management Program (Updated 1991 EIR MM).

The project applicant shall continue to implement and update the Transportation Demand Management (TDM) Program to reduce single-occupant automobile trips generated by the project site. The TDM Program shall be reviewed and approved by the City of Berkeley prior to issuance of building permits for development allowed under the amended DA. In addition, the TDM Program shall be updated by Bayer and approved by the City every five years, or at intervals required by the City, to ensure that services are consistent with best practices to reduce the use of single-occupant automobile trips to and from the project site.

The TDM Program may include, but not be limited to, the following information and measures:

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- Continued funding and implementation of the West Berkeley Shuttle with regular service and expansion to meet demand;
- Pre-tax commuter benefits;
- Travel coordination, via a Transportation Coordinator and regularly disseminated transportation and commute information;
- On-site amenities such as eating and recreation facilities;
- Telecommute program; and,
- Bicycle parking, repair stations and education, as well as employee showers, changing facilities and lockers.

3.13 Tribal Cultural Resources (Subsequent EIR)

Based on the results of AB 52 consultation, there are no known tribal cultural resources located within the project site. However, the project site is considered highly sensitive for archaeological resources that may later be recommended as a tribal cultural resource by tribal organizations. Implementation of TCR-1 to TCR-3 would reduce impacts on tribal cultural resources to a less than significant level, and ensure no cumulatively considerable impacts related to cultural resources.

Mitigation Measure TCR-1: Worker's Environmental Awareness Program.

Prior to ground disturbing activities, the project applicant will retain a locally affiliated tribal member who represents a tribal organization that was contacted as part of Assembly Bill 52 outreach to conduct a Worker's Environmental Awareness Program (WEAP) training. The WEAP training shall be provided to all construction personnel (in conjunction with the cultural resources WEAP) prior to the commencement of ground-disturbing activities. The WEAP training shall include a description of the types of materials that may constitute Tribal Cultural Resources, the reasons for their traditional cultural significance and importance to tribal members, the stop work authority of the Native American monitor, and the proper protocol for the respectful treatment of the resource in the event of an unanticipated discovery. Attendance at the WEAP training shall be documented with a sign-in sheet for submittal to the City for verification of adherence to this measure. This WEAP training may be presented in tandem with the training required under CR-9.

Mitigation Measure TCR-2: Native American Monitoring.

If recommended by the Desktop Analysis, Phase I, Extended Phase I (XPI), Phase II, or Phase III studies required under Mitigation Measures CR-1 through CR-8, the project applicant shall retain a qualified local Native American monitor to observe all ground disturbance, including archaeological excavation, associated with development facilitated by the project. Native American monitoring shall be provided by a locally affiliated tribal member. Monitors will have the authority to halt and redirect work if tribal cultural resources are identified during monitoring. If tribal cultural resources are encountered during ground-disturbing activities, work within 60 feet must halt and the find must be evaluated. Native American monitoring may be reduced or halted at the discretion of the monitors, in consultation with the lead agency, as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 60 percent of ground disturbance. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). Following the completion of monitoring, a report documenting the monitoring effort shall be prepared and submitted to the City of Berkeley and the Northwest Information Center.

Mitigation Measure TCR-3: Cultural Resources Open Space Easement.

The project applicant will set aside an area that could be used as a Tribal Cultural Resources Open Space Easement in the event that tribal cultural resources are encountered during construction activities and are unable to be avoided. The purpose of the Cultural Resources Open Space Easement will be to provide an onsite location for reinterment of sensitive Native American cultural resources and/or human remains, as well as other associated funerary objects. If said remains are encountered, a Cultural

Resource Open Space Easement will be developed and granted by the project applicant in consultation

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with the identified Most Likely Descendant(s), and other affiliated tribes identified by the NAHC as applicable. Should an easement be necessary, the following actions would be prohibited on the land subject to said easement, except as required for the reburial of sensitive cultural resources: grading; excavation; placement of soil, sand, rock, gravel or other material; clearing of vegetation with machinery; construction; erection or placement of a building or structure; vehicular activities; trash dumping; installation of wet or dry infrastructure, such as irrigation systems; or for a purpose other than as open space for tribal use only.

Exceptions include the following:

- Placement and reburial of sensitive Native American cultural resources or human remains.
- Access shall be provided for identified Most Likely Descendant(s), and other affiliated tribes identified by the NAHC in perpetuity.
- Selective clearing of vegetation by hand if required by fire authorities for the purpose of reducing an identified fire hazard or the removal of vegetation using chemicals for vector control purposes where required by the Department of Environmental Health.
- The installation of a bench, marker, or other amenity if desired by the consulting Tribe(s).

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SECTION 4: EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT

The City finds that, based upon substantial evidence in the record, as discussed below, the following impacts associated with the project are not significant or are less than significant. In addition, the City finds there would be no new or substantially more severe impacts to the following issue areas than what was analyzed in the 1991 EIR. The Supplemental Initial Study included as Appendix A of the Draft SEIR provides a detailed analysis of the less-than-significant impacts of the proposed project for all issue areas below.

4.1 Agricultural and Forest Resources (Initial Study)

The project site is located in an urban area in the city of Berkeley. There are no agricultural resources, Williamson Act-contracted land, or forest land located on or near the project site. The project would not allow for conversion of agricultural land to non-agricultural uses or result in the loss of forest land or conversion of forest land to non-forest use. Therefore, the project would result in *no impacts* to agricultural for forest resources.

4.2 Energy (Initial Study)

Construction activities would result in short-term consumption of energy. However, energy use during construction would be temporary, and construction equipment used would be typical of similar-sized construction projects in the region. In addition, construction contractors would be required to comply with the provisions of California Code of Regulations Title 13 Sections 2449 and 2485 and the U.S. EPA Construction Equipment Fuel Efficiency Standard, which would also minimize inefficient, wasteful, or unnecessary fuel consumption. In addition, per applicable regulatory requirements such as 2019 California Green Building Standards Code, the project would comply with construction waste management practices to divert a minimum of 65 percent of construction and demolition debris. These practices would result in efficient use of energy necessary to construct the project. Therefore, project construction would not result in potentially significant environmental effects due to the wasteful, inefficient, or unnecessary consumption of energy, and impacts would be *less than significant*.

Operation of the proposed project would require energy use in the form of electricity, natural gas, and gasoline and diesel fuel consumption. However, given compliance with existing state and local regulations, including California Building Code (CBC) Title 24, CALGreen (as codified in CCR Title 24, Part 11), and BMC Chapter 19.37, project operation would not result in potentially significant environmental effects due to the wasteful, inefficient, or unnecessary consumption of energy. Furthermore, the proposed amended DA would implement a TDM program that would include continued funding of the West Berkeley Bart Shuttle from Bayer to the Ashby BART station. In the event that demand increases under the proposed DA, Bayer would either increase shuttle capacity, increase service frequency, or both, which would reduce vehicle trips (and related energy consumption) associated with the proposed DA. This would incentivize the use of public transit, active transportation, and fuel-efficient vehicles for accessing the project site. Therefore, energy impacts on operational phase would be *less than significant*.

4.3 Land Use and Planning (Initial Study)

The Bayer Campus would be located in an urban area with a fully developed street grid. The project would not include elements that would physically divide established communities in West Berkeley. The North and South Properties would be closed to public access and would remain so. Therefore, no land use impact related to the physical division of an established community would occur as a result of the proposed project.

The project would also be consistent with the Berkeley Municipal Code, the Berkeley General Plan and the West Berkeley Plan, which were adopted to avoid or mitigate environmental effects. Therefore, impacts on land use and planning would be *less than significant*.

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4.4 Mineral Resources (Initial Study)

The project site is in a fully urbanized area that is incompatible with mineral resource extraction. The City of Berkeley has no active mineral extraction industry, and therefore the project would not result in the loss of availability of valuable mineral resources or mineral resource recovery sites. There would be *no impacts*.

4.5 Population and Housing (Initial Study)

The project would not allow for construction of new residences but would facilitate growth in employees. Currently the Bayer Campus has approximately 1,000 employees. Under baseline conditions, it is estimated that the proposed project would result in an estimated 2,000 employees by 2052. The 1991 EIR assumed that approximately 21 percent of new employees would seek housing in Berkeley, based on an estimate by the City's Office of Economic Development (Berkeley 1991). Applying the same rate, the projected net increase of 108 employees would result in an increase of 23 households in Berkeley. Based on the current average household size of 2.26 in Berkeley, it is estimated that additional employees and their households would increase the citywide population by 52 people. Table 22 in the Initial Study showed that the estimated population increase of 52 people would represent less than 0.1 percent of total citywide population in 2040. Therefore, the project would result in a *less than significant impact* related to population.

The project would involve redevelopment of Bayer's existing campus on the North and South Properties, which lack any housing units. Therefore, the project would not displace existing people or housing. *No impact* would occur.

4.6 Utilities and Service Systems (Subsequent EIR)

Buildout of the Bayer Campus under the amended DA would result in a net reduction of 29,594 gallons of wastewater generation per day (0.03 mgd) compared to baseline conditions (existing DA). Furthermore, the project would be required to comply with the City of Berkeley's current Private Sewer Lateral (PSL) Ordinance (BMC Chapter 17.24), which is consistent with the requirements of EBMUD's Regional Private Sewer Lateral Ordinance and includes regulations for the inspection, testing, repair, replacement, and ongoing maintenance of private sewer laterals. Under the PSL Ordinance, the project applicant would be required to upgrade or verify the condition of private sewer laterals within the project site before approval of project building permits. The Ordinance would also require that the project eliminate wet-weather infiltration and inflow to avoid impacts related to significant increases in wastewater flow during storms. Therefore, given compliance with existing regulations, the project would result in *less than significant* impacts related to wastewater treatment capacity and wastewater conveyance systems.

Buildout under the proposed amended DA would demand roughly the same amount of water as existing uses within the project site. With the implementation of Demand Management Measures required by EBMUD, existing and projected water supply would be adequate to serve the proposed project. The proposed amended DA would not require the construction of new or expanded water treatment facilities. Therefore, impacts related to water supply and water infrastructure would be *less than significant*.

Buildout under the proposed DA amendment would result in additional employees within the project site compared to buildout under current entitlements, which would increase the amount of solid waste generated within the project site by 94 tons per year, or 68 cubic yards per year, compared to baseline conditions. This amount would equate to 2,015 cubic yards over the 30-year implementation period of the DA Amendment. The total need for waste disposal would represent approximately 0.003 percent of the current total remaining landfill capacity for the Altamont Landfill. Moreover, continued compliance with applicable regulations listed in the Solid Waste Regulatory Setting would ensure that the development within the site complies with federal, state, and local statutes and regulations related to solid waste and would lead to increased recycling and waste diversion. Therefore, impacts related to solid waste and disposal facilities would be *less than significant*.

Buildout under the proposed DA amendment would not result in the relocation or construction of electricity, natural gas, or telecommunications facilities. Under the full buildout of the proposed DA in Year 30, the project

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would result in a net increase of 3 GWh of electricity and approximately 113,301 MMBtu of natural gas per year compared to baseline conditions. This represents approximately 0.001% of the total 2019 state-wide electricity usage and 0.03% of Alameda County electricity usage, and 0.0086% of state-wide natural gas consumption and 0.29% of Alameda County natural gas consumption. The estimated electricity and natural gas consumption rate is not substantial compared to the 2019 countywide usage as well as Alameda County consumption. Therefore, impacts related to electricity, natural gas, or telecommunications facilities would be *less than significant*.

4.7 Vehicle Miles Traveled (Subsequent EIR)

Analysis of Vehicle Miles Traveled (VMT) per worker under 2020 conditions demonstrates that VMT per worker for the project would be 11.5, which is less than the threshold of significance, 15.4 (the Bay Area Region Average for VMT minus 15%). The analysis of VMT per worker under 2040 conditions estimates VMT per worker to be 11.6, which is less than the threshold of significance, 15.5 (the Bay Area Region Average for VMT minus 15%). The analysis demonstrates that the project's VMT in 2052 would be similar to 2040 VMT, which is substantially less than the 15.5 VMT threshold of significance. Therefore, impacts through the project's horizon year (2052) would remain *less than significant*.

4.8 Wildfire (Initial Study)

The project site is not located near a Very High Fire Hazard Severity Zone (VHFHSZ). It is approximately 2.2 miles away from the nearest such zone, which is in the eastern margins of the city in the Berkeley Hills. It is also outside the City's Wildland-Urban Interface Fire Area. Therefore, the project would not impair an adopted emergency response or evacuation plan related to wildfire; exacerbate wildfire risks; or expose people to post-fire risks related to runoff, flooding, or landslides. *No impact* would occur.

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SECTION 5: FEASIBILITY OF PROJECT ALTERNATIVES

5.1 Project Alternatives

The Subsequent EIR included three alternatives:

- Alternative 1: No Project / No Construction Alternative
- Alternative 2: No Project / Zoning Conformance Alternative
- Alternative 3: Reduced Parking Alternative

The City hereby concludes that the SEIR sets forth a reasonable range of alternatives to the Bayer Healthcare LLC Development Agreement Amendment Project that address the significant impacts of the project, so as to foster informed public participation and informed decision making. The City notes that the Bayer Healthcare LLC Development Agreement Amendment Project, with incorporation of the mitigations outlined in Section 3 of these findings, will have no significant impacts. As such, the City is not required to make specific findings regarding the infeasibility of the alternatives set forth in the SEIR. Nevertheless, the City finds that the alternatives identified and described in the Final EIR were considered and further finds them to be infeasible for the specific economic, social, or other considerations set forth below pursuant to Public Resources Code section 21081(c).

5.1.1 Alternative 1: No Project / No Construction Alternative. The No Project/No Construction Alternative assumes that upon the existing DA's expiration in February 2022 the proposed amended DA would not be adopted and there would be no change to the existing configuration of the Bayer Campus. The total floor area of existing buildings is approximately 1,087,000 square feet, including 567,000 square feet on the North Properties and 520,000 square feet on the South Properties. Existing development on the project site accommodates six land uses: production, laboratories, warehouses, administration, utilities, and maintenance. Eight surface parking lots with a total of approximately 1,082 spaces are dispersed around the project site.

Findings: Under Alternative 1, impacts to air quality, cultural resources, GHG emissions, energy, hazards and hazardous materials, noise, transportation, or utilities and service systems may be reduced as construction would not take place, and new mitigation measures in the SEIR would not be required. However, this alternative would maintain existing buildings and mechanical equipment on the Bayer Campus that are less energy-efficient than planned facilities under the proposed project. Furthermore, since no unavoidable significant impacts were identified in the SEIR, Alternative 1 would not avoid a potentially significant impact.

The City rejects the No Project / No Construction Alternative because it would not achieve any of the objectives of the proposed project, as expressed above.

5.1.2 Alternative 2: No Project / Zoning Conformance Alternative. The No Project/Zoning Conformance Alternative assumes that the proposed amended DA is not approved, in which case the existing DA would expire in February 2022 while the Use Permit for the South Properties would remain in effect. Upon expiration of the DA, future development on the Bayer Campus would be required to conform to applicable standards in the Berkeley Municipal Code for underlying zoning on the project site. The main body of the project site to the west of Seventh Street would be subject to Mixed Manufacturing (MM) zoning standards, while the remainder of the site to the east of Seventh Street would be subject to Mixed Use-Light Industrial (MU-LI) zoning standards. Under Alternative 2, compliance of future development with the height limit of 45 feet in the MM and MU-LI zoning districts would reduce potential buildout at the Bayer Campus. Buildout under the No Project/Zoning Conformance Alternative would depend on the size of individual projects on the Bayer Campus that conform to zoning standards and are approved by the City. This alternative does not specify an exact amount of buildout that could occur because it would depend on the number and size of individual projects that are proposed and approved. However, it is likely that, because development would occur intermittently as reviewed and approved by the City, buildout would be reduced compared to what is analyzed in the SEIR for the proposed amended DA. The SEIR assumes that buildout would be further reduced under this alternative and that future discretionary projects on the Bayer Campus would be required to undergo CEQA analysis on a project-by-project or Master Use Permit basis when proposed.

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Findings: Under Alternative 2, since buildout would be reduced, there would be less impacts to air quality and toxic air contaminants (TACs) since it would involve less construction activity and there would be fewer vehicle trip and mobile emissions compared to the proposed project, reducing Vehicle Miles Travelled (VMT) and meeting air quality standards.

Impacts to cultural resources would be similar for Alternative 2 and the proposed project as both would involve the renovation of building B83, a historical resource under CEQA. Future projects under Alternative 2 could also disturb archaeologically sensitive resources and would need mitigation measures to ensure impacts remain less than significant.

Impacts to greenhouse gases would remain less than significant for Alternative 2 since future development on the Bayer Campus would be required to attain the latest iteration of green building practices in CALGreen and the California Energy Code and Reach Code.

Impacts to hazards and hazardous materials would be similar to the proposed project, as Alternative 2 would allow for future construction that could result in disturbance of unanticipated hazardous materials during demolition and grading, and existing use of biohazards and chemical hazards for pharmaceutical research and production would continue on the project site. Although both options would be required to comply with the latest biosafety guidelines adopted by the NIH and the Centers for Disease Control and Prevention (CDC) as well as all building, fire, and safety codes, mitigation measures would be needed to ensure impacts remain less than significant.

Similar to the proposed project, future development under Alternative 2 would require the use of heavy construction equipment. Since this alternative would not include the proposed prohibition on the use of pile drivers (which generate the highest noise levels during construction) that is proposed as part of the amended DA, it could result in higher noise levels than the proposed project. The use of pile drivers could also generate stronger vibration levels than anticipated and would require mitigation under this alternative.

Impacts to transportation and traffic would be similar to the proposed project, as Alternative 2 could still conflict with General Plan and West Berkeley Plan policies that encourage vehicle trip reduction and increased transit use, unless Bayer continues to implement its Transportation Demand Management (TDM) Program, and mitigation may be required during CEQA analysis for future projects to ensure Bayer continues to implement and update the TDM program. New development under Alternative 2 would also be located in a Low VMT area, thus impacts related to VMT would remain less than significant. Similar to the proposed project, future roadway modifications would be limited to new driveways and enhancements to pedestrian facilities, and Bayer would also continue to operate its own emergency vehicles and equipment to respond to emergency needs on site, resulting in less than significant impacts to traffic hazards and emergency access.

Similar to the proposed project, future projects involving ground disturbance on the Bayer Campus could encounter tribal cultural resources that may later be recommended as tribal cultural resources by tribal organizations. Mitigation measures would be required to ensure impacts remain less than significant.

Reducing buildout under Alternative 2 would result in less water use, wastewater generation, and solid waste compared to the proposed project, and would not result in the relocation or construction of electricity, natural gas, or telecommunication facilities.

The City rejects Alternative 2 because this alternative would not achieve all the applicant's project objectives to configure and design facilities to attract talent and partners; to promote employee wellness through open green space and pedestrian and bicycle circulation; and to maximize the productive utilization of the site. Further, the lower height limit and discretionary review process could also interfere with achieving the business goals of speedy deployment and flexible development. In addition, Alternative 2 would not meet the City's objective to create employment opportunities, encourage appropriate economic and business development, and promote development of manufacturing and life sciences activities.

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5.1.2 Alternative 3: Reduced Parking Alternative. Alternative 3 assumes that the parking structure planned on the property between Dwight Way, Seventh Street, Parker Street, and Eighth Street would not be constructed. The planned parking structure east of Seventh Street is expected to accommodate 925 of the 1,825 parking spaces contemplated in the proposed project for the whole Bayer Campus. Under this alternative, the property east of Seventh Street would remain a surface parking lot with 250 parking spaces. This alternative would not add more parking spaces than proposed on the rest of the Bayer Campus. As a result, the Bayer Campus would have 675 fewer parking spaces. Except for the proposed parking garage east of Seventh Street, this alternative would allow for the same buildout of program space as compared to the proposed project.

Findings: Under Alternative 3, there would be 675 fewer parking spaces than the proposed project, which would lead to fewer new vehicle trips and mobile emissions during the operation phase, and result in less than significant impact to consistency with air quality plans. Since the planned buildout would be the same under this alternative, construction would result in a similar scale of construction-related emissions and TACs, and mitigation measures would be required to reduce construction impacts to a less than significant level.

Similar to the proposed project, Alternative 3 would involve the renovation of building B83, a historical resource under CEQA. Mitigation measures would apply to reduce impacts on historical resources to a less than significant level. By retaining the surface parking lot to the east of Seventh Street, this alternative would involve less ground disturbance than proposed. However, the project site and its vicinity are archaeologically sensitive and buried archaeological resources may exist on-site. Construction under this alternative could also disturb buried resources, and mitigation measures would also be required to study, test, avoid, evaluate, recover, and monitor archaeological resources and human remains and reduce impacts to a less than significant level.

Alternative 3 would not alter the planned buildout of the Bayer Campus, so greenhouse gas emissions from the construction of new facilities would remain the same. However, since the alternative provides 675 fewer parking spaces, it would result in a greater net decrease in greenhouse gas emissions than the proposed project.

Similar to the proposed project, Alternative 3 would allow for construction that could result in the disturbance of unanticipated hazardous materials and wastes during demolition and grading activity. It would also involve the use, storage, disposal, and transportation of similar quantities of hazardous materials relative to the proposed project. Although both options would comply with the latest biosafety guidelines adopted by the NIH and the CDC as well with all building, fire, and safety codes, mitigation measures would still be required to reduce impacts on hazards and hazardous materials to a less than significant level.

Alternative 3 would not alter the planned buildout of the Bayer Campus, and would allow for a similar scale of construction activity relative to the proposed project, resulting in similar construction noise. Because this alternative would not include the planned parking structure east of Seventh Street, noise-sensitive residences along Dwight Way would be exposed to less construction noise. However, construction on Bayer Campus could generate temporary noise levels exceeding the City's thresholds at sensitive receptors near the Bayer Campus, and mitigation measures would still be required to minimize construction noise to the extent feasible. 675 fewer parking spots under Alternative 3 would reduce the number of vehicle trips during operation of the Bayer Campus, which would result in a smaller effect on traffic noise relative to the proposed project. On-site operational noise from stationary equipment would remain the same. Vibration levels would also be similar in both the proposed project and this alternative since pile drivers would be prohibited and both options would result in the similar use of vibration-generating construction equipment.

Alternative 3 would result in fewer vehicle trips and greater transit use than the proposed project since there are fewer parking spaces. The reduction in parking spaces would be consistent with General Plan and West Berkeley Plan policies that encourage vehicle trip reduction and increased transit use. However, mitigation measures would still be required to ensure the continued implementation and update of the TDM Program. Similar to the proposed project, new development under Alternative 3 would be located in a Low VMT Area. By

DRAFT CEQA FINDINGS

PLANNING COMMISSION

limiting on-site supply of parking, this alternative would further reduce vehicle travel resulting in less than significant impacts on VMT. Under Alternative 3, future roadway modifications would be limited to new driveways and enhancements to pedestrian facilities, and Bayer would also continue to operate its own emergency vehicles and equipment to respond to most emergency needs within the project site. Therefore, impacts to traffic hazards and emergency access would be less than significant.

By retaining the surface parking lot to the east of Seventh Street instead of converting it to a parking structure, this alternative would involve less ground disturbance than proposed. However, similar to the proposed project, it is possible that ground disturbance under this alternative would encounter tribal cultural resources that may later be recommended as tribal cultural resources by tribal organizations. Mitigation measures would still be required under Alternative 3 to reduce impacts on tribal cultural resources to a less than significant level.

Alternative 3 would not alter the planned buildout of the Bayer Campus, and would result in less than significant impacts related to water supplies, wastewater facilities, and solid waste. The City further notes that under Section 3.4(D) of Exhibit C to the proposed amended DA of the proposed project, the City may approve adjustments the required amount of parking for new developments, in response to reductions in parking demand. Similar to the proposed project, buildout of this alternative would not result in the relocation or construction of electricity, natural gas, or telecommunication facilities. Therefore, the impact related to relocating or constructing such facilities would remain less than significant.

The City rejects Alternative 3 because although this alternative would generally meet all three project objectives, it would provide fewer parking spaces than planned which could conflict with the project objective to maximize Bayer's ability to attract and retain top talent and partners. This alternative may also conflict with the City's goals to create employment opportunities for Berkeley residents and encourage appropriate economic and business development. Furthermore, the reduction of parking spaces under Alternative 3 could be accomplished under the proposed project using Section 3.4(D) of Exhibit C to the proposed amended DA of the proposed project, which grants the City discretion to reduce the required amount of parking for new developments in response to reductions in parking demand on the campus.

5.2 Environmentally Superior Alternative

Section 15126.6(e)(2) of the CEQA Guidelines requires that an environmentally superior alternative be identified among the selected alternatives. However, since the City has found that all significant environmental effects of the Project will be substantially lessened with mitigation, such that the Project will have no significant environmental effects, the City need not make findings that the environmentally superior alternative is infeasible.

While the No Project Alternative would be the overall environmentally superior alternative since it would avoid all project impacts, the No Project Alternative would not achieve the basic project objectives. Among the development options, Alternative 3 would be the environmentally superior alternative. The Reduced Parking Alternative would result in fewer vehicle trips, which would reduce the proposed project's impacts related to air quality, GHG emissions, noise, and transportation. These impacts would remain less than significant with mitigation incorporated. Nonetheless, because the proposed project would not have any significant and unavoidable impacts, the alternative would not be required to avoid such impacts. While the alternative would largely meet the project objectives, the limited parking supply with planned buildout could conflict with the objective to maximize Bayer's ability to attract and retain top talent and partners.

SECTION 6: ENVIRONMENTAL REVIEW PROCESS AND CONTENTS OF THE SEIR

6.1 Preparation of the EIR

Having reviewed the SEIR and the Record of Proceedings, the City finds and determines there was procedural compliance with the mandates of CEQA and that the SEIR provides adequate, good faith, and reasoned responses to all comments raising significant environmental issues.

6.2 Absence of Significant New Information

Section 15088.5 of the CEQA Guidelines requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR, but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement.

The City recognizes that the Final EIR includes minor text revisions to the Draft SEIR to correct errors or omissions or clarify information presented in the Draft SEIR in response to comments received during the public review period. These revisions include specific changes to the language of Mitigation Measure REC-1, Table 4.1-6, Table 4.1-7, Table 4.1-8 and Mitigation Measure T-1.

With respect to this information, the City finds that the minor text revisions do not create any new substantial adverse environmental effect of the Project or deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. Therefore, the City finds that the minor text revisions do not constitute significant new information requiring recirculation.

SECTION 7: CERTIFICATION OF THE FINAL EIR

The Subsequent Environmental Impact Report (SEIR) prepared by the City of Berkeley (City) for the Bayer Healthcare LLC Development Agreement Amendment Project (project) consists of the Draft Subsequent EIR (Draft SEIR) and Final SEIR / Responses to Comments on the Draft SEIR. The SEIR comprises a program-level analysis containing the environmental review evaluating the impacts of approval of the proposed Bayer Healthcare LLC Development Agreement Amendment Project.

The City hereby certifies as follows:

1. That it has been presented with the SEIR, including both the Draft Subsequent EIR (Draft SEIR) and Final SEIR / Responses to Comments on the Draft SEIR and that it has reviewed and considered the information contained in the SEIR, as well as the Record of Proceedings, prior to making this certification and the findings in Sections 1-6 above;
2. That, pursuant to CEQA Guidelines Section 15090 (Title 14 of the California Code of Regulations, Section 15090), the Final EIR has been completed in compliance with the CEQA and the State CEQA Guidelines; and
3. That the SEIR reflects its independent judgment and analysis.

ORDINANCE NO. 7,793-N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12
ELECTION REFORM ACT

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

Section 1. That Berkeley Municipal Code Section 2.12.415 is amended to read as follows:

2.12.415 Persons other than candidate--Maximum permitted amount.

No person other than a candidate shall make and no campaign treasurer shall solicit or accept any contribution which will cause the total amount contributed by such person with respect to a single election in support of or in opposition to such candidate to exceed two hundred fifty dollars. The Commission shall adjust the dollar amount in this Section for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year. For purposes of this section single election is a primary, general, special, runoff or recall election.

Section 2. That Berkeley Municipal Code Section 2.12.495 is amended to read as follows:

2.12.495 Offices covered.

Candidates for the offices of Mayor, City Council, Auditor, Board of Education, and Rent Stabilization Board shall be eligible to participate in the public campaign financing program established by this chapter.

Section 3. That Berkeley Municipal Code Section 2.12.500 is amended to read as follows:

2.12.500 Eligibility for Fair Elections campaign funding.

A. To be eligible to be certified as a participating candidate, a candidate must:

1) During the qualifying period for the election involved, choose to participate in the Fair Elections program by filing with the City a written application for certification as a participating candidate in such form as may be prescribed by the Commission, containing the identity of the candidate, the office that the candidate seeks, and the candidate's signature, under penalty of perjury, certifying that:

a) The candidate has complied with the restrictions of this chapter during the election cycle to date;

b) The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and

c) The candidate will comply with the requirements of this Act during the remainder of the election cycle and, specifically, if certified an eligible participating candidate, will comply with the requirements applicable to participating candidates.

2) Meet all requirements to be eligible to hold the office sought:

a) For the office of Mayor, Councilmember, Auditor, or School Director, the requirements as set forth in Sections 9 and 10 of Article V of the Charter of the City of Berkeley; or

b) For the office of Commissioner of the Rent Stabilization Board, the requirements as set forth in Section 121 of Article XVII of the Charter of the City of Berkeley.

3) Before the close of the qualifying period, collect and submit at least 30 qualified contributions, from at least 30 unique contributors, of at least ten dollars (\$10), for a total dollar amount of at least five-hundred dollars (\$500).

a) Each qualified contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate. The receipt shall include the contributor's signature, printed name, home address, and telephone number, if any, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualified contribution is to help the candidate qualify for Fair Elections campaign funding and that the contribution is made without coercion or reimbursement.

b) A contribution for which a candidate has not obtained a signed and fully completed receipt shall not be counted as a qualified contribution.

4) Maintain such records of receipts and expenditures as required by the Commission;

5) Obtain and furnish to the Commission or City staff any information they may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by such Commission or City staff;

6) Not make expenditures from or use his or her personal funds or funds jointly held with his or her spouse, domestic partner, or unemancipated children in connection with his or her election except as a monetary or non-monetary contribution to his or her controlled committee of \$250 or less. Contributions from a participating candidate to his or her own controlled committee are not eligible for matching funds.

7) Not accept contributions in connection with the election for which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with a fair market value not greater than fifty dollars (\$50). The aggregate value of all contributions from any individual must not be greater than fifty dollars (\$50);

8) Not solicit or direct contributions in connection with any election during the election cycle in which Fair Elections funds are sought other than qualified contributions, contributions not greater than fifty dollars (\$50) made by a natural person non-resident of Berkeley, or non-monetary contributions with fair market value not greater than fifty dollars (\$50) to such candidate's controlled committee.

9) Not accept loans from any source.

10) The City has the authority to approve a candidate's application for public financing, despite a violation by the candidate related to participation and qualification in the public financing program, if the violation is minor in scope and the candidate demonstrates a timely, good-faith effort to remedy the violation. The Commission shall adopt regulations setting forth guidelines for what constitutes a minor violation under this provision.

B. At the earliest practicable time after a candidate files with the City a written application for certification as a participating candidate, the City shall certify that the candidate is or is not eligible. Eligibility can be revoked if the Commission determines that a candidate has committed a substantial violation of the requirements of this Act, in which case all Fair Elections funds shall be repaid.

C. At the discretion of the Commission or at the applying candidate's request, the City's denial of eligibility is subject to review by the Commission. The Commission's determination is final except that it is subject to a prompt judicial review pursuant to Section 2.12.235.

D. If the City or Commission determines that a candidate is not eligible, the candidate is not required to comply with provisions of this Act applicable only to participating candidates.

Section 4. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

2.12.505 Fair Elections fund payments.

A. A candidate who is certified as an eligible participating candidate shall receive payment of Fair Elections funds equal to six-hundred percent (600 percent) of the amount of qualified contributions received by the candidate during the election cycle with respect to a single election subject to the aggregate limit on the total amount of Fair Elections funds payments to a candidate specified in Section 2.12.505.B.

B. The aggregate amount of Fair Elections funds payments that may be made to a participating candidate during an election cycle may not exceed:

1) \$129,000 for a candidate running for the office of Mayor;

- 2) \$43,000 for a candidate running for the office of City Council;
- 3) \$20,000 for a candidate running for the office of Auditor
- 4) \$20,000 for a candidate running for the office of Board of Education;
- 5) \$8,000 for a candidate running for the office of Rent Stabilization Board.

C. A participating candidate's application for Fair Elections funds, including an initial request submitted with an application for certification as a participating candidate, shall be made using a form prescribed by the Commission and shall be accompanied by qualified contribution receipts and any other information the Commission deems necessary. This application shall be accompanied by a signed statement from the candidate indicating that all information on the qualified contribution receipts is complete and accurate to the best of the candidate's knowledge.

- 1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publicly disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.
- 2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

D. The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate. A participating candidate who receives a qualified contribution that is not from the person listed on the qualified contribution receipt shall be liable to pay the Fair Elections Fund the entire amount of the inaccurately identified contribution, in addition to any penalties.

E. The City shall make an initial payment of Fair Elections funds within seven business days of the City's certification of a participating candidate's eligibility, or as soon thereafter as is practicable. City staff shall report a certification or denial to the Commission no later than the Commission's next regular meeting, consistent with the Brown Act.

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds

payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section 2.12.235.

H. 1) Unspent campaign funds of any Participating Candidate who does not remain a candidate for the ballot at the election for which the funds were distributed, up to the total amount of funds that the participating candidate received as Fair Election Funds distributions in that election cycle and after accounting for campaign debts and expenditures, must be returned to the City within 30 (thirty) days of the determination on the qualification of the candidate. All funds returned under this paragraph must be accompanied by any required supporting documentation.

2) Any campaign funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed, up to the total amount of funds that the Participating Candidate received as Fair Elections Funds distributions in that elections cycle and after accounting for campaign debts and expenditures, must be returned to the City, within sixty (60) days after the date of the election. All funds returned under this paragraph must be accompanied by any required supporting documentation.

3) All unspent campaign funds returned to the City shall be deposited in the Fair Elections Fund pursuant to the City Charter.

4) The City Clerk shall immediately refer to the Commission for enforcement any participating candidate who does not return unspent funds as required by this subsection.

I. Any request by a Participating Candidate for a refund of any amount of unspent campaign funds previously repaid to the City, for a qualified campaign expenditure or other permissible campaign purpose, shall be submitted to the Commission to approve, in whole or in part, or deny. The Commission shall make a final determination on the refund within 45 days of receipt.

Section 5. That Berkeley Municipal Code Section 2.12.530 is amended to read as follows:

2.12.530 Use of Fair Elections funds.

A. A participating candidate shall use Fair Elections funds and contributions only for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle.

B. A participating candidate shall not use Fair Elections funds or contributions for:

1) Costs of legal defense in any campaign law enforcement proceeding under this Act, or penalties arising from violations of any local, state, or federal campaign laws;

2) The candidate's personal support or compensation to the candidate the candidate's family, or a business in which the candidate or candidate's immediate family member has a ten (10) percent or greater ownership interest;

3) Indirect campaign purposes, including but not limited to:

a) Any expense that provides a direct personal benefit to the candidate, including clothing and other items related to the candidate's personal appearance;

b) Capital assets having a value in excess of five hundred dollars (\$500) and useful life extending beyond the end of the current election period determined in accordance with generally accepted accounting principles;

c) A contribution or loan to the campaign committee of another candidate or to a party committee or other political committee;

d) An independent expenditure as defined in Berkeley Municipal Code Section 2.12.142 as may be amended;

e) Any payment or transfer for which compensating value is not received_

C. The term "Contribution" is defined in 2.12.100 and includes "Qualified Contributions" as defined in 2.12.167 and contributions from non-residents of Berkeley as described in 2.12.500.A.7.

D. The dollar amounts in Section 2.12.530.B.3.b may be adjusted for cost-of-living changes by the Commission through regulation, pursuant to Section 2.12.545.

At a regular meeting of the Council of the City of Berkeley held on November 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.

ORDINANCE NO. 7,794-N.S

REPEALING AND RE-ENACTING BERKELEY MUNICIPAL CODE CHAPTER 3.26 CREATING THE PARKS, RECREATION AND WATERFRONT COMMISSION AND REPEALING CHAPTER 3.27 AND CHAPTER 3.08

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

Section 1. That Berkeley Municipal Code Chapter 3.26 is repealed and re-enacted to read as follows:

Chapter 3.26
PARKS, RECREATION, AND WATERFRONT COMMISSION

Sections:

- 3.26.010 Established--Membership--Appointment.
- 3.26.020 Council representatives--Functions.
- 3.26.030 Organization, meetings, rules and procedures.
- 3.26.040 Functions.

3.26.010 Established--Membership--Appointment.

A. A Parks, Recreation, and Waterfront Commission is established. The commission shall consist of nine members. Appointments to the commission shall be made, and vacancies on the commission shall be filled, in accordance with the provisions of Sections 2.04.030 through 2.04.145.

B. For purposes of determining term limits under Section 3.02.040, a commissioner's prior service on the Parks and Waterfront Commission, the Children, Youth, and Recreation Commission, or the Animal Care Commission shall be counted, provided that their prior service was terminated by their appointment to the Parks, Recreation, and Waterfront Commission.

3.26.020 Council representatives--Functions.

The City Council may appoint one of its members to act as a non-voting, uncompensated liaison representative to the Parks, Recreation, and Waterfront Commission. The functions of such liaison representatives are:

- A. To attend meetings of said commission;
- B. To advise the Council of the background, attitude and reasons behind decisions and recommendations of said commission; and
- C. On request of any member of said commission, to advise the commission of policies, procedures and decisions of the council that may bear on matters under discussion by the commission.

3.26.030 Organization, meetings, rules and procedures.

A. The commission annually shall elect one of its members as the chairperson and one of its members as the vice-chairperson. An officer or employee of the City designated by the City Manager shall serve as secretary of the commission.

B. The commission shall establish a regular place and time for meeting. All meetings shall be noticed as required by law and shall be scheduled in a way to allow for maximum input from the public. The frequency of meetings shall be as determined by City Council resolution. The scheduling of special meetings in addition to those established by City Council resolution, except special meetings that take the place of cancelled regular meetings, shall be subject to approval by the City Council. A request for a special meeting shall include the reason for the proposed meeting and should be expedited on the City Council's agenda, or in the alternative, placed before the Agenda Committee for approval.

C. The commission may make and alter rules governing its organization and procedures which are not inconsistent with this Chapter or any other applicable ordinance of the City.

D. A majority of the members appointed to the commission shall constitute a quorum and the affirmative vote of a majority of the members appointed is required to take any action.

E. The commission shall keep an accurate record of its proceedings and transactions.

3.26.040 Functions.

A. The Parks, Recreation and Waterfront Commission shall be an advisory board and shall review the following related to all City/public parks, open space, greenery, pools, programs, recreation centers, the Waterfront, and resident camps: their physical conditions, policies, projects, programs, planning efforts, activities, and funding; early childhood education programs; and animal care issues in parks, and shall advise the City Council on these matters.

B. The Parks, Recreation, and Waterfront Commission shall have the authority to adopt the minutes of the final meetings of the Parks and Waterfront Commission, the Children, Youth, and Recreation Commission, and the Animal Care Commission.

Section 2. That Berkeley Municipal Code Chapters 3.27 and 3.08 are repealed, effective January 1, 2022.

Section 3. This ordinance shall become effective on January 1, 2022.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 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 November 30, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Droste, Hahn, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.

Abstain: Bartlett, Harrison, and Taplin.



Office of the City Attorney

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
Madame City Manager

From: Farimah Faiz Brown, City Attorney

Subject: Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RECOMMENDATION

Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021 and November 16, 2021.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

The City Council made the initial findings required under the Government Code on September 28, 2021. The Council must make the findings every thirty days in order to continue to meet exclusively through video conference or teleconference.

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88.040, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19. On March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20, which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) related to the holding of teleconferenced meetings by City legislative bodies. Among other things, Executive Order N-29-20 suspended requirements that each location from which an official accesses a teleconferenced meeting be accessible to the public. These changes were necessary to allow teleconferencing to be used as a tool for ensuring social distancing. City legislative bodies have held public meetings via videoconference and teleconference pursuant to these provisions since March 2020. These provisions of Executive Order N-29-20 will expire on September 30, 2021.

COVID-19 continues to pose a serious threat to public health and safety. There are now over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley. Additionally, the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease.

As a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination. Holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time

Assembly Bill 361 (Rivas), signed into law by Governor Newsom on September 16, 2021, amended a portion of the Brown Act (Government Code Section 54953) to authorize the City Council, during the state of emergency, to determine that, due to the spread of COVID-19, holding in-person public meetings would present an imminent risk to the health or safety of attendees, and therefore City legislative bodies must continue to meet via videoconference and teleconference. Assembly Bill 361 requires that the City Council must review and ratify such a determination every thirty (30) days. Therefore, if the Council passes this resolution on November 16, 2021, the Council will need to review and ratify the resolution by December 16, 2021.

This item requests that the Council review the circumstances of the continued state of emergency posed by the spread of COVID-19, and find that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination. This item further requests that the Council determine that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference, and that City legislative bodies shall continue to comply with all provisions of the Brown Act, as amended by SB 361.

BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 4,700 confirmed cases of COVID-19 and at least 57 deaths in the City of Berkeley.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20 which suspended certain portions of the Ralph M. Brown Act (Cal. Gov. Code § 54950 et seq.) to allow teleconferencing of public meetings to be used as a tool for ensuring social distancing. As a result, City legislative bodies have held public meetings via teleconference throughout the pandemic. The provisions of Executive Order N-29-20 allowing teleconferencing to be used as a tool for social distancing will expire on September 30, 2021.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

RATIONALE FOR RECOMMENDATION

The Resolution would enable the City Council and its committees, and City boards and commissions to continue to hold public meetings via videoconference and teleconference in order to continue to socially distance and limit the spread of COVID-19.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998
Mark Numainville, City Clerk, (510) 981-6908

Attachments:

1: Resolution Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference

RESOLUTION NO. –N.S.

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(E)(3) AND DIRECTING CITY LEGISLATIVE BODIES TO CONTINUE TO MEET VIA VIDEOCONFERENCE AND TELECONFERENCE

WHEREAS, in accordance with Berkeley Municipal Code section 2.88.040 and sections 8558(c) and 8630 of the Government Code, which authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a City exist, the City Manager, serving as the Director of Emergency Services, beginning on March 3, 2020, did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency pursuant to the California Emergency Services Act, in particular, Government Code section 8625; and

WHEREAS, the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020 continues to be in effect; and

WHEREAS, on September 16, 2021, Governor Newsom signed into law AB 361, which authorizes the City Council to determine that, due to the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley; and

WHEREAS, the City Council recognizes that the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease; and

WHEREAS, as a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination; and

WHEREAS, holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies, and therefore public meetings cannot safely be held in person at this time; and

WHEREAS, the City Council made the initial findings required by the Government Code on September 28, 2021; and

WHEREAS, the City Council made subsequent findings required by the Government Code on October 26, 2021; and

WHEREAS, the City Council will need to again review the need for the continuing necessity of holding City legislative body meetings via videoconference and teleconference by December 16, 2021.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that, pursuant to Government Code section 54953, the City Council has reviewed the circumstances of the continued state of emergency posed by the spread of COVID-19, and finds that the state of emergency continues to directly impact the ability of the public and members of City legislative bodies to meet safely in person, that holding public meetings of City legislative bodies in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination.

BE IT FURTHER RESOLVED that City legislative bodies, including but not limited to the City Council and its committees, and all commissions and boards, shall continue to hold public meetings via videoconference and teleconference.

BE IT FURTHER RESOLVED that all City legislative bodies shall comply with the requirements of Government Code section 54953(e)(2) and all applicable laws, regulations and rules when conducting public meetings pursuant to this resolution.



Office of the City Attorney

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Farimah Faiz Brown, City Attorney

Subject: 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)

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, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, and November 9, 2021.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. The Proclamation of Local Emergency empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such local emergency. Pursuant to Government Code section 8630(b) and Berkeley Municipal Code section

2.88.040.A.1, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

Pursuant to Government Code section 8630(c), the City Council must review the need for continuing the local emergency at least once every sixty (60) days. The Council last reviewed and ratified the Proclamation of Local Emergency on November 9, 2021. The Council therefore must review the continuing need for the local emergency by January 8, 2022.

This item requests that the Council review the continued need for the local emergency and again ratify the Proclamation of Local Emergency issued on March 3, 2020, initially ratified by the 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, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, and November 9, 2021. If reviewed and ratified on December 14, 2021, the Council will need to again review and ratify the proclamation by February 12, 2022 in order to continue the local emergency.

If at any time the Council determines that the need for continuing the local emergency has ended, state law directs the Council to terminate the local emergency at the earliest possible date that conditions warrant. (Cal. Gov. Code section 8630(d).)

BACKGROUND

On March 1, 2020, Alameda County Public Health Department and Solano County Public Health Department reported two presumptive cases of COVID-19, pending confirmatory testing by the Centers for Disease Control (CDC), prompting Alameda County to declare a local health emergency.

On March 3, 2020, the City's Director of Emergency Services proclaimed a local emergency due to the spread of COVID-19, including a confirmed case in the City of Berkeley and multiple confirmed and presumed cases in Alameda County.

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 5,000 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley.

Since April 2021, the highly transmissible SARS-CoV-2 B.1.617.2 ("Delta") variant has been detected in the City of Berkeley and is contributing to substantial levels of community transmission.

The City Council has subsequently reviewed and ratified the Proclamation of Local Emergency on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, and November 9, 2021.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Not applicable.

RATIONALE FOR RECOMMENDATION

The Resolution would enable the Director of Emergency Services to continue to efficiently allocate resources due to the ongoing and imminent threat to public safety.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Dee Williams-Ridley, City Manager, City Manager's Office (510) 981-7000

Farimah Brown, City Attorney, City Attorney's Office (510) 981-6998

Attachments:

1: Resolution

RESOLUTION NO. –N.S.

RESOLUTION REVIEWING AND RATIFYING THE
PROCLAMATION OF LOCAL EMERGENCY

WHEREAS, the Emergency Services Act, Government Code sections 8558(c) and 8630 authorize the proclamation of a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city exist; and

WHEREAS, pursuant to Government Code section 8630, such an emergency may be proclaimed by the governing body or by an official designated by ordinance adopted by the governing body; and

WHEREAS, Berkeley Municipal Code section 2.88.040 provides that the City Manager, serving as the Director of Emergency Services, may request that the City Council proclaim the existence of a local emergency; and

WHEREAS, under provision of local law, if the City Council cannot be convened and, in the judgment of the Director of Emergency Services, the circumstances warrant it, a proclamation of local emergency may be issued which must be ratified or nullified by the City Council within seven days of issuance; and

WHEREAS, in accordance with authority granted under the above provisions of state and local law, the Director of Emergency Services beginning on March 3, 2020 did proclaim the existence of a local emergency caused by epidemic in the form of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (“COVID-19”), including confirmed cases in California and the San Francisco Bay Area, and presumed cases in Alameda County prompting the County to declare a local health emergency; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312; and

WHEREAS, Government Code section 8630(c) requires that the City Council review the need for continuing the local emergency at least once every sixty (60) days; and

WHEREAS, the City Council subsequently reviewed the need for continuing the local emergency and again ratified the Proclamation of Local Emergency on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, and November 9, 2021; and

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include over 5,000 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley, thereby warranting and necessitating the continuation of the local emergency; and

WHEREAS, the City Council will need to again review the need for continuing the local emergency and ratify the Proclamation of Local Emergency by February 12, 2022;

WHEREAS, the City Council recognizes that the SARS-CoV-2 B.1.617.2 (“Delta”) variant of COVID-19 that is currently circulating nationally and within the City is contributing to a substantial increase in transmissibility and more severe disease; and

WHEREAS, on July 16, 2021, in light of the apparent increased transmissibility of the Delta variant, the City of Berkeley recommended that all individuals including fully vaccinated persons wear masks in public indoor settings; and

WHEREAS, on July 26, 2021, the California State Health Officer issued an order requiring vaccination or routine testing of all employees working in high-risk health care and congregate settings, in light of the fact that current requirements of staff in health care settings, such as universal mask requirements for all staff are not proving sufficient to prevent transmission of the more transmissible Delta variant; and

WHEREAS, on July 27, 2021, the CDC updated its guidance for fully vaccinated persons to reflect new evidence regarding the Delta variant, noting that “[i]nfections in fully vaccinated people (breakthrough infections) happen in only a small proportion of people who are fully vaccinated, even with the Delta variant”; and

WHEREAS, on August 2, 2021, the Health Officer for the City of Berkeley issued an order requiring all individuals to wear masks in all indoor public settings; and

WHEREAS, on August 5, 2021, the California State Health Officer issued an order requiring that workers in healthcare settings be fully vaccinated by September 30, 2021; and

WHEREAS, on August 11, 2021, the City announced its intention to implement a vaccination policy for City employees to protect the health and safety of the City of Berkeley’s employees and community members from the imminent and substantial threat to public health and safety posed by the Delta variant; and

WHEREAS, on September 14, 2021, given the increased and unforeseen risk posed by the Delta variant, as compared to earlier variants of the COVID-19 virus previously present in the City of Berkeley, the City Council found that a Citywide vaccination policy protects public health and reduces the risk of substantial harm to City staff and community members that could result from workplace outbreaks caused by the Delta variant; and

WHEREAS, on September 14, 2021, given the urgency posed by the highly transmissible nature of the Delta variant, the City Council recognized the variant’s existence as creating an emergency of grave character and as warranting immediate adoption of a Citywide vaccination policy.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that it is hereby proclaimed and ordered that 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 City Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, and November 9, 2021, has been reviewed and is hereby again ratified and confirmed; and

BE IT FURTHER RESOLVED that during the existence of this local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, and the Charter, ordinances, resolutions and approved plans of the City of Berkeley.



Office of the City Manager

CONSENT CALENDAR
December 14, 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 November 2 (closed), November 4 (special), November 9 (closed and regular), November 16 (closed and regular), November 18 (closed) and November 30 (closed and regular).

CONTACT PERSON

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

Attachments:

1. November 2, 2021 – Closed City Council Meeting
2. November 4, 2021 – Special City Council Meeting
3. November 9, 2021 – Closed City Council Meeting
4. November 9, 2021 – Regular City Council Meeting
5. November 16, 2021 – Closed City Council Meeting
6. November 16, 2021 – Regular City Council Meeting
7. November 18, 2021 – Closed City Council Meeting
8. November 30, 2021 – Closed City Council Meeting
9. November 30, 2021 – Regular City Council Meeting

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, NOVEMBER 2, 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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/89269037403>. 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: 892 6903 7403. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

Preliminary Matters

Roll Call: 4:01 p.m.

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

Absent: Kesarwani, Bartlett, Droste

Councilmember Bartlett present at 4:06 p.m.

Councilmember Droste present at 4:11 p.m.

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

CLOSED SESSION:

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

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING OR ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(d)(1) AND 54956.9(d)(2)

- a. The People of the State of California v. Leonard Felton Powell, et al, California Superior Court Case Number RG15762567

Action: No reportable action taken.

OPEN SESSION:

No reportable action taken.

Adjournment

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

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

Adjourned at 5:15 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on November 2, 2021.

Mark Numainville
City Clerk

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

Thursday, November 4, 2021
1:00 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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

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To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/88228138090>. 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: **882 2813 8090**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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: 1:03 p.m.

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

Absent: Kesarwani, Bartlett

Councilmember Bartlett present at 1:06 p.m.

Councilmember Kesarwani present at 1:07 p.m.

Worksession

1. Identifying Council Priorities for fiscal years 2023-2024 Budget Process and Establishing Priorities for a Legislative Platform

Recommendation: Discuss and approve (1) Council Priorities for fiscal years 2023-2024 Budget Process and (2) Priorities for a Legislative Platform.

From: City Manager

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

Action: 7 speakers. The City Manager and consultant presented on priority setting for the next budget cycle. City Council discussed the process and objectives for rating the priorities. Priority titles were adjusted and the Council rated the priorities resulting in the following top six items (5=highest; 1=lowest).

1. Infrastructure Renewal – 4.7
2. Public Safety – 4.2
3. Homelessness – 4.0
4. Transportation – 3.9
5. Housing & Affordable Housing Production, Preservation & Protection – 3.7
5. Economic Development and Recovery – 3.7

Action: 3 speakers. The City's legislative advocate presented on state legislative priorities and the Council discussed how the City's goals and objectives could work in the context of state priorities and funding.

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 5:26 p.m.

I hereby certify that the foregoing is a true and correct record of the special city council meeting held on November 4, 2021.

Mark Numainville
City Clerk

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, NOVEMBER 9, 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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/88944392774>. 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: 889 4439 2774. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

Preliminary Matters

Roll Call: 4:35 p.m.

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

Absent: Kesarwani, Bartlett, Harrison

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

CLOSED SESSION:

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

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

- a. Workers Compensation claim number #BER1900079

Action: M/S/C (Arreguin/Hahn) to provide direction to outside counsel and approved a stipulated settlement of permanent disability with an award of lifetime future medical care, or in the alternative, by Compromise & Release agreement, as to a workers' compensation matter WCAB case #ADJ13367461.

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

OPEN SESSION:

City Council met in closed session on November 9, 2021, Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a stipulated settlement of permanent disability with an Award of lifetime future medical care, or in the alternative, by Compromise & Release agreement, as to a workers' compensation matter WCAB case #ADJ13367461.

Adjournment

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

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

Adjourned at 4:48 p.m.

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

Mark Numainville
City Clerk

MINUTES
BERKELEY CITY COUNCIL MEETING
Tuesday, November 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 Government Code Section 54953(e) and the state declared emergency, this meeting will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of the attendees. Therefore, no physical meeting location will be available.

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*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **831 7446 2723**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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

Report from Closed Session

City Council met in closed session on November 9, 2021, Pursuant to Government Code Section 54956.9(d)(2) and provided direction to outside counsel and approved a stipulated settlement of permanent disability with an Award of lifetime future medical care, or in the alternative, by Compromise & Release agreement, as to a workers' compensation matter WCAB case #ADJ13367461.

Roll Call: 6:07 p.m.

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

Absent: None

Ceremonial Matters:

1. Adjourned the Meeting in Memory of Alameda County Supervisor Wilma Chan
2. Adjourned the Meeting in Memory of Mary Everett, Local Restaurateur

City Manager Comments: None

Public Comment on Non-Agenda Matters: 10 speakers.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 13 speakers.

Action: M/S/C (Arreguin/Taplin) to adopt a temporary rule for the meeting to limit public speaking time to one minute except as required for the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Wengraf) 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, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, and September 14, 2021.
Financial Implications: See report
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000, Farimah Brown, City Attorney, (510) 981-6950
Action: Adopted Resolution No. 70,092–N.S.

2. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 9, 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: \$100,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.

3. **Opt-In to CAA Health and Dependent Care Account Extension for 2020 and 2021 Plan Years and Return 2020 Employee Funds to American Fidelity for Extended Employee Reimbursement Period**
From: City Manager
Recommendation: Adopt a Resolution granting authority to extend the 2020 and 2021 timeframes under the Consolidated Appropriations Act (CAA) for employees to be able to access their American Fidelity flexible spending and dependent care account funds for additional time due to the effects of the COVID-19 pandemic on employees’ ability to seek medical/child care services eligible for reimbursement under the City’s existing Plan. Return approximately \$19,740.84 of 2020 funds forfeited from City employee flexible spending and dependent care accounts back to American Fidelity in order to allow them to process 2020-2021 employee reimbursement claims until December 31, 2021.
Financial Implications: See report
Contact: Donald E. Ellison, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 70,093–N.S.

Consent Calendar

- 4. Grant Application: Prop 68 – Per Capita and RIRE Grant Programs**
From: City Manager
Recommendation: Adopt two Resolutions authorizing the City Manager or designee to submit applications to two Proposition 68 parks grant programs, accept grant funds, and execute related grant agreements and any amendments that may be necessary:
1. The Proposition 68 Per Capita Grant Program; and
2. The Proposition 68 RIRE Grant Program.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: 1. Adopted Resolution No. 70,094–N.S. (Per Capita) 2. Adopted Resolution No. 70,095–N.S. (RIRE)
- 5. Revenue Grant: California Office of Traffic Safety (OTS) for the 2022 Selective Traffic Enforcement Program (STEP) Grant**
From: City Manager
Recommendation: Adopt a Resolution authorizing the Chief of Police to accept the "Selective Traffic Enforcement Program (STEP)" grant and enter into the resultant grant agreement and any amendments, with the California Office of Traffic Safety. This OTS grant is for \$180,000 for the period of October 1, 2021 through September 30, 2022, which is Federal Fiscal Year 2022.
Financial Implications: See report
Contact: Jennifer Louis, Police, (510) 981-5900
Action: Adopted Resolution No. 70,096–N.S.
- 6. Board of Library Trustees Reappointment: Amy Roth**
From: Board of Library Trustees
Recommendation: Adopt a Resolution Approving the Reappointment of Amy Roth to the Board of Library Trustees ("BOLT") for a second term of four years commencing January 4, 2022.
Financial Implications: None
Contact: Tess Mayer, Commission Secretary, (510) 981-6100
Action: Adopted Resolution No. 70,097–N.S.

Council Consent Items

7. **Berkeley Holiday Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Mayor Arreguin
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Arreguin to the Berkeley Holiday Fund's annual campaign 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: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 70,098–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Wengraf - \$250; Councilmember Bartlett - \$250; Councilmember Hahn - \$300; Councilmember Harrison - \$100; Councilmember Robinson - \$100; Councilmember Kesarwani - \$100.
8. **United Against Hate Week 2021**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor) and Councilmember Wengraf (Co-Sponsor)
Recommendation: 1) Adopt a Resolution declaring November 14th – 20th, 2021 as United Against Hate Week.
2) Adopt a Resolution approving the D-13 expenditure in an amount not to exceed \$250 per Councilmember, to Not in Our Town for United Against Hate Week.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: 1. Adopted Resolution No. 70,099–N.S. (United Against Hate Week); 2. Adopted Resolution No. 70,100–N.S. (D-13 Expenditure) revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Wengraf - \$250; Councilmember Bartlett - \$250; Councilmember Harrison - \$250; Councilmember Hahn - \$250; Councilmember Robinson - \$100; Councilmember Kesarwani - \$100.

Council Consent Items

9. **Affordable Housing Overlay** (*Reviewed by the Land Use, Housing & Economic Development Policy Committee*)
From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Robinson (Co-Sponsor)
Recommendation: Council refers to the City Manager and the Planning Commission to consider an Affordable Housing Overlay for 100% affordable housing and seek to integrate it into the ongoing Housing Element process in anticipation of the 2023-2031 RHNA cycle. Staff should consider revisions to the zoning code and General Plan, permitting increased height and density for 100% affordable housing developments, including specific consideration of labor and design/form standards, to achieve the underlying goals:
1. Exceeding standards set forth in California Government Code Section 65915 (AB-1763) with additional local height and density incentives, including waivers and modifications similar to those vested in state density bonus law, with ministerial approval for qualifying 100% affordable projects deed-restricted for Low, Very Low, Extremely Low, and Moderate Income households (exclusive of manager's unit) pursuant to AB-1763, and maintaining demolition restrictions consistent with state law, specifying:
 - a. In R3, R4, MU-R, and all C-prefixed zoning districts, a local density bonus (granted in addition to, but not compounding with, any State density bonus[es]) with standards reflective of whatever State density bonus a project would be entitled to under the provisions of AB 1763 (2019), waiving limits on floor area ratio, and permitting up to 80% lot coverage; and study additional incentives in these zones;
 - b. In R-1, R-1A, R-2, and R-2A zones, a local bonus for qualifying projects inclusive of existing density bonuses, waiving limits on floor area ratio, and permitting up to 80% lot coverage; and study project feasibility in these zones;
 - c. Create General Plan amendments that allow for 100% affordable qualifying projects to increase density while avoiding inconsistencies with General Plan densities;
 - d. Skilled and trained workforce standards as defined by SB-7 (Atkins, 2021) for qualifying projects with at least 50,000 square feet of total floor area;
 2. Exempting parcels with Designated City, State, and Federal Historic Landmarks;
 3. Exempting parcels in Very High Fire Hazard Severity Zones (VHFHSZ) as determined by the California Department of Forestry and Fire Protection (CalFire), and in City of Berkeley Fire Zones 2 and 3;
 4. Develop objective design standards or form-based standards for qualifying projects to receive ministerial approval, including guidelines for architectural details with respect to neighborhood context, massing, and building facades; materials, color, and finishes; open space, public art, and landscaping; circulation and outdoor lighting; 20' average building setback above the fourth floor (or 45') from any property line that is adjacent to a low or low-to-medium residential district; utilities; interiors; financial feasibility, and environmental sustainability, to be implemented with the following provisions:

Council Consent Items

- a. Solicit community input, including through public outreach to be conducted in the Housing Element update process, for design standards that would ensure consistency with the City of Berkeley's architectural quality;
- b. Establish an advisory Design Review process through the Design Review Committee (DRC). An applicant may elect to return for advisory comment up to two more times. For projects with fewer than 150 units, the City shall review and approve, based on consistency with objective standards, an affordable housing application within 90 days of submission. After 60 days, the City shall provide the applicant with an exhaustive list of objective standards not met by the project, and how the standards could or should be met. For projects with 150 units or more, these time frames shall be 90 and 180 days, respectively. The time under these provisions will toll between the City's issuance of a letter describing inconsistency with objective standards and the time necessary for the applicant to respond to those items.

Policy Committee Recommendation: On October 7, 2021 the Land Use, Housing & Economic Development policy committee took the following action: M/S/C (Robinson/Hahn) Positive recommendation to approve the item as submitted in supplemental material from the Author; revising the first paragraph of the recommendation to read "Council refers to the City Manager and the Planning Commission to consider an Affordable Housing Overlay for 100% affordable housing and seek to integrate it into the ongoing Housing Element process in anticipation of the 2023-2031 RHNA cycle. Staff should consider revisions to the zoning code and General Plan, permitting increased height and density for 100% affordable housing developments, including specific consideration of labor and design/form standards, to achieve the underlying goals:"; and adding the words "or form-based standards" to bullet 4 of the recommendation.

Financial Implications: See report

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

Action: Councilmember Hahn added as a co-sponsor. Approved recommendation as revised in the policy committee recommendation.

Council Consent Items

- 10. Budget Referral: Berkeley Ceasefire**
From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Mayor Arreguin (Co-Sponsor) and Councilmember Wengraf (Co-Sponsor)
Recommendation: 1. Refer to the Fiscal Year 2023 budget process \$200,000 for consulting costs to develop a Gun Violence Intervention (GVI) program, commonly known as “Operation Ceasefire.”
 2. Refer to the City Manager the development of a Gun Violence Intervention program with technical support from experienced consultants solicited by a Request For Proposals (RFP), community service providers including faith groups and violence intervention programs, hospital intervention programs, life coaching programs, Berkeley Housing Authority, Berkeley YouthWorks, Berkeley Police Department, Alameda County Workforce Development Board, Alameda County District Attorney’s Office, Alameda County Probation, California’s Office of the Attorney General, US Attorney’s Office, US Marshals Service, US Department of Justice, and other jurisdictions and agencies in the region as needed; and consider an alternate Urban Gun Violence Disruption Strategy such as the Peacemaker Fellowships program as implemented in the cities of Richmond, Stockton, and Sacramento.
Financial Implications: \$200,000
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Approved recommendation revised to refer the item to the Annual Appropriations Ordinance (AAO) #1 budget process.
- 11. Budget Referral: Strawberry Creek Lodge Food Program**
From: Councilmember Taplin (Author)
Recommendation: Refer to the Annual Appropriations Ordinance (AAO) #1 budget process \$100,000 for the Strawberry Creek Lodge Food Program.
Financial Implications: \$100,000
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Approved recommendation.
- 12. Budget Referral: West Berkeley Residential Preferential Parking (RPP)**
From: Councilmember Taplin (Author)
Recommendation: That the City Council refers to the FY2023 budget process the funding of increased staffing, new enforcement vehicles, and sign installations necessary for the expansion of the Residential Preferential Parking (RPP) Program out of its current boundaries into West Berkeley, in zones to be identified and authorized by the Traffic Division of the Public Works Department, as well as for the enhancement of enforcement in existing RPP zones.
Financial Implications: See report
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Taplin to add the exact streets to include in the RPP program.

Council Consent Items

13. **Resolution Recognizing Housing as Human Right; Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley** *(Reviewed by the Land Use, Housing & Economic Development Policy Committee)*
From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution recognizing housing as a human right; refer to the City Manager's office several measures to begin developing social housing in the City of Berkeley. Measures shall include, but not be limited to:
1. Study and report to council on development potential, including density bonuses, for mixed-income housing development starting with the city-owned parcels at 1011 University Ave, and seek information through an RFI or other process on the potential for cross-subsidized limited-equity leasehold and rental models or other social housing development models;
 2. Study and return to council a report and, if feasible, a proposal for a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals in coordination with the city's Small Sites Program, including, but not limited to:
 - a. Providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire real property; support Low Income Housing Tax Credit (LIHTC) funding; develop and/or maintain mixed-income and permanently affordable housing;
 - b. Funding a Local Operating Subsidies Program to provide permanently affordable housing for Very Low and Extremely Low Income households;
 - c. Leveraging local funds with state and regional partnerships through the Bay Area Housing Finance Agency (BAHFA) with the Association of Bay Area Governments (ABAG), Berkeley Housing Authority, Berkeley Unified School District (BUSD) and BART;
 - d. Consider best practices from other agencies and other partnership opportunities;
 3. Refer to the budget process up to \$300,000 for one or more consultants to study potential social housing models for the City of Berkeley;
 4. Establish a publicly available, user-friendly data dashboard potentially using third-party data visualization tools for monitoring Housing Justice Indicators in the city including, but not limited to:
 - a. State certification of city's Housing Element and progress toward RHNA goals for each income tier in annual Housing Pipeline Reports;
 - b. Housing Element compliance with Affirmatively Furthering Fair Housing (AFFH) rule pursuant to California Government Code Section 65583 and Chapter 15, Section 8899.50 of Division 1 of Title 2, presented with, at a minimum:
 Citywide and regional affordability as defined by median rents and home prices as share of one-third of the City of Berkeley and Alameda County's median household income in most recent American Community Survey data;
 Local funding and open BMR housing application slots available to meet housing needs of Moderate, Low-, Very Low-, and Extremely Low-Income households;
 Anti-displacement metrics using UC Berkeley Displacement Project data and tracking successful applications to affordable housing units in the city using Local Preference policy;

Council Consent Items

Geographic considerations including historic redlining and segregation; Sensitive Communities and High Displacement Risk Areas identified in the 2019 CASA Compact by the Metropolitan Transportation Commission (MTC); and access to economic opportunity as measured by State of California Tax Credit Allocation Committee (TCAC) Opportunity Area Maps;

Any other considerations relevant to AFFH compliance and reparative housing justice.

Policy Committee Recommendation: On June 17, 2021 the Land Use, Housing & Economic Development policy committee took the following action: M/S/C (Hahn/Robinson) Qualified positive recommendation that Council approve the item with amendments formally discussed at the meeting and as follows: 1. Including a budget referral of up to \$300,000 and clarifying that the allocation may include one or more consultants; 2. Amending the staff report to remove the portion under "Rationale for Recommendation" beginning with "In Hawaii, Sen. Chang has opted for a more direct route..." and encompassing footnotes 48, 49, and 50; and 3. Amending the Resolution to include record of the "attendant freedoms and entitlements as enumerated by the United Nations"; removing the portion of the Resolution incorporating a referral to the City Manager; and making typographical changes to the Resolution as agreed to by the Author.

Financial Implications: See report

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

Action: Adopted Resolution No. 70,101–N.S.

14. **Budget Referral: Homeless Outreach Coordinator for South Shattuck Avenue and Adeline Street at 62nd Street**

From: Councilmember Bartlett (Author)

Recommendation: Referral to the November Budget Annual Appropriations Ordinance to fund \$200,000 for a Homeless Outreach Coordinator for South Shattuck Avenue at Dwight Way to Adeline Street at 62nd Street.

Financial Implications: \$200,000

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

Action: Approved recommendation.

Council Consent Items

- 15. Letter of Opposition to the Environmental Protection Agency and Oxitec Ltd.'s Proposal to Release Genetically Engineered Mosquitoes in California Counties**
From: Councilmember Bartlett (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor)
Recommendation: That the Mayor and Members of the Berkeley City Council oppose the United States Environmental Protection Agency ("US EPA") and Oxitec Ltd.'s proposal to conduct the world's largest release of genetically engineered ("GE") *Aedes Aegypti* mosquitoes. The mosquitos are proposed to be released across 12 California counties, which may include: Shasta, Yolo, Sacramento, Alameda, Stanislaus, Fresno, Tulare, Los Angeles, Orange, San Bernardino, and Riverside. The company intends to release several billion of the mosquitoes on 85,000 acres over a 2-year period. The Council should ask the US EPA Administrator Michael Regan, California Environmental Protection Agency ("CalEPA") Secretary Jared Blumenfeld, and Governor Gavin Newsom to deny the experimental use permit ("EUP") application to release genetically engineered mosquitoes across the state. The Council should send letters to State Senator Nancy Skinner, Rep. Barbara Lee, Rep. Mark DeSaulnier, Sen. Dianne Feinstein, Sen. Alex Padilla, Assemblymember Buffy Wicks, and County Supervisor Keith Carson.
Financial Implications: See report
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
Action: 10 speakers. Moved to Action Calendar. M/S/C (Robinson/Wengraf) to take no action on Item 15.
Vote: All Ayes.
- 16. Budget Referral: Solano-Peralta Park restoration and improvements**
From: Councilmember Hahn (Author)
Recommendation: Refer \$50,000 to the November 2021 AAO process for restoration and improvements for the Solano-Peralta Park, located at 1559 Solano Avenue, also bordered by Peralta and Capistrano Avenues
Financial Implications: \$50,000
 Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
Action: Approved Recommendation as revised in Supplemental Communications Packet #1 from Councilmember Hahn.

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- 17. Bright Streets to Schools** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee)*
From: Councilmember Hahn (Author), Councilmember Wengraf (Co-Sponsor)
Recommendation: 1. Complete the work, if necessary, to paint all crosswalks, midlines, bike lanes, and other street markings, clarify and/or improve traffic signage, and paint curbs in areas around Berkeley public schools
 2. Conduct an inventory to determine the cost of painting and/or improving crosswalks, midlines, bike lanes, and other street markings, traffic signage, and curbs in areas around City of Berkeley public buildings, including libraries, senior centers, recreation centers, and other facilities with public access and substantial public use, and in high-volume pedestrian areas and commercial districts; and
 3. Identify additional funding sources for completing such work.
 4. Present general design standards for crosswalks and other street markings, signs, reflectors, bollards and other safety and street markings to ensure consistency and safety the FITES Committee for input and review, and eventual adoption of official patterns and elements to be specified for all new and refreshed streets in Berkeley.
Policy Committee Recommendation: On October 7, 2021 the Facilities, Infrastructure, Transportation, Environment & Sustainability policy committee took the following action: M/S/C (Robinson/Harrison) to send the item, as revised in the supplemental material submitted by Councilmember Hahn, and further revised by the committee to the City Council with a positive recommendation. The committee revised the fourth recommendation to read: Present general design standards for crosswalks and other street markings, signs, reflectors, bollards and other safety and street markings to ensure consistency and safety the FITES Committee for input and review, and eventual adoption of official patterns and elements to be specified for all new and refreshed streets in Berkeley.
Financial Implications: See report
 Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
Action: Approved recommendation as revised in Supplemental Communications Packet #2 from Councilmember Hahn to update the recommendation from the policy committee.
- 18. PG&E's Safety Initiative: 10,000 Miles of Undergrounding Power Lines**
From: Councilmember Wengraf (Author), Councilmember Taplin (Co-Sponsor) and Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution and send a letter to the PG&E CEO and Board of Directors recommending that Berkeley's evacuation routes and the two established but yet to be completed Underground Utility Districts in Berkeley's Very High Fire Hazard Severity Zone be considered in the 10,000-mile promise to underground utilities.
Financial Implications: None
 Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Mayor Arreguin added as a co-sponsor. Adopted Resolution No. 70,102–N.S.

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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue. Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearing

19. Public Hearing: Administrative Citations and Property Lien at 2800 Garber Street

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution rejecting the property owners' objection to the cost of the administrative fines issued to them for their failure to comply with the City's anti-blight ordinance and building permit requirement, and allowing the special assessment lien on 2800 Garber St. to be recorded as written and approved by the City Manager.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. 3 speakers. M/S/C (Arreguin/Droste) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Wengraf/Droste) to call for the previous question.

Vote: All Ayes.

Action: M/S/Failed (Harrison/Hahn) to approve the staff recommendation amended to not apply any fines issued in 2021, but proceed with the rest of the lien amount.

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

Action: M/S/Carried (Droste/Arreguin) to adopt Resolution No. 70,103-N.S. rejecting the property owners' objection to the cost of the administrative fines issued to them for their failure to comply with the City's anti-blight ordinance and building permit requirement, and allowing the special assessment lien on 2800 Garber St. to be recorded as written and approved by the City Manager.

Vote: All Ayes.

Action Calendar – Old Business

20. Objective Standards Recommendations for Density, Design and Shadows

(Continued from October 26, 2021) (Item Contains Supplemental Material)

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: M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 12:00 a.m.

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

Action: 16 speakers. M/S/C (Taplin/Droste) to table Item 20 indefinitely.

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

21. Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances *(Continued from October 26, 2021)*

From: Parks and Waterfront Commission

Recommendation: That Council adopt a Resolution adopting a policy that all Transient Occupancy Taxes (TOT hotel tax) generated at the Berkeley Waterfront be allocated to the City's Marina Enterprise Fund. All other property, sales, utility users, and parking taxes; as well as business license and franchise fees, would continue to be allocated to the City's General Fund.

Policy Committee Recommendation: Send the item to Council with a negative recommendation and additionally request a referral to the Budget & Finance Policy Committee to discuss and develop alternative revenue streams for the Marina Fund including a dedicated reserve.

Financial Implications: See report

Contact: Roger Miller, Commission Secretary, (510) 981-6700

Action: M/S/C (Arreguin/Wengraf) to continue Item 21 to November 16, 2021.

Vote: All Ayes.

Action Calendar – Old Business

- 22. Amending the Berkeley Election Reform Act (BERA) Relating to Officeholder Accounts** (*Reviewed by the Agenda & Rules Committee*) (*Continued from October 26, 2021*)

From: Agenda & Rules Committee: Mayor Arreguin, Councilmember Hahn, Councilmember Wengraf

Recommendation: Take one of the following actions:

1. Refer a proposal to the Fair Campaign Practices Commission (FCPC) amending the Berkeley Election Reform Act (BERA), BMC Chapter 2.12, and Lobbyist Registration Act, BMC Chapter 2.09, to enact “a reasonable set of limitations and rules” to regulate the maintenance of officeholder accounts, as developed and referred for consideration by the Agenda and Rules Committee; or
2. Refer a proposal to the FCPC amending BERA, BMC Chapter 2.12, to prohibit Officeholder Accounts, as originally proposed by the Fair Campaign Practices Commission.

Policy Committee Recommendation: Send the item to Council with two proposed alternatives: 1) Councilmember Hahn’s proposal to regulate officeholder accounts, and 2) the Fair Campaign Practices Commission proposal to prohibit officeholder accounts; and to include the Commission’s analysis of regulating officeholder accounts in the item that goes to the full Council.

Financial Implications: See report

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

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

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

Action: M/S/Failed (Droste/Kesarwani) to adopt Option 2 to refer prohibition of Officeholder Accounts to the Fair Campaign Practices Commission.

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

Action: 0 speakers. M/S/Carried (Arreguin/Harrison) to refer a proposal to the Fair Campaign Practices Commission (FCPC) amending the Berkeley Election Reform Act (BERA), BMC Chapter 2.12, and Lobbyist Registration Act, BMC Chapter 2.09, to enact “a reasonable set of limitations and rules” to regulate the maintenance of officeholder accounts, as developed and referred for consideration by the Agenda and Rules Committee.

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

23. Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley *(Continued from October 26, 2021) (Item Contains Supplemental Material)*

From: Councilmember Harrison (Author) and Councilmember Bartlett (Co-sponsor)

Recommendation: Refer to the November 2021 budget process approximately \$500,000 in General Fund Revenue toward fully subsidizing AC Transit fares originating from Berkeley on Sundays for at least one calendar year and contingent on restoration of the suspended Line 80 serving some of Berkeley's lowest income neighborhoods.

Financial Implications: General Fund - \$500,000

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

Action: 20 speakers. M/S/C (Harrison/Arreguin) to refer the item to the November 2021 AAO process with a revised recommendation as written below.

1. *Refer to the November 2021 budget process approximately \$500,000 in General Fund Revenue from the American Rescue Plan Act allocation to collaborate with AC Transit to launch a one-year pilot free transit program to subsidize:*
 - a. *AC Transit rides originating from Berkeley on Sundays for at least one calendar year,*
 - b. *Rides for youth, ages 18 years and under,*
 - c. *Rides for seniors, ages 65 plus,*
 - d. *People with qualifying disabilities residing in Berkeley;*
2. *Provision of funds will be contingent on restoration of service lost during the pandemic.*
3. *Evaluate the pilot program after one year and:*
 - a. *consider allocating additional funds.*

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

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

Adjournment

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

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

Councilmember Droste absent at 11:52 p.m.

Adjourned at 11:55 p.m.

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

Mark Numainville
City Clerk

Communications – November 9, 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.

Homeless Crimes Against Business'

1. Tai Yu, owner of Great China Restaurant
2. Hugh, owner of Music Lovers Audio
3. Laura Menard
4. Eric Friedman

Public Toilet Placement at the People's Park Mural

5. Pablo Menendez
6. Liz Wiener
7. Aminta Steinbach
8. Christine Schwartz
9. Yeshi Neumann
10. Miles Perez
11. Kathleen Caine
12. Jean Hohl

Automated License Plate Readers (ALRP)

13. Margot Smith
14. Diana Bohn
15. Elliot Halpern

Public Security Cameras

16. Cecelia Mautner

Berkeley Bird Festival

17. Glenn Phillips, on behalf of the Golden Gate Audubon Society

Native Plant Film

18. Kelly Hammargren

North Berkeley Senior Center – Investigate and Audit

19. Walter Wood

1915 Berryman

- 20. David Kellogg
- 21. Nicholas Armour, Planning and Development
- 22. Mary Telling
- 23. Eric Johnson
- 24. Dorothy Walker

Eden I&R October 2021 E-Newsletter

- 25. Eden I&R

Wireless Radiation

- 26. Phoebe Anne Sorgen (2)

Support the Plastic Bag Ordinance

- 27. 32 similarly-worded form letters

Zoning

- 28. Kaye Jacuzzi

Water Main Break on University

- 29. Jack Hlavac, Managing Director of DoubleTree by Hilton Berkeley Marina (2)

League of Women Voters of Berkeley, Albany and Emeryville – Police Oversight

- 30. Katherine Lee, Interim Director of Police Accountability

Letter of Intent to File a Restraining Order

- 31. Yesica Prado and Melissa Cheatwood

Street Paving

- 32. Dan Wohlfeiler

URL's Only

- 33. Vivian Warkentin (2)

Supplemental Communications and Reports 1

Item #12: Budget Referral: West Berkeley Residential Preferential Parking (RPP)

- 34. Supplemental material, submitted by Councilmember Taplin

Item #15: Letter of Opposition to the Environmental Protection Agency and Oxitec Ltd.'s Proposal to Release Genetically Engineered Mosquitoes in California Counties

- 35. Diana Bohn

34. Item #16: Budget Referral: Solano-Peralta Park Restoration and Improvements

36. Supplemental material, submitted by Councilmember Hahn

Item #19: Public Hearing: Administrative Citations and Property Lien at 2800 Garber Street

37. Jean-Pierre Langlois (2)

Item #20: Objective Standards Recommendations for Density, Design and Shadows

38. Todd Darling (2)

Item #21: Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances

39. Gordon Wozniak, Chair of Parks & Waterfront Commission

Item #23: Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley

40. Daniel Tahara

Supplemental Communications and Reports 2

Item #9: Affordable Housing Overlay

41. 8 similarly-worded form letters

42. Sidharth Kapur

43. Kevin Burke

Item #13: Resolution Recognizing Housing as Human Right; Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley

44. 5 similarly-worded form letters

Item #15: Letter of Opposition to the Environmental Protection Agency and Oxitec Ltd.'s Proposal to Release Genetically Engineered Mosquitoes in California Counties

45. Supplemental material, submitted by Councilmember Bartlett

46. Judith Pierce Davison, on behalf of the Alameda County Mosquito Abatement District

47. Jenny Wenk

48. GMO Free Florida

49. Lisa Archer

50. Emily Galpern

51. Helen Wallace

52. 220 similarly-worded form letters

Item #17: Bright Streets to Schools

53. Supplemental material, submitted by Councilmember Hahn

Item #18: PG&E's Safety Initiative: 10,000 Miles of Undergrounding Power Lines

54. Michael Scott
55. Richard Laden
56. Elizabeth Pulling
57. Carol Fields
58. Kelly Sika
59. Ray Yep
60. Takato Umeda
61. Scott Scheffler
62. Judith Kennedy
63. Lauren Streiff
64. Marian Wolfe
65. Fredrica Drotos
66. John Armitage
67. Steven and Tanyung Barnes
68. Paul Teicholz
69. Susan Jepsen
70. Marvin Snow
71. Alice and Edward Kahn
72. Steven Beckendorf
73. Pamela Doolan
74. Alan Block
75. Craig Baum
76. Ruth White
77. JT Trollman and Tria Chang
78. Carrie Kabat
79. Lynda Koolish
80. Olga Shalygin Orloff
81. Gradiva Couzin

Item #19: Public Hearing: Administrative Citations and Property Lien at 2800 Garber Street

82. Leonard Schwab
83. Charles Carson
84. Tim Nice
85. Robert Parsons
86. Nadide Kulunk
87. Karen Bird
88. Date Noonan and Ed Hoffmann
89. William Parish and Elizabeth Meckstroth
90. Ira Ellman
91. Faye Keogh
92. John Levy
93. Susan Blomquist
94. Wende Micco
95. Jeffrey Young
96. Naneen Karraker

Item #20: Objective Standards Recommendations for Density, Design and Shadows

- 97. Supplemental material, submitted by Councilmember Droste
- 98. Gary Dahl
- 99. Fred Krieger
- 100. Vincent Casalaina
- 101. Diana Bohn (2)
- 102. Sally Nelson
- 103. Kirsten Rose
- 104. Sheila Goldmacher
- 105. Lisa Bruce
- 106. Brian Gilbane
- 107. Barbara Thompson
- 108. Rachel Bradley

35. Item #23: Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley

- 109. Supplemental material, submitted by Councilmember Bartlett
- 110. Supplemental material, submitted by Councilmember Taplin
- 111. Jenny Kwon
- 112. Jonah Gottlieb
- 113. Katy Scott-Smith
- 114. Simon Brown
- 115. Matt Ong
- 116. Jack Kurzweil

Supplemental Communications and Reports 3

Item #9: Affordable Housing Overlay

- 117. 23 similarly-worded form letters
- 118. Thomas Lord (2)
- 119. Igor Tregub, on behalf of Sierra Club
- 120. Jeffrey Heller
- 121. Anirvan Chatterjee

Item #10: Budget Referral: Berkeley Ceasefire

- 122. Kit Saginor

Item #13: Resolution Recognizing Housing as Human Right; Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley

- 123. 7 similarly-worded form letters

Item #14: Budget Referral: Homeless Outreach Coordinator for South Shattuck Avenue and Adeline Street at 62nd Street

- 124. Allen Barth
- 125. Diana Bohn
- 126. Martin Bourque, on behalf of the Farmer's Market

Item #15: Letter of Opposition to the Environmental Protection Agency and Oxitec Ltd.'s Proposal to Release Genetically Engineered Mosquitoes in California

Counties

- 127. 29 similarly-worded form letters
- 128. Zen Honeycutt
- 129. Tina Stevens
- 130. Diana North
- 131. Pete Shanks
- 132. Marcy Darnovsky
- 133. Dana Perls
- 134. Christie Dames
- 135. Mike Burton
- 136. Jeffrey Smith

Item #18: PG&E's Safety Initiative: 10,000 Miles of Undergrounding Power Lines

- 137. David Drubin
- 138. Elizabeth Stuart
- 139. Howard and Alice Gruber
- 140. Annegret Daiss and Klaus Fechner
- 141. Bruce Brody
- 142. Vicki and Tim Roan

Item #19: Public Hearing: Administrative Citations and Property Lien at 2800 Garber Street

- 143. Robert Abiad
- 144. Gavin DiStasi
- 145. Ira Ellman

Item #20: Objective Standards Recommendations for Density, Design and Shadows

- 146. Presentation, submitted by Councilmember Droste
- 147. 12 similarly-worded form letters
- 148. Matthew Wadlund
- 149. Charlene Woodcock
- 150. Todd Darling
- 151. Jordan Burns
- 152. Betsy Thagard
- 153. Aviv Nitsan
- 154. Gary Miguel
- 155. Matthew Lewis
- 156. Adam Rogers
- 157. Phyllis Orrick
- 158. Gregory Lemieux
- 159. Ryan O'Connell
- 160. David Ushijima
- 161. Kitt Saginro
- 162. Lee Bishop
- 163. Councilmember Harrison

- 164. Pablo Diaz-Gutierrez
- 165. Verna Winters
- 166. Bhima Sheridan
- 167. Paul Bickmore
- 168. Milo Trauss
- 169. Sean Kennedy
- 170. Rafa Sonnenfeld
- 171. Richard Wallace

Item #21: Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances

- 172. Shirley Dean
- 173. Gordon Wozniak, Chair, Parks & Waterfront Commission

Item #23: Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley

- 174. Elise Joshi
- 175. Skyler Bennett
- 176. Igor Tregub, on behalf of the Sierra Club
- 177. Gregory Lemieux
- 178. Elliot Cobb
- 179. Deborah Agre
- 180. Matthew Lewis
- 181. Tyler Haddow

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, NOVEMBER 16, 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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/88964775721>. 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: 889 6477 5721. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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.

To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

Preliminary Matters

Roll Call: 4:02 p.m.

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

Absent: Taplin, Bartlett

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

CLOSED SESSION:

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

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

Property address: 80, 82/84, and 90 Bolivar Drive, Berkeley, CA 94710
Agency Negotiators: Dee Williams-Ridley, City Manager; Paul Buddenhagen, Deputy City Manager; Scott Ferris, Director, Parks Recreation and Waterfront; Christina Erickson, Deputy Director, Parks, Recreation, and Waterfront
Negotiating parties: City of Berkeley and Waterside Workshops
Property owner: City of Berkeley
Under negotiation: Price and terms

Action: No reportable action taken.

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

Property address: 100 Seawall Drive, Berkeley, CA 94710
Agency Negotiators: Dee Williams-Ridley, City Manager; Paul Buddenhagen, Deputy City Manager; Scott Ferris, Director, Parks Recreation and Waterfront; Christina Erickson, Deputy Director, Parks, Recreation, and Waterfront
Negotiating parties: City of Berkeley and Landry's (Skates on the Bay)
Property owner: City of Berkeley
Under negotiation: Price and terms

Action: No reportable action taken.

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

Property address: 2925-2945 Bolivar Drive, Berkeley, CA 94710
Agency Negotiators: Dee Williams-Ridley, City Manager; Paul Buddenhagen, Deputy City Manager; Scott Ferris, Director, Parks Recreation and Waterfront; Christina Erickson, Deputy Director, Parks, Recreation, and Waterfront
Negotiating parties: City of Berkeley and Youth Musical Theater Company (YMTC)
Property owner: City of Berkeley
Under negotiation: Price and terms

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, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Taplin, Bartlett.

Adjourned at 5:02 p.m.

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

Mark Numainville
City Clerk

MINUTES
BERKELEY CITY COUNCIL MEETING
Tuesday, November 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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To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

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

Report from Closed Session

The City Council met in closed session to discuss leases for three tenants in Marina. No final action was taken.

Roll Call: 6:04 p.m.

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

Absent: Kesarwani

Ceremonial Matters:

1. Presentation: Study to Achieve Equity in City Contracting - "Berkeley Inclusion in Opportunity Index"

City Manager Comments:

The City Manager provided an update on the recruitment for the Police Chief and an update on the Homeless Response Team.

Public Comment on Non-Agenda Matters: 10 speakers.

Consent Calendar

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

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

Vote: All Ayes.

Consent Calendar

- 1. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**
From: City Manager
Recommendation: Adopt a resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021.
Financial Implications: To be determined
Contact: Farimah Brown, City Attorney, (510) 981-6950
Action: Adopted Resolution No. 70,104–N.S.

- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 16, 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: \$15,120,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.

- 3. Authorizing Acceptance of California Department of Public Health California Equitable Recovery Initiative Grant Award**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit grant agreements to California Department of Public Health (CDPH) to accept an award of California Equitable Recovery Initiative (CERI) grant funds, and to execute any resultant revenue agreements and amendments in order to support health equity efforts in response to the COVID19 pandemic.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,105–N.S.

Consent Calendar

- 4. ONTRACK Program Resources Inc. - Support Services for African American Community Members**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with ONTRACK Program Resources Inc., funded through State of California Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) dollars, for support services for African American community members, for an initial contract not to exceed \$75,000 through June 30, 2022.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,106–N.S.

- 5. Salary Adjustment to Market Median for Department Heads**
From: City Manager
Recommendation: Adopt a Resolution to amend Resolution No. 69,998-N.S. (Classification and Salary Resolution for classifications in Representation Unit Z-1 Confidential and Executive Management Employees) to increase the salary of the department heads of Finance (\$19,332 to \$21,133), Human Resources (\$19,332 to \$20,179), Information Technology (\$19,332 to \$21,451), Parks, Recreation and Waterfront (\$20,152 to \$20,987), Planning (\$19,332 to \$19,634), Public Works (\$20,152 to \$21,432), and Fire Chief (\$20,439 to \$21,626) be increased per month effective November 14, 2021, to bring their salaries in line with the median of the salaries of City/County department heads in comparable jurisdictions in the Bay Area.
Financial Implications: See report
Contact: Donald E. Ellison, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 70,107–N.S.

- 6. Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission**
From: City Manager
Recommendation: Adopt an Ordinance repealing and re-enacting Berkeley Municipal Code Chapter 3.26 to create the Parks, Recreation, and Waterfront Commission, and repealing Berkeley Municipal Code Chapters 3.27 (Children, Youth, and Recreation Commission) and 3.08 (Berkeley Animal Care Commission).
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Item 6 continued to November 30, 2021.

Consent Calendar

- 7. Amendment to the Agreement for Maintenance of State Highways in the City between the California Department of Transportation and City of Berkeley**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to the Agreement with the California Department of Transportation (Caltrans) for maintenance of the State highways within the City of Berkeley. The amendment will address two new traffic signals; 1) the new traffic signal at the intersection of San Pablo Avenue and Parker Street which will be constructed by Kaiser Permanente as part of their project's mitigation measure, and 2) the new traffic signal constructed by Caltrans at the intersection of San Pablo Avenue and Bancroft Way.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,108–N.S.
- 8. Vision 2050: A Year of Progress to Creating Sustainable and Resilient Infrastructure for Berkeley**
From: City Manager
Recommendation: Accept the progress report on the 1-year anniversary of the Council's adoption of the Vision 2050 framework report.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Accepted the report.
- 9. Contract No. 31900031 Amendment: Downtown Streets Team**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 31900031 with Downtown Streets Team to add additional scope to address enhanced needs for services around encampments and neighborhoods, and increase the contract by \$355,000 for a new not to exceed amount of \$1,275,304, through June 30, 2022.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,109–N.S.

Consent Calendar

10. **Purchase Order: Atlantic Machinery, Inc. for One Ravo Sweeper**
From: City Manager
Recommendation: Adopt a Resolution satisfying the requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell contract bid procedures and authorizing the City Manager to execute a purchase order with Atlantic Machinery, Inc. for one (1) Ravo Sweeper in an amount not to exceed \$285,000.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,110–N.S.
11. **Filling Vacancies Among the Elected Representatives of the Poor**
From: Human Welfare and Community Action Commission
Recommendation: Adopt a Resolution confirming the appointments of Mr. George Lippman (District 3) as elected representatives of the poor on the Human Welfare and Community Action Commission (HWCAC), having been voted at the HWCAC July 21, 2021 meeting, and that his term expire November 28, 2022.
Financial Implications: None
Contact: Mary-Claire Katz, Commission Secretary, (510) 981-5400
Action: Adopted Resolution No. 70,111–N.S.

Council Consent Items

12. **Salary Adjustment for City Manager**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution to amend Resolution No. 69,998-N.S. (Classification and Salary Resolution for classifications in Representation Unit Z-1 Confidential and Executive Management Employees) to increase the salary of the City Manager from \$25,119 per month to \$32,180 per month effective November 14, 2021 to bring her salary in line with the median of the salaries of City/County Managers and Administrators in comparable jurisdictions in the Bay Area.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 70,112–N.S.

Council Consent Items

13. **Condemning Facebook/Meta for its Role in the Rise of Hate Crimes**
From: Mayor Arreguin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Recommendation: Adopt a Resolution condemning Facebook and its parent company Meta for failing to address mitigating hate speech while censoring efforts to promote awareness around hate crimes.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Revise the recommendation to read: "Adopt a Resolution condemning Facebook and its parent company Meta for giving hate speech a megaphone while censoring efforts to promote awareness around hate crimes." Adopt Resolution No. 70,113–N.S. amended to add a resolved clause to state:

BE IT FURTHER AND FINALLY RESOLVED, that the Berkeley City Council calls on Facebook/Meta to update its policies to address hate speech and the proliferation of misinformation.

14. **Budget Referral: Curtis Street Traffic Diverters**
From: Councilmember Taplin (Author)
Recommendation: Refer to the November Annual Appropriation Ordinance the funding of traffic diverters at the following intersections: 1. Curtis Street and Channing Way and 2. Curtis Street and Addison Street.
Financial Implications: \$100,000
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Approved recommendation.

Action Calendar – Public Hearings

15. **Renewal of the Elmwood Avenue BID for Calendar Year 2022**
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, "the District", "the Elmwood BID" or "the BID") for 2021-22 and, if no majority protest exists, levy annual assessments in the District for calendar year 2022 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.
Financial Implications: See report
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

Public Testimony: The Mayor opened the public hearing. 0 speakers. M/S/C (Arreguin/Wengraf) to close the public hearing.
Vote: Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Droste.

Action Calendar – Public Hearings

Councilmember Droste absent 9:13 p.m. – 9:17 p.m.

Action: M/S/C (Arreguin/Wengraf) to adopt Resolution No. 70,114-N.S. confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2021-22 and, if no majority protest exists, levy annual assessments in the District for calendar year 2022 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.

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

16. **Renewal of the Solano Avenue BID for Calendar Year 2022**

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2021-2022 and, if no majority protest exists, levy annual assessments in the District for calendar year 2022 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

Financial Implications: See Report

Contact: Eleanor Hollander, Commission Secretary, (510) 981-7530

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

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

Vote: All Ayes.

Action: M/S/C (Arreguin/Hahn) to adopt Resolution No. 70,115-N.S. confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2021-2022 and, if no majority protest exists, levy annual assessments in the District for calendar year 2022 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

Vote: All Ayes.

17. **Fees: Vital Records**

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution adopting the Vital Records fee schedule adding a \$2.00 increase to the current fee for the issuance of each birth, death, and fetal death certificate. This fee adjustment is to become effective January 1, 2022 pursuant to Assembly Bill (AB) 128 (Chapter 21, Statutes of 2021), and Health & Safety (H&S) Codes, § 103627, 100425, 100430, and 100435.

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. 2 speakers.

Action Calendar – Public Hearings

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

Vote: All Ayes.

Action: M/S/C (Arreguin/Wengraf) to adopt Resolution No. 70,116-N.S.

Vote: All Ayes.

18. Opt-In to Countywide Organics Reduction and Recycling Ordinance

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt a first reading of an Ordinance adding Chapter 12.35 to the Berkeley Municipal Code opting in to the Alameda County Waste Management Authority's Organics Reduction and Recycling Ordinance with an effective date of January 1, 2022. This Ordinance will bring the City into compliance with the regulations of Senate Bill 1383: Short-lived Climate Pollutants Act of 2016.

Financial Implications: See report

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

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

M/S/C (Arreguin/Harrison) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Wengraf/Hahn) to adopt first reading of Ordinance No. 7,790-N.S.

Second reading scheduled for November 30, 2021.

Vote: All Ayes.

Action Calendar – Continued Business

A. Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances *(Continued from November 9, 2021)*

From: Parks and Waterfront Commission

Recommendation: That Council adopt a Resolution adopting a policy that all Transient Occupancy Taxes (TOT hotel tax) generated at the Berkeley Waterfront be allocated to the City's Marina Enterprise Fund. All other property, sales, utility users, and parking taxes; as well as business license and franchise fees, would continue to be allocated to the City's General Fund.

Policy Committee Recommendation: Send the item to Council with a negative recommendation and additionally request a referral to the Budget & Finance Policy Committee to discuss and develop alternative revenue streams for the Marina Fund including a dedicated reserve.

Financial Implications: See report

Contact: Roger Miller, Commission Secretary, (510) 981-6700

Action: 4 speakers. M/S/C (Arreguin/Harrison) to adopt the Policy Committee recommendation to refer to the Budget & Finance Committee to discuss and

Action Calendar – Continued Business

develop alternative revenue streams for the Marina Fund including a dedicated reserve.

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

Councilmember Droste absent 9:55 p.m. – 10:55 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session City Council meeting held on November 16, 2021.

Mark Numainville
City Clerk

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

Adjournment

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

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

Adjourned at 10:55 p.m.

Communications – November 16, 2021

Vision Zero

1. 26 similarly-worded form letters

Automated License Plate Readers (ALPR)

2. 5 similarly-worded form letters
3. Elliot Halpern

Accessory Dwelling Unit

4. Jill Bond
5. Nancy Kates
6. Gene Meyers
7. Carla and Dolph Rempp
8. Sara Cox
9. Rocky Offner
10. Tom Hutcheson
11. Linda Polsby
12. Kenneth Yip

- 13. Pranab Bardhan
- 14. Cameron Woo
- 15. Russ Mitchell

BART Housing

- 16. 13 similarly-worded form letters
- 17. North Berkeley Neighborhood Alliance (2)
- 18. Paul Bickmore
- 19. Jeffrey Wescott
- 20. Gary Miguel
- 21. David Soffa
- 22. Teresa Clarke (2)

Building Electrification

- 23. Daniel Tahara
- 24. Igor Tregub, on behalf of Sierra Club

Bayer Development Agreement

- 25. Jennifer Lovvorn, secretary of the Civic Arts Commission
- 26. Kathryn Reasoner
- 27. Kim Anno

Berkeley Asphalt Company

- 28. Christopher Kroll (2)
- 29. Councilmember Kesarwani
- 30. Pear Michaels
- 31. Meryl Siegal

Plastic Bag Ordinance

- 32. Dexter Griffin

Vandalism in the Downtown Business District

- 33. Susie Kooyman

Fossil-Fuel Non-Proliferation Treaty

- 34. Martin Bourque, on behalf of the Ecology Center

Access to Drinking Water

- 35. David Lerman

Hope Center and Berkeley Way Apartments

- 36. John Parman

Violation of First Amendment

- 37. Nilang Gor

Intent to File Restraining Order

38. Mellissa Cheatwood

EV Charging

39. Tom Lent

40. Councilmember Harrison

Homeless Altercations with Business'

41. Haakon Thallaug, on behalf of Viking Trader

Downtown Berkeley Ambassadors

42. John Caner, CEO, Downtown Berkeley Association

Nevada Cares Campus Briefing

43. John Caner, CEO, Downtown Berkeley Association

Hazardous State of Berkeley Streets and Sidewalks

44. Sabina McMurtry

Surging Gun Violence in America

45. Paul Kealoha Blake

Climate News

46. Thomas Lord

Violation of Sanctuary Contracting Ordinance

47. Elana Auerbach

Grizzly Peak Traffic Speed

48. Joshua Bloom

Hopkins Street Proposals

49. Elsa Tranter

URL's Only

50. Vivian Warkentin

Supplemental Communications and Reports 1

None

Supplemental Communications and Reports 2

Item #12: Salary Adjustment for City Manager

51. Margot Smith

52. Kelly Hammargren

Supplemental Communications and Reports 3

Item #6: Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission

53. Benjamin Otten

Item #12: Salary Adjustment for City Manager

54. Berkeley Citizens Action

55. Linda Franklin

56. Phoebe Anne Sorgen

Item #A: Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances

57. Gordon Wozniak, Chair, Parks & Waterfront Commission

City Manager Comments

Update on the Homeless Response Team

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

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

THURSDAY, NOVEMBER 18, 2021

2:00 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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

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*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free); enter Meeting ID: 843 8054 5859. 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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To submit a written communication for the City Council's consideration and inclusion in the public record, email council@cityofberkeley.info.

Preliminary Matters

Roll Call: 2:13 p.m.

Present: Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Kesarwani, Taplin, Bartlett, Harrison

Councilmember Harrison present at 2:16 p.m.

Councilmember Bartlett present at 2:24 p.m.

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

CLOSED SESSION:

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

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING OR ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(d)(1) AND 54956.9(d)(2)

- a. GTE Mobilnet of California Limited Partnership, DBA Verizon Wireless v. City of Berkeley; Berryman Reservoir Neighbors, intervenor-defendants, Case No. 4:20-cv-5460-DMR (US District Court, Northern District, Oakland Division)

Action: No reportable action taken.

- b. The People of the State of California v. Leonard Felton Powell, et al, California Superior Court Case Number RG15762567

Action: No reportable action taken.

OPEN SESSION:

No reportable action taken.

Adjournment

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

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

Adjourned at 3:19 p.m.

I hereby certify that the foregoing is a true and correct record of the Closed Session meeting held on November 18, 2021.

Mark Numainville
City Clerk

BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

TUESDAY, NOVEMBER 30, 2021

3:30 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

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*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free); enter Meeting ID: 840 6182 2756. 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: 3:35 p.m.

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

Absent: Taplin, Bartlett, Harrison

Councilmember Taplin present at 3:40 p.m.

Councilmember Bartlett present at 3:41 p.m.

Councilmember Harrison present at 3:41 p.m.

Public Comment - Limited to items on this agenda only – 3 speakers

CLOSED SESSION:

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

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(d)(1)

- a. National Prescription Opiate Litigation, United States District Court, Northern District of Ohio, Eastern Division, MDL 2804, Case No. 1:17-MD-2804. Discussion and direction whether to register as an eligible Non-Litigating Subdivision to participate in the nationwide settlements that are proposed to resolve all opioids litigation brought by states and local political subdivisions against the three largest pharmaceutical distributors (McKesson, Cardinal Health, and Amerisource), and against manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson. <https://oag.ca.gov/opioids> and <https://nationalopioidsettlement.com/>

Action: M/S/C (Arreguin/Hahn) to affirm the action to register the City of Berkeley to opt into the proposed nationwide settlement agreements that obligate the three largest pharmaceutical distributors (McKesson, Cardinal Health, and AmerisourceBergen) to pay up to \$21 billion over 18 years to affected states and agencies, and manufacturer Janssen Pharmaceuticals (and its parent company Johnson & Johnson) to pay up to \$5 billion over 9 years, for use by states, counties, and cities participating in the settlement to remediate and abate the impacts of the opioid crisis. In addition, the Council authorized the City Attorney to take all necessary actions to participate in the settlements.

Vote: All Ayes.

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTIONS 54956.9(d)(1)

- a. Oceanview Neighborhood Council v. City of Berkeley; 1444 Fifth Street, et al., Real Parties in Interest; Case No. RG21091748 (Alameda County Superior Court, filed 3/12/2021)
- b. Oceanview Neighborhood Council v. City of Berkeley City; 1442 Fifth Street LLC; Case No. 21CV001971 (Alameda County Superior Court, filed 11/5/2021)

Action: No reportable action taken.

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

Property address: 1007 University Avenue, Berkeley, CA 94710
Agency Negotiators: Dee Williams-Ridley, City Manager; Paul Buddenhagen, Deputy City Manager; Liam Garland, Director, Public Works Department; Dionne Early, Community Development Project Coordinator
Negotiating parties: City of Berkeley and Bauman College
Property owner: City of Berkeley
Under negotiation: Price and terms

Action: No reportable action taken.

4. CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Don Ellison, Interim Human Resources Director, Ravinder Rangji, Employee Relations Manager.

Employee Organizations: Berkeley Fire Fighters Association Local 1227, Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; International Brotherhood of Electrical Workers (IBEW), Local 1245, SEIU 1021 Community Services and Part-time Recreation Activity Leaders, SEIU 1021 Maintenance and Clerical, Public Employees Union Local 1, Unrepresented Employees, Berkeley Police Association.

Action: No reportable action taken.

OPEN SESSION:

The City Council met in closed session and affirmed the action to register the City of Berkeley to opt into the proposed nationwide settlement agreements that obligate the three largest pharmaceutical distributors (McKesson, Cardinal Health, and AmerisourceBergen) to pay up to \$21 billion over 18 years to affected states and agencies, and manufacturer Janssen Pharmaceuticals (and its parent company Johnson & Johnson) to pay up to \$5 billion over 9 years, for use by states, counties, and cities participating in the settlement to remediate and abate the impacts of the opioid crisis. In addition, the Council authorized the City Attorney to take all necessary actions to participate in the settlements.

Adjournment

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

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

Adjourned at 5:32 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on November 30, 2021.

Mark Numainville
City Clerk

MINUTES
BERKELEY CITY COUNCIL MEETING
Tuesday, November 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
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*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **822 5968 3632**. 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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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

Report from Closed Session

The City Council met in closed session and affirmed the action to register the City of Berkeley to opt into the proposed nationwide settlement agreements that obligate the

three largest pharmaceutical distributors (McKesson, Cardinal Health, and AmerisourceBergen) to pay up to \$21 billion over 18 years to affected states and agencies, and manufacturer Janssen Pharmaceuticals (and its parent company Johnson & Johnson) to pay up to \$5 billion over 9 years, for use by states, counties, and cities participating in the settlement to remediate and abate the impacts of the opioid crisis. In addition, the Council authorized the City Attorney to take all necessary actions to participate in the settlements.

Roll Call: 6:04 p.m.

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

Absent: None

Ceremonial Matters:

1. Adjourned the Meeting in Memory of Rev. Elizabeth Coleman, McGee Avenue Baptist Church
2. Adjourned the Meeting in Memory of James Peterson, Former Commissioner and Activist
3. Adjourned the Meeting in Memory of John English, Former Commissioner and Activist

City Manager Comments: None

Public Comment on Non-Agenda Matters: 5 speakers.

Consent Calendar

Public Comment on Consent Calendar and Information Items Only: 10 speakers.

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

Vote: All Ayes.

Consent Calendar

- 1. Opt-In to Countywide Organics Reduction and Recycling Ordinance**
From: City Manager
Recommendation: Adopt the second reading of Ordinance No. 7,790-N.S. adding Chapter 12.35 to the Berkeley Municipal Code opting in to the Alameda County Waste Management Authority's Organics Reduction and Recycling Ordinance with an effective date of January 1, 2022. This Ordinance will bring the City into compliance with the regulations of Senate Bill 1383: Short-lived Climate Pollutants Act of 2016.
First Reading Vote: All Ayes
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted second reading of Ordinance No. 7,790–N.S.

- 2. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the council meetings of October 5, 2021 (closed and special), October 12, 2021 (closed and regular), October 19, 2021 (special) and October 26, 2021 (closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Approved the minutes as submitted.

- 3. Grant Approval: San Francisco Foundation support for 100% affordable housing at BART stations**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to apply for and if awarded, accept a \$50,000 grant from the San Francisco Foundation to support efforts to make the BART housing projects 100% affordable.
Financial Implications: See report
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 70,117–N.S.

4. **MOU to implement Ronald V. Dellums Fair Chance Access to Housing Ordinance**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to effectuate a Memorandum of Understanding (MOU) between the City of Berkeley and the City of Berkeley Rent Stabilization Board (Rent Board) to implement the Ronald V. Dellums Fair Chance Ordinance previously adopted by the Berkeley City Council.

Financial Implications: See report

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

Action: Adopted Resolution No. 70,118–N.S.

5. **Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 30, 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: Various Funds - \$340,000

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

Action: Approved recommendation.

6. **Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph 'NN' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code") to Restore Language Which Existed Prior to October 26, 2021**

From: City Manager

Recommendation: 1. Adopt the first reading of an Ordinance rescinding Ordinance 7,788-N.S. which modified the language of Paragraph 'NN.' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code") and which requires the installation of fire sprinklers in certain new structures and the retrofit of fire sprinklers in certain existing structures in Fire Zones 2 and 3 due to additional information presented to City staff, and restore the language of Paragraph 'NN' which existed prior to the October 26, 2021 adoption of Ordinance 7,788-N.S.; 2. Adopt a Resolution (Attachment 2) setting forth findings of local conditions that require more stringent building standards than those provided by the 2019 California Fire Code; 3. In compliance with state law on adopting such more restrictive building standards, hold a public hearing following the first reading and before the second reading, and schedule the public hearing for December 14, 2021.

Financial Implications: None

Contact: Abe Roman, Fire, (510) 981-3473

Action: 1. Adopt first reading of Ordinance No. 7,791–N.S. Second reading scheduled for December 14, 2021. 2. Adopted Resolution No. 70,119–N.S.

Consent Calendar

- 7. Contract: Blaisdell's Business Products for HHCS Furniture**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract, and any amendments or extensions, with Blaisdell's Business Products for new office and classroom furniture for the North Berkeley Senior Center (NBSC). The contract will be in an amount not to exceed \$99,000 for the period January 1, 2022 through June 30, 2022.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,120–N.S.

- 8. Contract No. 32000094 Amendment: Youth Spirit Artworks Mental Health Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to amend contract No. 32000094 with vendor Youth Spirit Artworks (YSA) to provide a variety of mental health and case management supports for Transition Age Youth (TAY) through June 30, 2022 in an amount not to exceed \$527,046. This will extend the existing contract by one year and add \$210,046 in funding.
Financial Implications: Measure P - \$210,046
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,121–N.S.

- 9. Contract No. 32100178 Amendment: California Mental Health Services Authority Help@Hand Participation Agreement**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an Amendment to Contract No. 32100178 for the Help@Hand Participation Agreement with the California Mental Health Services Authority (CalMHSA) to increase the amount of local project funds by \$47,999 for a total amount not to exceed \$400,915 through June 30, 2024, and any amendments.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,122–N.S.

Consent Calendar

10. **Contract: Community Crisis Response Services**
From: City Manager
Recommendation: Adopt three Resolutions authorizing the City Manager or her designee to execute contracts and any amendments or extensions with Alameda County Network of Mental Health Clients (Berkeley Drop-in Center), Options Recovery, and Women’s Daytime Drop-in Center for Community Crisis Response Services, in an amount not to exceed \$1,200,000.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: 1. Adopted Resolution No. 70,123–N.S. (Berkeley Drop-in Center) 2. Adopted Resolution No. 70,124–N.S. (Options Recovery) 3. Adopted Resolution No. 70,125–N.S. (Women’s Daytime)
11. **Contract: Needle Exchange Emergency Distribution (NEED)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an expenditure contract and any amendments or extensions with the Needle Exchange Emergency Distribution (NEED) in an amount not to exceed \$150,000 for the period July 1, 2021 through June 30, 2024.
Financial Implications: General Fund - \$150,000
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,126–N.S.
12. **Grant Application: Cal Fire Urban and Community Forestry Grant Program (Trees Make Berkeley Better)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a CAL FIRE Urban and Community Forestry tree planting grant application in the amount up to \$1,104,320; 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: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,127–N.S.

Consent Calendar

- 13. Berkeley Existing Buildings Electrification Strategy**
From: City Manager
Recommendation: Adopt a Resolution approving the Berkeley Existing Buildings Electrification Strategy, as described in Exhibit A.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: 0 speakers. Moved to Action Calendar. M/S/C (Arreguin/Harrison) to adopt Resolution No. 70,128–N.S.
Vote: All Ayes.

- 14. Cities Race to Zero Campaign: 2030 emission reduction target**
From: City Manager
Recommendation: Adopt a Resolution for the Cities Race to Zero Campaign to establish a 2030 emission reduction target that reflects Berkeley’s fair share of the 50% global reduction in CO2e, committing to reduce emissions 60.5% from 2018 levels by 2030.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: Adopted Resolution No. 70,129–N.S.

- 15. Contract No. 112219-1 Amendment: Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 112219-1 with Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance increasing the current contract amount of \$300,000 by \$300,000 for a total not to exceed amount of \$600,000 and extending the term through December 31, 2024.
Financial Implications: Various Funds - \$300,000
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,130–N.S.

Consent Calendar

- 16. Contract No. 32100081 Amendment: FirstCarbon Solutions, Inc. for California Environmental Quality Act Compliance for the Solid Waste & Recycling Transfer Station Replacement Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100081 with FirstCarbon Solutions, Inc. for the Solid Waste & Recycling Transfer Station Replacement Project to ensure compliance with the California Environmental Quality Act, increasing the current contract amount of \$500,000 by \$150,000 for a total not to exceed amount of \$650,000 and extending the contract term to June 30, 2022.
Financial Implications: Zero Waste Fund - \$150,000
 Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,131–N.S.
- 17. Purchase Order: PB Loader Corporation for Two Chipper Trucks**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (formerly NJPA) Contract No. 052417-PBL bid procedures and authorizing the City Manager to execute a purchase order for two Chipper Trucks with PB Loader Corporation in an amount not to exceed \$305,900.
Financial Implications: Equipment Replacement Fund - \$305,900
 Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,132–N.S.
- 18. Budget Referral: Berkeley Age-Friendly Continuum**
From: Mayor Arreguin (Author) and Councilmember Wengraf (Co-Sponsor)
Recommendation: Refer \$20,000 to the November 2021 Annual Appropriations Ordinance #1 process for the Berkeley Age-Friendly Continuum.
Financial Implications: General Fund - \$20,000
 Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Councilmembers Harrison and Bartlett added as co-sponsors. Approved recommendation.
- 19. Reappointment of Dr. P. Robert Beatty to the Alameda County Mosquito Abatement District Board of Trustees**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution reappointing Dr. P. Robert Beatty to the Board of Trustees of the Alameda County Abatement District for a two-year term ending on January 1, 2024.
Financial Implications: None
 Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 70,133–N.S.

Council Consent Items

20. **Budget Referral: Commitment to Habitot Recovery**
From: Councilmember Bartlett (Author), Mayor Arreguin (Author) and Councilmember Harrison (Co-Sponsor)
Recommendation: Refer to the AAO#1 Budget Process \$100,000 to support the recovery of Habitot and its many agency partners so it can ramp up to pre-pandemic levels and continue to provide its broad services to young children, their parents, and caregivers, and our communities most vulnerable families.
Financial Implications: \$100,000
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
Action: Approved recommendation.

Council Consent Items

21. **Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings** (*Reviewed by the Budget & Finance Policy Committee*)
From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation: 1. Adopt a Resolution establishing:

- a. a referral to Office of Energy and Sustainable Development (OESD) staff to design and launch a two-year Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program, using pre-qualified contractors meeting minimum labor standards to assist new property owners, renters and existing property owners with transition to zero-carbon plumbing, HVAC, cooking, and related electrical systems, with a preference first for assisting existing affordable housing buildings and assisting households at or below 120% of the Area Median Income; and
 - b. an annual process for the Energy (or successor) Commission and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES), in consultation with community and labor groups, to provide input to staff and Council about eligible categories of fund expenditures to maximize equitable emissions reductions and impacts for eligible households while leaving the mechanisms for doing so to staff discretion.
2. Send copies of the Resolution and letters to members of the California Public Utilities and Energy Commissions, Governor Newsom, State Senator Skinner, and Assemblymember Wicks conveying urgent support for a statewide approach to rapidly contract the natural gas distribution system in a way that is safe, economical for remaining customers, and that provides a just transition for affected workers, including gas utility and extraction workers.
3. Refer to the November, 2021 AAO budget process:
- a. \$1,500,000 of general fund monies from the American Rescue Plan Act allocation and other sources as appropriate as seed funding for the two-year pilot, inclusive of staff costs, for FY 2022.

Policy Committee Recommendation: On November 3, 2021 the Budget & Finance Policy Committee took the following action: M/S/C (Arreguin/Harrison) to send the item to Council with a qualified positive recommendation including the following amendments: Recommendation 2. That part of the recommended funding source is American Rescue Plan dollars and; Recommendation 1a. Modifying the end of the last sentence to “with a preference first for affordable housing projects and assisting households at or below 120% the area median income.”

Financial Implications: See report

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

Action: Moved to Action Calendar. 6 speakers. M/S/C (Harrison/Arreguin) to refer the item to the December AAO Budget Process as revised by the Policy Committee recommendation.

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

Action Calendar

**22. Prioritizing Berkeley Unified School District Public Works Service Requests
From: Councilmember Hahn (Author) and Councilmember Harrison (Co-Sponsor)**

Recommendation: Refer to the City Manager to: 1. Work with the Berkeley Unified School District (BUSD) to create a system to better document, communicate, and prioritize Public Works service requests from BUSD schools and facilities; and 2. Establish protocols with BUSD for school principals to coordinate directly with Public Works staff to address school site-related concerns that fall under the City's jurisdiction.

Financial Implications: None

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

Action: Mayor Arreguin and Councilmember Wengraf added as co-sponsors.
Approved recommendation.

23. Budget Referral to City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided

From: Councilmember Wengraf (Author)

Recommendation: Refer to the Mid-Year Annual Appropriations Ordinance Budget Process \$100,000 to implement steps to promote increased safety for pedestrians of all ages, including seniors and children, on streets lacking sidewalks. This item is requesting the installation of signage to minimize pedestrian-vehicular conflict points at uncontrolled intersections, and to increase driver awareness of pedestrian activity by posting speed limit signs and other signage as a means to improving safe pedestrian access to schools, neighborhood parks, USPS mailboxes, and school and AC Transit bus stops in areas without the benefit of sidewalks. In addition, this item requests that the City Manager explore the implementation of AB 43 that allows cities to take the safety of vulnerable users into consideration when setting local speed limits. This item requests that the City Manager exercise her authority under the California Vehicle Code to allow for lowering the speed limit to 15 or 20 mph in residential districts where the roadway is less than 25 feet wide.

Financial Implications: \$100,000

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

Action: Councilmembers Droste, Taplin, and Kesarwani added as co-sponsors.
Approved recommendation.

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. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue. Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

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

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

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

24. **Bayer Healthcare LLC – Amended and Restated Development Agreement**

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, certify the Final Subsequent Environmental Impact Report, adopt Findings and a Mitigation Monitoring and Reporting Program, and adopt the first reading of an Ordinance to approve the Amended and Restated Development Agreement between the City of Berkeley and Bayer Healthcare LLC.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Testimony: The Mayor opened the public hearing. 21 speakers.
M/S/C (Arreguin/Droste) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Taplin) to adopt first reading of Ordinance No. 7,792–N.S. as revised in Supplemental Communications Packet #1. Second reading scheduled for December 14, 2021.

Vote: All Ayes.

Action Calendar – Public Hearings

25. Amendments to the Berkeley Election Reform Act

From: Fair Campaign Practices Commission

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) make public financing available to candidates for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner, (2) further clarify the use of Fair Elections funds, (3) clarify the requirements for returning unspent Fair Elections funds, (4) add a new process for requesting return of previously repaid Fair Elections funds, and (5) require the FCPC to make a cost of living adjustment to the contribution limit to candidates in January of each odd-numbered year.

Financial Implications: None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

Public Testimony: The Mayor opened the public hearing. 3 speakers.

M/S/C (Arreguin/Droste) to close the public hearing.

Vote: All Ayes.

Action: M/S/C (Arreguin/Harrison) to 1) adopt first reading of Ordinance No. 7,793–N.S. Second reading scheduled for December 14, 2021; and 2) Refer to the Fair Campaign Practices Commission and the City Attorney to analyze and report on increasing the baseline non-public financing contribution limit.

Vote: All Ayes.

Action Calendar – Old Business

26. **Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission** *(Continued from November 16, 2021)*

From: City Manager

Recommendation: Adopt an Ordinance repealing and re-enacting Berkeley Municipal Code Chapter 3.26 to create the Parks, Recreation, and Waterfront Commission, and repealing Berkeley Municipal Code Chapters 3.27 (Children, Youth, and Recreation Commission) and 3.08 (Berkeley Animal Care Commission).

Financial Implications: See report

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

Action: M/S/C (Droste/Kesarwani) to call for the previous question.

Vote: All Ayes.

Action: M/S/Failed (Harrison/Hahn) to adopt the recommendation amended to remove the Animal Care Commission from the consolidation.

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

Action: 5 speakers. M/S/Carried (Robinson/Droste) to adopt first reading of Ordinance No. 7,794–N.S. Second reading scheduled for December 14, 2021.

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

Action Calendar – New Business

27. **Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code**

From: City Manager

Recommendation: Adopt a Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code.

Financial Implications: None

Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000, Jennifer Louis, Police, (510) 981-5900

Action: M/S/C (Arreguin/Robinson) to continue Item 27 to the December 14, 2021 special meeting of the City Council including supplemental and revised materials from Councilmember Harrison.

Vote: All Ayes.

Council Action Items

28. Budget Referral: Automated license plate readers for community safety improvement *(Reviewed by the Public Safety Policy Committee)*

From: Councilmember Taplin (Author), Councilmember Droste (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)

Recommendation: That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations: Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and the public right-of-way in areas impacted by violent crime, traffic violations including infractions pertaining to bicycle and pedestrian safety, illegal dumping, Schedule II drug offenses, and other criminal activity; and refer to the FY 23-24 budget process cost of ALPRs. Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance enabling the use of ALPRs in fixed locations, mobile trailers, and vehicles by the Berkeley Police Department; consider a data retention period of no greater than one year, no less than sixty days to account for reporting lag, and study the feasibility of shorter data retention periods for non-hit scans with final discretion resting with the City Manager; consider comparable and applicable standards in the ALPRs policies of local governments including: the City of Alameda, The city of Emeryville, The City of Hayward, The City of Oakland, The City of Piedmont, The City of Richmond, The City of San Leandro, and The City of Vallejo; and consider provisions to safeguard efficacy against plate counterfitting, plate switching, and other methods of detection evasions.

Policy Committee Recommendation: On November 1, 2021, the Public Safety Policy Committee took the following action: M/S/C (Kesarwani/Bartlett) to refer the item to Council with a qualified positive recommendation of the item to reflect the Policy Committee's desire for consideration of the costs and benefits of this proposed expenditure against other public safety investments in the two-year FY 2022-23 & 2023-24 budget and the need to first develop a policy related to addressing data retention and other issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.

Financial Implications: See report

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

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

Vote: All Ayes.

Action: M/S/C (Arreguin/Taplin) to suspend the rules and extend the meeting to 11:50 p.m.

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

Action: M/S/C (Arreguin/Taplin) to suspend the rules and extend the meeting to 12:15 a.m.

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

Councilmember Harrison absent 11:47 p.m. – 11:49 p.m.

Action: M/S/C (Taplin/Droste) to call for the previous question.

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

Action: 35 speakers. M/S/C (Taplin/Droste) to approve the Policy Committee recommendation for Item 28.

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

Information Reports

29. City Council Short Term Referral Process – Quarterly Update

From: City Manager

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

Action: Received and filed.

30. FY 2021 Fourth Quarter Investment Report: Ended June 30, 2021

From: City Manager

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

Action: Referred to the Budget & Finance Committee.

31. Condominium Conversion Program – Annual Report

From: City Manager

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

Action: Received and filed.

32. Berkeley's 2019 Community-Wide Greenhouse Gas Emissions Inventory

From: City Manager

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action: Referred to the Agenda & Rules Committee for future scheduling.

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

Adjournment

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

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

Adjourned at 12:13 a.m.

Communications – November 30

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.

Item #13: Berkeley Existing Buildings Electrification Strategy

1. Daniel Tahara

Item #24: Bayer Healthcare LLC – Amended and Restated Development Agreement

2. Beth Roessner, on behalf of the Berkeley Chamber of Commerce
3. Minda Berbeco
4. Kathleen Crandall
5. Sheroza Haniff, on behalf of the Alameda County Workforce Development Board
6. Katelyn Burns
7. Sara Webber, on behalf of the Berkeley Food Network
8. Nico Nagle, on behalf of the Housing Action Coalition
9. Andrea Ali, owner Guerilla Café
10. Ajit Smith-Iyer
11. Jim Wunderman, on behalf of the Bay Area Council
12. Lindsay Kempf
13. Alejandra Tapia
14. Anabel Fredman
15. Sophia Padron Vos
16. Miguel Piedra Montano
17. Ahmed Akbar
18. Teresa Barnett, on behalf of Community Resources for Science
19. Lauren Rawlins
20. Stephen Baiter, on behalf of East Bay Economic Development Alliance
21. Sherry Smith, on behalf of Berkeley Community Scholars
22. Anshdeep Chhabra
23. Chamroen Eng
24. Willis Hon
25. Lynda Gayden, on behalf of the Board of Directors of Biotech Partners (2)
26. Rob Stoker, on behalf of the Alameda County Building and Construction Trades Council

Item #27: Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code

27. Oren Cheyette

BART Housing

- 28. Louise Rosenkrantz
- 29. Mathew Lewis
- 30. Linda Franklin
- 31. David Brandon
- 32. Carla Woodworth
- 33. Charlene Woodcock
- 34. Margot Smith (2)
- 35. Serena Lim
- 36. Rhonda Grossman
- 37. Suzanne McMillan
- 38. Lindsay Dixon
- 39. Carolyn McMillan
- 40. Deborah Mathews
- 41. Barbara Fisher

Plastic Bag Ordinance

42. 3 similarly-worded from letters

People's Park

43. Russbumper

Homeless People Treatment

44. Diana Bohn

Berkeley Police Department Budget

45. Diana Bohn

Voluntary Dismissal of Dominquez et al Lawsuit

46. Melisa Cheatwood

Climate Change

47. Thomas Lord (4)

Electric Vehicle Charging Station Solicitation

48. Sage Feiler

COVID-19 Related Issues

49. Todd Andrew

Berkeley City Council Meeting Statement

50. Katy Scott-Smith

Hopkins Corridor

51. Bill Hickman

Rent Relief Program

52. Human Welfare and Community Action Commission

Vision Zero

53. Arvind Ramesh

54. Kristina Monakhova

55. Leo Vacher

Fighting Crime in Berkeley

56. Robyn Chen

57. Melanie Beasley, on behalf of the City Manager's Office

No Development at Aquatic Park

58. Charlene Woodcock

Street Paving

59. David Fisher

60. Jenifer Steele

61. Arthur Ogus

62. Judy Grether

Genetically Modified Mosquitoes

63. Erick Zavala

64. Robert Swanson

65. Mary Jill Seibel

66. Jaydee Hanson

Encrypted Police Radios

67. Sylvia

Solar Access

68. Pamela Drake

Social Housing

69. gvalentine@

Public Security Cameras

70. Oren Cheyette

Single-Family Homes Floor Area Ratio

71. Drake Zinns

Berkeley is Least Affordable Mid-Sized City

72. Margot Smith

Timeline to Enforce City Ordinance – Homelessness

73. Sam Kang

74. Michael Dillingham (2)

75. Laura Menard (2)

76. Lila Sklar

77. Adena Ishii

78. Olivia Wright

Porta Potty Owned by United Company

79. Debora Greene

Supplemental Communications and Reports 1

Item #20: Budget Referral: Commitment to Habitat Recovery

80. Michelle Hirsch

81. Johanna Silver

82. Jessica Fain

83. Lyn Berry

84. Martha Richards

85. David and Reed Keyes

Item 23: Budget Referral to City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided

86. 11 similarly-worded form letters

87. Amer Dhanoa

88. Ellen Archilla

89. Monique Webster

90. Rod Richardson

91. Kay Licina

92. Hilary Roberts

93. Kaethe Weingarten

94. Ben Shemuel

95. Anna Avellar

96. Walter Geist

97. Paul Litsky

98. Russ Mitchell

Item #24: Bayer Healthcare LLC – Amended and Restated Development Agreement

99. Revised material, submitted by Planning

100. Richard Taylor

101. Justin Hayes

102. Tam Le

103. Mitzy De La Pena Medina, on behalf of Biocom California

104. Jessica Hays, on behalf of Bayer U.S. LLC

Item #26: Commission Reorganization: Creating the Parks, Recreation and Waterfront Commission

105. Michael Colbruno, on behalf of the East Bay Animal Pac

Item #27: Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code

106. Revised material, submitted by Councilmember Harrison
107. Andrew Guenthner
108. Angela Powlen

Supplemental Communications and Reports 2

Item #20: Budget Referral: Commitment to Habitat Recovery

109. Amanda Posner, Darryl Collins, Rosie & Julian Collins

Item #23: Budget Referral to City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided

110. 28 similarly-worded form letters
111. Bob Flasher
112. Alan Cohen
113. Hank Reekers
114. Joan Guilford Jackson
115. Doug Giancoli
116. Katherine Woodward Thomas
117. SB Master
118. Sandra Giachino
119. Sara Sanderson
120. Lynn White
121. John Blaustein
122. Lina and Jen-Luc Lamirande
123. Robert Dering
124. Richard Hackenberg
125. David Spinner
126. Mike Rubin & Jenniffer Hamilton
127. Stefano Schiavon & Liliana Cardile
128. Maria Sakovich
129. Gary Forbes
130. Maya Trilling
131. Donna Rosenthal
132. Swati Agarwal
133. Rachel Biale
134. Les Guliasi
135. Svetlana Livdan
136. Thomas Hutcheson & Frederique Wynberg

Item #24: Bayer Healthcare LLC – Amended and Restated Development Agreement

- 137. Matthew Miyazaki
- 138. Edgar Alonzo
- 139. Phil Capitolo

Item #25: Amendments to the Berkeley Election Reform Act

- 140. ACLU of Northern California, Bay Rising, Maplight

Item #26: Commission Reorganization: Creating the Parks, Recreation and Waterfront Commission

- 141. Naomi Friedman
- 142. Christina Tworek
- 143. East Bay Animal PAC

Item #27: Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code

- 144. Revised material submitted by Councilmember Kate Harrison

Item #28: Budget Referral: Automated license plate readers for community safety improvement

- 145. 23 similarly-worded form letters
- 146. Diana Bohn
- 147. Kitt Saginor
- 148. Diana
- 149. Kitty Calavita
- 150. Elliott Halpern/ACLU Berkeley/NorthEast Bay Chapter

Supplemental Communications and Reports 3

Item #21: Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

- 151. Nicole Goehring, on behalf of Associated Builders and Contractors, Inc. Northern California Chapter

Item #22: Prioritizing Berkeley Unified School District Public Works Service Requests

- 152. Yishai Boyarin

Item #23: Budget Referral to City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided

- 153. Kyle Schriner
- 154. Susie Dickson
- 155. Monika, David, Alina, and Shannon Eisenbud
- 156. Bami Greene

- 157. Howard Hertz
- 158. Bruce Brody
- 159. Jean Krois
- 160. Gary Wolf
- 161. Barryett Enge

Item #24: Bayer Healthcare LLC – Amended and Restated Development Agreement

- 162. Geoffrey Lomax
- 163. Larry Goodman
- 164. Presentation, submitted by Planning

Item #26: Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission

- 165. Dianne Sequoia
- 166. Elaine Lee

Item #28: Budget Referral: Automated license plate readers for community safety improvement

- 167. 21 similarly-worded letters
- 168. Sally Nelson
- 169. Thomas Luce
- 170. Elana Auerbach (2)
- 171. Charlene Washington
- 172. Jack Kurzwell
- 173. Josh Buswell-Charkow
- 174. Andrew Gilbert
- 175. Kenneth Berland
- 176. Catherine Huchting
- 177. Peter Klatt
- 178. Laurie Captelli
- 179. Joe Kewekordes
- 180. Nritkaar Dhesi
- 181. Sarah Deeds
- 182. Tom Lent
- 183. Kyra Stubbotin and Henry Siegel
- 184. Pam
- 185. Alexandra Crisafulli
- 186. John Beaulaurier
- 187. Chip Harley
- 188. Anna Natille
- 189. Todd Andrew (3)
- 190. Gene Millstein
- 191. Jeff Vincent
- 192. Shannon Prokup
- 193. Linda Elkin
- 194. Rachel Schiff
- 195. Eric Angress

196. Eric Friedman
197. Bruce Feingold
198. Tracy McBride
199. Maryann OSullivan
200. Wilma Wyss
201. Kim Marklson
202. Nicole Chabot
203. Laurel Kuchinsky
204. Steve Berger
205. Steve Masover
206. E.J. Holowicki
207. Deborah Trillia
208. Robert Cohen
209. Karen Hemphill
210. Diana Bohn (2)
211. Barbara O'Hay
212. Michael A. Rodriguez
213. Lynn Signorelli
214. Diana
215. Rena Fischer
216. Sally Williams
217. Bob Hatheway
218. Kristina
219. Melissa Kachura
220. Dave
221. Brian Hofer
222. Councilmember Kate Harrison
223. Robert Glantz
224. Maggie
225. Murray Bruce
226. R. Gable



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Dee Williams-Ridley, City Manager
 Subject: City of Berkeley's 2022 State and Federal Legislative Platform

RECOMMENDATION

Adopt a Resolution approving the City of Berkeley's 2022 State and Federal Legislative Platform.

FISCAL IMPACTS OF RECOMMENDATION

Formal adoption and use of a legislative platform, by clearly indicating the City of Berkeley's priorities, may increase the City's effectiveness when competing for federal or state funding opportunities.

CURRENT SITUATION AND ITS EFFECT

At the November 5, 2021 special meeting of the City Council, Councilmembers worked with Niccolo De Luca of Townsend Public Affairs to identify both policy and funding priorities. The resulting main areas of focus are: homelessness, housing, economic development, infrastructure, public safety, sustainability and the environment, and health, as described more fully in Exhibit A. Many of these policy and funding priorities support the City's long-term Strategic Plan goals, including providing state-of-the-art, well-maintained infrastructure, providing a financially-healthy government, creating affordable housing and housing support services, creating a resilient and safe city, and continuing to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

BACKGROUND

Prior to the November 5th special meeting, Mayor Jesse Arreguín, Vice Mayor Lori Droste, Councilmember Rashi Kesarwani, together with the City Manager and City Department Directors, provided input on the City's priority areas for the 2022 state and federal legislative agenda. This input considered the City's needs as well as issues that recently focused on by the state and federal government.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

While adopting the legislative platform will not directly impact climate or improve environmental sustainability, these items will be supported by the platform through related policy and funding priorities.

RATIONALE FOR RECOMMENDATION

A formally adopted legislative platform clearly indicates the City's policy and funding priorities, allowing for more effective, targeted advocacy for the City's needs at the state and federal level.

ALTERNATIVE ACTIONS CONSIDERED

The City could choose not to formally adopt a legislative platform. This could result in missing funding opportunities and a less clear position, voice or impact during state and federal level policy discussions and decisions.

CONTACT PERSON

Dee Williams-Ridley, City Manager, (510) 981-7016

Attachments:

1: Resolution

Exhibit A: City of Berkeley's 2022 State and Federal Legislative Platform

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

CITY OF BERKELEY 2022 STATE AND FEDERAL LEGISLATIVE PLATFORM

WHEREAS, the City of Berkeley has an interest in indicating to state and federal government the City's own legislative platform; and

WHEREAS, said platform can improve the City's ability to influence state and federal policy; and

WHEREAS, said platform can improve the City's effectiveness when competing for state and federal funding opportunities; and

WHEREAS, the City of Berkeley 2022 State and Federal Legislative Platform clearly outlines the City's policy and funding priorities.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves and adopts Exhibit A, the City of Berkeley's 2022 State and Federal Legislative Platform.

Exhibits

A: City of Berkeley 2022 State and Federal Legislative Platform



M E M O R A N D U M

To: The Honorable Jesse Arreguin and Members of the Berkeley City Council
CC: Dee Williams-Ridley, City Manager

From: Christopher Townsend, President, Townsend Public Affairs, Inc.
 Niccolo De Luca, Vice President
 Ben Goldeen, Federal Senior Associate
 Andres Ramirez, Associate
 Carly Shelby, Legislative Associate
 Sammi Maciel, Federal Associate

Date: November 5, 2021
Subject: UPDATED 2022 State and Federal Legislative Agenda

Townsend Public Affairs, Inc. (TPA) has prepared this initial draft for the City of Berkeley as we move forward to adopt the City's state and federal legislative platform.

The City's legislative platform for 2022 will reflect the priorities of the Mayor, the City Council, and the people of Berkeley. The platform will include advocating for legislation, regulations, and funding that is consistent with the City's adopted goals. Once adopted, this blueprint will be shared with key stakeholders in the State Legislature and Governor's Administration as well as Congress and the Biden Administration. However, it will be necessary to remain nimble and responsive as we move through the legislative year. Our legislative agenda will be fluid as some issues will be addressed with introduced legislation.

Proposed Legislative Priorities for 2022

The State Legislature is currently in interim recess and will reconvene on January 3, to resume legislative activities. Legislators may begin introducing new pieces of legislation, many of which may be like bills that did not advance in 2021, the second year of the two-year legislative cycle. In Washington, DC Congress will begin accepting earmark requests for the Fiscal Year 2023 appropriations process as soon as February 2022.

While the 2021 legislative session faced COVID related disruptions, major pieces of legislation were signed into law. It is expected that in 2022 the State Legislature will maintain its focus on its recent priorities, including the following topics below.

- **Affordable housing**
- **Climate change**
- **COVID -19 recovery**
- **Homelessness**
- **Housing**
- **Privacy and Technology**
- **Transportation and Related Infrastructure**
- **Wildfire prevention**

Federal and State Legislative Monitoring and Potential Action

The following legislative priorities are being recommended for monitoring, analysis, and potential action. The City Council may choose to take a position on a piece of legislation, continue to monitor without a position, or determine if any further response is required.

TPA maintains a constantly updated matrix of state legislation and in years past have presented recommendations after session has started then providing rolling updates. TPA will monitor legislative activity in the following areas.

Homelessness
<p><u>Policy Priorities:</u></p> <ol style="list-style-type: none"> 1) Prevent displacement 2) Enhance emergency, transitional, and permanent housing opportunities 3) Support legislative efforts that will require counties to partner with cities when receiving direct allocation of homeless funds and have a regional focus 4) Support legislative efforts that will allocate State homeless dollars such as the HHAP program and others, based off city point in time numbers 5) Support legislative changes to Coordinated Entry requirements that allow local governments to prioritize based on local unsheltered needs 6) Support legislative efforts that have a focus on keeping people in housing, once placed, for many years
<p><u>Funding Priorities:</u></p> <ol style="list-style-type: none"> 1) Continue the state-funded emergency rent and utility assistance program for those at-risk of becoming homeless 2) Funding for homeless services (e.g., the wrap around services necessary for transitional and permanent housing), non-congregate shelters and emergency shelters, as well as operating costs for permanent housing 3) Funding for permanent housing interventions that reduce and prevent homelessness 4) Support for more mental health and behavioral health outreach services; incentivize County provision of In-Lieu of Services in the CalAIM system change 5) Funding for targeted homeless prevention programs that provide financial assistance, legal and housing navigation services 6) Funding for employment, wage-earning programs for homeless people 7) Funding for substance abuse services 8) Support funding efforts for non-congregate shelter such as Safe Parking programs and allow existing rent subsidies sources to be used to subsidize the rent at these programs 9) Support funding for homeless services (e.g., the wrap around services necessary for transitional and permanent housing) and emergency shelters, as well as operating costs for permanent housing 10) Investment in mental health treatment across the continuum of care, including efforts to support or encourage creation of additional board and care beds as well as subacute treatment and psychiatric skilled nursing facilities
Housing
<p><u>Policy Priorities:</u></p> <ol style="list-style-type: none"> 1) Help promote and support housing legislation that provides incentives to approve more housing at various income levels; fight to appeal Article 34 2) Support legislation that advances the creation or funding of affordable housing projects 3) Pursue updates to the State building code, if necessary, and to promote innovative forms of housing construction 4) Reasonable reform to CEQA to streamline development and housing opportunities 5) Support legislative and funding efforts relating to housing preservation and acquisition and operation

- 6) Support legislative efforts to protect tenants and small property owners impacted by the COVID-19 pandemic which includes residential lease terminations
- 7) Support legislative efforts to extend the State rent relief program and to bring back the eviction moratorium/eviction protections
- 8) Support legislative efforts to reduce the voter threshold for affordable housing bonds
- 9) Support legislative efforts to expand or modernize the Ellis Act and the Costa–Hawkins Rental Housing Act
- 10) Work with UC Regents to help support more opportunities for student housing
- 11) Support legislative efforts that clarify recent ADU related legislation and count ADUs towards RHNA goals
- 12) Support efforts that also encourage other forms of housing such as co-ops, public housing, and other efforts

Funding Priorities:

- 1) Support for soft-story seismic retrofits
- 2) Funding support for housing programs that advance racial equity
- 3) Funding for innovative programs to prevent displacement and address hazardous housing conditions
- 4) Enhance funding of state programs for operating costs that support permanent affordable housing for individuals with area median income up to 120 percent (which includes extremely low-income up to moderate incomes, i.e., workforce housing)
- 5) Enhance funding opportunities for existing state programs to help support bicycle and pedestrian infrastructure in connection to housing
- 6) Develop a state funding program that can support small sites acquisition and rehab (like San Francisco)
- 7) Expand funding for affordable housing on transit agency sites
- 8) Support funding for remediation of hazardous sites (to make viable for housing)
- 9) Support efforts to create more student housing funding opportunities

Economic Development

Policy Priorities:

- 1) Support for arts and cultural spaces, arts education, and outdoor commerce
- 2) Measures providing for new tax increment financing opportunities (i.e., business district establishment)
- 3) Efforts to encourage the development of sectors (and real estate sites) that align with quality job opportunities in local manufacturing, light industrial, bioscience, research and development, and other priority industry sectors. This includes environmental remediation of large industrial sites for redevelopment into research and development and/or life sciences use
- 4) Cannabis Tax reform which includes lowering taxes and tax simplification
- 5) Support efforts to address the digital divide
- 6) Support legislation relating to Online Sales Tax Distribution Formula reform
- 7) Support legislative and other efforts for programs that create pathways out of poverty
- 8) Support legislative efforts to create public banks

Funding Priorities:

- 1) Support for small business recovery, tourism/visitor recovery and other business sectors deeply impacted by the COVID-19 pandemic
- 2) Support funding for environmental remediation at the Pacific Steel site and other toxic sites throughout the City
- 3) Support funding for public landmarks (Civic Center, Veterans Building and Civic Center Plaza revitalization)

- 4) Loan access for minority- and women-owned businesses who experience difficulties in accessing loans from private banks

Infrastructure

Policy Priorities:

- 1) Support developing advanced technological infrastructure to address growing threats as well as expanded initiatives
- 2) Funding for programmatic implementation of hardware and software to ensure security
- 3) Funding for programmatic initiatives to advance use of technology in partnership with delivering cutting edge and strategic programs
- 4) Funding for upgrading and updating outdated technological infrastructure
- 5) Measures affecting funding for roads, transit, “last mile” projects and goods movement as well as alternative modes of transportation (bikes, ebikes, scooters, etc.), and support the needs of the disabled community
- 6) Support efforts to help commuters and increase public transportation
- 7) Measures that tax ride sharing networks and help reduce vehicle congestion
- 8) Measures that support data sharing of TNCs with local government
- 9) Support regional transportation projects that would provide a benefit to the City and surrounding communities
- 10) Support for public infrastructure in the Waterfront including Pier and Marina, Maudelle Shirek (Old City Hall), Veterans Building, African American Holistic Resource Center, and San Pablo Park and Pool
- 11) Increasing resiliency of public infrastructure from threats of climate change
- 12) Support for public infrastructure that supports ADA access to all City facilities including buildings, Right of Way, and Parks
- 13) Support equity in infrastructure by improving City facilities and amenities in South and West Berkeley

Funding Priorities:

- 1) Increased funding for bicycle and pedestrian safety improvements
- 2) Increased funding for undergrounding
- 3) Increased funding to address wildland urban interface
- 4) Funding to electrify and add e-charging in public facilities and for the public fleet and to provide public e-charging stations
- 5) Funding for the Safe Routes to School program
- 6) Funding for improving, restoring, and enhancing public infrastructure including landmark sites (e.g., Maudelle Shirek) and the Berkeley Marina and Piers area
- 7) Funding for lifting equity through an African American Holistic Resource Center
- 8) Funding to enhance and build low income neighborhood recreation facilities to address neighborhood youth engagement and enrichment. (i.e., San Pablo Park and Pool)
- 9) Funding for cyber security and necessary, related technological improvements
- 10) Funding for riding transit especially when linked to housing

Public Safety

Policy Priorities:

- 1) Support automated speed enforcement legislation and to seek alternatives to sworn traffic/parking enforcement
- 2) Support disaster preparedness, training, response, and resilience efforts
- 3) Criminal justice reform
- 4) Support additional efforts to help prevent violence such as mental health services, supporting street outreach teams, focusing on other individuals before they are at risk
- 5) Support efforts that reimagine public safety and incorporate community-based organizations to help address problems

- 6) Support efforts to increase peace officer accountability and provide a means of decertifying police officers who engage in serious misconduct
- 7) Support legislative efforts that seek to legalize safe crossings for pedestrian's aka 'jaywalking', allows cyclists to treat stop signs as yield signs, red lights as stop signs and yield at traffic light intersections if they're making a right-hand turn, and other related efforts
- 8) Support legislative modifications to the CalVIP program to help cities such as Berkeley

Funding Priorities:

- 1) Support funding opportunities for alternative traffic enforcement efforts
- 2) Support funding opportunities for violence prevention services
- 3) Support funding opportunities for dispatch and service redesign or expansion
- 4) Support wildland fire mitigation grants to support home hardening, vegetation management and suppression and response such as low or no-interest loan/grant programs to assist homeowners in clearing hazardous vegetation and hardening homes in high fire hazard zones
- 5) Support funding opportunities for community paramedicine and alternative destination protocols
- 6) Support funding/resources for analysis, development and implementation of road network for wildfire evacuation programs
- 7) Support funding for park access and ADA amenities
- 8) Support funding for law enforcement engagement and community-centered collaborative approaches in support of reimagining public safety efforts (Specialized Care Unit)

Sustainability and the Environment

Policy Priorities:

- 1) Support legislative efforts to incentivize Low-Carbon Construction: ability to and tools for incentivizing lower-carbon construction with fees from higher-carbon construction projects.
- 2) Support legislative efforts relating to electric bicycles: legislation to subsidize electric bicycle purchase, in coordination with electric vehicle subsidies.
- 3) Measures that provide new tools and potential revenue opportunities to address illegal dumping
- 4) Measures that support regional planning for a climate change strategy which includes sea level rise
- 5) Support efforts that enhance data sharing for utility companies

Funding Priorities:

- 1) Support technological advancements that reduce our draw on paper and nonrenewable resources
- 2) Support development of software infrastructure to support current and emerging initiatives in the most sustainable way possible
- 3) Funding for enhancing capacity in Information Department to support ongoing movement towards sustainable systems that require forward thinking processes and modern technological systems
- 4) Support funding to address sea level rise along waterfront and Aquatic Park (inclusive of state lands)
- 5) Support funding for electrification and seismic retrofitting of care and shelter facilities
- 6) Support for reaching Climate Action Plan, Clean Water, and Resilience Plan goals
- 7) Support funding for Zero Waste efforts
- 8) Support funding for more EV charging stations at apartments and elsewhere

Health

Policy Priorities:

- 1) Support legislative efforts that will require counties to partner with cities relating to unspent Prop 63 mental health funds
- 2) Support legislative and other efforts to keep Alta Bates Hospital open and operating

- 3) Support legislative efforts that support and increase psychiatric care facilities and acute care facilities
- 4) Support legislative efforts to protect the rights of women and reproductive health
- 5) Support legislative efforts that increase services such as mental health, substance abuse, treatment beds and other services for people living in encampments and in unsheltered settings
- 6) Support legislative efforts that existing mental health and substance programming prioritize people who are referred by the homeless system
- 7) Support legislative efforts that soften data sharing constraints at the Federal level: HIPAA contains broad information-sharing allowances among “treatment providers” for the purposes of “care coordination”—issue guidance defining homeless encampment or homeless-serving teams as “treatment providers” and making it clear that information can be shared on a need-to-know basis
- 8) Support legislative efforts related to oversight of guardians, receivership, and other forms of care

Funding Priorities:

- 1) Support funding and regulatory changes to advance for emergency readiness, particularly in relation to public health
- 2) Support funding efforts relating to mental health treatment, substance abuse treatment, and other related services

Miscellaneous

Policy Priorities:

- 1) Support legislative efforts to make changes to the Brown Act to help encourage greater public participation and further encourage online meetings
- 2) Support legislative efforts to address the way ballot measures are formulated, worded, and advertised
- 3) Support funding for emergency readiness, particularly in relation to public health

One Time State and Federal Funding Priorities for “Member Request” Consideration

As we have seen at both the Federal and State level, new initiatives and various funding opportunities have taken form over the last year. As an example, there is the possibility of an increase in federal infrastructure grants being available in 2022 should Congress pass the two pending infrastructure bills. This also includes both legislative provisions that direct approved funds to be spent on specific projects, sometimes referred to as “Member Requests” or “Congressionally Directed Spending”.

As it relates to state and federal “Member Requests”/ “Congressionally Directed Spending”, our recommended strategy is for the adopted Legislative Platform to include a handful of funding buckets that capture various project themes. This provides the City with the highest amount of flexibility as it is important to not only reflect the priorities of the state and federal lawmakers who sponsor these requests, but also to ensure that the City’s projects fit the eligibility requirements of the various state and federal funding sources.

These buckets include:

- *Affordable Housing/Homelessness* which could include funding for encampment efforts, mental health efforts, gap funding for affordable housing projects,
- *Infrastructure Improvements* which could include funding for enhancements to the Berkeley Marina and Piers, active transportation enhancements which includes bicycle and pedestrian upgrades, and other related items.

- *Climate Resiliency* which could include funding for urban forestry interface, wildfire prevention, cooling centers, HVAC upgrades, and other related items.

Process for Reporting/Next Steps

In addition to weekly legislative updates and other communications we send to the City Team, TPA suggests verbal reports to the City Council when the State Legislature is on recess. For example, we would report out in April while they are on Spring Recess, during July while they are on Summer Recess, and in November or December when Session has concluded.

Due to the ever-changing nature of legislation in Sacramento and Washington, TPA will provide monthly updates which can be shared with the City Council.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: LaTanya Bellow, Interim Deputy City Manager, City Manager's Office
 Subject: Extension of Interim Director of Police Accountability Appointment

RECOMMENDATION

Adopt a Resolution extending the appointment of Katherine J. Lee as Interim Director of Police Accountability and approving an employment contract to be effective January 1, 2022 at an annual salary of \$182,260.65.

FISCAL IMPACTS OF RECOMMENDATION

The salary and benefits for the Interim Director of Police Accountability are included in the FY 2022 Proposed Budget for the newly-established Office of the Director of Police Accountability. The annual salary for Ms. Lee is \$182,260.65, which is within the salary range for the position that was approved by City Council on May 25, 2021.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to Resolution 69,531–N.S. that was adopted by the City Council on July 28, 2020, City staff has taken the following action so that the Police Accountability Board can commenced its work on July 1, 2021:

- Issued an application to solicit community interest in the Police Accountability Board (“Board”) and on June 1, 2021, the Mayor and City Council adopted Resolution 69,916-N.S. consisting of appointments of the nine (9) members to the Board.
- On May 25, 2021, the City Council adopted Resolution amending Resolution 69,538-N.S. to establish the unrepresented classification of Director of Police Accountability with a monthly salary range of \$11,862.93 - \$17,794.40, effective May 25, 2021.

City staff has hired the Byers Group Executive Recruitment firm to assist the City in filling the Director of Police Accountability position on a permanent basis. It is anticipated that the recruitment will take approximately six (6) months. Until the recruitment process is complete and City Council has appointed an individual to serve as the permanent Director of Police Accountability, City Council is being asked to approve the attached Resolution extending the appointment of Katherine J. Lee as the

Interim Director of Police Accountability. The Interim Director will serve at the preference of City Council.

Ms. Lee is well qualified to serve as the City's Interim Director of Police Accountability. She has an extensive background in civilian police oversight and public administration and has been recognized by the National Association for Civilian Oversight for Law Enforcement as a Certified Practitioner of Oversight. In addition, Ms. Lee has served the City of Berkeley capably and well for more than 30 years, serving as a Deputy City Attorney in the City Attorney's Office, a Senior Hearing Examiner at the Rent Board, and for the last six (6) years as the Police Review Commission Officer for the Police Review Commission. Finally, Ms. Lee received a law degree from the Georgetown University Law Center and her undergraduate degree from the University of California, Berkeley.

The attached Agreement provides that Ms. Lee shall serve as Interim Director of Police Accountability for six (6) months commencing on July 1, 2021 and that she shall serve as the Interim Director of Police Accountability until the City Council either acts to appoint a Director of Police Accountability or terminates her interim appointment. Should the City Council determine that it will not retain Ms. Lee as Interim Director of Police Accountability, Ms. Lee's release would constitute a layoff and she would be entitled to exercise her rights under Section 10.8 of the Unrepresented Employee Manual regarding Employee Retreat Rights. Pursuant to the Agreement, Ms. Lee shall receive an annual salary of \$182,260.65, which is within the salary range for the Director of Police Accountability approved by the City Council.

BACKGROUND

In 1973, a ballot measure was adopted to establish a Police Review Commission for the community to participate in setting Police Department policies, practices, and procedures and to provide a means for investigation of complaints against sworn employees of the Police Department. The existing Police Review Commission consists of nine (9) commissioners who are appointed by the Mayor and City Council, and is supported by three (3) full-time equivalent (FTE) employees.

On November 3, 2020, Berkeley voters adopted Measure II, a Charter Amendment that established the Office of the Director of Police Accountability that consists of a new position, Director of Police Accountability, and the Police Accountability Board. The Police Accountability Board replaces the existing Police Review Commission.

Pursuant to Measure II, the purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department. The Director of Police

Accountability, a position to be filled by the City Council at a noticed public meeting, is responsible for investigating complaints filed against sworn employees of the Berkeley Police Department, carrying out the work of the Police Accountability Board, and overseeing the day-to-day operations of the Office of the Director of Police Accountability, amongst other responsibilities as outlined in Measure II. Both the Police Accountability Board and Director of Police Accountability are independent of the City Manager, except for administrative purposes, and report to the Mayor and City Council.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental impacts from the action being requested by City Council.

RATIONALE FOR RECOMMENDATION

Ms. Lee has an extensive background in civilian police oversight and public administration and as a long-standing employee with the City, she is well qualified to assume the responsibilities of the Interim Director of Police Accountability and will ensure a seamless transition from the Police Review Commission to the Office of the Director of Police Accountability.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

LaTanya Bellow, Interim Deputy City Manager, City Manager's Office, (510) 981-7012

Attachments:

1: Resolution

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

EXTENSION OF THE APPOINTMENT OF KATHERINE J. LEE AS INTERIM DIRECTOR
OF POLICE ACCOUNTABILITY

WHEREAS, Section 125 of the City Charter provides that the Director of Police Accountability shall be appointed by the City Council to implement Measure II adopted on November 3, 2020, oversee the operations of Office of the Director of Police Accountability and carryout the work of the Police Accountability Board; and

WHEREAS, Katherine J. Lee has an extensive background in civilian police oversight and public administration and has been recognized by the National Association for Civilian Oversight for Law Enforcement as a Certified Practitioner of Oversight; and

WHEREAS, Ms. Lee received her law degree from the Georgetown University Law Center and her undergraduate degree from the University of California, Berkeley; and

WHEREAS, Ms. Lee has served the City of Berkeley capably and well for more than 30 years, serving as a Deputy City Attorney in the City Attorney's Office, a Senior Hearing Examiner at the Rent Board, and for the last six (6) years as the Police Review Commission Officer for the Police Review Commission; and

WHEREAS, on June 29, 2021, the City Council adopted Resolution 69,939-N.S. authorizing the appointment of Ms. Lee as Interim Director of Police Accountability, for a six-month period effective July 1, 2021; and

WHEREAS, the City Council now desires to extend the appointment of Ms. Lee as Interim Director of Police Accountability for an additional six-month period, effective January 1, 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that that it hereby extends the appointment of Katherine J. Lee as the Interim Director of Police Accountability, effective January 1, 2022 on the terms and conditions set forth in the Contract Amendment attached hereto as Exhibit A.

Exhibit

A: Contract Amendment by and between the City of Berkeley and Katherine J. Lee

AMENDMENT TO CONTRACT

This Amendment to Contract is entered into on December 14, 2021 between the CITY OF BERKELEY ("City"), a Charter City organized and existing under the laws of the State of California, and KATHERINE J. LEE ("LEE"), collectively "the parties", who agree as follows:

WHEREAS, the parties previously entered into a contract (authorized by Resolution 69,939-N.S.) dated June 29, 2021, which contract set forth the terms and conditions of LEE's employment as Interim Director of Police Accountability; and

WHEREAS, the Charter of the City of Berkeley, Section 125, vests the City Council with the sole authority to employ a Director of Police Accountability; and

WHEREAS, the City Council desires to extend the duration of LEE's appointment as the Interim Director of Police Accountability of the City of Berkeley for an additional six-month period or until such time as the Council appoints a Director of Police Accountability or terminates LEE's Interim appointment.; and

WHEREAS, the City Council has authorized an amendment of said contract as set forth below:

1. Section 1. is amended to read as follows:

1. COMMENCEMENT AND TERMINATION OF EMPLOYMENT
 - a. The City Council hereby employs Lee as the Interim Director of Police Accountability, and she hereby accepts employment as the Interim Director of Police Accountability for a period of twelve months commencing on July 1, 2022. Lee shall continue to serve as Interim Director of Police Accountability until such time as the Council either takes action to appoint a Director of Police Accountability, or terminates her Interim appointment.
 - b. Pursuant to Charter section 125, Lee shall serve at the pleasure of the Council and may be removed from office by a two-thirds vote of the City Council with or without cause.

2. In all other respects, the contract dated June 29, 2021, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to Contract which shall be effective upon approval by the City Council.

CITY OF BERKELEY

KATHERINE J. LEE

By: _____

By: _____

Jesse Arreguin, Mayor

Katherine J. Lee

CITY OF BERKELEY

CITY OF BERKELEY

Approved as to form:

Registered:

By: _____

By: _____

Farimah Faiz Brown, City Attorney

Jenny Wong, City Auditor

By: _____

Mark Numainville, City Clerk



City Manager's Office

CONSENT CALENDAR

December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Matthai Chakko, Assistant to the City Manager, CMO

Subject: Protiviti Government Services: Using General Services Administration (GSA)
Vehicle for Professional Services Purchase OrdersRECOMMENDATION

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 \$70,000 through November 8, 2022.

FISCAL IMPACTS OF RECOMMENDATION

One-time funding for this project is available in the General Fund. Spending for this contract in future fiscal years will be subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

\$70,000 FY 2022: Professional Services Budget Code: 011-21-201-000-0000-000-412-612990- (City Manager's Office, Professional Services)

\$70,000 Total FY 2022 Professional Services

CURRENT SITUATION AND ITS EFFECTS

The City's Communications Division is currently working on the Website Reinvention Project, which is a centerpiece of the City's communications strategy. A critical part of the project is the migration of re-written content from the current website to a new content management system cloud platform. We identified gaps in staffing for this work after analysis of the contract with Rolling Orange, the agency contracted for the website redesign.

After the website launch, slated in January-February 2022, the site will require consultant expertise to be available to offer continuing support, bug fixes, and quality control for successful implementation and completion. Any delay in getting the resources would delay the project.

Key efforts to since the Spring include: 1) Rewriting 100+ pages of 300+ for new website; 2) Setting up development server for new CMS page entry and development; 3) Identifying pages to migrate without revisions; 4) Hiring two new Digital Communications Coordinators to be project managers and writers for the website.

The number of pages and resources being migrated exceeds our resource capacity. For successful implementation of this project, we need expert level skills in website database development and content migration. Robert Half consultants would help us bridge the gap and allow us to complete the project on time.

Additionally, the City regularly participates in purchasing vehicles, or Master Award Schedules (MAS) negotiated by GSA. GSA negotiates long-term contracts for prices on supplies, products, and services with suppliers on behalf of government agencies, including local government, that ensure volume discount pricing.

BACKGROUND

The Communications Division restarted the Website Reinvention Project since its delay from the COVID-19 pandemic and the departure of a key staff member leading the project. As a result of the weekly analysis of the project status and calendar by the new team, we identified the number of pages that need to be migrated to the new CMS platform, Drupal on Acquia Cloud, and the actual number of hours the website design agency would be able to devote to migration of said pages. We further identified a large difference in the number of webpages and website assets (files, images, etc.) left to be migrated, work for which would be beyond the resources of the small Web Team.

Consultants who specialize in website migration and CMS databases will help us in page migration coverage, as well as provide support for post-launch activities, such as code fixes, additional page development, and quality control.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Protiviti Government Services staffs will conduct their work remotely thus reducing greenhouse gas emissions from travel to and from City facilities. There are no other identifiable environmental effects, climate impacts, or sustainability opportunities associated with this report.

RATIONALE FOR RECOMMENDATION

The City is currently using Protiviti Government Services under multiple GSA vehicles across several departments for specific professional services engagements. Protiviti Government Services works with Robert Half International to immediately source analysts with the skillset and experience required to work on these projects. Additionally, staff determined that not using Protiviti Government Services for the remainder of FY puts some of the projects in jeopardy of not being completed on time and within budget.

ALTERNATIVE ACTIONS CONSIDERED

Hiring additional internal staff to fulfill the needs were considered. However, given the deep technical expertise and knowledge required it would be difficult to hire the appropriate staff and get them trained in a timely manner for the projects.

CONTACT PERSON

Matthai Chakko, Assistant to the City Manager, (510) 981-7008

Attachments:

1. Resolution
2. GSA Authorized Federal Supply Schedule (FSS) Price List
(GSA Schedule Staffing Rates PGS_GS-35F-0280X_2026.PDF)

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

PROTIVITI GOVERNMENT SERVICES: USING GENERAL SERVICES ADMINISTRATION (GSA) VEHICLE FOR PROFESSIONAL SERVICES PURCHASE ORDERS

WHEREAS, in September 2021, the Communications team identified gaps in staffing resources for the Web Reinvention Project; and

WHEREAS, Protiviti Government Services has the expertise in operations and implementations of complex projects, and provides well-qualified analysts; and

WHEREAS, the City regularly participates in purchasing vehicles, or Master Award Schedules (MAS) negotiated by GSA, who negotiates long-term contracts for prices on supplies, products, and services with suppliers on behalf of government agencies, including local government, that ensure volume discount pricing; and

WHEREAS, one-time funding for this project is available in the General Fund, and spending for this contract in future fiscal years will be subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized 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 \$70,000 through November 8, 2022.



**GENERAL SERVICES ADMINISTRATION
FEDERAL SUPPLY SERVICE**

**AUTHORIZED FEDERAL SUPPLY SCHEDULE (FSS)
PRICE LIST**

MULTIPLE AWARD SCHEDULE

**Information Technology - PSC D399
Professional Services - PSC R704**

Protiviti Government Services, Inc.

Contract number: GS-35F-0280X
Contract period: March 11, 2016 through March 10, 2026
Contract Administrator: John Owen
Email: john.owen@roberthalfgovernment.com
Telephone: (703) 299-3507

1640 King Street, Suite 400
Alexandria, VA 22314
www.protiviti.com/government

For more information on ordering from Federal Supply Schedules go to the GSA Schedules page at GSA.gov

Large Business Concern

Price list Current as of Modification PS-0046, effective April 12, 2021

On line access to contract ordering information, terms and conditions, up to date pricing, and the option to create an electronic delivery order are available through GSA Advantage!, a menu driven database system. The INTERNET address for GSA Advantage! is: <http://GSAAdvantage.gov>.



Protiviti Government Services, Inc.

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Protiviti Government Services, Inc.

INFORMATION FOR ORDERING ACTIVITES

General Terms and Conditions:

1a. Table of awarded special item number (SIN): Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).

SINs		SIN Title
511210 511210STLOC 511210RC		Software Licenses Includes both term and perpetual software licenses and maintenance. NOTE: Subject to Cooperative Purchasing
54151 54151STLOC 54151RC		Software Maintenance Services Software maintenance services creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance services include person-to-person communications regardless of the medium used to communicate: telephone support, online technical support, customized support, and/or technical expertise which are charged commercially. NOTE: Subject to Cooperative Purchasing
541519PIV 541519PIVSTLOC 541519PIVRC		Homeland Security Presidential Directive 12 Product and Service Components PIV products and PIV services to implement the requirements of HSPD-12, FIPS-201 and associated NIST special publications. Implementation components specified under this SIN are: * PIV enrollment and registration services, * PIV systems infrastructure, * PIV card management and production services, * PIV card finalization services, * Logical access control products and services, * PIV system integration services. Installation services and FIPS 201 compliant PACS (Physical Access Control System) products. NOTE: Subject to Cooperative Purchasing
54151S 54151SSTLOC 54151SRC		Information Technology Professional Services IT Professional Services and/or labor categories for database planning and design; systems analysis, integration, and design; programming, conversion and implementation support; network services, data/records management, and testing. NOTE: Subject to Cooperative Purchasing
541611 541611RC		Management and Financial Consulting, Acquisition and Grants Management Support, and Business Program and Project Management Services. Provide operating advice and assistance on administrative and management issues. Examples include: strategic and organizational planning, business process improvement, acquisition and grants management support, facilitation, surveys, assessment and improvement of financial management systems, financial reporting and analysis, due diligence in validating an agency's portfolio of assets and related support services, strategic financial planning, financial policy formulation and development, special cost studies, actuarial services, economic and regulatory analysis, benchmarking and program metrics, and business program and project management.



Protiviti Government Services, Inc.

SINs		SIN Title
OLM	COOP PURCH DISAST PURCH	<p>OLMs are supplies and/or services acquired in direct support of an individual task or delivery order placed against a Schedule contract or BPA. OLM pricing is not established at the Schedule contract or BPA level, but at the order level. Since OLMs are identified and acquired at the order level, the ordering contracting officer (OCO) is responsible for making a fair and reasonable price determination for all OLMs.</p> <p>OLMs are procured under a special ordering procedure that simplifies the process for acquiring supplies and services necessary to support individual task or delivery orders placed against a Schedule contract or BPA. Using this new procedure, ancillary supplies and services not known at the time of the Schedule award may be included and priced at the order level.</p>
OLMSTLOC		
OLMRC		

1b. Not Applicable

1c. Labor Category Descriptions and Rates: Refer to Pages 6-20 for Contractor’s hourly labor rates and description of all corresponding job titles, experience, functional responsibility and education.

2. Maximum Order Limit:	SINs 511210, 54151, 54151S	-	\$500,000.00
	SINs 541519PIV, 541611	-	\$1,000,000.00

If the “Best Value” selection places your order over this Maximum Order, you have an opportunity to obtain a better schedule contract price. Before placing your order, contact the aforementioned contractor for a better price. The contractor may (1) offer a new price for this requirement (2) offer the lowest price available under this contract or (3) decline the order. A delivery order that exceeds the maximum order may be placed under the Schedule contract in accordance with FAR 8.404.

3. Minimum Order: \$100.00

4. Geographic Coverage: Domestic delivery within the 48 contiguous states.

5. Points of Production: Alexandria, Alexandria County, Virginia

6. Basic Discount: Prices shown herein are GSA Net (discount deducted)

7. Quantity Discount: None Offered

8. Prompt Payment Terms: Net 30 Days

9. Foreign Items: None

10a. Time of Delivery: As negotiated between Contractor and Ordering Agency



Protiviti Government Services, Inc.

10b. Expedited Delivery: Contact contractor

10c. Overnight and 2-Day Delivery: Contact contractor

10d. Urgent Requirements: Contact contractor

11. FOB Point: Destination

12a. Ordering Address: Protiviti Government Services, Inc.
1640 King Street, Suite 400
Alexandria, VA 22314

12b. Ordering Procedures: For supplies and services, the ordering procedures, information on blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR 8.405-3)

13. Payment Address: Protiviti Government Services, Inc.
c/o Bank of America
14243 Collections Center Drive
Lockbox #14243
Chicago, IL 60693

14. Warranty Provision: Standard Commercial Warranty. Please Contact Contractor

15. Export Packing Charges: Not Applicable

16. Terms and Conditions Applicable to Rental, Maintenance and Repair: Not Applicable

17. Terms and Conditions Applicable to Installation: Not Applicable



Protiviti Government Services, Inc.

18a. Terms and Conditions Applicable to Repair Parts: Not Applicable

18b. Terms and Conditions Applicable to any other Services: Not Applicable

19. List of Service and Distribution Points: Not Applicable

20. List of Participating Dealers: Not Applicable

21. Preventative Maintenance: Not Applicable

22a. Environmental Attributes, e.g., recycled, content,

Energy efficiency, and/or reduced Pollutants: Not Applicable

22b. Section 508 Compliance Information: Not Applicable

23. DUNs Number: 15-762-8210

24. SAM Database: Contractor registered and active in SAM



Protiviti Government Services, Inc.

INFORMATION TECHNOLOGY PROFESSIONAL SERVICES LABOR CATEGORY DESCRIPTIONS AND PRICING

EXPERIENCE & DEGREE SUBSTITUTION LANGUAGE

The following chart shows the allowable substitutions of education and experience.

The labor category descriptions provided below include job duties and responsibilities, as well as typical education and work experience associated with each labor category type. The academic credentials and years of experience required at each level are also provided. Education may be substituted for experience, and conversely, experience may be substituted for education in accordance with the following guidelines:

Degree Required by Labor Category	Years of Experience Credited or Equivalent
Doctorate	<ul style="list-style-type: none"> • Masters with 3 years of relevant experience • Bachelors with 6 years relevant experience
Master's Degree	<ul style="list-style-type: none"> • Bachelor's with 3 years of experience • Associates with 6 years relevant experience
Bachelor's Degree	<ul style="list-style-type: none"> • 5 Years of experience • Associates with 3 years of experience
Associate's Degree	<ul style="list-style-type: none"> • 2 years relevant experience

IT PROFESSIONAL SERVICES

- **Special Item Number 54151S – Information Technology Professional Services**
- **Special Item Number 541519PIV - Homeland Security Presidential Directive 12 Product and Service Components**

No.	Labor Category	Description
001	IT Program Manager	<p><u>Minimum/General Experience:</u> 8 years of professional work experience that provides the required knowledge, skills and training. 4 years experience in management of program/projects similar in scope and requirements to current program.</p> <p><u>Functional Responsibility:</u> Program or concurrent project planning and directing business, technical, and personnel management for a diverse group of functional activities which may include technology improvement, engineering studies, computer applications, systems development and system installation, test and deployment.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent.</p>
002	IT Project Manager	<p><u>Minimum/General Experience:</u> 6 years of professional work experience that provides the required knowledge, skills and training. 2 years experience in management of projects/tasks similar in scope and requirements to current project or program.</p> <p><u>Functional Responsibility:</u> Project planning and directing business, technical, and personnel management for a diverse group of functional activities which may include technology improvement, engineering studies, computer applications, systems development and system installation, test and deployment.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
003	Configuration Management / Quality Assurance Manager	<p><u>Minimum/General Experience:</u> 4 years experience, of which at least 2 years be specialized experience involving the analysis and design of business applications.</p> <p><u>Functional Responsibility:</u> Provides technical and administrative direction for personnel performing Configuration Management and software development tasks, including the review of work products for correctness, adherence to the design concept and to user standards, verification and validation, review of program documentation to assure government standards/requirements are adhered to, and for progress in accordance with schedules. Coordinates with the Program / Project Manager to ensure problem solution and user satisfaction. Makes recommendations, if needed, for approval of major systems installations. Prepares milestone status reports and deliveries/presentations on the system concept to colleagues, subordinates, and end user representatives.</p> <p><u>Minimum Education:</u> A Bachelor's degree in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline.</p>
004	Subject Matter Expert I	<p><u>Minimum/General Experience:</u> 4 years experience in a relevant discipline or associated operational experience. Demonstrated industry or academic expertise in one or more of the above disciplines or associated operational areas. Has knowledge of applicable technical areas and/or associated systems, architecture, their operation, capabilities, reporting mechanisms, or planned improvements.</p> <p><u>Functional Responsibility:</u> Responsible for participating in research or development within a specified technical or operational area to include requirements definition, specification, detailed design, design review, documentation, testing and deployment support.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent. The educational degree may be replaced with a certificate from a vendor supported program.</p>
005	Subject Matter Expert II	<p><u>Minimum/General Experience:</u> 6 years experience in a relevant discipline or associated operational experience. Demonstrated industry or academic expertise in one or more of the subject disciplines or associated operational areas. Has extensive knowledge of applicable technical areas and/or associated systems, architecture, their operation, capabilities, reporting mechanisms, or planned improvements.</p> <p><u>Functional Responsibility:</u> Responsible for leading research or development within a specified technical or operational area to include requirements definition, specification, detailed design, design review, documentation, testing and deployment support. Subject Matter Expert II may lead a team.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent. The educational degree may be replaced with a certificate from a vendor supported program.</p>
006	Subject Matter Expert III	<p><u>Minimum/General Experience:</u> 8 years experience in a relevant discipline or associated operational experience. Demonstrated industry or academic expertise in one or more of the subject disciplines or associated operational areas. Has extensive knowledge of applicable technical areas and/or associated systems, architecture, their operation, capabilities, reporting mechanisms, or planned improvements.</p> <p><u>Functional Responsibility:</u> Responsible for leading research or development within a specified technical or operational area to include requirements definition, specification, detailed design, design review, documentation, testing and deployment support. A Subject Matter Expert III may work independently and may lead a team in a supervisory capacity.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
007	Consultant I	<p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent. The educational degree may be replaced with a certificate from a vendor supported program.</p> <p><u>Minimum/General Experience:</u> 4 years of relevant experience.</p> <p><u>Functional Responsibility:</u> Recognized for strong expertise in industry issues and trends. Utilize functional area expertise gained through direct industry experience to assess the operational and functional baseline of an organization and its organizational components. Examples of the functional areas would include Information Technology, Human Resources, Finance, Supply, Service, etc. Work with senior managers and executives to provide industry vision and strategic direction with regard to their enterprise. Guide the determination of IT inadequacies and/or deficiencies that affect the functional area's ability to support/meet organizational goals. Generate functional area strategies for enhanced IT operations in a cross-functional area mode throughout the organization. Participate in account strategy sessions, strategic assessments and design reviews to validate enterprise approach and associated work products, such as ERP implementations. May provide guidance and direction to other professionals or act in a consulting and/or advisory capacity; coordinates resolution of complex problems and tasks, possesses ability to meet and operate under deadlines.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent.</p>
008	Consultant II	<p><u>Minimum/General Experience:</u> 6 years of relevant experience.</p> <p><u>Functional Responsibility:</u> Recognized for strong expertise in industry issues and trends. Utilize functional area expertise gained through direct industry experience to assess the operational and functional baseline of an organization and its organizational components. Examples of the functional areas would include Information Technology, Human Resources, Finance, Supply, Service, etc. Work with senior managers and executives to provide industry vision and strategic direction with regard to their enterprise. Guide the determination of IT inadequacies and/or deficiencies that affect the functional area's ability to support/meet organizational goals. Generate functional area strategies for enhanced IT operations in a cross-functional area mode throughout the organization. Participate in account strategy sessions, strategic assessments and design reviews to validate enterprise approach and associated work products, such as ERP implementations. May provide guidance and direction to other professionals or act in a consulting and/or advisory capacity; coordinates resolution of complex problems and tasks, possesses ability to meet and operate under deadlines. The Consultant II may lead a team.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent.</p>
009	Computer Specialist I	<p><u>Minimum/General Experience:</u> At least 2 years of experience in technical work. Experience in one or more of the following technical areas: H/W integration, S/W integration, training, Configuration Management or testing.</p> <p><u>Functional Responsibility:</u> Performs technical assignments under general supervision.</p> <p><u>Minimum Education:</u> Associate's degree in a relevant field of study or equivalent.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
011	Computer Specialist II	<p><u>Minimum/General Experience:</u> At least 6 years of experience in technical work. In-depth experience in one or more of the following technical areas: Development of system H/W and S/W Specifications, network design, security analysis, system administration set-up, specialized information technologies training, tactical communications integration, security accreditation, and testing.</p> <p><u>Functional Responsibility:</u> Performs complex technical assignments, may be designated as team leader.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent.</p>
012	Software / Network Engineer I	<p><u>Minimum/General Experience:</u> Training in a relevant discipline or associated operational experience.</p> <p><u>Functional Responsibility:</u> Participates in specific aspects of system implementation under the direction of senior technical personnel including development and implementation of specifications, designs, integration, testing, or documentation. May include performing installation, troubleshooting, and support of network hardware, software and applications.</p> <p><u>Minimum Education:</u> Associate's degree in a relevant field of study such as engineering, physics, computer science, or operations research, or 2 years of experience in a relevant field.</p>
013	Software / Network Engineer II	<p><u>Minimum/General Experience:</u> 4 years experience in a relevant discipline or associated operational experience. 2 years directly applicable experience in development, operations, testing, integration, or fielding of systems.</p> <p><u>Functional Responsibility:</u> Participates in or leads specific aspects of system implementation including development and implementation of specifications, designs, integration, testing, or documentation. Participates or leads development of risk management and mitigation strategy. May include performing or leading installation, troubleshooting, and support of network hardware, software and applications. The Software/Network Engineer II may lead a team.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study such as engineering, physics, computer science, information systems and operations research or equivalent. Has obtained or is currently working on professional certification.</p>
014	Software / Network Engineer III	<p><u>Minimum/General Experience:</u> 6 years experience in a relevant discipline or associated operational experience. 2 years directly applicable experience in development, operations, testing, integration, or fielding of systems.</p> <p><u>Functional Responsibility:</u> Participates in or leads specific aspects of system implementation including development and implementation of specifications, designs, integration, testing, or documentation. Participates or leads development of risk management and mitigation strategy. May include performing or leading installation, troubleshooting, and support of network hardware, software and applications. The Software/Network Engineer III can work independently and may lead a team in a supervisory capacity.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study such as engineering, physics, computer science, information systems and operations research or equivalent. Has obtained or is currently working on professional certification.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
015	Systems Analyst I	<p><u>Minimum/General Experience:</u> Training in a relevant discipline or associated operational experience.</p> <p><u>Functional Responsibility:</u> Performs system-wide analysis, primarily with respect to computer function allocations. Performs system-wide analysis, primarily with respect to software development and implementation, hardware and network deployment and reliability, maintainability and availability.</p> <p><u>Minimum Education:</u> Associate's degree in a relevant field of study such as engineering, physics, computer science, or operations research, or 2 years of experience in a relevant field.</p>
016	Systems Analyst II	<p><u>Minimum/General Experience:</u> 2 years directly relevant experience.</p> <p><u>Functional Responsibility:</u> Performs system-wide analysis, primarily with respect to computer function allocations. Performs system-wide analysis, primarily with respect to software development, hardware development and reliability, maintainability and availability. Systems Analyst II may lead a team.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study such as Computer Science/Management Information Systems or equivalent.</p>
017	Systems Analyst III	<p><u>Minimum/General Experience:</u> 4 years directly relevant experience.</p> <p><u>Functional Responsibility:</u> Performs system-wide analysis, with respect to computer functions allocations, software development, hardware development and reliability, maintainability and availability. May direct and evaluate work of other lower level analysts.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study such as Computer Science/Management Information Systems or equivalent.</p>
018	Systems Analyst IV	<p><u>Minimum/General Experience:</u> 6 years directly relevant experience.</p> <p><u>Functional Responsibility:</u> Performs system-wide analysis, with respect to computer functions allocations, software development, hardware development and reliability, maintainability and availability. Directs and evaluates work of other lower level analysts. May work independently and may lead a team in a supervisory capacity.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study such as Computer Science/Management Information Systems or equivalent.</p>
019	Systems Administrator I	<p><u>Minimum/General Experience:</u> 2 years experience, of which at least 1 year must be specialized experience in administrating computer systems. General experience includes operations experience on a large-scale computer system or a multi-server local area network.</p> <p><u>Functional Responsibility:</u> Performs the daily activities of configuration and operation of business systems which may be mainframe, mini, or client/server based. Optimizes system operation and resource utilization, and performs system capacity analysis and planning. Provides assistance to users in accessing and using business and IT systems.</p> <p><u>Minimum Education:</u> Associate's degree in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
020	Systems Administrator II	<p><u>Minimum/General Experience:</u> 4 years experience, of which at least 2 years must be specialized experience in administrating computer systems. General experience includes operations experience on a large-scale computer system or a multi-server local area network.</p> <p><u>Functional Responsibility:</u> Supervises the daily activities of configuration and operation of business systems which may be mainframe, mini, or client/server based. Optimizes system operation and resource utilization, and performs system capacity analysis and planning. Provides assistance to users in accessing and using business and IT systems. May lead a team.</p> <p><u>Minimum Education:</u> Bachelor's degree in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline.</p>
021	Systems Administrator III	<p><u>Minimum/General Experience:</u> 6 years experience, of which at least 3 years must be specialized experience in administrating computer systems. General experience includes operations experience on a large-scale computer system or a multi-server local area network.</p> <p><u>Functional Responsibility:</u> Supervises the daily activities of configuration and operation of business systems which may be mainframe, mini, or client/server based. Optimizes system operation and resource utilization, and performs system capacity analysis and planning. Provides assistance to users in accessing and using business and IT systems. May lead a team in a supervisory capacity.</p> <p><u>Minimum Education:</u> Bachelor's degree in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline.</p>
022	Computer Security Specialist I	<p><u>Minimum/General Experience:</u> This position requires a minimum of 4 years experience, of which at least 2 years must be specialized experience in defining computer security requirements for high level applications, evaluation of approved security product capabilities, and developing solutions computer security problems.</p> <p><u>Functional Responsibility:</u> Analyzes and defines security requirements. Designs, develops, engineers, and implements solutions to computer security requirements. Gathers and organizes technical information about an organization's mission goals and needs, existing security products, and ongoing programs in the computer security arena. Performs risk analyses which also includes risk assessment.</p> <p><u>Minimum Education:</u> Bachelor's degree in Electrical Engineering, Information Science, Information Systems, Computer Science, Physics, Math, or other related scientific or technical discipline.</p>
023	Computer Security Specialist II	<p><u>Minimum/General Experience:</u> This position requires a minimum of 6 years experience, of which at least 4 years must be specialized experience in defining computer security requirements for high level applications, evaluation of approved security product capabilities, and developing solutions computer security problems.</p> <p><u>Functional Responsibility:</u> Analyzes and defines security requirements. Designs, develops, engineers, and implements solutions to computer security requirements. Gathers and organizes technical information about an organization's mission goals and needs, existing security products, and ongoing programs in the computer security arena. Performs risk analyses which also includes risk assessment. May lead a team.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
		<p><u>Minimum Education:</u> Bachelor's degree in Electrical Engineering, Information Science, Information Systems, Computer Science, Physics, Math, or other related scientific or technical discipline.</p>
024	Computer Security Specialist III	<p><u>Minimum/General Experience:</u> This position requires a minimum of 8 years experience, of which at least 6 years must be specialized experience in defining computer security requirements for high level applications, evaluation of approved security product capabilities and resolution of computer security problems.</p> <p><u>Functional Responsibility:</u> Analyzes and defines security requirements. Designs, develops, engineers, and implements solutions computer security requirements. Gathers and organizes technical information about an organization's mission goals and needs, existing security products, and ongoing programs in the computer security arena. Performs risk analyses which also includes risk assessment. Provides daily supervision and direction to staff.</p> <p><u>Minimum Education:</u> Bachelor's degree in Electrical Engineering, Information Science, Information Systems, Computer Science, Physics, Math, or other related scientific or technical discipline.</p>
025	Technical Writer	<p><u>Minimum/General Experience:</u> 2 years of directly relevant experience.</p> <p><u>Functional Responsibility:</u> develops and produces technical documents. Proficient in writing and editing technical documents.</p> <p><u>Minimum Education:</u> Associates degree in a relevant field of study or equivalent.</p>
026	Clerical/Office Automation Specialist I	<p><u>Minimum/General Experience:</u> Training in a relevant discipline or associated operational experience. Experience in administrative work and extensive experience with office products such as Microsoft Office. Individual utilizes office tools in the daily administration of a project with little supervision and is an individual that can be relied upon to execute administrative tasks to satisfy company and government procedures.</p> <p><u>Functional Responsibility:</u> Applies knowledge of procedures and work routines to the performance of routine documentation, data entry, or administrative tasks.</p> <p><u>Minimum Education:</u> High school graduate or GED</p>
027	Clerical/Office Automation Specialist II	<p><u>Minimum/General Experience:</u> 2 or more year of experience in corporate and government procedures. Experience in administrative work and extensive experience with office products such as Microsoft Office. Individual utilizes office tools in the daily administration of a project with little supervision and is an individual that can be relied upon to execute administrative tasks to satisfy company and government procedures.</p> <p><u>Functional Responsibility:</u> Applies knowledge of procedures and work routines to the performance of routine documentation, data entry, or administrative tasks. May perform more complex tasks.</p> <p><u>Minimum Education:</u> High school graduate or GED</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
028	Clerical/Office Automation Specialist III	<p><u>Minimum/General Experience:</u> 4 or more years of experience in corporate and government procedures. Experience in administrative work and extensive experience with office products such as Microsoft Office. Individual utilizes office tools in the daily administration of a project with little supervision and is an individual that can be relied upon to execute administrative tasks to satisfy company and government procedures.</p> <p><u>Functional Responsibility:</u> Applies knowledge of procedures and work routines to the performance of routine documentation, data entry, or administrative tasks. May lead a team.</p> <p><u>Minimum Education:</u> High school graduate or GED</p>
029	Clerical/Office Automation Specialist IV	<p><u>Minimum/General Experience:</u> 6 or more years of experience in corporate and government procedures. Experience in administrative work and extensive experience with office products such as Microsoft Office. Individual utilizes office tools in the daily administration of a project with little supervision and is an individual that can be relied upon to execute administrative tasks to satisfy company and government procedures.</p> <p><u>Functional Responsibility:</u> Applies knowledge of procedures and work routines to the performance of routine documentation, data entry, or administrative tasks. May lead a team in a supervisory capacity.</p> <p><u>Minimum Education:</u> High school graduate or GED</p>
031	Help Desk Supervisor	<p><u>Minimum/General Experience:</u> 4 years of general experience and 2 or more years of specialized experience.</p> <p><u>Functional Responsibility:</u> Provides support to end users on a variety of issues. Identifies, researches, and resolves technical problems. Responds to telephone calls, email and personnel requests for technical support. Tracks and monitors the problem to insure a timely resolution. Has knowledge of commonly-used concepts, practices, and procedures within a particular field. Relies on instructions and pre-established guidelines to perform the functions of the job. Works under immediate supervision. Provides daily supervision and technical direction to a small team.</p> <p><u>Minimum Education:</u> Associates Degree or Formal Accreditation (e.g., CNA, CNE, MCP, MCSE, etc.)</p>
033	Data Entry Clerk I	<p><u>Minimum/General Experience:</u> Training in a relevant discipline or associated operational experience.</p> <p><u>Functional Responsibility:</u> Operates a data entry device to record or verify a variety of standard and/or complex coded or uncoded business and statistical source data into a computer. Performs a variety of tasks. Works under general supervision.</p> <p><u>Minimum Education:</u> High School Graduate or GED.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
034	Data Entry Clerk II	<u>Minimum/General Experience:</u> Training in a relevant discipline or associated operational experience.

Functional Responsibility: Operates a data entry device to record or verify a variety of standard and/or complex coded or uncoded business and statistical source data into a computer. Performs a variety of tasks. Works under general supervision. May lead a team.

Minimum Education: High School Graduate or GED.

Pricing for Labor Categories applicable to SIN 54151S and 541519PIV

PLC	SERVICE PROPOSED (e.g. Job Title/Task)	Option Year 3-11-2020 to 3-10-2021	Option Year 3-11-2021 to 3-10-2022	Option Year 3-11-2022 to 3-10-2023	Option Year 3-11-2023 to 3-10-2024	Option Year 3-11-2024 to 3-10-2025	Option Year 3-11-2025 to 3-10-2026
IT 001	IT Program Manager - Contractor Site	\$224.11	\$228.37	\$232.71	\$237.13	\$241.63	\$246.22
IT 002	IT Project Manager - Contractor Site	\$219.48	\$223.65	\$227.90	\$232.23	\$236.65	\$241.14
IT 003	Configuration Management / Quality Assurance Manager - Contractor Site	\$209.31	\$213.29	\$217.34	\$221.47	\$225.68	\$229.96
IT 004	Subject Matter Expert I - Contractor Site	\$209.13	\$213.11	\$217.16	\$221.28	\$225.49	\$229.77
IT 005	Subject Matter Expert II - Contractor Site	\$271.34	\$276.50	\$281.75	\$287.10	\$292.56	\$298.12
IT 006	Subject Matter Expert III - Contractor Site	\$395.51	\$403.03	\$410.69	\$418.49	\$426.44	\$434.54
IT 007	Consultant I - Contractor Site	\$114.08	\$116.24	\$118.45	\$120.70	\$123.00	\$125.33
IT 008	Consultant II - Contractor Site	\$140.62	\$143.29	\$146.01	\$148.79	\$151.62	\$154.50
IT 009	Computer Specialist I - Contractor Site	\$135.31	\$137.88	\$140.50	\$143.17	\$145.89	\$148.67
IT 011	Computer Specialist II - Contractor Site	\$276.33	\$281.58	\$286.93	\$292.38	\$297.94	\$303.60
IT 012	Software / Network Engineer I - Contractor Site	\$139.99	\$142.65	\$145.36	\$148.13	\$150.94	\$153.81
IT 013	Software / Network Engineer II - Contractor Site	\$187.03	\$190.58	\$194.20	\$197.89	\$201.65	\$205.48
IT 014	Software / Network Engineer III - Contractor Site	\$240.61	\$245.18	\$249.84	\$254.59	\$259.42	\$264.35
IT 015	Systems Analyst I - Contractor Site	\$119.62	\$121.90	\$124.21	\$126.57	\$128.98	\$131.43
IT 016	Systems Analyst II - Contractor Site	\$110.94	\$113.05	\$115.20	\$117.39	\$119.62	\$121.89
IT 017	Systems Analyst III - Contractor Site	\$158.68	\$161.70	\$164.77	\$167.90	\$171.09	\$174.34
IT 018	Systems Analyst IV - Contractor Site	\$192.55	\$196.21	\$199.94	\$203.74	\$207.61	\$211.56
IT 019	Systems Administrator I - Contractor Site	\$146.75	\$149.54	\$152.38	\$155.28	\$158.23	\$161.23
IT 020	Systems Administrator II - Contractor Site	\$212.98	\$217.03	\$221.15	\$225.35	\$229.63	\$234.00
IT 021	Systems Administrator III - Contractor Site	\$236.93	\$241.43	\$246.02	\$250.69	\$255.46	\$260.31
IT 022	Computer Security Specialist I - Contractor Site	\$134.97	\$137.54	\$140.15	\$142.81	\$145.53	\$148.29
IT 023	Computer Security Specialist II - Contractor Site	\$207.56	\$211.51	\$215.52	\$219.62	\$223.79	\$228.04
IT 024	Computer Security Specialist III - Contractor Site	\$226.67	\$230.98	\$235.36	\$239.84	\$244.39	\$249.04
IT 025	Technical Writer - Contractor Site	\$127.73	\$130.16	\$132.63	\$135.15	\$137.72	\$140.34
IT 026	Clerical / Office Automation Assistant I ** - Contractor Site	\$51.39	\$52.36	\$53.36	\$54.37	\$55.40	\$56.46
IT 027	Clerical / Office Automation Assistant II ** - Contractor Site	\$63.12	\$64.32	\$65.54	\$66.79	\$68.05	\$69.35
IT 028	Clerical / Office Automation Assistant III - Contractor Site	\$71.15	\$72.50	\$73.88	\$75.28	\$76.71	\$78.17
IT 029	Clerical / Office Automation Assistant IV - Contractor Site	\$84.59	\$86.19	\$87.83	\$89.50	\$91.20	\$92.93
IT 031	Help Desk Supervisor - Contractor Site	\$103.46	\$105.43	\$107.43	\$109.47	\$111.55	\$113.67



Protiviti Government Services, Inc.

Pricing for Labor Categories applicable to SIN 54151S and 541519PIV

PLC	SERVICE PROPOSED (e.g. Job Title/Task)	Option Year 3-11-2020 to 3-10-2021	Option Year 3-11-2021 to 3-10-2022	Option Year 3-11- 2022 to 3- 10-2023	Option Year 3-11- 2023 to 3- 10-2024	Option Year 3-11- 2024 to 3- 10-2025	Option Year 3-11- 2025 to 3- 10-2026
IT 033	Data Entry Clerk I ** - Contractor Site	\$46.98	\$47.87	\$48.78	\$49.71	\$50.65	\$51.62
IT 034	Data Entry Clerk II - Contractor Site	\$56.03	\$57.10	\$58.18	\$59.29	\$60.41	\$61.56
ITC001	IT Program Manager - Client Site	\$161.68	\$164.75	\$167.88	\$171.07	\$174.32	\$177.64
ITC002	IT Project Manager - Client Site	\$158.35	\$161.36	\$164.43	\$167.55	\$170.73	\$173.98
ITC003	Configuration Management / Quality Assurance Manager - Client Site	\$151.01	\$153.88	\$156.81	\$159.79	\$162.82	\$165.92
ITC004	Subject Matter Expert I - Client Site	\$169.91	\$173.14	\$176.43	\$179.78	\$183.20	\$186.68
ITC005	Subject Matter Expert II - Client Site	\$239.20	\$243.75	\$248.38	\$253.10	\$257.91	\$262.81
ITC006	Subject Matter Expert III - Client Site	\$310.17	\$316.06	\$322.07	\$328.19	\$334.42	\$340.78
ITC007	Consultant I - Client Site	\$97.20	\$99.05	\$100.93	\$102.85	\$104.80	\$106.79
ITC008	Consultant II - Client Site	\$101.45	\$103.38	\$105.34	\$107.35	\$109.38	\$111.46
ITC009	Computer Specialist I - Client Site	\$97.62	\$99.47	\$101.36	\$103.29	\$105.25	\$107.25
ITC011	Computer Specialist II - Client Site	\$276.33	\$281.58	\$286.93	\$292.38	\$297.94	\$303.60
ITC012	Software / Network Engineer I - Client Site	\$101.00	\$102.92	\$104.88	\$106.87	\$108.90	\$110.97
ITC013	Software / Network Engineer II - Client Site	\$134.93	\$137.49	\$140.10	\$142.77	\$145.48	\$148.24
ITC014	Software / Network Engineer III - Client Site	\$240.61	\$245.18	\$249.84	\$254.59	\$259.42	\$264.35
ITC015	Systems Analyst I - Client Site	\$86.31	\$87.95	\$89.62	\$91.33	\$93.06	\$94.83
ITC016	Systems Analyst II - Client Site	\$80.04	\$81.56	\$83.11	\$84.69	\$86.30	\$87.94
ITC017	Systems Analyst III - Client Site	\$114.48	\$116.66	\$118.87	\$121.13	\$123.43	\$125.78
ITC018	Systems Analyst IV - Client Site	\$192.55	\$196.21	\$199.94	\$203.74	\$207.61	\$211.56
ITC019	Systems Administrator I - Client Site	\$105.88	\$107.89	\$109.94	\$112.03	\$114.16	\$116.33
ITC020	Systems Administrator II - Client Site	\$195.98	\$199.71	\$203.50	\$207.37	\$211.31	\$215.32
ITC021	Systems Administrator III - Client Site	\$236.93	\$241.43	\$246.02	\$250.69	\$255.46	\$260.31
ITC022	Computer Security Specialist I - Client Site	\$97.39	\$99.24	\$101.12	\$103.04	\$105.00	\$107.00
ITC023	Computer Security Specialist II - Client Site	\$149.75	\$152.60	\$155.49	\$158.45	\$161.46	\$164.53
ITC024	Computer Security Specialist III - Client Site	\$163.53	\$166.63	\$169.80	\$173.03	\$176.31	\$179.66
ITC025	Technical Writer - Client Site	\$127.73	\$130.16	\$132.63	\$135.15	\$137.72	\$140.34
ITC026	Clerical / Office Automation Assistant I ** - Client Site	\$38.95	\$39.69	\$40.44	\$41.21	\$41.99	\$42.79
ITC027	Clerical / Office Automation Assistant II ** - Client Site	\$54.35	\$55.38	\$56.44	\$57.51	\$58.60	\$59.72
ITC028	Clerical / Office Automation Assistant III - Client Site	\$55.08	\$56.12	\$57.19	\$58.28	\$59.38	\$60.51
ITC029	Clerical / Office Automation Assistant IV - Client Site	\$61.03	\$62.19	\$63.37	\$64.58	\$65.80	\$67.05
ITC031	Help Desk Supervisor - Client Site	\$74.64	\$76.06	\$77.51	\$78.98	\$80.48	\$82.01
ITC033	Data Entry Clerk I ** - Client Site	\$33.89	\$34.54	\$35.19	\$35.86	\$36.54	\$37.24
ITC034	Data Entry Clerk II - Client Site	\$56.03	\$57.10	\$58.18	\$59.29	\$60.41	\$61.56



Protiviti Government Services, Inc.

PROFESSIONAL SERVICES LABOR CATEGORY DESCRIPTIONS AND PRICING
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EXPERIENCE & DEGREE SUBSTITUTION LANGUAGE

The following chart shows the allowable substitutions of education and experience.

The labor category descriptions provided below include job duties and responsibilities, as well as typical education and work experience associated with each labor category type. The academic credentials and years of experience required at each level are also provided. Education may be substituted for experience, and conversely, experience may be substituted for education in accordance with the following guidelines:

Degree Required by Labor Category	Years of Experience Credited or Equivalent
Doctorate	<ul style="list-style-type: none"> • Masters with 3 years of relevant experience • Bachelors with 6 years relevant experience
Master's Degree	<ul style="list-style-type: none"> • Bachelor's with 3 years of experience • Associates with 6 years relevant experience
Bachelor's Degree	<ul style="list-style-type: none"> • 5 Years of experience • Associates with 3 years of experience
Associate's Degree	<ul style="list-style-type: none"> • 2 years relevant experience

No.	Labor Category	Description
001	Program Manager	<p><u>Minimum/General Experience:</u> 10 years of professional work experience that provides the required knowledge, skills and training. Four years' experience in management of projects similar in scope and requirements to current program.</p> <p><u>Functional Responsibility:</u> Planning and directing technological improvements and project management implementation. Manage a diverse group of functional activities, subordinate groups of technical and administrative personnel</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent.</p>
002	Project Manager	<p><u>Minimum/General Experience:</u> 8 years of professional work experience that provides the required knowledge, skills and training. Two years' experience in management of projects/tasks similar in scope and requirements to current program.</p> <p><u>Functional Responsibility:</u> Provides business, technical, and personnel management for individual projects, such as engineering studies, computer applications and systems development.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
003	Executive Management Consultant I	<p><u>Minimum/General Experience:</u> 2 years experience in a relevant discipline or associated operational experience. Demonstrated industry or academic expertise in one or more of the above disciplines or associated operational areas. Has knowledge of applicable business/industry domains.</p> <p><u>Functional Responsibility:</u> Responsible for participating in research or development within a specified technical or operational area to include requirements definition, specification, detailed design, design review, documentation and testing.</p> <p><u>Minimum Education:</u> Associate's degree in a relevant field of study or equivalent. The educational degree may be replaced with a certificate from a vendor supported program.</p>
004	Executive Management Consultant II	<p><u>Minimum/General Experience:</u> 4 years experience in a relevant discipline or associated operational experience. Demonstrated industry or academic expertise in one or more of the above disciplines or associated operational areas. Has knowledge of applicable business/industry domains.</p> <p><u>Functional Responsibility:</u> Responsible for participating in research or development within a specified technical or operational area to include requirements definition, specification, detailed design, design review, documentation and testing.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent. The educational degree may be replaced with a certificate from a vendor supported program.</p>
005	Executive Management Consultant III	<p><u>Minimum/General Experience:</u> 8 years experience in a relevant discipline or associated operational experience. Demonstrated industry or academic expertise in one or more of the subject disciplines or associated operational areas. Has extensive knowledge of applicable business/industry domains..</p> <p><u>Functional Responsibility:</u> Responsible for leading research or development within a specified technical or operational area to include requirements definition, specification, detailed design, design review, documentation and testing.</p> <p><u>Minimum Education:</u> Master's degree in a relevant field of study or equivalent. The educational degree may be replaced with a certificate from a vendor supported program.</p>
006	Management Consultant I	<p><u>Minimum/General Experience:</u> 4 years of relevant experience</p> <p><u>Functional Responsibility:</u> Recognized for strong expertise in industry issues and trends. Utilize functional area expertise gained through direct industry experience to assess the operational and functional baseline of an organization and its organizational components. Examples of the functional areas would include Human Resources, Finance, Supply, Service, etc. Work with senior managers and executives to provide industry vision and strategic direction with regard to their enterprise. Participate in account strategy sessions, strategic assessments and design reviews to validate enterprise approach and associated work products, such as ERP implementations. Provides guidance and direction to other professionals, acts in a consulting and/or advisory capacity; coordinates resolution of highly complex problems and tasks, possesses ability to meet and operate under deadlines.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
007	Management Consultant II	<p><u>Minimum/General Experience:</u> 7 years of relevant experience</p> <p><u>Functional Responsibility:</u> Recognized for strong expertise in industry issues and trends. Utilize functional area expertise gained through direct industry experience to assess the operational and functional baseline of an organization and its organizational components. Examples of the functional areas would include Human Resources, Finance, Supply, Service, etc. Work with senior managers and executives to provide industry vision and strategic direction with regard to their enterprise. Participate in account strategy sessions, strategic assessments and design reviews to validate enterprise approach and associated work products, such as ERP implementations. Provides guidance and direction to other professionals, acts in a consulting and/or advisory capacity; coordinates resolution of highly complex problems and tasks, possesses ability to meet and operate under deadlines.</p> <p><u>Minimum Education:</u> Master's degree in a relevant field of study or equivalent.</p>
008	Analyst I	<p><u>Minimum/General Experience:</u> 2 years directly relevant experience</p> <p><u>Functional Responsibility:</u> Conducts research, utilizing institution library, archives, and collections, and other sources of information, to collect, record, analyze and evaluate facts. Discusses findings with other personnel to evaluate validity of findings</p> <p><u>Minimum Education:</u> Associate's degree in a relevant field of study or equivalent</p>
009	Analyst II	<p><u>Minimum/General Experience:</u> 4 years directly relevant experience.</p> <p><u>Functional Responsibility:</u> Performs research and development in collaboration with others on projects. Makes detailed observations, analyzes data, and interprets results. Prepares technical reports, summaries, protocols, and quantitative analyses.</p> <p><u>Minimum Education:</u> Bachelor's degree in a relevant field of study or equivalent</p>
010	Meeting Facilitator	<p><u>Minimum/General Experience:</u> 3 years of relevant experience</p> <p><u>Functional Responsibility:</u> Assisting teams in identifying discussion topics, developing agendas for collaborative sessions, leading/facilitating sessions, preparing feedback on sessions and distributing them to session groups for review.</p> <p><u>Minimum Education:</u> Associate's degree in a relevant field of study or equivalent</p>
011	Policy Analyst I	<p><u>Minimum/General Experience:</u> 2 years of relevant experience</p> <p><u>Functional Responsibility:</u> Support research, development or review of various studies, assessments, policies and reports. Duties will include information gathering from various sources, report preparation, and interface with the client in order to resolve issues or present status of various assignments. Conduct and/or attend meetings and conferences for the benefit of the client.</p> <p><u>Minimum Education:</u> Bachelor's Degree required in Political Science, Economics, Computer Science, or equivalent.</p>



Protiviti Government Services, Inc.

No.	Labor Category	Description
012	Policy Analyst II	<p><u>Minimum/General Experience:</u> 5 years of relevant experience</p> <p><u>Functional Responsibility:</u> Support research, development or review of various studies, assessments, policies and reports. Duties will include information gathering from various sources, report preparation, and interface with the client in order to resolve issues or present status of various assignments. May lead a team of analysts to support project activities. Conduct and attend meetings and conferences for the benefit of the client.</p> <p><u>Minimum Education:</u> Bachelor’s Degree required in Political Science, Economics, Computer Science, or equivalent.</p>
013	Support Specialist I	<p><u>Minimum/General Experience:</u> 0-2 years of general office experience</p> <p><u>Functional Responsibility:</u> Performs a variety of clerical duties and support functions. Receives and processes incoming and outgoing mail. Sorts, copies and distributes reports, documents and files. Completes basic word processing and filing tasks. Provides miscellaneous assistance as required. May assist with overflow work from Support Specialist II.</p> <p><u>Minimum Education:</u> High school graduate or GED</p>
014	Support Specialist II	<p><u>Minimum/General Experience:</u> 2-3 years of general office experience.</p> <p><u>Functional Responsibility:</u> Performs administrative and office support activities for multiple supervisors. Types and assembles letters, memos, and reports. Answers questions and directs telephone calls and visitors. Prepares documents. Assembles and maintains statistical data. Performs and oversees specific projects and programs as assigned.</p> <p><u>Minimum Education:</u> High school graduate or GED</p>

	GSA Labor Category	Option Year 4-12-2020 to 3-10-2021	Option Year 3-11-2021 to 3-10-2022	Option Year 3-11-2022 to 3-10-2023	Option Year 3-11-2023 to 3-10-2024	Option Year 3-11-2024 to 3-10-2025
001	Program Manager	\$176.17	\$179.70	\$183.29	\$186.96	\$190.70
002	Project Manager	\$114.29	\$116.58	\$118.91	\$121.29	\$123.71
003	Executive Management Consultant I	\$177.58	\$181.13	\$184.76	\$188.45	\$192.22
004	Executive Management Consultant II	\$276.46	\$281.99	\$287.63	\$293.38	\$299.25
005	Executive Management Consultant III	\$326.04	\$332.56	\$339.22	\$346.00	\$352.92
006	Management Consultant I	\$145.59	\$148.51	\$151.48	\$154.51	\$157.60
007	Management Consultant II	\$186.38	\$190.11	\$193.91	\$197.79	\$201.75
008	Analyst I	\$71.20	\$72.62	\$74.07	\$75.55	\$77.06
009	Analyst II	\$105.30	\$107.41	\$109.56	\$111.75	\$113.99
010	Meeting Facilitator	\$69.09	\$70.48	\$71.89	\$73.32	\$74.79
011	Policy Analyst I	\$118.82	\$121.20	\$123.62	\$126.09	\$128.61
012	Policy Analyst II	\$177.58	\$181.13	\$184.76	\$188.45	\$192.22
013	*Support Specialist I	\$32.13	\$32.77	\$33.43	\$34.10	\$34.78
014	*Support Specialist II	\$39.70	\$40.49	\$41.30	\$42.13	\$42.97



Protiviti Government Services, Inc.

SCA Eligible Labor Category	SCA Equivalent Code Title	Wage Determination No
Support Specialist I	01070-Document Preparation Clerk	2015-4281 Rev 16
Support Specialist II	0111-General Clerk I	2015-4281 Rev 16

Service Contract Labor Standards: The Service Contract Labor Standards (SCLS), formerly known as the Service Contract Act (SCA), is applicable to this contract as it applies to the entire Multiple Award Schedule (MAS) and all services provided. While no specific labor categories have been identified as being subject to SCLS/SCA due to exemptions for professional employees (FAR 22.1101, 22.1102 and 29 CFR 541.300), this contract still maintains the provisions and protections for SCLS/SCA eligible labor categories. If and / or when the contractor adds SCLS/SCA labor categories to the contract through the modification process, the contractor must inform the Contracting Officer and establish a SCLS/SCA matrix identifying the GSA labor category titles, the occupational code, SCLS/SCA labor category titles and the applicable WD number. Failure to do so may result in cancellation of the contract.



Office of the City Manager

CONSENT CALENDAR
December 14, 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 December 14, 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.

Total estimated cost of items included in this report is **\$960,000**.

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
West Berkeley Service Center and Public Health Offices at 1947 Center Street, 2 nd Floor Furniture	011	General Fund	\$100,000
King Pool Plaster and Tile replacement (PRWT122011) and West Campus Pool Plaster and Tile Replacement and Filter Replacement (PRWPK22006)	511 011	General Fund	\$860,000
Total:			\$960,000

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) 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 AND CLIMATE IMPACTS

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 December 14, 2021
 - a) West Berkeley Service Center and Public Health Offices at 1947 Center Street, 2nd Floor Furniture
 - b) King Pool Plaster and Tile replacement (PRWT122011) and West Campus Pool Plaster and Tile Replacement and Filter Replacement (PRWPK22006)

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

DATE SUBMITTED: December 14, 2021

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
22-11487-C	West Berkeley Service Center and Public Health Offices at 1947 Center Street, 2 nd Floor Furniture	12/15/2021	1/15/2022	Furniture such as desks, cabinets, dividers, tables, suitable to support and office environment and client services.	\$100,000	HHPGHO2201 – nonperson-General-Furniture GL code is: 011-51-506-555-0000-000-451-651120	HHCS/ Public Health	Janice Chin 981-5121
Dept TOTAL					\$100,000			
22-11489-C	King Pool Plaster and Tile replacement (PRWT122011) and West Campus Pool Plaster and Tile Replacement and Filter Replacement (PRWPK22006)	12/16/2021	1/13/2021	Construction Services for King Pool and West Campus Pool plaster and tile replacement and filter replacement for West Campus Pool.	\$860,000	T1 Phase 2-\$350,000 511-52-545-000-0000-000-461-663110- General Fund- \$510,000 011-52-545-000-0000-000-461-663110-	PRW-Recreation	Justin Pitcher 981-5123
Dept TOTAL					\$860,000			
DEPT. TOTAL					\$960,000			



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Henry Oyekanmi, Director, Finance
 Subject: Contract: RLH & Associates for Providing Temporary Governmental Financial Consulting Services for the Finance Department

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with RLH Associates for providing temporary governmental financial consulting as required by the Finance Department for an initial term of two years. The total not to exceed contract amount is \$150,000.

FISCAL IMPACTS OF RECOMMENDATION

The not to exceed amount for the work provided under this contract is \$150,000 budgeted in the General Fund.

CURRENT SITUATION AND ITS EFFECTS

There are several projects that are in progress or about to commence in the Finance Department including new GASB implementation and fiscal continuing disclosures. One managerial position remains unfilled and there are other nine positions vacant as well. The quantity and importance of the department's projects, combined with the unfilled manager's position requires the assistance of a temporary consultant that will help to augment available resources until these vacant positions are filled.

Some examples of forthcoming projects include:

1. Provide technical guidance with difficult, professional financial tasks; research issues, perform complex financial analyses; and support the preparation of comprehensive reports, including the Annual Financial Report in a Government Accounting Standards Board (GASB – Statement 34) compliant environment;
2. Study and evaluate new GASB – Statements that needs to be implemented, and provide a written summary for presentation to the Director of Finance; and in training format for delivery to Accounting department staff;
3. Review and perform edits of the complete Annual Financial Report, using the Governmental Finance Officers Association (GFOA) checklist;
4. Act in an advisory capacity to the Accounting Division to: conduct or support financial studies; develop and review reports of findings, alternatives and

- recommendations; and ensure the timely, accurate and professional completion of necessary financial reports, research, analyses, plans and publications;
5. Perform investment research and provide investment alternatives based on the City's investment policies;
 6. Provide advice as to the effect of current and proposed state legislation, assist in the identification of financing alternatives and recommend adjustments where appropriate;
 7. Assist City staff with potential refunding and new money issues, including but not limited to analyses and evaluations of underwriting proposals, financing structure, pricing rating and insurance proposals, reserve fund (re)investment, assistance with preparation and review of related documents, and coordination of financing schedules;
 8. Assist with all necessary review and analysis of Bond offerings and implementation of Bond Measures as required by the Director of Finance;
 9. Provide other financial services as requested which may include bond debt refinancing, and new debt issuance for major projects and help with the preparation of bond rating agency calls;
 10. Attend and participate in meetings with independent auditors as well as the Single Audit meeting with City departmental staff as needed and
 11. Perform any other professional Accounting and Financial services as requested by the Director of Finance.

Request for Proposals number 21-11441-C was developed by the Finance Department and published publicly on the department's Current Bids and Proposals web page. Two proposals were received in response to the RFP. An evaluation committee reviewed and scored each of the two proposals. RLH & Associates received the most points from the committee. The committee then reviewed the cost component of each of the proposals. The cost structure proposed by RLH was the most advantageous to the City. Having been scored highest, and having proposed the better cost structure, the response from RLH & Associates was deemed to be the best value to the City.

Moving forward with awarding to the best value proposal allows for the Finance Department to plan for all the projects listed to get accomplished within an agreed upon timeline, and mitigates the risk of failing to submit all financial disclosure documents, completing the Annual Financial Statement and all other fiscal responsibilities that the Finance department manages.

BACKGROUND

A combination of factors has made hiring for open positions in the Finance Department difficult. The labor market has shortage of governmental financial managers, in part due to the pandemic, and also due to the number of agencies throughout the state that are hiring for similar financial manager positions. Applications for the positions did not yield

candidates with the required levels of knowledge, skills, and abilities for managing the projects in demand. Additionally, the Finance Department attempted a temporary fill of this position and was unable to source a fully-qualified financial manager after reviewing dozens of resumes through several rounds of temporary recruitments.

Given that situation, Finance chose to administer a Request for Proposals to the open market to ensure an individual or firm could be contracted to manage the list of projects. Even with a robust list of potential respondents, only two firms submitted proposal responses.

The projects in need of managing are numerous and require a highly-skilled governmental financial manager to move them forward.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Much of the work to be done can be accomplished remotely, thereby reducing any contribution to vehicle start-ups and freeway or city street congestion. Additionally, drafts and final reporting can be submitted electronically which reduces the impact of purchasing consumable items, such as paper and toner.

RATIONALE FOR RECOMMENDATION

The City administered Request for Proposals #21-11441-C for this work. The RFP was published on the Finance Department web site on March 2, 2021. Responses were due March 25, 2021. Two responses were received and reviewed by a committee. RLH & Associates received the highest number of points of the two responses, combined with submitting the more beneficial pricing structure, and was deemed to be the best value for the City.

ALTERNATIVE ACTIONS CONSIDERED

Finance enlisted the services of a temporary staffing agency to source the broader market for governmental financial managers. Those efforts did not produce a list of candidates meeting department requirements.

CONTACT PERSON

Josh Roben, Contract Administrator, Finance, (510) 981-7324

Attachments:

1: Resolution

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

APPROVAL OF EXPENDITURE CONTRACT WITH RLH & ASSOCIATES

WHEREAS, the Finance Department is faced with numerous important projects impacting accounting, revenue, investing, forecasting, and reporting, while at the same time having difficulty filling the open position that would manage these projects to completion; and

WHEREAS, there are municipal financial consultants in the market with knowledge and experience to handle and complete these projects; and

WHEREAS, the City administered Request for Proposals specification number 21-14441-C seeking a governmental finance department consultant; and

WHEREAS, two responses received to this Request for Proposals, were subsequently reviewed, scored, and ranked by the RFP review committee, and a recommendation was put forward to the Director of Finance; and

WHEREAS, RLH & Associates earned the most points from the review committee, and offered the most beneficial pricing to the City.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a professional services contract, including any amendments, with RLH & Associates to provide consulting services as needed by the Finance Department for a not to exceed amount of \$150,000 for an initial term of two years, budgeted in the General Fund.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Henry Oyekanmi, Director, Finance
 Subject: Contract: Valdes and Moreno for Consulting Services Related to the Microbond Financing Pilot Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with Valdes and Moreno for professional services needed to establish and administer full-services consulting and other services related to a Microbond Financing Program. The total contract not to exceed amount is \$150,000.

FISCAL IMPACTS OF RECOMMENDATION

The not to exceed amount for the work provided under this contract is \$150,000 budgeted in the General Fund.

Initial costs are anticipated to be \$49,500 in accordance with the tasks and associated costs listed in the table below:

Initial Review / Consultancy	\$ 15,000.00
System Architecture (auditable)	\$ 5,000.00
Testing frontend/backend system	\$ 5,000.00
Marketing	\$ 5,000.00
Sale of Loan	\$ 14,500.00
Administration Year 1	\$ 5,000.00
Start-up costs	\$ 49,500.00
Legal and Compliance Contingency	\$ 30,000.00
Administration Years 2 - 10	\$ 49,500.00
Total	\$ 129,000.00

Combined, start-up, compliance, and ongoing administration costs total \$129,000. Due to some potential variability in some of the costs, the not-to-exceed contract cost is \$150,000.

CURRENT SITUATION AND ITS EFFECTS

The City has not previously used this type of financing program. Typically, if an expenditure is less than \$2MM for a piece of equipment, as an example, the City will issue a check and pay for the purchase outright. If an expenditure exceeds \$2MM, the City will finance the purchase using bank financing programs available to municipalities and other public agencies.

The recommendation for a Microbond Financing Program pilot project is the result of a City of Berkeley Request for Proposal (RFP) competitive solicitation for a Microbond Financing Program. RFP #20-11365-C was developed by the Finance Department based on a prior Council referral and subsequent research presented by NHA Advisors. The RFP was published publicly on the department's Current Bids and Proposals web page. Proposal responses were due in March 2020. Prior to the responses being reviewed by the evaluation committee the shelter in place order was announced, which put an indefinite hold on this initiative and many other City bids, RFPs, and projects.

The Microbond RFP was re-issued in March 2021. Firms who had submitted a response by the original due date were allowed to either:

- 1) confirm 'no changes' to their initial response, or
- 2) submit revisions due to the year-long pause in the project.

Eight (8) responses were received by the new due date in April 2021. Those responses were reviewed and scored by an evaluation committee. A shortlist of four (4) firms was developed from the evaluation committee's in-depth review of all responses. Three of the four shortlisted firms were interviewed in a finalist round, with the fourth becoming non-respondent to inquiries. At the end of the round of finalist interviews the response from Valdes & Moreno has the combination of:

- 1) highest points from evaluation committee scoring,
- 2) best ranking from finalist interviews (ranked first), and
- 3) most favorable cost impact for implementing and administering the pilot project.

The City's pilot program is intended to be a status quo offering done in parallel with newly built blockchain technology. The parallel process approach has advantages for the City, in that doing so means:

- 1) the sale can be accompanied by high-level person-to-person customer service, while simultaneously employing the sophisticated technology needed to run an event such as this one,
- 2) the City can still offer the investment opportunities to the underserved who may not have the personal technology required to participate in the sale should it be only offered through technology; and,

- 3) the City can proceed with the program, both while “proving the concept” (of microbond and blockchain) and mitigating regulatory concerns that still exist related to use of blockchain in governmental financing.

BACKGROUND

City Council originally referred the project in May 2018, directing the City Manager to research, develop, and implement a Microbond Financing Program. In doing so, there were certain benefits related to crowdsourcing (Microbond/Minibond financing) Council was hoping to attain. The anticipated benefits noted at that time were to:

- Increase Accessibility,
- Increase Transparency,
- Increase Flexibility,
- Increase Speed, and
- Build Community

Simultaneously, introduction of blockchain technology into the financing event was discussed, with the goal of capturing the following characteristics of using blockchain: Reliability and Availability,

- Transparent,
- Immutable, and
- Irrevocable

Prior reports related to the research of Microbond financing, and which were utilized in developing the Request for Proposals for the pilot program can be found here:

[Background on Microbond Financing Program](#)

The City’s municipal financial advisor assisted with research of the Microbond Financing environment. The results of the research about the viability of Microbond Financing were presented to City Council in June 2019 (see linked Council Report above). The Finance Department was directed to draft a Request for Proposal addressing Microbond financing and blockchain technology and to go to the market to solicit for a firm to provide full service professional services so that the City of Berkeley could pilot a Microbond Financing Program.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the action requested in this report.

RATIONALE FOR RECOMMENDATION

The City administered Request for Proposals #20-11365-C for this initiative in Fall of 2019. The RFP was published on the Finance Department web site. Responses were due in March 2020. Eight (8) responses were received. Prior to being reviewed by an evaluation committee the shelter in place order was announced and the project was put

on hold. General Services staff efforts were re-directed to supporting the City's Emergency Operations Center response to the pandemic.

The RFP was re-opened in April 2021 due to the length of time that had transpired from the original due date. Firms were offered the opportunity to either confirm their proposal response, or to revise their proposals in order to accommodate any staffing, market, or partnership changes that may have occurred during the year-long pause in the RFP process.

The evaluation committee reviewed and scored the eight responses. Based on those scores, four firms were placed on a shortlist of finalists. One of those four dropped out. The remaining three firms participated in finalist interviews. Valdes and Moreno received the most points from the evaluation committee and received the top ranking following the finalist interviews. The cost structure from Valdes and Moreno was the most advantageous to the City for the proposed scope of services. Combining committee scoring, finalist interview ranking, and cost, the proposal from Valdes and Moreno represents the best value to the City.

ALTERNATIVE ACTIONS CONSIDERED

The City may pay for purchases outright, or use normal bank financing program available to public agencies.

CONTACT PERSON

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

Attachments:

1: Resolution

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

APPROVAL OF EXPENDITURE CONTRACT WITH VALDES & MORENO

WHEREAS, the City Council directed the City Manager to start implementation of a Microbond Financing Program in May 2018; and

WHEREAS, extensive research from NHA Advisors was presented to Council in June 2019 in response to the May 2018 referral; and

WHEREAS, the City administered Request for Proposals (RFP) specification number 20-11365-C seeking proposals for full-service administration of a Microbond Financing Program; and

WHEREAS, eight (8) responses received to Request for Proposals 20-11365-C, they were subsequently reviewed (following the re-opening efforts of the City), scored, and ranked by the RFP evaluation committee, a shortlist developed and interviews conducted, and a recommendation was put forward to the Director of Finance; and

WHEREAS, Valdes & Moreno earned the most points from the review committee, ranked highest among the shortlist finalist interviews, and offers the most beneficial pricing to the City.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a professional services contract, including any amendments, with Valdes & Moreno to provide consulting services as needed to administer a Microbond Financing Program in an amount not to exceed \$150,000, budgeted in the General Fund.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Abraham Roman, Fire Chief

Subject: Contract: Gainey Scientific for Project Management & Consulting

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Ganey Scientific to provide project management and consulting services for the Fire Department from September 13, 2021 to August 31, 2022 in an amount not to exceed \$300,000 with an option to extend for an additional two years, for a total contract amount not to exceed \$900,000.

FISCAL IMPACTS OF RECOMMENDATION

The term of this contract is from September 13, 2021 to August 31, 2022 in the amount of \$300,000 for the base term. There is an option to extend for two year for a total term of three years. The Project Management & Consulting contract will be funded with Measure FF funds in 164-72-742-834-0000-000-422-612990.

CURRENT SITUATION AND ITS EFFECTS

The Department worked with General Services to release Specification No. 21-11457-C for Fire Department Project Management & Consulting on May 20, 2021 with proposals due on June 22, 2021. Although there were six vendors that attended the question and answer meeting, the City did not receive any responses. Because of the scope and timelines associated with the Department's re-design work, and due to a lack of proposals from the RFP process, the Department requested General Services and City Manager approval for a waiver of competition, which was approved on September 3, 2021.

The services to be provided include, but are not limited to:

- Managing and updating project schedules to reflect the current status of each project task and deliverable including all City, Contractor, and subcontractor tasks and deliverables.
- Managing issues and risks to projects, monitoring progress and providing presentations, reporting and documentation as requested by the Department.
- Meeting on a regular basis with the City's core project team and any other identified stakeholders.

- Working with internal and external stakeholders to plan, problem solve and implement programs.

BACKGROUND

The Department is moving forward with a number of large projects (department re-design) that are running in parallel to one another and will result in substantial changes to every division within the organization and fundamentally change the way the department provides prevention, education, training and emergency response to the community. The Fire Chief recognizes the complexity of these endeavors and that the community would benefit if the Department had assistance in planning and managing its goals and objectives, measuring success and reporting progress to internal and external stakeholders.

Department re-design is inclusive of:

- evaluating and implementing modifications to the way the Department staffs and deploys fire and EMS resources, arranges shift schedules, recruits, conducts professional development, and succession planning.
- modifying the City's fire code, working to complete and implement the recommendations from a Community Wildfire Preparedness Plan (CWPP), creating a wildland urban interface division, enhancing public education, increasing/expanding inspections of property in fire zone 2, creating enforcement and incentive strategies and creating and managing fuel mitigation efforts.
- installation of a modern siren/voice outdoor warning system and subsequent community outreach, training and integration with other mass evacuation notification and management technology.
- implementing changes to staffing within the Division of Training, planning and implementing educational tracks, internships, externships and modifications to the department's promotional and probationary processes.
- coordinating with the City's property acquisition team to acquire a multi-function property to facilitate training and education of the workforce.
- creating a regional collaboration with other fire departments that will focus on training and development of personnel, standardization of procedures, development of relationships prior to disasters and adoption of best practices on a regional scale.
- coordinating stakeholders through planning and implementation of a multi-jurisdictional fire and EMS dispatch center.

Secondary to the COVID hiring freeze, the Department is unable to create special 40hr assignments or make sufficient promotions to perform the work required to plan, implement and sustain this work. Following direction from the City Council on June 29th,

2021 to “get creative”, Department leadership has been working to think outside of the box to meet the goals and objectives of the Mayor, Council and the community.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the action requested in this report.

RATIONALE FOR RECOMMENDATION

The City conducted a competitive bid process and received no responses. The Department has a critical business and operational need for this type of expertise and support.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Abraham Roman, Fire Chief, (510) 981-3473

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

CONTRACT: GAINNEY SCIENTIFIC FOR PROJECT MANAGEMENT & CONSULTING

WHEREAS, the City released Specification No. 21-11457-C for Fire Department Project Management & Consulting on May 20, 2021 with proposals due on June 22, 2021, and

WHEREAS, although there were six vendors that attended the question and answer meeting but the City did not receive any responses, and

WHEREAS, because of the scope and timelines associated with the Department's re-design work, and due to a lack of proposals from the RFP process, the Department requested General Services and City Manager approval for a waiver of competition, which was approved on September 3, 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with Gainey Scientific to provide project management and consulting services for the Fire Department from September 13, 2021 to August 31, 2022 in an amount not to exceed \$300,000 with an option to extend for an additional two years, for a total contract amount not to exceed \$900,000.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Abraham Roman, Fire Chief, Fire Department
Subject: Revenue: FY2022 Federal COVID-19 Funding from HHS CARES Act
Provider Relief Fund

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to accept payments from the Health and Human Services (HHS) CARES Act Provider Relief Fund and to execute any resultant revenue agreements and amendments to conduct and implement mitigation strategies in response to COVID-19 in the estimated amount of \$80,000 for FY 2022.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley has applied for funds from the HHS CARES Act Provider Relief Fund. Once the payment has been received, it will be deposited into the One-Time Grants fund for the Fire Department.

The amount of the allocation may be up to 2% of patient care revenue reported in FY19. The Fire Department generated \$4,424,808 in revenue from Ambulance Services in FY19. No match is required and the total payment is expected to be approximately \$80,000 for fiscal year 2022. If awarded, the allocation will be added into the FY2022 Budget through the Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley receives funding from many sources annually to conduct efforts towards improving the health and safety of the community. As a local health jurisdiction, the City is entitled to specific Federal and State funding to meet core public health objectives.

If awarded, these funds would enhance the Berkeley Fire Department's diligent work to provide a resilient, safe, connected, and educated workforce. These funds would be utilized to provide PPE and equipment to City staff to help control the spread of COVID, cover City staff time spent on COVID work and any other additional COVID-19 related expenses.

BACKGROUND

Through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Provider Relief Fund supports healthcare providers in the battle against the COVID-19 pandemic. Qualified providers of health care, services, and support may receive Provider Relief Fund payments for healthcare-related expenses or lost revenue due to COVID-19. To be eligible, a provider must have billed Medicare fee-for-service in 2019, be a known Medicaid and CHIP or dental provider and provide or provided after January 31, 2020 diagnoses, testing, or care for individuals with possible or actual cases of COVID-19, or prevented in the spread of COVID-19. HHS broadly views every patient as a possible case of COVID-19. The term "healthcare related expenses attributable to coronavirus" is a broad term that may cover a range of items and services purchased to prevent, prepare for, and respond to coronavirus.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

These funds would support the health and safety of City staff and Berkeley residents. These non-competitive grants provide the City with funding to continue emergency response efforts that protect the health and safety of the community and City staff.

ALTERNATIVE ACTIONS CONSIDERED

This funding is essential for the Fire Department. The alternative action of not seeking this funding source would result in a reduction in other City resources and essential services to the community and staff.

CONTACT PERSON

Stacie Clarke, Administrative and Fiscal Manager, Fire Department, (510) 981-5507

Attachments:

1. Resolution: FY2022 CARES Act Provider Relief Fund

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

REVENUE: FY2022 FEDERAL COVID-19 FUNDING FROM HHS CARES ACT
PROVIDER RELIEF FUND

WHEREAS, the City of Berkeley's Fire Department is committed to promoting and protecting the health and safety of the public and the environment by supporting the City's greatest Public Health response needs to prevent, prepare for, and respond to COVID-19; and

WHEREAS, the City of Berkeley's Fire Department is committed to the life, health and safety of the community and City staff; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital emergency response services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to accept payments from the Health and Human Services (HHS) CARES Act Provider Relief Fund and to execute any resultant revenue agreements and amendments to conduct and implement mitigation strategies in response to COVID-19 for estimated amount of 80,000 for fiscal year 2022.

BE IT RESOLVED that the funds will be appropriated as part of the FY2022 Annual Appropriations Ordinance.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Abraham Roman, Chief, Fire Department
 Subject: Revenue Contract: Funding from an Instructional Service Agreement with Los Positas College to support Fire Department Training.

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to enter an Instructional Service Agreement (ISA) with Los Positas Community College (LPC) to provide contract instruction, assessment, and counseling services from July 20, 2021, to July 19, 2024 for an amount not to exceed \$250,000 per fiscal year.

FISCAL IMPACTS OF RECOMMENDATION

The term of this contract's base period runs from July 20, 2021, through July 19, 2024 in an amount not to exceed \$250,000 per year with an option to extend for one (1) additional year for a total of four (4) years. Under this agreement the Fire Department is eligible to receive \$4.00 per student instructional hour for training provided to its employees. Funds received will be deposited to 011-72-742-836-0000-000-000-441990 .

CURRENT SITUATION AND ITS EFFECTS

The mission of the Fire Department is to protect life, property and the environment through emergency response, prevention, and community preparedness. This is accomplished by striving to meet the Department's vision of embracing public service and to be recognized as a leader responding effectively with **well-trained** and compassionate professionals.

The Fire Department conducts extensive training for its employees throughout the fiscal year. Under the ISA, fire department employees may be enrolled as students with LPC for specific classes as mutually determined by the Department and LPC staff. Eligible student training hours will be submitted to LPC which will provide the employee with an appropriate amount of college credit and the city apportionment fees of up to \$4 per eligible contact hour.

BACKGROUND

The mission of the Fire Department has been substantially expanded over the past 40 years. The expansion requires enhanced knowledge, skill and ability from fire department personnel that can only be achieved and maintained through a diligent and on-going commitment to education, training, and development. To meet that challenge, employees require training and support from properly staffed and funded training staff operating from an appropriately sized and resourced training facility. This agreement represents one step the Department is taking as part of a multi-year project to align the Department's Division of Training with this vision.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Funding from this agreement will help prepare and train emergency responders to successfully respond to challenging and complex emergency incidents driven by climate change, more efficiently mitigate structural fires, and control hazardous materials spills, that threaten our environment and local habitat.

RATIONALE FOR RECOMMENDATION

Funding under this agreement will help fund new training projects and initiatives for which the Department would otherwise not have an identified funding source.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David Sprague, Interim Deputy Fire Chief, Fire, (510) 981-5501

Attachments:

1: Resolution

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

REVENUE CONTRACT: FUNDING FROM AN INSTRUCTIONAL SERVICE AGREEMENT WITH LOS POSITAS COLLEGE TO SUPPORT FIRE DEPARTMENT TRAINING.

WHEREAS, the mission of the Fire Department is to protect life, property and the environment through emergency response, prevention, and community preparedness; and

WHEREAS, this is accomplished by striving to meet the Department's vision of embracing public service and to be recognized as a leader who responds effectively with well-trained and compassionate professionals; and

WHEREAS, the mission of the Department has been substantially expanded over the past 40 years requiring enhanced knowledge, skill and ability from employees that can only be achieved and maintained through a diligent and on-going commitment to education, training, and development; and

WHEREAS, to meet that challenge, employees require support from a properly staffed and funded training staff operating from an appropriately sized and resourced facility; and

WHEREAS, this agreement represents one step the Department is taking as part of a multi-year project to align the Department's Division of Training with this vision.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to effectuate an Instructional Service Agreement (ISA) with Los Positas Community College (LPC) to provide contract instruction, assessment, and counseling services from July 20, 2021, to July 19, 2024 in an amount not to exceed \$250,000 per fiscal year.



Office of the City Manager

CONSENT CALENDAR
December 14, 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: Contract: Statewide Prevention and Early Intervention Project Participation Agreement - California Mental Health Services Authority

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a Participation Agreement and any amendments with the California Mental Health Services Authority (CalMHSA) to allocate Mental Health Services Act (MHSA) funds in the amount of \$65,956 to participate in the Statewide Prevention and Early Intervention (PEI) Project, for a total amount not to exceed \$65,956 through June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$65,956 from MHSA revenue received from the State of California is available in the FY2022 budget in the ERMA GL code: 315-51-503-526-2016-000-451-639120.

CURRENT SITUATION AND ITS EFFECTS

The Statewide Prevention and Early Intervention (PEI) Project is an initiative that is administered by the California Mental Health Services Authority (CalMHSA), a Joint Powers Authority (JPA). California mental health jurisdictions can elect to participate in this initiative to benefit locally from these services by allocating a portion of local MHSA PEI funds on an annual basis to CalMHSA, which then contracts for a variety of mental health prevention and early intervention activities.

Since 2018, through the City's approved MHSA Three Year Plans or Annual Updates, the City has allocated 4% of PEI funds annually to CalMHSA for this initiative. Funded services have included the distribution of information and resources on suicide prevention, stigma and discrimination reduction, and student mental health, to be utilized locally. Most recently, the Mental Health Division staff received trainings on client "Sexual Orientation and Gender Identity Expression" (SOGIE) through this initiative. This PEI funded project enables the Mental Health Division to broaden the reach of information and resources to a wider population across the City. MHSA PEI funds are integral in supporting individuals with a variety of mental health needs across the spectrum of care.

In FY2022, CalMHSA began requiring mental health jurisdictions to enter into a Participation Agreement to allocate funds and continue to receive services through the Statewide PEI Project. Staff recommend that Council approve executing the Statewide PEI Project Participation Agreement and transfer of funds to CalMHSA.

BACKGROUND

The California Mental Health Services Authority (CalMHSA) is a Joint Powers Authority (JPA) that was formed in 2009 to create a separate public entity to provide administrative and fiscal services in support of Members' Mental/Behavioral Health Departments acting alone or in collaboration with other Departments. CalMHSA is governed by a Board of Directors that is comprised of the participating county or city mental/behavioral health director and a designated alternate for when the director is absent. Contributing counties provide direction into the types of initiatives that are implemented.

Since 2018, the amount paid for this initiative on an annual basis has varied from year to year, between \$42,000 to \$66,000, depending on the amount of local PEI revenue. With Resolution No. 70,012-N.S., the City Council approved MHSA FY2022 Annual Update and allocated \$65,956 of local PEI funds in FY2022 for this initiative.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Beginning in FY2022, the City of Berkeley is required to obtain City Council approval to enter into a Participation Agreement to receive services from the Statewide PEI Project and to allocate funds to CalMHSA for this initiative. PEI funds are an important resource that provides information, services, and supports to individuals with a variety of mental health needs across the system of care.

ALTERNATIVE ACTIONS CONSIDERED

The City could opt to stop participating in CalMHSA's PEI Initiative. Staff do not recommend this course of action because of the high value of these services to the community.

CONTACT PERSON

Karen Klatt, Community Services Specialist III, HHCS, (510) 981-7644

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

STATEWIDE PREVENTION AND EARLY INTERVENTION PROJECT
PARTICIPATION AGREEMENT - CALIFORNIA MENTAL HEALTH SERVICES
AUTHORITY

WHEREAS, the California Mental Health Services Authority (CalMHSA) is a Joint Powers Authority (JPA), that provides administrative and fiscal services in support of Members' Mental/Behavioral Health Departments acting alone or in collaboration with other Departments; and

WHEREAS, CalMHSA Is governed by a Board of Directors that is comprised of the participating County or City Mental/Behavioral Health Director and a designated alternate for when the director is absent and County or City participants provide direction into the types of initiatives that are implemented; and

WHEREAS, the City of Berkeley is a participant in this JPA; and

WHEREAS, during the timeframe of 2011 through 2015, CalMHSA implemented the Statewide Prevention and Early Intervention (PEI) Project through MHSA funds that were allocated to be utilized at the State level for programming in the areas of Suicide Prevention, Stigma and Discrimination Reduction, and Student Mental Health; and

WHEREAS, following 2015 participating counties/cities were required to allocate at least four percent of their annual local MHSA PEI allocation each year to CalMHSA, to continue to receive services through this initiative; and

WHEREAS, since 2018, through City Council approved MHSA Three Year Plans and Annual Updates the City of Berkeley has allocated four percent of local MHSA PEI funds to participate in this initiative; and

WHEREAS, with Resolution No. 70,012-N.S., the City Council approved the City's MHSA FY2022 Annual Update, which allocates \$65,956 of local PEI funds for this initiative; and

WHEREAS, beginning in FY2022 in order to participate and allocate local PEI funds for this initiative, CalMHSA began requiring counties/cities to enter into a Participation Agreement (Exhibit A); and

WHEREAS, in order to execute a Participation Agreement and allocate funds to CalMHSA for this initiative, City Council approval is required; and

WHEREAS, funding is available in the FY2022 budget in the MHSA fund budget code: 315-51-503-526-2016-000-451-639120.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a Statewide PEI Project Participation Agreement and any amendments with CalMHSA, and allocate funds in the amount of \$65,956 for a total amount not to exceed \$65,956, through June 30, 2022.



Office of the City Manager

CONSENT CALENDAR
December 14, 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: Contract: 2022 Community Services Block Grant

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to accept the Community Services Block Grant (CSBG) Contract Number 22F-5001 for the amount of \$274,202 to provide services for low-income people for the period January 1, 2022 to May 31, 2023.

FISCAL IMPACTS OF RECOMMENDATION

Berkeley's CSBG allocation for the period of January 1, 2022 to May 31, 2023 is \$274,202 (Community Action Program Fund - 334-51-504-530-0000-000-000-431110-). The CSBG allocation amount is included in the City's anti-poverty Community Action Fund and supports oversight and management of anti-poverty funds within the Health, Housing and Community Services Department. The CSBG contract begins on the calendar year and the City's FY 2022 budget is a one-year budget. This amount represents one-half of the City's FY 2022 CSBG allocation and one-half of the City's FY 2023 CSBG allocation. The additional appropriation will be made as part of the Second Amendment to the FY 2022 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley is a Community Action Agency (CAA) and therefore receives CSBG funds to support anti-poverty programs. CSBG funds are part of the federal Department of Health and Human Services budget passed through the state to local CAAs. Historically, the City of Berkeley has awarded CSBG funds to community service programs.

The Human Welfare and Community Action Commission (HWCAC) acts as the tripartite advisory Board for CSBG funding. As such, HWCAC is responsible for reviewing performance of funded programs, reviewing compliance with the implementation of the community action program, and advising Council on CSBG funding decisions. The Berkeley City Council is responsible for all final CSBG funding decisions.

At its October 20, 2021 meeting, the HWCAC passed a motion to recommend that the City accept the CSBG funds and contract for 2022 (M/S/C: Sood/Bookstein. Ayes: –

Behm-Steinberg, Bookstein, Dunner, Omodele, Sood, Sim, Lippman. Noes: None.
Abstain: None. Absent: Kohn, Pelley (excused).

BACKGROUND

CSBG supports the City of Berkeley's anti-poverty efforts at a minimum funded level. In 2016 and 2017, the City received \$265,577. In 2019 and 2020, the award was increased to \$266,863 and \$307,106, respectively. In 2021, the award was \$275,106. CSBG funds complement anti-poverty general funds which are used for other critical community services, including disability and senior services, medical care, child care, and additional homeless services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The CSBG is necessary to support the provision of services for residents living in poverty in Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

Rejecting CSBG funding would reduce funding for services to low-income Berkeley residents. This would negatively impact low-income services in Berkeley.

CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, HHCS, (510) 981-5414.

Attachments:

1: Resolution

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

REVENUE CONTRACT: 2022 COMMUNITY SERVICES BLOCK GRANT (CSBG)

WHEREAS, the City of Berkeley is a Community Action Agency and receives CSBG funds as the Berkeley Community Action Agency to support anti-poverty programs; and

WHEREAS, the Human Welfare and Community Action Commission (HWCAC) acts as an advisory tri-partite Board to the Council providing public participation in the governing process; and

WHEREAS, at the October 20, 2021 HWCAC meeting a motion was passed recommending that the City accept the Community Service Block Grant Funds; and

WHEREAS, this CSBG revenue contract is for the period of January 1, 2022 to May 31, 2023, with the option to extend the contract period and/or accept amendments that either increase the contract amount and/or update contract terms, for a contract amount of \$274,202 (334-51-504-530-0000-000-000-431110); and

WHEREAS, the funds have historically been used to support anti-poverty services and to support City of Berkeley oversight and management of anti-poverty programs (budget code (334-51-504-530-0000-000-444-Various to 334-51-504-535-0000-000-444-Various)).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to accept Community Service Block Grant Contract Number 22F-5001 for the amount of \$274,202, and execute any resultant agreements and amendments including amendments that may decrease or increase the contract amount or add discretionary funding, or to change the contract term, or to update contract terms, to provide low-income services for the time period January 1, 2022 to May 31, 2023, with the option to extend the contract period as amended by the California State Department of Community Services and Development. A record signature copy of said agreement and any amendments shall be on file in the office of the City Clerk.

CONSENT CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Donald E. Ellison, Interim Director of Human Resources

Subject: Resolution Authorizing an Amendment to the Miscellaneous CalPERS Contract Pursuant to California Government Code 20516

RECOMMENDATION

Adopt a Resolution revising Resolution No 70,081 N.S to initiate a process to amend the contract between the Board of Administration, California Public Employees' Retirement System and the City Council for the City of Berkeley pursuant to California Government Code 20516 to effectuate changes to the cost sharing agreement between the City and Unrepresented PEPRA members in the Unrepresented Employees Group.

BACKGROUND

Council adopted Resolution #70,081 N.S. at its October 26, 2021 meeting. A revised Resolution is needed as CalPERS advised that the Resolution was not sufficient. This new version incorporates requested changes from CalPERS. Staff needs Council to affirmatively vote on the revised Resolution.

As part of the most recent negotiations regarding the memorandum of understanding between the City and SEIU Local 1021 Maintenance and Clerical (MC), the parties agreed to reduce the MC PEPRA members' employer cost share (Ramp Down) of eight percent (8%) over the term of the current MOUs. Although the Unrepresented Group is not represented by a labor group, they customarily receive the same negotiated benefits afforded to the MC chapters.

FISCAL IMPACTS OF RECOMMENDATION

The terms of the new MOU PEPRA ramp down is as follows:

SEIU MC and the Unrepresented Employees Group:

- FY2021-22: 1% reduction of cost share for a total of 7%, (to be effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% reduction of cost share for a total of 6%, effective July 10, 2022
- FY2023-24: 1% reduction of cost share for a total of 5%, effective July 9, 2023
- FY2024-25: 2% reduction of cost share for a total of 3%, effective July 7, 2024
- FY2025-26: 2% reduction of cost share for a total of 1%, effective July 6, 2025
- FY2026-27: 1% reduction of cost share for a total of 0%, effective July 5, 2026

The total cost to approve the ramp down for the Unrepresented PEPRA members is approximately \$98,896. There are approximately 51 PEPRA employees affected by this resolution. Funding for the Ramp Down comes from the General Fund and other special

revenue funds. This cost of will be included in the fiscal years 2022 through 2024 budgets.

CURRENT SITUATION AND ITS EFFECTS

Although Council previously approved the terms of the Ramp Down for MC and the City's other employee organizations who negotiated similar Ramp Downs, the City must amend its contract with CalPERS to effectuate the Ramp Down terms for the Unrepresented Group. (See Cal. Gov. Code § 20516.) Council's approval of the Resolution will initiate the contract amendment process, which includes the following steps:

- The City shall provide CalPERS with the Resolution and a cover letter indicating the exact percentage of change, total cost-share percentage and who it is applicable to;
- CalPERS will contact the City to establish the Anticipated Schedule of Agency Actions and send the required documents;
- Over a time period specified by CalPERS, the City will:
 - Conduct an employee election whereby a simple majority of the affected PEPRA members in the Unrepresented Group must vote in favor of proposed cost-share terms;
 - The City shall adopt a Resolution of Intention;
 - The City shall approve the final reading of an ordinance or final resolution and complete certification forms.
- Once the documents are received and approved, the contract amendment becomes effective and is updated with the effective date in myCalPERS.
- CalPERS sends a fully executed contract to the City.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACT

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

RATIONALE FOR RECOMMENDATION

Although Council previously approved the terms of the Ramp Down for MC and the City's other employee organizations who negotiated similar Ramp Downs, the City must amend its contract with CalPERS to effectuate the Ramp Down terms for the Unrepresented Group. (See Cal. Gov. Code § 20516.) Council's approval of the Resolution will initiate the contract amendment process

ALTERNATIVE ACTIONS CONSIDERED

None. The City is obligated under the existing labor agreements to complete the Ramp Downs in accordance with the MOUs.

CONTACT PERSON

Donald E. Ellison, Interim Director of Human Resources, (510) 981-6807

Attachments:

- 1: Resolution: Approving an Amendment to CalPERS Contract
- 2: CalPERS Employee Cost-Sharing Informational Page

RESOLUTION NO. 70,081–N.S.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY RELATING TO CALPERS RETIREMENT COST-SHARING UNDER GOVERNMENT CODE SECTION 20516 BY UNREPRESENTED EMPLOYEES GROUP

WHEREAS, The Unrepresented Employees Group of the City of Berkeley are not covered by a memorandum of understanding; and

WHEREAS, Miscellaneous New Members (as defined under California Public Employees' Pension Reform Act of 2013 (PEPRA)) in the Unrepresented Employees Group currently participate in cost sharing at a rate of 8% of the City's employer share of the California Public Employees' Retirement System (CalPERS) pension benefit pursuant to Government Code section 20516; and

WHEREAS, on July 20, 2021, the City Council authorized a ramp-down of the employees' contribution toward the City's CalPERS employer share of pension for the Unrepresented Employees Group in the following amounts over the following period, and adopted Resolution No. 69, 968-N.S. to in part memorialize the same:

- FY2021-22: 1% reduction of cost share for a total of 7%, (to be effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% reduction of cost share for a total of 6%, effective July 10, 2022
- FY2023-24: 1% reduction of cost share for a total of 5%, effective July 9, 2023
- FY2024-25: 2% reduction of cost share for a total of 3%, effective July 7, 2024
- FY2025-26: 2% reduction of cost share for a total of 1%, effective July 6, 2025
- FY2026-27: 1% reduction of cost share for a total of 0%, effective July 5, 2026; and

WHEREAS, CalPERS requires that the City Council adopt a resolution that specifically identifies the following information for unrepresented employees in order to amend the Section 20516 cost share amounts in its contract with CalPERS.

WHEREAS, Council adopted Resolution #70,081 N.S. at its October 26, 2021 meeting. A revised Resolution is needed as CalPERS advised that the Resolution was not sufficient. This new version incorporates requested changes from CalPERS. Staff needs Council to affirmatively vote on the revised Resolution.

NOW THEREFORE, BE IT RESOLVED that the City Council approves this Resolution to amend the existing contract between the City of Berkeley and CalPERS under Government Code Section 20516 for Miscellaneous New Members in the Unrepresented Employees Group as follows:

Miscellaneous New Members in the Unrepresented Employees Group will have their contributions toward the City's CalPERS employer share of pension reduced in the following amounts on the following effective dates:

- FY2021-22: 1% reduction of cost share for a total of 7%, (to be effective as soon as administratively possible following adoption of successor contract by the City Council)
- FY2022-23: 1% reduction of cost share for a total of 6%, effective July 10, 2022
- FY2023-24: 1% reduction of cost share for a total of 5%, effective July 9, 2023
- FY2024-25: 2% reduction of cost share for a total of 3%, effective July 7, 2024
- FY2025-26: 2% reduction of cost share for a total of 1%, effective July 6, 2025; and
- FY2026-27: 1% reduction of cost share for a total of 0%, effective July 5, 2026.

BE IT FURTHER RESOLVED that this Resolution complies with CalPERS' procedures for unrepresented employees needed in order to initiate the CalPERS contract amendment process under Government Code Section 20516.

BE IT FURTHER AND FINALLY RESOLVED that, in advance of Council's approval of an amended contract with CalPERS, the City shall obtain approval by a simple majority of the employees in the Unrepresented Employees Group who must sign in agreement of the change.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: LaTanya Bellow, Interim Deputy City Manager
 Subject: Contract 32100185 Amendment: Digital Hands for Endpoint Detection and Response (EDR) Monitoring

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend contract number 32100185 with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), increasing the previously authorized contract amount by \$381,137, for a total not to exceed amount of \$ \$996,117.00 from December 15, 2021 to June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding for these professional services is available in the Department of Information Technology’s Fiscal Year (FY) 2022-2024 IT Cost Allocation Fund as outlined below. Spending for this contract in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

202,991	FY 2022: Professional Services
	Budget Code: 680-35-363-382-0000-000-472-613130-
	(IT Cost Allocation, Security, Professional Services)
\$202,991	Sub-Total: FY 2022 Professional Services
96,496	FY 2023: Professional Services
	Budget Code: 680-35-363-382-0000-000-472-613130-
	(IT Cost Allocation, Security, Professional Services)
\$ 96,496	Sub-Total: FY 2023 Professional Services
81,650	FY 2024: Professional Services
	Budget Code: 680-35-363-382-0000-000-472-613130-
	(IT Cost Allocation, Security, Professional Services)

\$ 81,650	Sub-Total: FY 2024 Professional Services
\$381,137.00	Total: FY 2022-2024 Professional Services

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley (The City) previously authorized, under resolution no. 69,521-N.S., the City Manager to enter into a contract with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM). The contract was executed on June 11, 2021. And, onboarding of Digital Hands managed security services provider basic monitoring (MSSP) began June 4, 2021.

Due to limitations in funding, that resolution only included spending authority to cover the one-time onboarding fee for the City’s “End Point Protection and Detection/ Response (EPP/EDR/MDR)” and only one of three years’ worth of the annual fee to cover the ongoing monitoring. This resolution adds the additional two years’ worth of annual fees for End Point Protection and Detection/ Response (EPP/EDR/MDR) threat hunting and distributes them over the life of the contract.

Secondly, during contract negotiations and onboarding of Digital Hands, the City also added new cybersecurity sensors to its portfolio. This resolution adds the annual fees for these sensors and distributes them over the life of the contract.

Finally, with the expansion of and change out of data sources (such as, servers and databases) within the City already completed since last December as well as planned over the life of this contract, this resolution adds the annual fees for these computing sources and distributes them over the life of the contract.

BACKGROUND

In 2018, the City developed a Cyber Resilience Plan (CRP) to provide the City a situational awareness of our cyber-risk exposure, the maturity of its cyber-security capabilities, the City’s efficiency in addressing regulatory compliance, and to provide action items that ensure the City is equipped to handle cyber-attacks and mitigate the effects of a successful cyber-attack.

The CRP divided this effort into two sets of work: an as-is assessment and a to-be roadmap. In February 2020, the City of Berkeley issued a Request for Proposal (RFP) No. 20-11385-C for addressing two highest priority action items from the CRP:

- Part A: Managed Security Service Provider (MSSP/SIEM)
- Part B: End Point Protection and Detection/Response (EPP/EDR/MDR) / Threat Hunting

On June 11, 2021, the City entered into a contract with Digital Hands that (i) provides for Part A, (ii) allows the City to add Part B when the spending authority becomes adjusted to cover all three years of the annual fee, and (iii) allows the City to adjust the cost when and as the City further authorizes (a) changes in the number of systems being monitored – such as increases or decreases in the total number of servers and databases – (b) changes in the services or scope of services – such as new monitoring capabilities like EPP/EDR/MDR – and (c) changes in the cybersecurity sensors – such as those added by December 2020's AA01.

With the changes experienced in 2020 and thus far in 2021 in the cyber-threat and cyber-insurance marketplace, active monitoring – as opposed to alert-driven response – that includes both Part A (MSSP/SIEM) and Part B (EPP/EDR/MDR) has become the minimum expectation. The City thus needs to expeditiously move our EPP/EDR/MDR monitoring and its associated threat hunting service to Digital Hands as was intended under part of AA01 in December 2020. Fiscal Year 2022 budget rectifies the funding gap.

December 2020 AA01 also added new cybersecurity sensors to the City's portfolio that need to be picked up in accordance with the contract. Most of these sensors pertain to Part A services. And finally, the number of systems being monitored has increased within the past year. These new servers and databases, as well as those planned for and being added in FY22 also need to be covered by Part A and Part B in accordance with the contract.

Lastly, the CRP aligns with the City's adopted Strategic Plan goals of:

- Create a resilient, safe, connected, and prepared City
- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community; and adopts the strategies which align with the five (5) year Digital Strategic Plan (DSP).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

All event monitoring and SIEM services – both Part A and Part B – are conducted remotely thus eliminating the need for travel to Berkeley, resulting in a reduction of greenhouse gas emissions for travel.

RATIONALE FOR RECOMMENDATION

This increase in spending authority satisfies the updated cyber-insurance minimum expectation of the changing cyber-treat environment while it also fulfills the scope of the RFP No. 20-11385-C over the life of the entire contract with Digital Hands. It also co-terms Part B (EPP/EDR/MDR) active monitoring and distributes the costs over the life of the contract. And, it makes changes in the number of systems being monitored as well as in the type of cybersecurity sensors, in accordance with the contract.

ALTERNATIVE ACTIONS CONSIDERED

The City considered hiring additional staff to increase coverage for active monitoring of EPP/EDR/MDR to 24/7/365. This option is cost prohibitive and not sustainable because incident response analysts, and especially those that specialize in this type of tool, are among the highest paid and most high turnover positions in cybersecurity.

The City also considered alert-driven monitoring of the EPP/EDR/MDR and of the AAO1 added cybersecurity sensors. However, that would leave the City vulnerable to advanced attacks (such as ransomware) during off hours and non-workdays, could put our existing cyber-insurance in jeopardy, and would reduce the City's ability to obtain cyber-insurance next year.

CONTACT PERSON

LaTanya Bellow, Interim Deputy City Manager, (510) 981-7000

Attachments:

1: Resolution

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

CONTRACT 32100185 AMENDMENT: DIGITAL HANDS FOR ENDPOINT DETECTION
AND RESPONSE (EDR) MONITORING

WHEREAS, the City has entered into a contract with Digital Hands to provide 24/7/365 active monitoring for cybersecurity events; and

WHEREAS, said contract anticipates and is flexible enough to accommodate changes in the number of systems being monitored; and

WHEREAS, said contract anticipates and is flexible enough to add 24/7/365 active monitoring of the City's growing set of cybersecurity sensors; and

WHEREAS, said contract anticipates and is flexible enough to add 24/7/365 active monitoring (also called "threat hunting") of the City's EPP/EDR/MDR; and

WHEREAS, Funding for these services is available in the Department of Information Technology's IT Cost Allocation Fund, and spending for this contract in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend contract number 32100185 with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), increasing the previously authorized contract amount by \$381,137, for a total not to exceed amount of \$ \$996,117.00 from December 15, 2021 to June 30, 2024.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: LaTanya Bellow, Interim Deputy City Manager, Information Technology
Subject: Contract: Alcor Solutions, Inc. for Managed Services and Upgrade Support of the ServiceNow Application

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Alcor Solutions, Inc. to provide managed support services and upgrade support for the ServiceNow application from July 1, 2022 to June 30, 2024 for an amount not-to-exceed \$300,000.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$300,000 for the requested support services is budgeted in the FY 2023 and FY 2024 IT Cost Allocation Fund as itemized below. Spending in future years for this contract is subject to City Council’s approval of the proposed citywide budget and annual appropriation ordinances.

FY 2023: Professional Services
\$150,000 Budget Code: 680-35-362-376-0000-000-472-612990-
(IT Cost Allocation, Business Applications, Professional Services)

FY 2024: Professional Services
\$150,000 Budget Code: 680-35-362-376-0000-000-472-612990-
(IT Cost Allocation, Business Applications, Professional Services)

\$300,000 Total FY 2023 and 2024 Software Maintenance

CURRENT SITUATION AND ITS EFFECTS

Alcor Solutions provides critical support, maintenance, and enhancement services for the ServiceNow software platform. Staff currently use ServiceNow’s Information Technology Service Management (ITSM) and Business Management (ITBM) tools. The ITSM includes a Helpdesk management suite, service catalog, knowledge base, and a service portal for City Staff. The ITBM includes project portfolio management for new

ideas, demands and projects as well as application portfolio management for managing business applications.

Since launching with the portal in January 2018, Staff have partnered with Alcor Solutions, LLC with initial implementation in addition to adding additional features including reweighted range voting (RRV) process, aging tickets notifications, and confidential service requests.

Phase 2 of implementation is still in progress and once completed will add features such as hardware asset management for tracking computers and servers, application portfolio management for tracking applications and services, and asset tracking for network printers and mobile devices. Phase 2 of implementation is scheduled for completion in Q1 2023.

The proposed associated work with this contract request allows the City to continue their partnership with Alcor Solutions, Inc. in providing regular upgrades, enhancements, and 'bug' support to the ServiceNow tool.

BACKGROUND

The Department of Information Technology (IT Department) was previously using a "home-grown" software application to manage Help Desk service requests since 2001. In 2015, the IT Department began collecting business requirements for a replacement solution that would serve both the daily needs of a service and asset management solution, as well as the longer term needs of managing IT projects and IT resources.

In September 2016, the IT Department issued Request for Proposal (RFP) Specification Number 16-11072-C for an Information Technology Service Management and Asset Management solution. The IT Department received three qualified vendor responses.

In May 2017, a cloud-based software called ServiceNow was chosen. Alcor Solutions, Inc. was chosen for their implementation services. In January 2018, Alcor completed the initial implementation of ServiceNow, and the IT Department was able to "go-live" with ServiceNow's ITSM module.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Alcor Solutions, Inc. conducts the majority of their support remotely. If Alcor must work onsite, they will be working exclusively over multiple days with the IT Department to minimize both travel costs and greenhouse gas emissions related to travel, per Climate Action Plan goals.

Additionally, the ServiceNow tool allows the IT Department to electronically track service requests, projects, and other requests, which supports the IT Department's advancement towards functioning as a zero-waste department.

RATIONALE FOR RECOMMENDATION

Alcor Solutions, Inc. has extensive experience providing implementation and support services for ITSM solutions. Specifically, Alcor Solutions, Inc. is a Gold Services Partner to ServiceNow, Inc. Furthermore, City staff do not have the capacity or specialized knowledge to execute a successful upgrade, apply enhancements, or fix software 'bugs' within the ServiceNow application, without the professional services requested of Alcor.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered not engaging Alcor Solutions, Inc. for upgrade support to the ServiceNow tool, however doing so will need to continue using the previous customized, home-grown IT ticketing system for asset management, as well as manual methods of tracking support tickets, projects, and hardware inventory.

CONTACT PERSON

LaTanya Bellow, Interim Deputy City Manager, (510) 981-7000

Attachments:

1: Resolution

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

NEW CONTRACT: ALCOR SOLUTIONS, INC. FOR MANAGED SERVICES AND
UPGRADE SUPPORT OF THE SERVICENOW APPLICATION

WHEREAS, in 2001, the Department of Information Technology (IT Department) was using a “home-grown” software application to manage Help Desk service; and

WHEREAS, in September 2016, the IT Department issued Request for Proposal (RFP) Specification Number 16-11072-C for an Information Technology Service Management and Asset Management solution, and selected the ServiceNow tool, and Alcor Solutions, Inc. as the implementation partner; and

WHEREAS, Alcor Solutions, Inc. has extensive experience providing implementation and support services for ITSM solutions, and is a Gold Services Partner to ServiceNow, Inc.; and

WHEREAS, City staff do not have the capacity or specialized knowledge to execute a successful upgrade, apply enhancements, or fix software ‘bugs’ within the ServiceNow application, without the professional services requested of Alcor; and

WHEREAS, funding in the amount of \$300,000 for the requested support services is budgeted in the FY 2023 and FY 2024 IT Cost Allocation Fund, and spending in future years for this contract is subject to City Council’s approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with Alcor Solutions, Inc. to provide managed support services and upgrade support for the ServiceNow application from July 1, 2022 to June 30, 2024 for an amount not-to-exceed \$300,000.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: LaTanya Bellow, Interim Deputy City Manager
Subject: Contract No. 31900197 Amendment: Accela, Inc. for Software Maintenance

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 31900197 with Accela, Inc., for software maintenance, increasing the amount by \$133,420 for a total not to exceed \$2,192,611 from December 12, 2011 to June 30, 2023.

FISCAL IMPACTS OF RECOMMENDATION

Funds for additional software maintenance for the proposed contract amendment will be available in the Department of Information Technology’s Fiscal Year (FY) 2023 General Fund, Permit Service Center, and Sanitary Sewer fund, as itemized below. Spending for this amendment in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

FY23 PW: Software Maintenance
Budget Code: 611-35-362-377-0000-000-472-613130
\$10,538 (Sanitary Sewers, Information Technology, Software Maintenance)

FY23 Finance: Software Maintenance
Budget Code: 011-33-321-327-0000-000-412-613130-
\$20,487 (General Fund, Finance, Software Maintenance)

FY23 HHCS: Software Maintenance			
\$33,598	HHEVEC2301-NONPERSONN-OPERATING-SOFTW	325-51-502-511-2003-000-451-613130-	\$3,715.79
	HHESEW2301-NONPERSONN-OPERATING-SOFTW	611-51-502-511-2004-000-472-613130-	\$11,342.50
	HHEGFF2301-NONPERSONN-OPERATING-SOFTW	011-51-502-511-0000-000-451-613130-	\$8,186.48
	HHEAVA2301-NONPERSONN-OPERATING-SOFTW	161-51-502-510-0000-000-451-613130-	\$10,353.23

\$18,928 FY 23 Toxics: Software Maintenance
Budget Code: 011-35-362-377-0000-000-472-613130
(General Fund, Information Technology, Software Maintenance)

\$133,420 FY 2023 Total: Software MaintenanceCURRENT SITUATION AND ITS EFFECTS

The Accela Civic Platform is a critical enterprise software platform that provides Permitting, Zoning, and Toxics management for Planning; Utility Permitting for Public Works; Business Licenses for Finance; and a wide range of management services from food inspections to vector control for Health, Housing and Community Services. Additionally, the platform has an online portal that allows the community to apply for business licenses and permits, schedule inspections, and pay for these services. This amendment will allow the City to receive ongoing support and software enhancements through fiscal 2023.

The Accela Civic Platform helps advance the City's Strategic Goal to *be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.*

BACKGROUND

In February 2007, the Toxics Management Division (TMD), selected Decade Software to automate the City's hazardous materials management and inspection program after a formal Request for Proposal Process under Specification No. 05-100047-C.

On July 19, 2011, following Request for Proposals (RFP) #11-10535-C, Council approved a contract with Accela, Inc. for Business License software for Finance, as well as Zoning Permits for Planning.

On December 15, 2012, following Request for Proposals (RFP) #12-10643-C, Council approved a contract amendment with Accela, Inc. for a Computerized Maintenance Management System (CMMS) within Public Works, including work orders and asset management.

In June 2013, Planning went live with Zoning Permits. In September 2013, Finance went live with Business Licenses, and Public Works went live with Asset Management for Sewers.

On February 25, 2014, Council approved a contract amendment with Accela, Inc. for a Building Permits implementation with, as well as additional enhancements to the Public Works asset management implementation, including a mobile device solution for sewer maintenance management.

In June 2014, Planning went live with online Zoning Permit applications and payments, and in April 2015 Public Works went live with mobile devices for Sewer maintenance. In December 2015, Planning went live with Building Permits.

In 2015, the Finance and IT Departments engaged Accela in a project to enhance system functionality including reducing the number of license statuses and making the license printing process more efficient.

In 2017, Finance went live with the implementation of an enhanced business license tax on owners of five or more residential rental units in the City (Measure U1). Additionally in 2017, Accela purchased Decade Software and the existing Decade agreement was incorporated into the City's Accela agreement.

In 2019, Finance implemented a pilot business license online payment portal project.

RATIONALE FOR RECOMMENDATION

Accela retains exclusive rights to provide maintenance for their software and is the only vendor that provides authorized software maintenance to their system. Renewing the existing agreement for maintenance ensures continued technical support and software updates to the platform.

ALTERNATIVE ACTIONS CONSIDERED

Staff issued a Request for Proposal (Specification No. 19-11330-C) in late 2019 for a new Digital Permitting System to investigate other potential Permitting software solutions on the market. However, the COVID 19 pandemic hit in the middle of the selection process and halted the RFP process. For the time being, due to budgetary constraints, the City will continue to use the Accela platform and will re-explore alternatives once budget is available.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Accela's online web portal for permitting and business licenses reduces the need for the community to physically drive into the Permit Service Center and submit paper forms and documentation. Information can be submitted digitally and accessed remotely through the City's online Accela web portal thereby reducing the Berkeley's overall carbon footprint.

CONTACT PERSON

LaTanya Bellow, Interim Deputy City Manager, City Manager's Office, (510) 981-7012

Attachments:

1: Resolution

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

CONTRACT NO. 31900197 AMENDMENT: ACCELA, INC. FOR PROFESSIONAL SERVICES AND SOFTWARE MAINTENANCE

WHEREAS, the City Council authorized Contract No. 8865 with Accela, Inc. on July 19, 2011 (Resolution No. 65,398-N.S.) for software licensing, implementation, maintenance and related services for a licensing and permitting system; and

WHEREAS, the City Council authorized Contract No. 8865A with Accela, Inc. on December 11, 2012 (Resolution No. 65,965-N.S.) for the implementation of Asset Management software; and

WHEREAS, the City Council authorized Contract No. 8865B with Accela, Inc. on February 24, 2014 (Resolution No. 66,483-N.S.) for the implementation of Building Permits and Code Enforcement; and

WHEREAS, the Accela Civic Platform is a critical enterprise software platform that multiple City departments use including Planning, Public Works, Finance, and Health, Housing, and Community Services; and

WHEREAS, the expansion of online services, web payments, auditing for internal controls, and performance reporting is a key component of increasing the efficiency of Citywide operations; and

WHEREAS, funds for additional software maintenance and professional services will be available in the FY 2023 General Fund, Permit Service Center, and Sanitary Sewer fund, and spending for this amendment in future fiscal years is subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council authorizes the City Manager to amend Contract No. 31900197 with Accela, Inc., for software maintenance, increasing the amount by \$133,420 for a total not to exceed \$2,192,611 from December 12, 2011 to June 30, 2023.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: LaTanya Bellow, Interim Deputy City Manager, Information Technology
Subject: Contract No. 114159-1 Amendment: Tyler Technologies, Inc. for Professional Services and Computer Aided Dispatch (CAD) Software

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 114159-1 with Tyler Technologies, Inc. for additional professional services and an extension of the Computer Aided Dispatch (CAD) software, increasing the amount not-to-exceed by \$733,720 for a total contract value not-to-exceed \$2,288,950, and extending the term of the contract through June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the additional professional services and the extension of CAD licenses in the amount of \$733,720 is available in the Fiscal Year (FY) 2022, 2023, and 2024 Measure FF and General Fund budget as itemized below. Spending in future years for this amendment is subject to City Council’s approval of the proposed citywide budget and annual appropriation ordinances.

\$32,000.00	FY 2022: Professional Services Budget Code: 164-72-745-000-0000-000-422-612990 (Measure FF, Fire & Emergency Services, Professional Services)
\$343,980.00	FY 2023: Software Maintenance Budget Code: 011-35-362-377-0000-000-412-613130- (General Fund, IT Department, Software Maintenance)
\$357,740.00	FY 2024: Software Maintenance Budget Code: 011-35-362-377-0000-000-412-613130- (General Fund, IT Department, Software Maintenance)
\$733,720.00	Total FY 2022-2024 Professional Services and Software Maintenance

CURRENT SITUATION AND ITS EFFECTS

Currently, the City utilizes Tyler Technology's New World Public Safety Systems software suite to support Police operations in addition to a significant portion of Fire operations. Tyler Technologies, Inc. continues to efficiently tie together all 911 communications and facilitate rapid updates to emergency call situations. An extension of license term is required for the City to continue to provide public safety services to the community.

The City uses multiple New World modules in order to facilitate public safety communications. Those modules include, Computer Aided Dispatch (CAD) which supports 911 emergency communications, Corrections MS which supports management of the Berkeley jail, Brazos which supports mobile citations, Mobile and Field Reporting (MR), and Mobile Data Terminals (MDTs) for over 75 police and fire vehicles.

With this request of additional professional services, the Fire and Emergency Services department will begin to utilize Tyler Technology's Tablet Command Module. This Tablet Command Module allows crews to streamline incident management by actively tracking and responding to incidents in real time, in addition to tracking inventory, crews, and units who are on scene. Reporting tools for training and tracking performance are also available, which will improve accountability and increase response times.

Tyler New World software enables police and fire personnel to shift from paper-based records management to a more modern, electronic case management system. In addition, the software suite provides streamlined access to law enforcement and emergency service records, enhanced crime analysis tools, and online crime reporting services.

BACKGROUND

In 2006, City Council authorized the execution of a contract with New World Systems, Inc. for the acquisition and installation of the public safety hardware and software based on the result of a request for proposal (RFP) in the same year. Following a tough, two-year contract negotiation and ten months of software configuration, testing, training, and integration with other City software systems, including the City's GIS and network security systems, the first two modules, Computer Aided Dispatch and Mobile Data Terminals, went live on April 28, 2009.

On August 1, 2010, the third module (Records Management) went live, followed by the fourth module (Jail Management) on November 29, 2010. The module (Mobile Field Reporting for Police) went live on March 25, 2011.

On October 1, 2015 Tyler Technologies announced acquisition of New World Systems. On March 31, 2017, City executed the contract #10515 with Tyler Technologies for New World Systems software suite. In 2018, the City replaced their ERP system and contract

number 10515 was updated at that time to 114159-1 to align with revised citywide naming conventions.

On March 1, 2019, the module (Mobile Ticketing Platform) went live. This module provides electronic ticket submission to the courts, which facilitates and speeds up this process, providing for real time updated information for the courts.

On February 1, 2020, Shield Force, or the mobile field reporting module for the Fire Department, went live and resulted in the ability to update status of emergency calls where Fire emergency and/ or ambulances are called out. Updates are tied to the original CAD record.

In August 2020, Staff completed an update of the Tyler-New World Public Safety System that allowed for compliance with the Warren 911 Emergency Assistance Act and the California Assembly Bill (AB 1168). The Warren 911 Emergency Assistance Act requires every local public agency to establish and operate, or to be a part of, an emergency telephone system using the digits 9-1-1, and creates the State 911 Advisory Board to assist in facilitating the purpose of the act to establish the number 911 as the primary emergency telephone number statewide. The City currently complies and has the 911 number available for emergencies.

California AB 1168 requires each public safety answering point to deploy a text to 911 service, no later than January 1, 2021, that can accept Short Message Service (SMS) messages and Real-Time Text (RTT) messages. Other improvements that are not part of the Tyler software suite have been completed that allow for full functionality for text messages to 911. These improvements include:

- The GeoComm project (paid for by State funding) completed in 2021, cleaned up accuracy of Public Safety GIS map data.
- The RapidDeploy project (also paid for by State funding) made improvements to GIS map layers which enable identification of locations accurate within feet even to a building and floor as compared to previously location was only accurate to a quarter mile. This data is available for 911 use via New World CAD. This project was also completed in 2021.
- Fiber connectivity to the CAD area is another part of preparation for AB 1168 compliance and was funded separately. Fiber is in place, and equipment installation is in progress, and will be completed by the time this report goes to Council.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Tyler New World software enables police and fire personnel to shift from paper-based records management to a more modern, electronic case management system.

The adoption and implementation of an enterprise CAD system enables integration with GIS maps thus resulting in more accurate maps for dispatchers to respond to the calls.

Furthermore, the addition of Shield Force, the mobile field reporting module for the Fire Department, allows for additional process improvements, therefore reducing paper-based processes resulting in an environmentally sound and cost-effective information technology infrastructure.

RATIONALE FOR RECOMMENDATION

This public safety computer system is a critical business software that supports police and fire department operations, including 911 Computer Aided Dispatch (CAD), Mobile Data Terminals (MDTs) for over seventy-five police & fire vehicles, Jail Management module to support jail operations, and Mobile Field Reporting (FR) and Mobile ticketing.

Because CAD unites all 911 communications and facilitates rapid updates to 911 call situations, CAD is identified as a critical application for EOCs and for disaster recovery. Emergency calls from Berkeley residents and visitors in Berkeley are routed through this system, making it an essential component of public safety for the City of Berkeley.

To keep this software current and under a support agreement, the City pays an annual software maintenance fee that guarantees the City's right to software upgrades, patches, and vendor support with technical problems. Keeping software current allows the City to meet regulations outlined above, and engage with vendor for any upgrades needed. This amendment is for license agreements and for maintenance of this software suite for FY 2022 and 2023.

The implementation of Tyler Technologies' New World dispatch system is a Strategic Plan Priority Project, advancing our goal to provide an efficient and financially healthy City government. The criticality of the CAD system also advances our goal to create a safe, connected, and prepared city.

ALTERNATIVE ACTIONS CONSIDERED

The alternative of forgoing maintenance payments would result in the loss of automatic patches, technical support, and troubleshooting services, and disqualify the City from receiving regular software upgrades. Not renewing this software maintenance agreement would result in higher cost ad hoc support services.

CONTACT PERSON

LaTanya Bellow, Interim Deputy City Manager, (510) 981-7000

Attachments:
1: Resolution

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

CONTRACT NO. 114159-1 AMENDMENT: TYLER TECHNOLOGIES, INC. FOR
PROFESSIONAL SERVICES AND COMPUTER AIDED DISPATCH (CAD)
SOFTWARE

WHEREAS, in 2006, City Council authorized the execution of a contract with New World Systems, Inc. for the acquisition and installation of the public safety hardware and software based on the result of a request for proposal (RFP) in the same year, and in 2009, the New World CAD system went live; and

WHEREAS, in 2010, implementation of additional modules began in order to expand the functionality of the New World software suite, these modules included Records Management, Jail Management, Mobile Field Reporting, installation of MDTs, Mobile Ticketing, and compliance with the Warren 911 Emergency Assistance Act and the California Assembly Bill (AB 1168); and

WHEREAS, on October 1, 2015 Tyler Technologies announced acquisition of New World Systems, and the existing contract was assigned to Tyler Technologies, Inc. and in 2018, the City replaced their ERP system and contract number 10515 was updated at that time to 114159-1 to align with revised citywide naming conventions; and

WHEREAS, on March 14, 2017, by Resolution 67,855 – N.S., Council authorized the City Manager to execute contract 10515 with Tyler Technologies for both software licenses and professional services to upgrade the CAD system, for a total-not-exceed \$1,164,210 for the period March 15, 2017 through June 30, 2020; and

WHEREAS, on December 19, 2017, by Resolution 68,259 – N.S., Council authorized the City Manager to execute an amendment to Contract 10515 with Tyler Technologies for additional professional upgrade services, increasing spending authority by \$23,520 for a total-not-to-exceed \$1,187,730, and extending the term to June 30, 2020; and

WHEREAS, on July 20, 2020, by Resolution 69,519 – N.S., Council authorized the City Manager to execute a second amendment to Contract 10515 with Tyler Technologies for an extension of CAD licenses, increasing spending authority by \$367,500 for a total not to exceed \$1,555,230, and extending the term to June 30, 2021; and

WHEREAS, it is imperative to keep this software current because it allows the City to meet local, state, and federal regulations, and engage with vendor for any upgrades and support for technical issues; and

WHEREAS, funding for the additional professional services and the extension of CAD licenses in the amount of \$733,720 is available in the Fiscal Year (FY) 2022, 2023, and 2024 Measure FF and General Fund budget, and spending in future years for this

December 14, 2021

amendment is subject to City Council's approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend Contract No. 114159-1 with Tyler Technologies, Inc. for additional professional services and an extension of the Computer Aided Dispatch (CAD) software, increasing the amount not-to-exceed by \$733,720 for a total contract value not-to-exceed \$2,288,950, and extending the term of the contract through June 30, 2024.



Office of the City Manager

CONSENT CALENDAR
December 14, 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: Donation: New Fencing for a Dog Park at Aquatic Park

RECOMMENDATION

Adopt a Resolution accepting a cash donation in the amount of \$26,566 for new fencing for a dog park at Aquatic Park.

FISCAL IMPACTS OF RECOMMENDATION

The cost to install fencing for a dog park at the vacant parking area on the northwest side of Aquatic Park is \$26,566. The cash donation will be deposited into Parks Fund donation revenue budget code 138-52-542-568-0000-000-000-481110- and will be appropriated in the Second Amendment to the FY 2022 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

Jenny Maxwell of the Friends of the Animal Shelter wishes to make a cash donation of \$26,566 to install fencing for a dog park at the vacant parking area on the northwest side of Aquatic Park. Per the City's Expanded City Parks Donation Policy, individuals may donate to the City's parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and subject to Council disclosure and approval of the gift donation. The Director has determined that the proposed donation complies with the City's Expanded City Parks Donation Policy as described in Resolution No. 66,831–N.S. and has approved the donation, subject to Council approval.

BACKGROUND

On October 28, 2014, the City adopted an Expanded City Parks Donation Policy that provides a mechanism to accept donations from the public to implement parks improvement projects (Resolution No. 66,831–N.S). The City's Open Governance Ordinance (OGO) requires City Council disclosure and approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166-N.S.)

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The construction contract includes requirements to comply with the City's Environmentally Preferable Purchasing Policy. The project will install fencing around a paved area and will not negatively affect natural habitat.

RATIONALE FOR RECOMMENDATION

Jenny Maxwell of the Friends of the Animal Shelter has made a generous offer to make a cash donation of \$26,566 to install fencing for a dog park at the vacant parking area on the northwest side of Aquatic Park. It is in the public interest to accept the donation and implement the project.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Bruce Pratt, Parks Superintendent, (510) 981-6632.

Attachments:

1: Resolution

RESOLUTION NO. -N.S.

DONATION: NEW FENCING FOR A DOG PARK AT AQUATIC PARK

WHEREAS, on December 17, 2013, Council adopted the Expanded City Parks Donation Policy (Resolution No. 66,831–N.S.); and

WHEREAS, the City’s Open Governance Ordinance (OGO) requires City Council disclosure and approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166-N.S.); and

WHEREAS, Jenny Maxwell of the Friends of the Animal Shelter wishes to make a cash donation of \$26,566 to install fencing for a dog park at the vacant parking area on the northwest side of Aquatic Park; and

WHEREAS, per the City’s Expanded City Parks Donation Policy, individuals may donate to the City’s parks in selected locations, subject to the approval of the Director of the Parks Recreation & Waterfront Department, and subject to Council disclosure and approval of the gift donation; and

WHEREAS, the Director has determined that the proposed donation complies with City’s Expanded City Parks Donation Policy as described in Resolution No. 66,831–N.S. and has approved the proposed donation; and

WHEREAS, the cash donation will be deposited into Parks Fund donation revenue budget code 138-52-542-568-0000-000-000-481110- and will be appropriated in the Second Amendment to the FY 2022 Annual Appropriations Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a cash donation in the amount of \$26,566 for fencing for a dog park at Aquatic Park is hereby accepted.



Office of the City Manager

CONSENT CALENDAR
December 14, 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: Cumming Management Group, Inc. for Project Management Services for the African American Holistic Resource Center

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a not-to-exceed \$900,000 contract with the Cumming Management Group, Inc. for project management services for the African American Holistic Resource Center (AAHRC) for a contract period of January 3, 2021 through June 30, 2025.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this project management contract will come from Measure T1 Phase 2 funds (511-52-545-000-0000-000-461-612310) and City General Funds (011-52-545-000-0000-000-461-612310). This project is divided into 4 task orders and they will be processed as the project proceeds.

CURRENT SITUATION AND ITS EFFECTS

In June of 2020, City Council authorized \$250,000 in funding from the Police Budget (Salary Account) for the AAHRC planning process. On December 15, 2020 City Council approved phase 2 projects for the Measure T1 Infrastructure Bond that was passed by voters by an 86.5% margin on November 3, 2016. Phase 2 included a \$7M allocation to complete the AAHRC. Staff recommends council approval of a contract with the Cummings Management Group, Inc. for project management services to complete the AAHRC.

BACKGROUND

In April 2011, the African American/Black Professionals & Community Network (AABPCN) crafted a report titled *A Community Approach for African American/Black Culturally Congruent Services*. The AABPCN report identified challenges that the African American community faces in areas of the social determinants of health, including education, employment, health, mental health, housing, and community relationships. This community has also been severely impacted by the COVID-19 global pandemic, in addition to contending with the multigenerational effects of systemic racism and discrimination. A vision and framework were provided in the report for the development of an African American Holistic Resource Center in South Berkeley.

The center would include the use of culturally congruent practices, embedded in an integrated service delivery system, which would help to decrease inequities and disparities in the African American/Black community in Berkeley.

Members of the AABPCN shared the vision for the AAHRC and began gathering information from the community via focus groups, town hall meetings, small group discussions, and formal presentations to several Berkeley Commissions, the Berkeley City Council, and other stakeholder groups. In 2016, the City of Berkeley Community Health Commission strongly recommended that the City of Berkeley “take immediate action steps towards the development and support of the African American Holistic Resource Center in South Berkeley, with City Council support. Following the commission reports and community advocacy, the City of Berkeley funded the development of a feasibility study. Building on prior work, many of the same dedicated community members continued working towards the vision of an African American Holistic Resource Center. The AAHRC committees spent countless hours deepening the plans, developing the feasibility study in 2019, and continuing to advocate for its creation with city council and other stakeholders.

On December 15, 2020 the Berkeley City Council approved \$7 million in revenue from measure T1 for the creation of an African American Holistic Resource Center in South Berkeley.

A Request for Qualifications (RFQ) was issued on July 20, 2021 seeking qualified firms or individuals to provide project management services for the AAHRC. On September 7, 2021, the City received four proposals from professional consultant firms. On September 28, a panel of 2 City staff and 3 AAHRC Steering Committee members reviewed, evaluated and ranked the 4 proposals according to the criteria in the RFQ. This panel referred the two highest ranking proposals to the City Manager, who received presentations from both firms. After these presentations, the Cumming Management Group, Inc. was identified as the highest rated proposal. The City also confirmed the consultants' qualifications by checking references.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no anticipated negative environmental effects of this action. The execution of this contract will help ensure successful completion of the AAHRC project that will incorporate the sourcing of sustainable and renewable resources used in construction projects, as well as compliance with all regulatory agency requirements. This promotes environmental sustainability and meets the Strategic Plan Goal 1 to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

RATIONALE FOR RECOMMENDATION

The team assembled by the Cumming Management Group, Inc. is highly qualified and responsive. They have particular expertise in fulfilling the criteria stated in the RFQ.

ALTERNATIVE ACTIONS CONSIDERED

None

Contract: Cummings Management Group, Inc. Project Management Services for the African American Holistic Resource Center CONSENT CALENDAR
December 14, 2021

CONTACT PERSON

Paul Buddenhagen, Deputy Director, (510) 981-7014

Scott Ferris, Director, Parks, Recreation & Waterfront, (510) 981-6711

Attachment:
Resolution

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

CONTRACT: CUMMING MANAGEMENT GROUP, INC. FOR PROJECT MANAGEMENT SERVICES FOR THE AFRICAN AMERICAN HOLISTIC RESOURCE CENTER

WHEREAS, the African American/Black Professionals & Community Network (AABPCN) and later the African American Holistic Resource Center (AAHRC) Steering Committee has been meeting, creating a vision for holistic African American health, and advocating for the funding to build this facility since 2011. In 2019, a feasibility study was completed by the Steering Committee. In June of 2020, City Council authorized \$250,000 in funding from the Police Budget (Salary Account) for the AAHRC planning process. On December 15, 2020 City Council approved phase 2 projects for the Measure T1 Infrastructure Bond, which included a \$7M allocation to complete the AAHRC; and

WHEREAS, a Request for Qualifications (RFQ) was issued on July 20, 2021 seeking qualified firms or individuals to provide project management services for the AAHRC; and

WHEREAS, on September 7, 2021, the City received four proposals from professional consultant firms; and

WHEREAS, on September 28, a panel of two City staff and three AAHRC Steering Committee members reviewed, evaluated and ranked the 4 proposals according to the criteria in the RFQ. This panel referred the two highest ranking proposals to the City Manager, who received presentations from both firms. After these presentations, the Cumming Management Group, Inc. was identified as the highest rated proposal; and

WHEREAS, funding for this project management contract will come from Measure T1 Phase 2 funds (511-52-545-000-0000-000-461-612310) and City General Funds (011-52-545-000-0000-000-461-612310). This project is divided into 4 task orders and they will be processed as the project proceeds.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to approve a contract and any amendments with Cumming Management Group, Inc. for project management services to complete the African-American Holistic Resources Center for a contract period of January 3, 2021 through June 30, 2025 in an amount not to exceed \$900,000. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
December 14, 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: Get IT Tech – New Electronic Gate System at the Waterfront

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract with Get IT Tech to provide a new electronic gate system at the Waterfront in an amount not-to-exceed of \$100,000, which includes a contract amount of \$91,748.67 and a 9% contingency in the amount of \$8,251.33, rescinding Resolution No. 69,929-N.S.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the contract is available in the FY 2022 Marina Fund. No other funding is required, and no other projects will be delayed due to this expenditure.

Expenditures

Get IT Tech (lowest bid)	\$91,748.67
9% Contingency.....	\$ 8,251.33
Total cost	\$100,000.00

Funding

Marina Fund..... \$100,000.00
 (608-52-545-000-0000-000-472-612990-PRWWF21007- 608-MARINA- MISC PROF)

CURRENT SITUATION AND ITS EFFECTS

In 2020, the existing vendor for the electronic gate system at the Waterfront, ALX Inc, informed the City that they were closing and that replacement parts would no longer be available. In March of 2021, the City conducted a competitive Request For Proposal (RFP) process to obtain a vendor to provide an electronic gate system at the Waterfront, and Get IT Tech was identified as the vendor that best met the needs described in the RFP. On June 15th 2021, the Council of the City of Berkeley approved Resolution 69,929-N.S. to execute a Contract with Get IT Tech for an amount not-to-exceed \$73,458. Before the Get IT Tech contract was executed in the summer of 2021, additional gates were installed at the Waterfront that need electronic lock equipment, and therefore the contract amount must be increased to cover the new gates. This is a

request to authorize the new contract amount and to rescind the prior Resolution 69,929-N.S.

BACKGROUND

The electronic gate system at the Marina operates 24/7 and provides secure access to the docks and restrooms for slip holders and guests. In 2009, the system was upgraded from SSI to ALX. In 2016, the City contracted with Get IT Tech for maintenance and support of the ALX system. In early 2021, ALX informed the City that they were closing and that replacement parts would no longer be available.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental impacts associated with the recommendation contained in this report.

RATIONALE FOR RECOMMENDATION

During the competitive RFP process, Get IT Tech was identified as the vendor that best met the needs described in the RFP to provide the City with an effective electronic gate system at the Waterfront.

CONTACT PERSON

Alexandra Endress, Waterfront Manager, (510) 981-6737
Sean Crothers, Waterfront Supervisor, (510) 981-6744

Attachments:

1. Resolution

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

CONTRACT: GET IT TECH FOR NEW ELECTRONIC GATE SYSTEM AT THE WATERFRONT - SPECIFICATION NO. 21-11446

WHEREAS, in 2020, the existing vendor for the electronic gate system at the Waterfront, ALX Inc, informed the City that they were closing and that replacement parts would no longer be available; and

WHEREAS, in March of 2021, the City conducted a competitive Request For Proposal (RFP) process to obtain a vendor to provide an electronic gate system at the Waterfront, and Get IT Tech was identified as the vendor that best met the needs described in the RFP; and

WHEREAS, funding for the contract in the amount of \$91,748.67 plus \$8,251.33 contingency is available in the FY 2022 Marina Fund budget (608-52-545-000-0000-000-472-612990- PRWWF21007- 608-MARINA- MISC PROF).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a contract and any amendments with Get IT Tech to provide a new electronic gate system at the Waterfront in the amount not-to-exceed \$100,000, which includes a contract amount of \$91,748.67 and a 9% contingency in the amount of \$8,251.33, and rescind Resolution 69,929-N.S. A record signature copy of said contract will be on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Liam Garland, Director, Department of Public Works
Subject: Contract: Best Contracting Services, Inc. for Fire Station No.3 Re-Roofing Project at 2710 Russell Street. Specification No. 20-11408

RECOMMENDATION

Adopt a Resolution:

1. Approving plans and specifications for the Fire Station No.3 Re-roofing Project, Specification No. 20-11408;
2. Accepting the bid of Best Contracting Services, Inc. as the lowest responsive and responsible bidder; 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, for an amount not to exceed \$326,733.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this project is available in the FY 2022 budget in the Capital Improvement Fund (501).

Low bid by Best Contracting Services, Inc.....	\$284,116
Contingency (15%)	\$42,617
Total Construction Cost	\$326,733

No other funding is required.

CURRENT SITUATION AND ITS EFFECTS

The Fire Station #3 Re-Roofing Project was advertised for bids on May 19, 2021. Bids were opened on June 17, 2021. The City received two (2) bids in the amounts of \$171,471 and \$284,116, respectively. The apparent low bidder, Alcal Specialty Contracting, Inc. is unwilling to execute a contract agreement due to escalating costs of building materials in the market. Alcal is non-responsive because they did not return the *Intention to Award Contract Package*. Staff believe it is cost effective and efficient to award the project to Best Contracting Services, which was determined to be the lowest responsive and responsible bidder. Therefore, staff recommends that a construction contract for the project be awarded to Best Contracting Services, Inc.

BACKGROUND

Fire Station #3 has had a long history of water intrusion. Comprehensive inspections and leak investigations were performed in April 2019. The investigations determined the existing roofing system was in poor condition and beyond repair. In addition, on-going water intrusion caused damage throughout the interior of the facility. Public Works staff worked with a consultant to develop construction documents to replace the roof and rehabilitate the building interior. The roof suffered another major leak in the October 24, 2021 rainstorm, intruding into living quarters and a room with important electrical equipment.

The Fire Station #3 Re-Roofing Project supports the Strategic Plan goals of creating a resilient, safe, connected, and prepared city and state-of-the-art, well-maintained infrastructure, amenities, and facilities.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no anticipated negative environmental effects or climate impacts of this action.

RATIONALE FOR RECOMMENDATION

The City does not have the in-house work force to perform the construction services required for this type of work.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Liam Garland, Director, Public Works (510) 981-6303
Andrew Brozyna, Deputy Director of Public Works, (510) 981-6396
Elmar Kapfer, Supervising Civil Engineer, Public Works (510) 981-6435

Attachments:

- 1: Resolution
- 2: Abstract of Bids

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

CONTRACT: BEST CONTRACTING SERVICES, INC. FOR FIRE STATION #3
RE-ROOFING PROJECT, SPECIFICATION NO. 20-11408-C

WHEREAS, the project consists of removing existing roofing materials and installing new roofing per Plans and Specifications No.20-11408-C; and

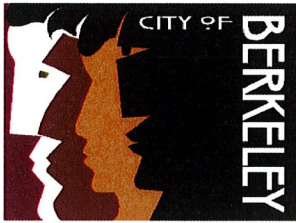
WHEREAS, the City has neither the labor nor the equipment necessary to undertake this project; and

WHEREAS, an invitation for bids (Plans and Specifications No.20-11408-C) was duly advertised, and Best Contracting Services, Inc. was determined to be the lowest responsive and responsible bidder; and

WHEREAS, funds are available in the FY 2022 budget in the Capital Improvement Fund (Fund 501).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Plans and Specification No.20-11408-C for the Fire Station No.3 Re-roofing 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 Best Contracting Services, Inc. for the Fire Station No.3 Re-roofing Project at 2710 Russell Street, in an amount not to exceed \$326,733, which includes a 15% contingency for unforeseen circumstances. A record signature copy of the agreement and any amendments will be on file in the Office of the City Clerk.



City of Berkeley
Abstract of Bid Worksheet

Finance Department
General Services Division

FOR: Fire Station #3 Re-Roofing

Spec. #
20-11408

Bid Date:

6/17/2021

required w/ bid

	Bidders	Base Bid	Bid Bond	Addenda (1)	Reg & Exp	Subs	NCA	Certs		
1	Alcal	\$174,471	✓	✓	✓	✓	✓	✓		
2	Best Contracting Services	\$284,116	✓	✓	✓	✓	✓	✓		
3										
4										
5										
6										
7										
8										
9										
10										

Bid Recorder: *[Signature]* 6/17/2021

Bid Opener: *[Signature]* 6/17/2021

Project Manager: *[Signature]* 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
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Department of Public Works
 Subject: Purchase Order: Arata Equipment Company for one 18-yard Rear Loader

RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the city to participate in Sourcewell (formerly NJPA) bid procedures and authorize the City Manager to execute a purchase order for one 18-yard rear loader with Arata Equipment Company in an amount not to exceed \$345,000.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of one 18-yard Rear Loader will not exceed \$345,000 and includes CA tires fees, sales tax, and delivery fee. Funding for the purchase is available in the FY 2022 budget in the General Fund (011) as part of Measure P and the Equitable Clean Streets City Council Budget Referral.

CURRENT SITUATION AND ITS EFFECTS

This purchase is an addition to fleet. Staff are currently using an 18-year-old, 25-yard rear loader that was transferred to the Streets and Utilities Division from the Zero Waste Division, instead of being sent to auction in 2017. Public Works' Clean Cities Unit requires a vehicle to perform encampment and illegal dumping services throughout the city. The new vehicle will be a smaller, 18-yard rear loader mounted on a two-axle chassis. The vehicle will be maneuverable and able to access locations its larger predecessor could not. Additionally, the vehicle will be equipped with an advanced engine application designed to reduce exhaust emissions.

The Crane Carrier Company LET2 chassis will be purchased from Arata Equipment Company and provided by sub-contractor Western Truck Center who is the City of Berkeley Crane Carrier Company local dealer/distributor for Northern California.

The Labrie Enviroequip Group Leach Alpha III Rear Body will be purchased from Arata Equipment Company utilizing Sourcewell Contract No. 091219-LEG. Arata Equipment Company is the exclusive Labrie Enviroequip Group dealer for the Northern California territory including the City of Berkeley and is authorized to sell, and provide parts and service.

Approval of this item will further the Strategic Plan goal of providing state of the art, well maintained infrastructure, amenities, and facilities.

BACKGROUND

Throughout the year, each City Department pays its proportionate share into the Equipment Replacement Fund, and those funds are utilized to replace equipment at the end of its useful life. If a vehicle purchase request exceeds \$25,000, the Department of Finance General Services Division solicits bids or piggybacks off competitively bid contracts to ensure City Departments receive the best pricing.

City Charter XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through a competitive process.

The City of Berkeley has been a no-cost member and participant of Sourcewell (formerly National Joint Powers Alliance) (NJPA), a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original statute was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying higher costs associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs. Sourcewell serves all educational, government and non-profit agencies nationwide, and offers cooperative contracted products, equipment and service opportunities to government entities throughout the U.S.

All Sourcewell contracts have been competitively solicited nationwide. On July 11, 2019 Sourcewell released Request for Proposal No. 091219 for Mobile Refuse Collection Vehicles with Related Equipment, Accessories, and Services. The solicitation was released for approximately thirty-three days and nine proposals were submitted and received. Upon review, the Sourcewell proposal evaluation committee selected Labrie Enviroquip Group as the best most responsive proposer to meet the specifications thusly awarding Contract No. 091219-LEG.

For all contracts, Sourcewell charges an administrative fee based upon the percentage of the sale, and that fee is paid by the Contractor directly to Sourcewell. For this purchase the fee will be paid by Arata Equipment Company and will not be passed on to the City of Berkeley.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Consistent with the City Council's recently accepted Municipal Fleet Electrification Assessment, Public Works Maintenance aims to procure the most fuel-efficient vehicles and equipment that are suitable for the required tasks. At present, heavy-duty collection trucks that are either hybrid and/or electric are undergoing development and being pilot tested; however, there is not a commercially available alternative to this truck in hybrid and/or electric form. This collection truck will be powered by 100% renewable diesel

fuel designed to reduce greenhouse gas emissions by 50-80% and will meet the 2018 EPA and California Air Resources Board (CARB) requirements. Usage of renewable diesel also complies with the City's Fossil Free Recommendations.

This purchase aligns with the 2020 Municipal Fleet Electrification Assessment that recognized the lack of commercially available and viable electric vehicles in medium and/or heavy-duty form. The Assessment proposed to install 51 charging stations with 100 chargers and upgrade all 129 vehicles in the light duty fleet to EV by 2030. To date, Public Works has installed 31 charging stations and 61 chargers. In the next two years, another five charger installations are planned for installation at the Corporation Yard. In 2020, the fleet included 46 hybrids and 15 plug-in, hybrid-electric vehicles. Since then, the fleet has added 6 EV sedans, 11 hybrid SUVs for the Police Department (PD), and 4 hybrid pickup trucks. In the next fiscal year, the city will add another 11 EV sedans. Public Works is on track to complete conversion of sedans and SUVs by 2028, two years ahead of the assessments schedule. In addition, the city fleet has reduced its consumption of traditional gasoline by 33% from a high in 2000, in part due to some of the changes above and because so much of the fleet runs on renewable diesel. Twenty-one of last year's vehicle replacements were either hybrid or powered by renewable diesel.

RATIONALE FOR RECOMMENDATION

Equipment must be replaced on a reasonable schedule to ensure City services can be delivered efficiently, effectively, and safely.

ALTERNATIVE ACTIONS CONSIDERED

None. Keeping equipment longer than its useful life results in higher maintenance costs excessive downtime to keep it operating in a safe and serviceable manner, and higher greenhouse gas emissions.

CONTACT PERSON

Greg Ellington, Superintendent, Department of Public Works (510) 981-6469

Attachment:

1: Resolution

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

ARATA EQUIPMENT COMPANY FOR ONE 18-YARD REAR LOADER

WHEREAS, one (1) 18-yard Rear loader Refuse Truck is needed by the City of Berkeley Public Works Clean Cities Division to perform encampment and illegal dumping clean ups throughout the City; and

WHEREAS, equipment is required to support Clean City operations; and

WHEREAS, City Charter XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through a competitive bid process; and

WHEREAS, Sourcewell bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funds in the amount of \$345,000 are available in the General Fund (011) in FY 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order satisfying requirements of City Charter Article XI Section 67.2 allowing the city to participate in Sourcewell (formerly NJPA) bid procedures to purchase one 18-yard rear loader with Arata Equipment Company in an amount not to exceed \$345,000.



Office of the City Manager

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Public Works Commission
 Submitted by: Margo Schueler, Chairperson, Public Works Commission
 Subject: Authorization for Additional Public Works Commission Meeting in 2021

RECOMMENDATION

Adopt a Resolution authorizing one additional meeting of the Public Works Commission in 2021.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Public Works Commission requests approval to hold a Special Meeting on December 16, 2021, in addition to regularly scheduled Commission meetings, for the purpose of discussing 2022 Work Plan recommendations of its successor, the Transportation and Infrastructure Commission. Submission of this report for authorization of the additional meeting was approved by the Public Works Commission at its October 7, 2021 meeting. It was moved to approve by Freiberg, and seconded by Nesbitt. The other Commissioners present, Hitchen, Schueler, and Napoli, also voted to approve the additional meeting.

BACKGROUND

Resolution No. 68,258-N.S. governs the number of meetings for boards and commissions and places the Public Works Commission in Category B with a maximum of 10 meetings per year. In 2021, the Commission is scheduled to hold 10 regular monthly meetings from January through November, except for August.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

The additional meeting requested for December is an opportunity for the Commission to review and recommend activities, initiatives, and assignments for incorporation into the 2022 work plan of the proposed Transportation and Infrastructure Commission. The

work planning of the Commission advances the City Strategic Plan Priority Goal of providing state-of-the art, well maintained infrastructure, amenities, and facilities.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Joe Enke, Secretary, Public Works Commission and Manager of Engineering, Public Works, (510) 981-6411

Attachments:

1: Resolution

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

AUTHORIZING ADDITIONAL MEETING FOR THE PUBLIC WORKS COMMISSION

WHEREAS, Resolution No. 68,258-N.S. stipulates how many annual meetings are allowed for Berkeley's commissions and places the Public Works Commission in Category B, with a maximum of 10 meetings per year; and

WHEREAS, the Public Works Commission plans to hold another additional meeting in December to develop its Work Plan for 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council authorizes one additional meeting in 2021 for the Public Works Commission.



Office of the Mayor

CONSENT CALENDAR

December 14, 2021

To: Members of the City Council

From: Mayor Jesse Arreguín (Author), Councilmember Robinson (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)

Subject: Allocating Remainder of Berkeley Relief Fund

RECOMMENDATION

Adopt a Resolution accepting a \$28,142.38 payment from the East Bay Community Foundation of funds raised by the Berkeley Relief Fund and authorizing the City Manager to allocate these funds to the following:

- \$10,000 to the Starry Plough Pub and Music Venue
- \$18,142.38 to the Eviction Defense Center for the Housing Retention Program

BACKGROUND

In March 2020, at the beginning of the COVID-19 Shelter in Place restrictions, the City Council established the Berkeley Relief Fund. The initial \$3 million provided by the City Council to capitalize the fund was supplemented by over \$1.5 million in private donations that were held in custodial trust by the East Bay Community Foundation (EBCF). These funds were used to support 700 small businesses, including 251 restaurants, 142 retail establishments, 85 personal services and 222 other businesses, 63 arts organizations, and 214 families with rent assistance. Most of the funds have now been spent, with \$78,142.38 remaining and being held at EBCF. Of those funds, \$50,000 has been reserved for the COVID-19 Business Damage Mitigation Fund, with \$28,142.38 currently unallocated.

This item requests that Council formally accept remaining unallocated grant funds from the East Bay Community Foundation and disburse remaining funding to the following organizations: The Starry Plough for \$10,000 and Eviction Defense Center for \$18,142.38.

Unlike most live-performance venues, the Starry Plough Pub and Music Venue is classified as a restaurant/bar and up until recently did not have non-profit tax exempt status. Despite being a part of Berkeley's cultural life for over 40 years, this business designation made them ineligible for the COVID-19 Arts Continuity Grant funding which provided larger awards than those provided to small businesses. In fact, the Starry Plough received a \$2,500 Business Continuity Grant in 2020, whereas their neighbor, La Pena, which has a restaurant connected to it, but is classified as a cultural venue received a \$24,000 Arts Continuity Grant. The Starry Plough has been closed for 20

months and is struggling to reopen. Because the Starry Plough is in a unique situation compared to other businesses and live-performance venues this item requests that they receive a supplemental COVID-19 Continuity Grant to bring them closer to the amounts provided to arts organizations.

The Eviction Defense Center's Housing Retention Program has been instrumental to providing financial stability to tenants who have been impacted by COVID-19. Grants of up to \$10,000 are available, and there still is demand for such grants. Providing an additional \$18,142.38 to this program could support two or more households in need of rental assistance.

FINANCIAL IMPLICATIONS

\$28,142.38 from the Berkeley Relief Fund, held custodially by the East Bay Community Foundation

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

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

ALLOCATING REMIANING FUNDS OF THE BERKELEY RELIEF FUND FROM THE EAST BAY COMMUNITY FOUNDATION TO THE STARRY PLOUGH PUB AND MUSIC VENUE AND EVICTION DEFENSE CENTER

WHEREAS, Berkeley's businesses and nonprofits have been severely impacted by the COVID-19 pandemic, experiencing extreme reductions of revenue; and

WHEREAS, on March 17, 2020, the City of Berkeley helped to launch the Berkeley Relief Fund by allocating \$3 million to grant programs for businesses, nonprofits, arts organizations and renters impacted by the pandemic; and

WHEREAS, the generous residents, business community, and philanthropists of Berkeley have contributed over \$1.5 million to the Berkeley Relief Fund to support the community's recovery from the pandemic and the associated economic crisis; and

WHEREAS, staff from the Office of Economic Development launched the Business Continuity Grant program to provide grant funding to businesses and nonprofits that have experienced revenue losses due to the pandemic, and received 1,058 applications; and

WHEREAS, over the past twenty months, these funds have been used to support 700 small businesses, including 251 restaurants, 142 retail establishments, 85 personal services and 222 other businesses, 63 arts organizations, and 214 families with rent assistance; and

WHEREAS, the East Bay Community Foundation is prepared to transfer to the City of Berkeley the remaining \$28,142.38 payment of funds held for the Berkeley Relief Fund, which will be deposited into Fund 363- One Time Grant, No Capital Expenditures; and

WHEREAS, the Starry Plough Pub and Music Venue received just a \$2,500 Continuity Grant in 2020 because they are classified as a restaurant and not as a live-performance venue, despite being principally a music venue with a bar and restaurant as an incidental use; and

WHEREAS, demand still exists for the Eviction Defense Center's Housing Retention program has been instrumental to providing financial stability to tenants who have been impacted by COVID-19.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a \$28,142.38 payment from the East Bay Community Foundation be accepted to finance grant payments to assist businesses and tenants impacted by the COVID19 pandemic.

BE IT FURTHER RESOLVED that the City Manager is authorized to allocate this funding as follows:

- \$10,000 to the Starry Plough Pub and Music Venue
- \$18,142.38 to the Eviction Defense Center's Housing Retention Program



Office of the Mayor

CONSENT CALENDAR
December 14, 2021

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín (Author), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), and Councilmember Hahn (Co-Sponsor)

Subject: Eleventh Annual Martin Luther King Jr. Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

RECOMMENDATION

1. Adopt a Resolution co-sponsoring the 11th Annual Martin Luther King Jr. Celebration Breakfast on January 17, 2022.
2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Arreguin, to the Berkeley Rotary Endowment, the fiscal sponsor of the 11th Annual Martin Luther King Jr. celebration, 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.

BACKGROUND

The annual Martin Luther King Jr Celebration, which first started in 2012, strives to bring together a diverse group of East Bay residents to celebrate and continue the work of Dr. Martin Luther King Jr. The purpose of this event is to bring the faith based, business, university, youth and civic communities together to celebrate the life and dreams of Dr. King and to honor adult and youth leaders in our community.

We are proposing that City Councilmembers make individual grants of up to \$500 to the Berkeley Rotary Endowment to commemorate and honor Dr. Martin Luther King Jr. The event is being held on January 17, 2022.

FINANCIAL IMPLICATIONS

No General Fund impact; \$500 is available from Mayor Arreguin's Office Budget discretionary accounts.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

- 1: Resolution for City Sponsorship
- 2: Resolution for Council Expenditures

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

CITY SPONSORSHIP OF THE 11TH ANNUAL DR. MARTIN LUTHER KING JR.
CELEBRATION

WHEREAS, the Ninth Annual Dr. Martin Luther King Jr. Celebration will take place on January 17, 2022; and

WHEREAS, the purpose of this event is to bring the faith based, business, university, youth and civic communities together to celebrate the life and dreams of Dr. King and to honor adult and youth leaders in our community; and

WHEREAS, historically the Berkeley City Council has generously provided sponsorship for this event.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley hereby co-sponsors the 11th Annual Dr. Martin Luther King Jr. Celebration, has permission to use the City's name and logo in the event's promotional materials and signage naming the City of Berkeley as a co-sponsor solely for the purpose of the City indicating its endorsement of the event.

BE IT FURTHER RESOLVED that this co-sponsorship does not: (1) authorize financial support, whether in the form of fee waivers, a grant or provision of City services for free; (2) constitute the acceptance of any liability, management, or control on the part of the City for or over the MLK Jr Celebration; or (3) constitute regulatory approval of the event.

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

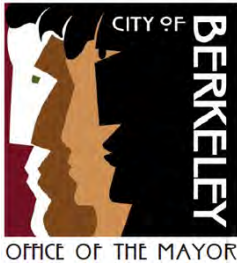
AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE
EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT
TOPROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Mayor Jesse Arreguin has surplus funds in his office expenditure account;
and

WHEREAS, a California non-profit tax exempt corporation, the Berkeley Rotary
Endowment, seeks funds in the amount of \$500 to provide the following public services
to publicly commemorate and honor the contributions of Dr. Martin Luther King
Jr.; and

WHEREAS, the provision of such services would fulfill the following municipal public
purpose of bringing the communities across the City, including, but not limited to faith
based, business, university, youth and civic communities, together to celebrate the life
and dreams of Dr. King and to honor adult and youth leaders in our community.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that
funds relinquished by the Mayor and Councilmembers from their Council Office Budget
up to \$500 per office shall be granted to the Berkeley Rotary Endowment to fund the
following services of bringing the communities across the City, including, but not limited
to faith based, business, university, youth and civic communities, together to celebrate
the life and dreams of Dr. King and to honor adult and youth leaders in our community.



CONSENT CALENDAR

December 14, 2021

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín (Author) and Councilmember Hahn (Co-Sponsor)

Subject: Resolution in Support of Bay Adapt: Regional Strategy for a Rising Bay

RECOMMENDATION

Adopt a Resolution in support of Bay Adapt: Regional Strategy for a Rising Bay.

BACKGROUND

The Bay Adapt Joint Platform (Attachment 1) is the result of a stakeholder-led process to determine the best ways for the Bay Area to become regionally resilient to rising sea levels. While the Bay's shoreline constitutes one-third of the California coastline, the Bay Area will likely experience two-thirds of the negative economic impacts due to the flooding caused by rising sea levels absent adequate measures to adapt and protect people, places, and habitat. In the face of this challenge, the Bay Area must protect and energize vulnerable and historically marginalized frontline communities, enhance and restore an ecosystem that is already deeply affected by human activities, and reduce flood risks for existing built infrastructure along the vast bay shoreline. Implementing Bay Adapt will reduce flood risks for communities, businesses, infrastructure, and habitat, increase technical assistance for local governments and funding for adaptation, protect natural areas and wildlife, recognize and equitably support low-income, frontline communities, robustly integrate adaptation into community-focused local plans, and accelerate permitting and project construction of local adaptation projects.

ENVIRONMENTAL IMPACT

Increasingly frequent and severe impacts of climate change in the Bay Area do not conform to our governments' jurisdictional boundaries or the planning and regulatory authorities of any one agency or organization. Bay Adapt begins to address these challenges by laying out a set of guiding principles, priority actions, and vital tasks that public, private, and nonprofit organizations, including local governments with land use authorities, can voluntarily implement in a coordinated and collaborative manner to adapt faster, better, and more equitably to a rising San Francisco Bay.

FINANCIAL IMPLICATIONS

Financial implications to the City of Berkeley will be addressed through subsequent initiatives that support Bay Adapt: Regional Strategy for a Rising Bay.

CONTACT PERSON

Jesse Arreguín, Mayor, (510) 981- 7100

ATTACHMENTS

1. Bay Adapt: Regional Strategy for a Rising Bay - Joint Platform (October 2021)

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

SUPPORT OF BAY ADAPT: REGIONAL STRATEGY FOR A RISING BAY

WHEREAS, climate change is accelerating rising sea levels, increasing storm frequency and intensity, and moving groundwater toward the surface. The confluence of more intense winter storms, extreme high tides, and higher runoff, with higher sea levels, will increase the frequency and duration of shoreline flooding long before areas are permanently inundated by sea level rise alone; and

WHEREAS, a major storm within the next decade in the Bay Area could result in temporary flooding impacts to 13,000 existing housing units and 70,000 planned housing units, 28,000 socially vulnerable residents, 104,000 existing jobs and 85,000 planned jobs, and 20,000 acres of wetlands habitat that may become permanently inundated within 40 years; and

WHEREAS, there are multiple local, regional, state, and federal government agencies with authority over the Bay and its shoreline, and while local governments have broad authority over shoreline land use they have limited resources to address climate change adaptation; and

WHEREAS, individual local actions, absent a regional context in which to make policy decisions, will lead to a “tragedy of the commons”; and

WHEREAS, the San Francisco Bay Area is a vibrant, diverse, ecologically unique, innovative, and pioneering region that will be deeply and deleteriously affected by climate change without tremendous effort and investments to adapt to a constantly changing shoreline. The San Francisco Bay shoreline constitutes approximately one-third of the California coastline, but the Bay Area is estimated to experience two-thirds of the negative economic impacts due to the flooding that would occur absent adequate measures to adapt and protect people, places, and habitat; and

WHEREAS, the Bay Area region’s most socioeconomically vulnerable frontline communities are at the greatest risk of exposure to climate threats, and the impacts of historic and ongoing social and economic marginalization will compound the risks posed by flooding to those communities by reducing a community’s or individual’s ability to prepare for, respond to, and/or recover from a flood event; and

WHEREAS, the Bay ecosystem is already stressed by human activities that have drastically lowered its adaptive capacity, and climate change will further alter that ecosystem by inundating or eroding remaining wetlands, changing sediment dynamics, altering species composition, increasing the acidity of Bay waters, changing freshwater flows and/or salinity, altering the food web, and impairing water quality. Moreover, further loss of tidal wetlands will increase the risk of shoreline flooding; and

WHEREAS, flood damage to vital shoreline development, public infrastructure, and facilities such as neighborhoods, commercial centers, airports, seaports, regional transportation facilities, landfills, contaminated lands, and wastewater treatment facilities

absent adaptation will require costly repairs and likely will result in the interruption or loss of vital services, large-scale social dislocation, and degraded environmental quality; and

WHEREAS, the increasingly frequent and severe impacts of climate change in the Bay Area do not conform to jurisdictional boundaries or the planning and regulatory authorities of any one agency or organization; and

WHEREAS, in 2019, BCDC, in collaboration with a Leadership Advisory Group composed of 35 Bay Area public, private, and non-profit leaders, embarked on the development of “Bay Adapt,” a consensus-driven strategy for regional sea level rise adaptation. The Leadership Advisory Group includes representatives from numerous public agencies, including the Association of Bay Area Governments/Metropolitan Transportation Commission (MTC/ABAG), San Francisco Bay Regional Water Quality Control Board, State Coastal Conservancy, Caltrans, BARC, BART, East Bay Regional Parks, US Army Corps of Engineers, San Francisco Bay Restoration Authority, San Francisco Public Utility Commission, Marin County, and BCDC, as well as environmental justice, environmental, business, scientific, civic, organizations, local government and flood manager networks, and academia; and

WHEREAS, in 2020 and 2021, hundreds of stakeholders participated in the creation of the “Bay Adapt Joint Platform” through nine Leadership Advisory Group meetings, two public forums, many expert Working Group meetings, ten community and stakeholder focus groups, over 50 presentations to local governments around the region, and a month-long public feedback opportunity; and

WHEREAS, the Bay Adapt Joint Platform lays out a set of guiding principles, priority actions, and vital tasks whose implementation will enable the region, and most notably local governments, to adapt faster, better, and more equitably to a rising San Francisco Bay. If fulfilled, it will reduce flood risks for communities, businesses, infrastructure, and habitat; increase technical assistance for local governments and funding for adaptation; protect natural areas and wildlife; recognize and equitably support low-income, frontline communities; robustly integrate adaptation into community-focused local plans; and, accelerate permitting and project construction of local adaptation projects; and

WHEREAS, the Bay Adapt Leadership Advisory Group supports the Joint Platform and many members agreed to help implement it at its October 2021 meeting, the BARC Governing Board endorsed it on September 17, 2021, and BCDC adopted the Joint Platform on October 21, 2021; and

WHEREAS, implementing the Joint Platform’s many and varied actions and tasks goes beyond the capacity of any single organization or jurisdiction, requires strong and diverse leadership and participation in all aspects of its implementation, and a broad coalition of stakeholders share responsibility for the success of the tasks outlined in the Joint Platform.

NOW, THEREFORE, BE IT RESOLVED, that the City of Berkeley supports the Bay Adapt Joint Platform, a regional strategy for a rising Bay, including the guiding principles, actions, and tasks contained within, and looks forward to championing and supporting the implementation of Bay Adapt to ensure that it serves Berkeley and the Bay Area as a whole in achieving resilient and equitable adaptation to sea level rise.



BAY ADAPT

Regional Strategy for A Rising Bay

October 2021

JOINT PLATFORM



BAY ADAPT

Regional Strategy for A Rising Bay

Joint Platform

October 2021





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Photo credits | Page 2 from top to bottom: Jaclyn Mandoske (BCDC), Schyluer Olsen (BCDC), Jaclyn Mandoske (BCDC); Page 3 Illustration by Sophia Zaleski.

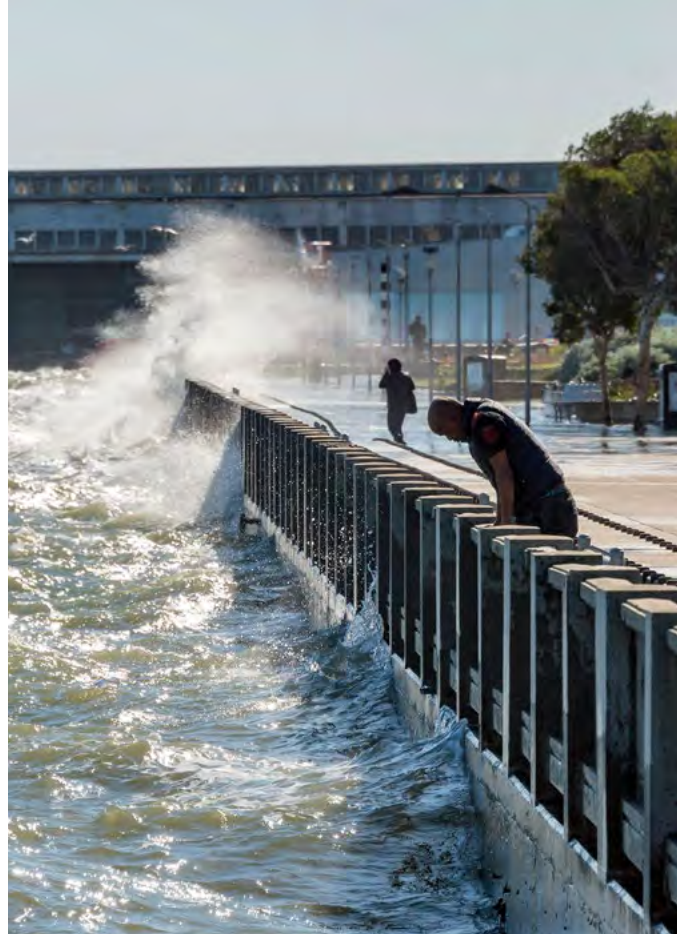
Getting ready for sea level rise

The Bay is rising. The time to come together to act is now.

For most of the eight million of us who live around San Francisco Bay, sea level rise seems like a sleeper issue. As we walk the dog along our favorite waterfront, the waves don't seem any taller. As we wait in traffic at the Bay Bridge toll plaza, the water level looks the same as ever. After a storm, however, those trying to traverse Corte Madera's Lucky Drive, Sonoma's Highway 37, or San Jose's 237 underpass are noticing more water. Sea level rise is already here and starting to affect our highways and commutes; another foot or two will seriously impact our homes, jobs and safety.

It's subtle, but the Bay, fed by a swelling Pacific and melting glaciers and ice sheets, is growing faster than you think. The rise is slow and steady now, but around 2040 scientists project it will speed up. By then, in the time it will take a current pre-schooler to graduate from college, it will be too late to start to prepare for the water that will be rising onto our airport runways and into our shoreline streets. And though you can't see it, the groundwater table is also rising under your feet – pushed up as the Bay pushes in. Before long a big storm—like the train of atmospheric river events that drenched us over and over in 2017—will bring water into our basements and BART stations, onto our bridge approaches, our ballparks, and even release decades of toxic pollution into our groundwater.

Going into another California drought and devastatingly dry fire season, it's easy to push sea level rise to the back of our minds. But the San Francisco Bay Area metropolitan region stands to be one of the hardest hit coastal areas in North America. Sea level rise will be worse here than other places for a variety of reasons relating to our unique ocean conditions, atmospheric changes, and Pacific geography—and the fact that we've built our roads and homes right up to the edge of nearly every shore. Impacts are influenced by our history of toxic dumping and exclusionary land use practices. We've done the studies - we know what's at risk when it comes to our people, our homes, our habitats, and our commutes. The threat is no longer vague. It's past time for us to get ready.



At Risk of Flooding by 2060*

28,000 socially vulnerable **residents**

1,900 residents living near **contaminated sites**

13,000 existing **housing** units and another **70,000** new **housing** units

104,000 existing **jobs** and another **85,000** new **jobs**

20,000 acres of **wetlands**, lagoon and tidal marsh habitat

5 million daily highway **vehicle** trips

60,000 daily rail **commuters**

*Impacts from flooding that could occur at 48" Total Water Level from the [ART Bay Area Regional Sea Level Rise Vulnerability and Adaptation Study](#). According to California State Guidance, under the H++ scenario, which represents the highest risk and least likely scenario, sea level rise could reach 46.8" by 2060, which corresponds to ART's 48" TWL scenario. Under the Likely Range, or Low-Risk Aversion high-emissions scenario, 48" of sea level rise will not occur until 2120. Photo courtesy of the King Tides Project.



Community members enjoy the waterfront at Heron's Head park in San Francisco. Photo by the Port of San Francisco licensed under CC BY 2.0.

Preparing for the flooding, erosion, disruptions and losses to come – whether our home, business, commute, or favorite picnic area – is something we all have to do together. Whatever the best local solution, we have to consider our neighbors. If well-to-do waterfront towns build sea walls, the Bay will just find the next weak spots on the shore and flow there. That town next door may have a smaller tax base or more elderly or vulnerable residents. If we leave them unprotected, families will be forced to move away from their homes, schools and places of worship - their communities - sometimes with no place else to go. Waiting for the aftermath of this slow-moving disaster will just cost the region more later in emergency services, habitat loss, building repairs, and lost family time and productivity.

Many of our families came to this region for its freedoms, natural beauty, diverse cultures and myriad opportunities. Over the decades we've grown even more diverse, and ever more activist as we battle to save our local creek, or stop devastating air pollution, or fight for equity. We're restoring wetlands around the Bay, and taxing ourselves to do it, enhancing a natural first line of defense against flooding. So as we face down the advancing Bay we don't have to start

As we face down the advancing Bay we don't have to start from scratch. Your city, your county, your regional government is already working on it. Now it's time for everyone to join the effort.

from scratch. Your city, your county, your regional government is already working on it. Now it's time for everyone to join the effort.

There's no way around the need to think and plan like a region - the water that's coming knows no boundaries. Space for solutions is limited. Together, we can adapt to the increasingly scary checklist of challenges in the Bay Area. But we won't get this done, and minimize the cost we pay in damage to lives and property, if we don't act now, together.

Sea level rise as an equity challenge

Tackling disproportionate impacts on vulnerable communities.

While everyone will feel the impacts of sea level rise to some degree, many factors have led to disproportionate flooding and sea level rise vulnerability for low-income communities across the Bay Area and the nation. A 2019 study by the National Academy of Sciences on urban flooding in the US revealed the populations that are most vulnerable to flooding are nonwhite, non-native English speakers, elderly, poor, chronically ill, uninsured, and renters¹.

While it is broadly accepted that environmental racism has been an overarching theme for civilizations throughout history, it is critical to understand the patterns of racial injustice that formed today's cities and towns. After Emancipation, white decision-makers forced African Americans into undesirable areas that experienced frequent flooding, unhealthy air, and unsanitary water and sewerage conditions. Industry and chemical plants were regularly constructed close to predominantly Black neighborhoods, which led to lingering pollution and high rates of cancer within these communities. In the Bay Area, this often meant pushing nonwhite communities to the marginalized and often toxic Bay shoreline. These discriminatory and deadly practices continued for several decades.

¹ Committee on Urban Flooding in the United States (2019). *Framing the Challenge of Urban Flooding in the United States*, National Academy of Sciences. <https://www.nationalacademies.org/our-work/urban-flooding-in-the-united-states>

Equity is the fair and just distribution of financial and institutional resources to address impacts across communities that stand to be adversely affected by those impacts, and commitment to include those communities in the development, prioritization, and implementation of adaptation policies, programs, and services.

Definition of equity provided by West Oakland Environmental Indicators Project and the Pacific Institute.



Community members participating in the Oakland Shoreline Leadership Academy. Photo by Jordan Greedy.



Working with and listening to community voices.

Recognizing the critical importance of community voices and perspectives on the development of the Joint Platform, the Bay Adapt team partnered with Nuestra Casa in East Palo Alto and Vallejo Housing Justice Coalition in Vallejo to conduct a series of community focus groups. Community members were introduced to flooding issues specific to their communities and invited to share their experiences, concerns, and priorities for their communities.

In East Palo Alto, community voices were represented by African American, Pacific Islander, and Latinx cohorts, while in Vallejo, community voices were represented by residents involved in a range of local organizations such as housing, climate change, environmental justice, and others. Bay Adapt recognizes that these community meetings provided an essential first step in building trust with communities, and that continued participation and partnerships must continue to advance equitable adaptation outcomes for the region.

Nuestra Casa's Parent Academy provides programs for community members and has begun environmental justice community trainings. Screenshot courtesy of Nuestra Casa.

“We know we need action, but we’re not ready and we don’t know what to do. We need to get to solutions.”
 - East Palo Alto Community Member

Residents of these communities have often attended countless public meetings and focus groups to discuss concerns in their communities with engineers, planners, and other government staff, but these professionals are rarely trained or experienced in equitable community engagement. Historically, attempts to inform meaningful solutions for environmental justice problems have been met with lack of accountability by local and regional agencies, leading to high levels of distrust between communities and governments.

The cumulative impact of underinvestment coupled with lack of government accountability over the decades has led to an extremely disproportionate and inequitable situation for the residents of these communities.

This cycle adds insult to the daily injury of living in marginalized space and is exhausting to communities that are already struggling to meet their daily needs.

A landmark moment for the environmental justice movement occurred in 1994, when President Clinton signed Executive Order 12898, a federal action to address environmental justice and included a formalized definition (the definition can be found in BCDC's report [Toward Equitable Shorelines: Environmental Justice and Social Equity at the San Francisco Bay](#)). This definition underpins the ethos that should be imbued in any sea level rise planning process or solution.

What is Bay Adapt?

A regional strategy for a rising bay.

Adapting to sea level rise will require a broad range of planning, policy, community, and project decisions that promote the protection of people, infrastructure, and natural systems. In such a diverse and engaged region, adaptation will also require balancing many interests and needs, ranging from the health of the most vulnerable residents and the Bay ecosystem to local economic growth and jobs, services, housing, and recreational opportunities.

Much adaptation will and should occur at the local city or county levels, where adaptation planning is already accelerating. However, we live in a highly networked region where impacts in one area, and responses to them, have cascading effects around the Bay. A coordinated approach across the region can reduce unintended consequences and greatly enhance local efforts. Collective action can be expedited by shared goals that help communities find and enact their own solutions. No one agency, jurisdiction or community can or should go it alone.

For the past five years, the Bay Area has been thinking about this problem in earnest. Forward-thinking planners, scientists and activists have already laid some important groundwork, and pinpointed the areas and communities that will be most at risk. Since 2019, Bay Adapt has worked to establish regional agreement on the actions necessary to protect people and the natural and built environments from rising sea levels.

Bay Adapt was convened by the San Francisco Bay Conservation and Development Commission (BCDC), a state agency, in partnership with a broad range of Bay Area leaders. The principles, actions, goals, and tasks in this document—a Joint Platform for adaptation—were developed in close collaboration among BCDC staff, a large Leadership Advisory Group, and hundreds of stakeholders.



We envision a Bay Area that is resilient and adaptive far into the future. As the region grows and changes, such resilience can only be achieved by supporting collaborative action, fostering greater equity among residents, and sustaining the unique ecosystems we all rely upon and thrive within.

Co-creating the Joint Platform.

In 2019, BCDC convened a Leadership Advisory Group (LAG) made up of a diverse group of Bay Area leaders from public agencies, interest groups, community-based organizations, and academia. Throughout 2020 and 2021, stakeholders participated in dozens of working group and small committee meetings to discuss and shape the Platform. The Platform was also informed by two public forums, ten community and stakeholder focus groups, over 50 presentations to boards and groups around the region, and an Environmental Justice Caucus convened regularly throughout the process. In other words, this platform, and the ideas in it, belong to everyone, and seek to serve everyone, now and into the future.

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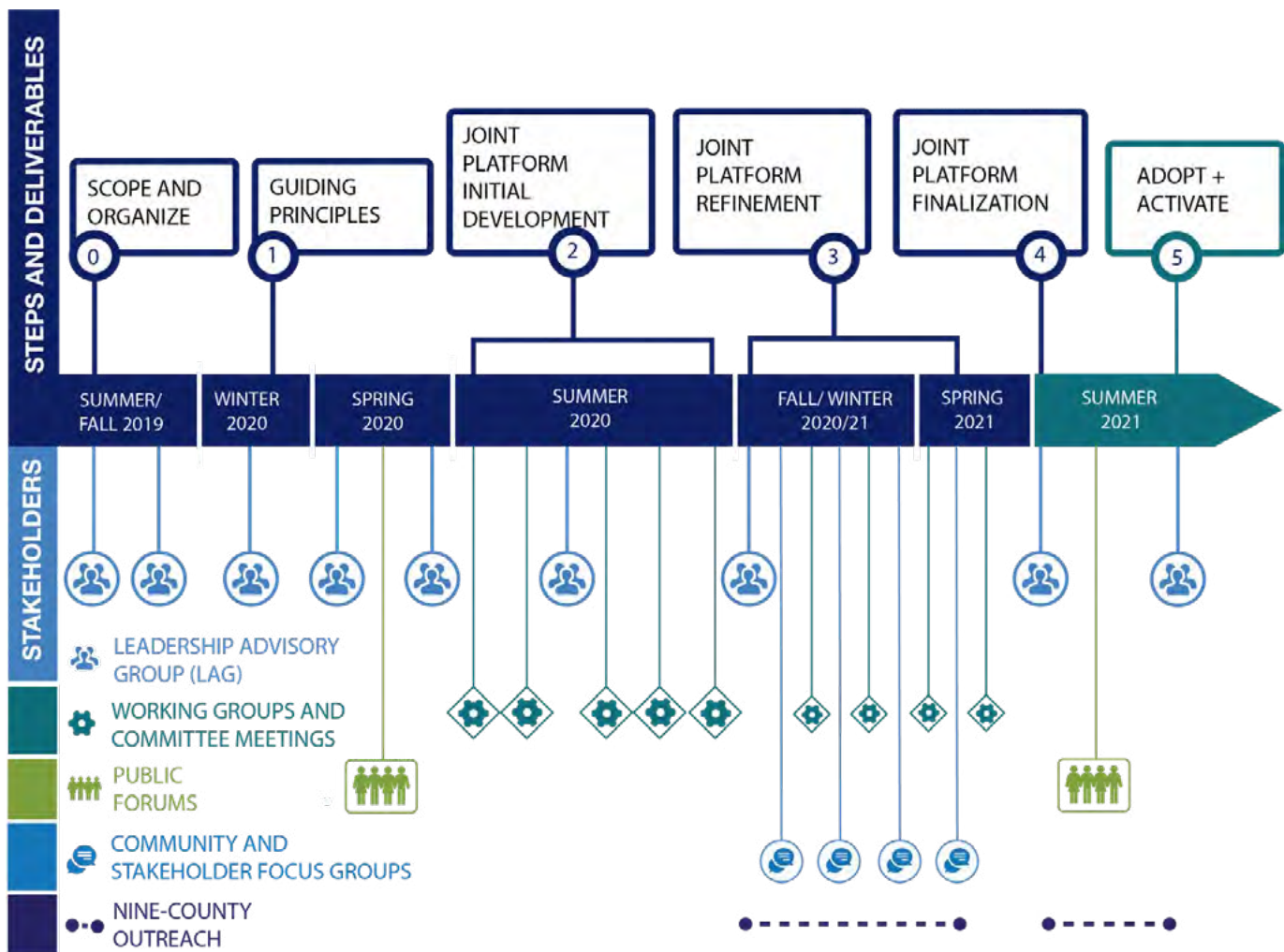


Figure 1 | The Bay Adapt process kicked off in late summer 2019. The development of the Joint Platform started in early summer 2020, convening hundreds of stakeholders to brainstorm and refine the series of actions and tasks laid out in the final Joint Platform. Over this time period, Bay Adapt also facilitated multiple working groups, committee meetings, public forums, community and stakeholder focus groups, and conducted extensive outreach throughout the nine-county Bay Area. Implementation of the tasks begins in Fall 2021.

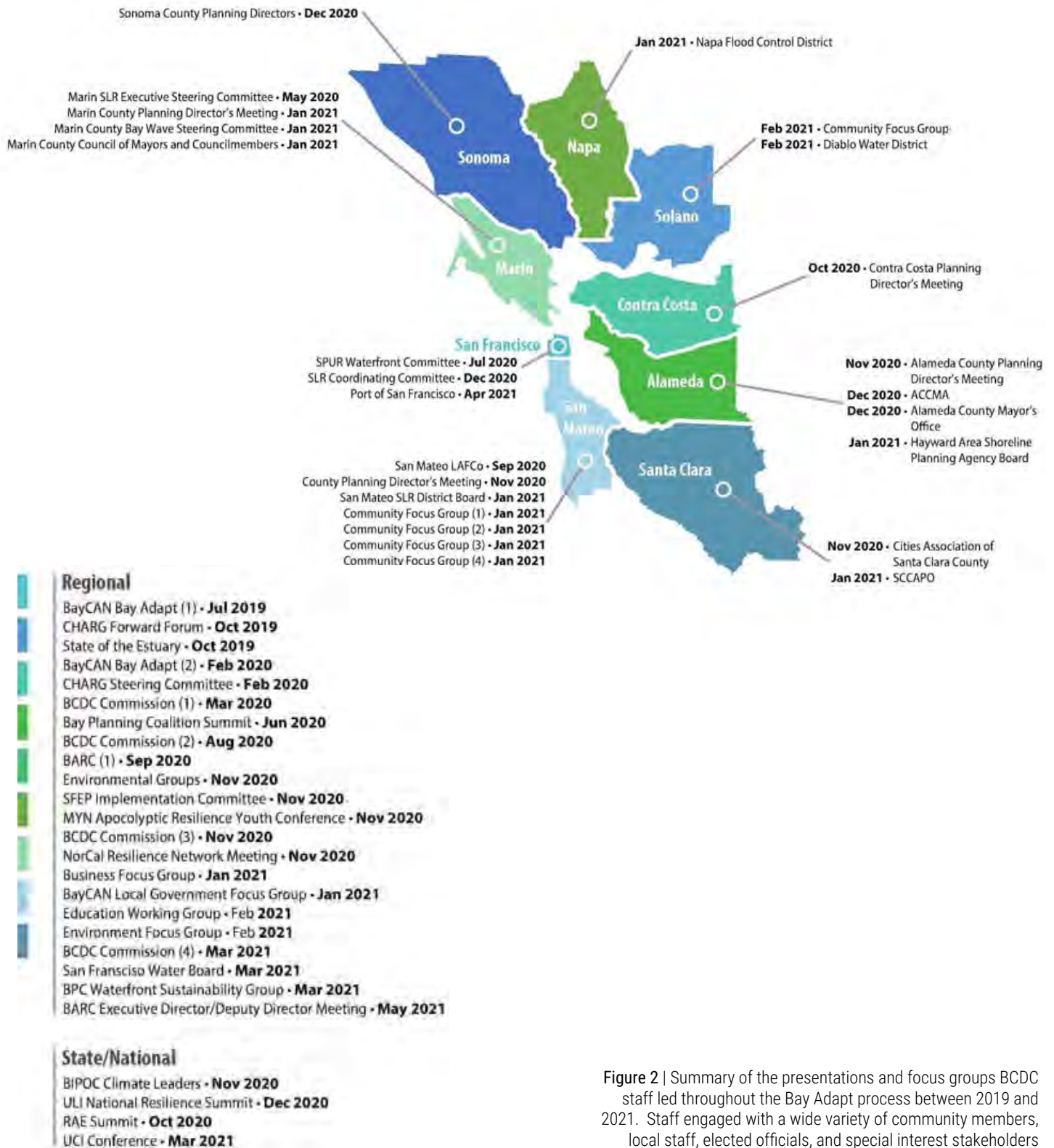
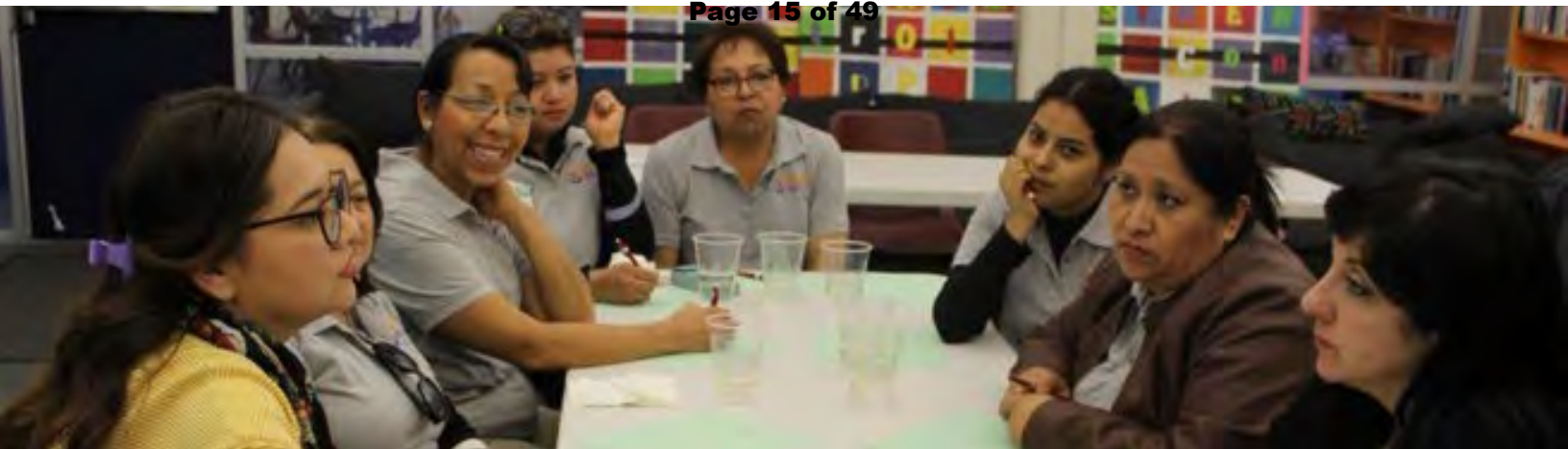


Figure 2 | Summary of the presentations and focus groups BCDC staff led throughout the Bay Adapt process between 2019 and 2021. Staff engaged with a wide variety of community members, local staff, elected officials, and special interest stakeholders throughout the engagement process.



Community forums on sea level rise risks in East Palo Alto.
Photo by Jaclyn Mandoske, BCDC.

Prioritizing and elevating equity in Bay Adapt.

In an effort to ensure equity perspectives were present and included in the leadership of Bay Adapt, invitations were extended to at least five environmental justice-focused organizations to join the LAG, comprising the Environmental Justice (EJ) Caucus. The EJ Caucus received a small honorarium for their participation.

The EJ Caucus kicked off by providing a training to the LAG on EJ principles. During this training, LAG members explored how to embed principles on environmental justice, equity and inclusion into Bay Adapt's planning process, the Joint Platform, and in implementation. EJ Caucus members also provided leadership to Working Groups and met with BCDC's Environmental Justice Manager to provide input and feedback before and after each LAG meeting.

However, all of the equity practices and benefits outlined in the Joint Platform will not be achieved if the agencies and other stakeholders implementing the actions don't fundamentally change their practices to explicitly ensure that equity is front and center. Agencies and stakeholders need to deeply understand the factors that have led to inequity and commit to ongoing training to learn and improve a new essential set of skills and work directly with EJ communities in order to achieve equity benefits.

Without this commitment, the region will continue to repeat the same inequities as our predecessors. Bay Adapt is an opportunity to set a new, more equitable course for climate adaptation.

Two critical themes emerged during discussions with the EJ Caucus and other community leaders:

- ▶ **The need for fair and equitable funding for community partners, including targeted employment and economic opportunities for diverse frontline community members; and**
- ▶ **Capacity building, administrative support, and technical training and assistance are essential to realizing truly equitable adaptation planning.**

Setting the foundation for the Joint Platform.

Rather than specifying individual projects, the Joint Platform lays out guiding principles that inform overarching region-wide actions, goals and tasks. Its aim is to overcome barriers, accelerate keys to success, and share targets to help the region achieve:

- ▶ **Flood protection and reduced flood risk** for communities, businesses, infrastructure, and habitat.
- ▶ Robust integration of adaptation into **community-focused local plans**.
- ▶ Recognition, elevation, and support for **frontline communities**.
- ▶ Accelerated permitting and **faster project construction** for priority adaptation projects.
- ▶ **Technical assistance** for local governments to plan and implement projects faster.
- ▶ **More funding** for adaptation that is easier to get.
- ▶ **Metrics** for deciding what makes the best kind of adaptation plan or project (equitable, efficient, multi-benefit, nature-based, and coordinated with others) and for tracking local and regional progress.

Engaging the entire region in collective action requires clear agreement on the path forward and checks and balances to ensure no voice is left unheard, and no community left behind. This Platform provides that roadmap for adaptation.

The Joint Platform will help the Bay Area engage in faster, better, and more equitable adaptation to a rising Bay.



Sea level rise in our regional plans.

Plan Bay Area 2050 is the region's long-range strategic plan focused on the interrelated elements of housing, the economy, transportation and the environment. Adopted in Fall 2021, Plan Bay Area 2050 is the first multi-topic plan of its kind to question what the future will look like in the face of sea level rise and other natural hazards. How will these threats impact housing, transportation, environmental, and economic goals? What are the consequences if we don't plan ahead?

Starting with Horizon, Plan Bay Area 2050's preliminary research and analysis phase, MTC/ABAG integrated the best available sea level rise mapping into imagining the impacts of sea level rise within the 2050 timeline of the plan. To address areas of near-term sea level rise impacts, Plan Bay Area incorporated an Adapt to sea level rise strategy, mapping protections on vulnerable portions of the shoreline and calculated at \$19 billion need for adaptation over the next thirty years.

Plan Bay Area 2050's Implementation Plan, which sets the strategic direction to advance strategies in the next five years, identifies key actions that MTC/ABAG and its partners should take to adapt the region to sea level rise. While these actions are compatible with Bay Adapt's tasks and will be implemented in partnership with Bay Adapt, they are part of a larger, multi-element plan and do not go into the level of detail on sea level rise that Bay Adapt does.

Plan Bay Area has been, and will continue to be, a critical tool for region-wide resilient land use decisions as sea levels rise. The Plan will continue to grow to become a comprehensive plan that brings in key regional topics, and will incorporate the best available science and regional sea level rise planning envisioned by Bay Adapt. MTC/ABAG will continue to be a key partner for planning, funding, and implementing adaptation solutions in the Bay.

Where do we start?

Preserving what we care about.

The Bay Area is the most culturally and geographically diverse region in the United States, with people of color comprising 59% of our population. More than 75% of residents believe that racial diversity is what makes the Bay Area such a great place to live. Our region is also called the “Bay Area” for a reason — the Bay is the defining characteristic of our geography and defines so much of our economy, infrastructure, and lives.

Residents cherish the beautiful blue expanse of San Francisco Bay, and their ability to walk beside it, sail over it, and gaze across its open horizons. With its diverse habitats—beaches, wetlands, grasslands, tidal flats, lagoons and more—the Bay supports hundreds of species, ranging from critically endangered salmon and marsh mice to charismatic sea lions, busy beavers, and wayward whales. Thanks to decades of careful stewardship and public investments in shoreline parks and habitats, the West Coast’s largest Estuary is both more habitable and healthier for humans and wildlife alike.

Our diversity of people and habitats also supports one of the most innovative economies in the world. The Bay Area is a hub of technology, industry, agriculture, services, and more, though this has created significant challenges in income equality.

Within this context is both diversity and inequity. Across our communities, cities, and counties, we have different histories, different challenges and different opportunities. Deciding which climate change adaptation options are right for each community can be complex. Many people contribute to making these decisions, and lots of considerations go into deciding what the right solutions may be for each particular waterfront.

If we are to prepare ourselves fully for sea level rise throughout the region, cities and counties must work with local communities and the state and federal governments to make decisions about what should—and shouldn’t—exist along the shoreline in the future.

Centering and protecting people, habitats, and wildlife.

The risks from sea level rise, and the resources necessary to address those risks, are unequally distributed among communities and ecosystems across the Bay Area.

In order to understand community vulnerability to sea level rise, BCDC's Adapting to Rising Tides (ART) Program leverages existing research on socioeconomic characteristics that may reduce ability to prepare for, respond to, or recover from a hazard event or impacts from environmental burdens. It has identified potential impacts to communities from current and future flooding including:

- ▶ Loss of property and income; displacement from their communities.
- ▶ Disrupted access to medical care and other critical services.
- ▶ Loss of power and utilities.
- ▶ Spread of disease and worsened pre-existing health conditions.
- ▶ Physical and mental distress resulting from the flooding of homes and infrastructure.

The Bay has also long been a dumping ground for polluted waste and industrial sites are still located along many parts of the shoreline. In addition to flood impacts, sea level rise may mobilize pollution as flooding becomes more prevalent, spreading to communities and ecosystems at an unprecedented rate.

All of these impacts are often disproportionately distributed to populations with certain existing socioeconomic vulnerabilities.

Additionally, these populations tend to be highly sensitive to impacts, leading to potentially devastating implications from even minor flooding.

Natural ecosystems are also disproportionately impacted by sea level rise. When given a choice between an endangered salmon and a farm, a wetland or a vineyard, a nesting island or a waterfront hotel, it can be difficult

Vulnerable Communities Exposed to Sea Level Rise Around the Bay

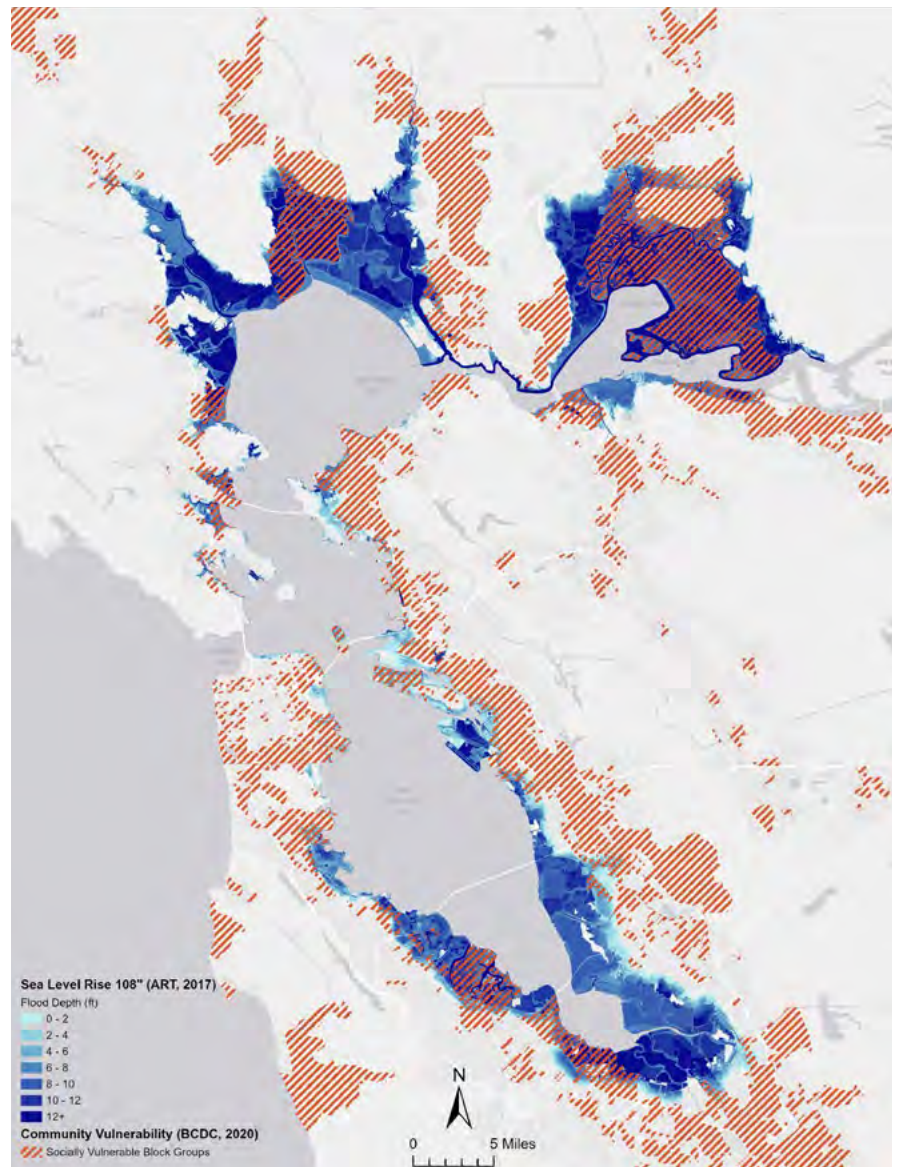


Figure 3 | Map of census block groups considered socially vulnerable in their ability to plan for, respond to, and recover from natural hazards (orange hash) and flooding depth and inundation from 108 inches of sea level rise (blue). Data from ART Bay Area Regional Sea Level Rise Vulnerability and Adaptation Study: Chapter 2.6 Vulnerable Communities (March 2020).

Communities Exposed to Contamination and Sea Level Rise Around the Bay

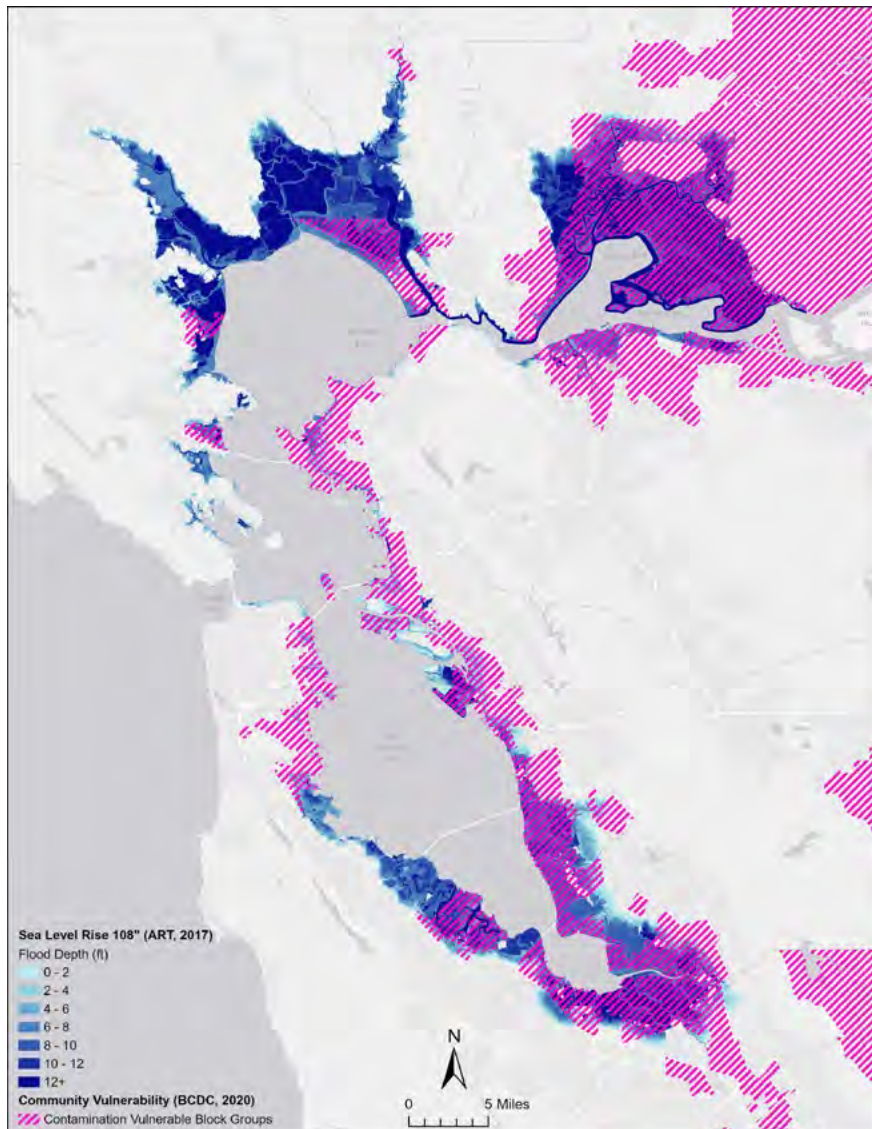


Figure 4 | Map of census block groups considered contamination vulnerable based on subset of Cal Enviro Screen 3.0 indicators impacted by flooding and flooding depth and inundation from 108 inches of sea level rise (blue). Data from [ART Bay Area Regional Sea Level Rise Vulnerability and Adaptation Study: Chapter 2.6 Vulnerable Communities \(March 2020\)](#).

for wildlife and open space to prevail in the battle over human priorities and money. Preserving shoreline habitats will require prioritizing sediment to build up wetlands and providing room for habitats to migrate upslope. But sediment is limited and many wetlands abut development and levees.

The health of Bay ecosystems is inextricably linked to our way and quality of life. We continue to learn how

Our efforts now will affect the health and livability of the Bay Area for generations.

nature protects people from natural disasters and improves public health. But as water levels rise coastal habitats risk being drowned and lost. Both nature, and people, will suffer.

The Joint Platform places a high value on both the region's diverse people and its ecosystems. Throughout the formation of the Joint Platform, a coalition of community advocates, environmental activists, and adaptation practitioners have made clear that cleaning toxic sites and reducing future pollution is a priority for our region. The resulting document explicitly acknowledges the disproportionate risks and burdens on communities of color and other historically marginalized populations, and tasks in the Joint Platform begin to outline how our region can begin to right generations of wrongdoing through elevating the role of vulnerable communities in developing solutions, filling in knowledge gaps about the challenges they face, mapping hazardous sites, and more. With people at the center of solutions, the Bay region can be a national model for equity in resilience planning.

The Joint Platform tasks also prioritize natural habitats to support a healthy, resilient Bay. Going green, meaning

prioritizing nature-based strategies for shoreline adaptation as much as possible, is already a regional priority. Taking actions to support healthy Bay ecosystems now and as sea levels rise is essential, not only for the many other benefits they provide but as they are also our first—and most at risk—line of defense from rising seas. Our efforts now will affect the health and livability of the Bay Area for generations.

Guiding Principles of the Joint Platform

Support socially vulnerable communities

Actively ensure that socially vulnerable communities don't just bounce back in the face of sea level rise, but "bounce forward" by providing additional resources and support to areas where socially vulnerable communities live, work, and play and reducing negative impacts to these communities. Climate change will disproportionately impact marginalized communities with fewer resources.

Put nature first whenever possible

Prioritize natural infrastructure solutions that benefit ecosystems and the health of the Bay as well as people, especially in the near-term. Adapting to rising sea level will require a mix of green and gray infrastructure. Working with nature, instead of against it, can produce better results for both people and wildlife.

Solve interconnected problems at the same time

Prioritize adaptation actions that maximize regional risk reduction to flooding and sea level rise and minimize tradeoffs within the context of other regional priorities such as housing, economy, social equity, habitat protection, and other climate risks. Sea level rise and flooding is just one of several regionally interconnected crises facing the Bay Area.

Practice inclusive, community-led governance and decision-making

Remove barriers and enhance capacity to increase transparent, coordinated decision-making among community members and organizations and local, regional, state, and federal governments that acknowledges and leverages the unique roles, responsibilities, and authorities at each scale. Adaptation outcomes will better protect the entire region when all interests, including those who know their neighborhoods and communities best, contribute and collaborate in reducing risk.

Support existing efforts but plan for the long term

Support, encourage, and learn from early innovators charting a new course for the region, especially for wetland restoration, while maintaining a long-term vision for more complex planning and investments. Early action is important for regional learning, setting precedents, and shorter-term flood control, and widespread or significant capital investments require careful and collaborative planning.

Pick the right strategy for the right place at the right time

Ensure that local and regional investment strategies to address flooding and sea level rise are grounded in local needs, conditions, and plans, and are phased to allow for uncertainty, flexibility, and iteration. The Bay is a collection of distinct places with unique physical and social conditions and there is no "one size fits all" solution – or timeline – to address climate-related impacts.

The San Francisco Bay connects nine counties and millions of people together. Photo SF Baykeeper, Cole Robb Most, and LightHawk.

What does adaptation look like?

Developing targeted solutions.

In climate change, adaptation is different from mitigation, which are the ways we try to reduce our carbon footprint. Adaptation refers to making changes to how we live in the face of change to reduce hazards and increase resilience to future conditions.

In the Joint Platform, adaptation specifically means the plans and projects that either prepare us for sea level rise or alter our shorelines to reduce its impacts.

In some cases, we will adapt by restoring natural wetlands to absorb more water and buffer us from storms, while in other places when nature-based solutions are not feasible, we will build higher protections, such as seawalls, to keep water out. We may also avoid building new roads or homes in areas that are likely to flood or provide migration space for wetland habitats. Sometimes adaptation may even require removing things that are already built out of harm's way. Adaptation also will spur innovative solutions as we learn how to co-exist with more water in the future.

The adaptation solutions we choose in one part of the Bay are inextricably linked to everywhere else along the shoreline. Since the Bay is an interconnected system, flood protection measures in one location of the Bay may increase the risk of flooding in other areas. It is critical that we consider shoreline solutions as a whole Bay, rather than on a project-by-project basis.

Bay Adapt helps to set the stage for successful adaptation region-wide. While each community will need to decide which approach is best now and over time, the actions in Bay Adapt help support multiple adaptation approaches within the larger regional context we need to think about before it's too late.

Regional Hot Spots Around the San Francisco Bay

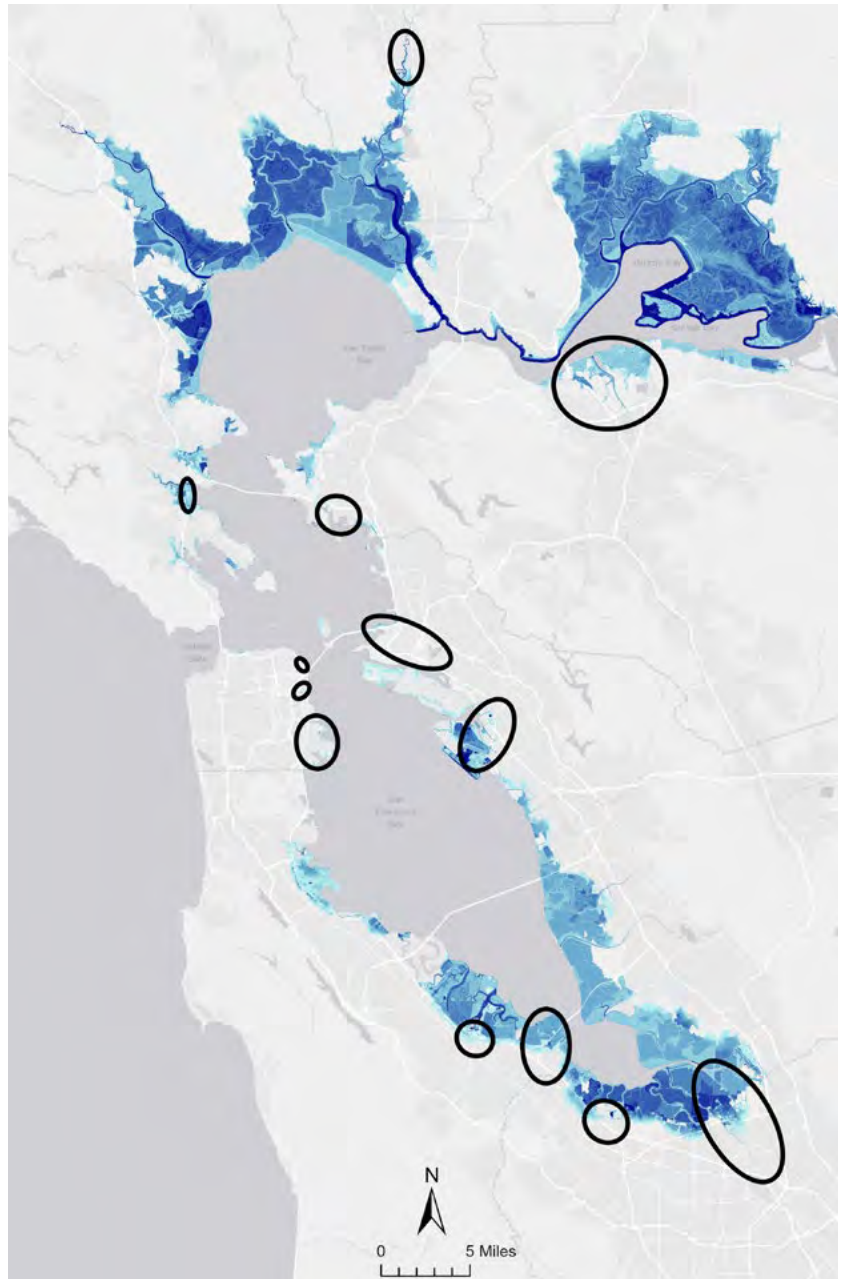


Figure 5 | Regional "hot spots" identify areas in the region with highest consequences from flooding at 108" TWL to both vulnerable communities, transportation networks, and urban growth areas or open space. Data from ART Bay Area Regional Sea Level Rise Vulnerability and Adaptation Study: (March 2020).

Adaptation Actions that Prepare

- ▶ Actions that help us set the stage to make decisions about what to do next that are equitable, inclusive, and based on science, local knowledge and values, such as increasing information or community capacity.
- ▶ Changes to regulatory environments, political settings, land use, or other contexts for decision-making that improve the outcomes of adaptation decisions.
- ▶ Agreement on a shared approach about who makes decisions, what informs those choices, and how we plan and fund those decisions equitably to addresses disproportionate impacts on the most vulnerable.

Adaptation Actions that Protect, Accommodate, Avoid or Retreat

- ▶ Actions that change the physical characteristics of the shoreline, such as integrating natural ecosystems (green infrastructure) and/or building engineered structures (gray infrastructure) to protect shorelines from flooding.
- ▶ Projects that accommodate flooding such as preserving transition zones for wetlands, elevating structures, or using flood resistant materials.
- ▶ Efforts to retreat from the shore, such as removing existing development or avoiding placing new development in areas at risk of flooding.

Sea level rise will change our way of life in the Bay Area dramatically. Our daily commutes, the goods and services we depend on, the places where we live and work, the natural spaces that provide habitats and make the Bay Area a beautiful place to live, will all be affected. The Bay Adapt Joint Platform’s 6 Guiding Principles, 9 actions and 21 tasks suggest a way forward for us all.

What are adaptation actions?

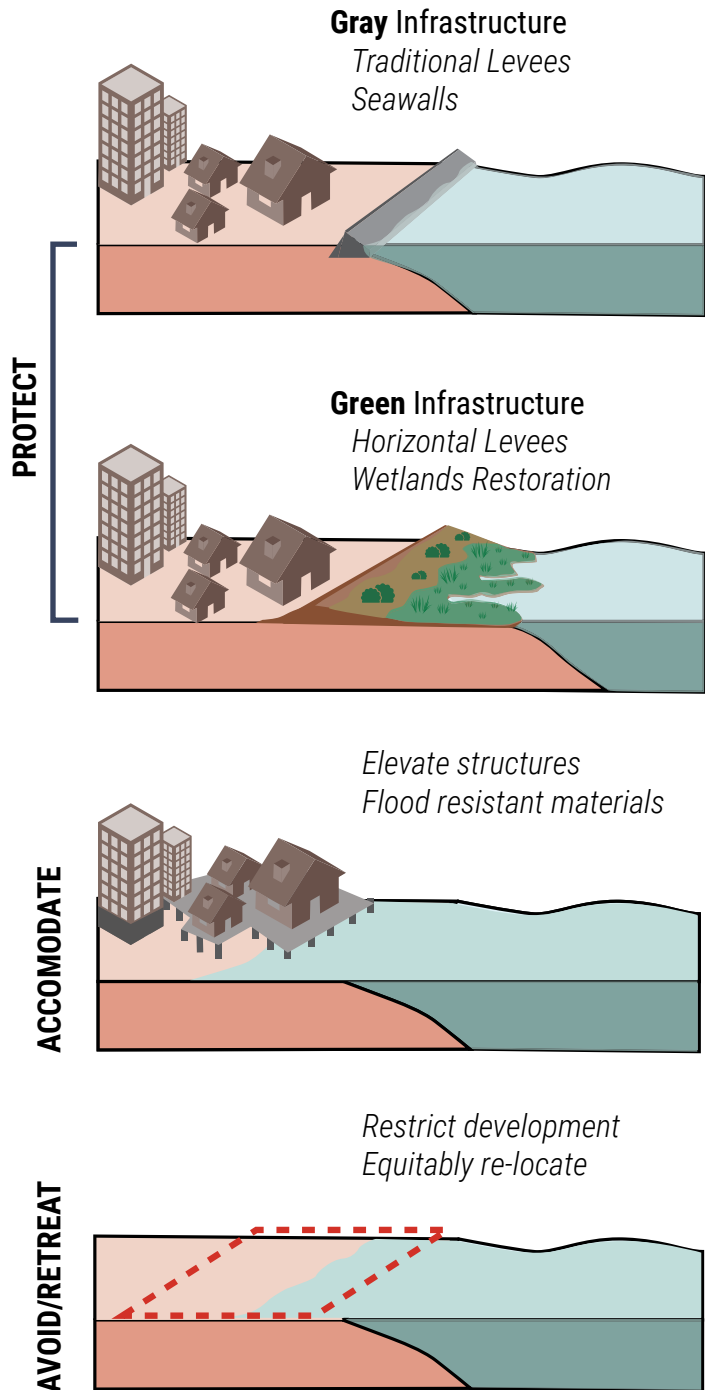


Figure 6 | Different adaptation approaches facilitated by the actions in Bay Adapt seek to prepare the region to equitably respond to sea level rise, while also strengthening implementation and ensuring lessons are learned over time.

The Joint Platform

9 actions, 21 tasks, 1 region *moving forward together*

PEOPLE



Action 1: Collaborate on a “One Bay” vision to adapt to rising sea levels.

Task 1.1: Create a long-term regional vision rooted in communities, bay habitats, and the economy.

Task 1.2: Lay the foundation for a proactive regional legislative agenda.

Action 2: Elevate communities to lead.

Task 2.1: Improve how communities and public agencies learn from each other and work together.

Task 2.2: Fund the participation and leadership of community-based organizations (CBOs) and frontline communities in adaptation planning.

INFORMATION



Action 3: Broaden public understanding of climate change science and impacts.

Task 3.1: Tell local and regional stories about people and places adapting to climate change.

Task 3.2: Weave climate literacy into school programs.

Action 4: Base plans and projects on the best science, data, and knowledge.

Task 4.1: Align research and monitoring with information gaps.

Task 4.2: Make scientific data, information, and guidance easier to use.

Task 4.3: Increase access to technical consultants for local adaptation partners.

PLANS



Action 5: Align local and regional plans into a unified adaptation approach.

Task 5.1: Provide incentives for robust, coordinated adaptation plans.

Task 5.2: Align state-mandated planning processes around adaptation.

Action 6: Figure out how to fund adaptation.

Task 6.1: Expand understanding of the financial costs and revenues associated with regional adaptation.

Task 6.2: Establish a framework for funding plans and projects.

Task 6.3: Help cities and counties expand ways to fund adaptation planning and projects.

PROJECTS



Action 7: Refine and accelerate regulatory approvals processes.

Task 7.1: Accelerate permitting for equitable, multi-benefit projects.

Task 7.2: Assess environmental regulations and policies that slow down progress on projects.

Action 8: Fund and facilitate faster adaptation projects.

Task 8.1: Incentivize projects that meet regional guidelines.

Task 8.2: Encourage collaboration among people doing projects in the same places.

Task 8.3: Facilitate faster construction of nature-based projects.

PROGRESS



Action 9: Track and report progress to guide future actions.

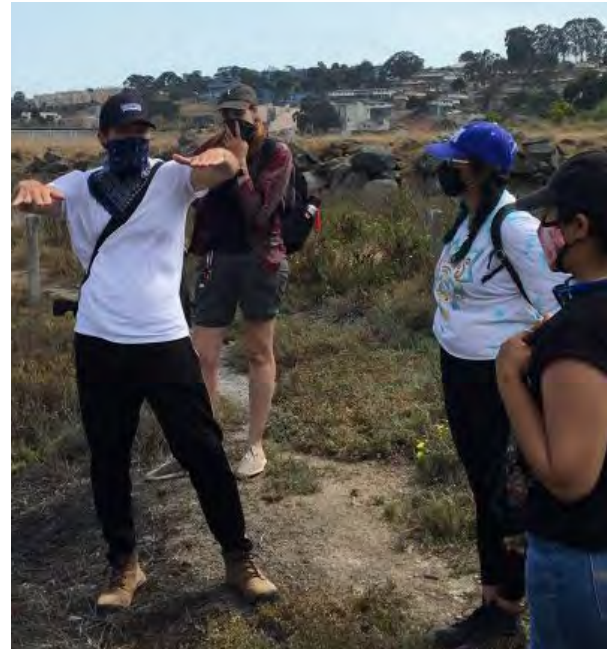
Task 9.1: Measure regional progress using metrics and share results.

Task 9.2: Monitor and learn from pilot projects.

PEOPLE



As we adjust the way we live, work, and play to adapt to a changing climate, we must act together with a true regional vision and ensure that this transition does not reinforce pre-existing inequities. Who will lead who will decide, and how do we all get on the same page? Frontline communities that feel the most acute impacts from sea level rise have local knowledge critical for equitable solutions. Likewise, legislators in Sacramento and Washington need to hear our collective voice loud and clear—two-thirds of the State’s total sea level rise impacts will occur in the Bay Area, so our collective voice must be strong.



People learning about shoreline restoration. Photo by LEJ from Estuary News from March 2021.

ACTION 1

Collaborate on a “One Bay” vision to adapt to rising sea levels.

Goals:

- ▶ A shared vision for regional adaptation that reflects the Bay Area’s diverse conditions and communities.
- ▶ A proactive legislative agenda supporting sustained Bay Area adaptation.

TASK 1.1: Create a long-term regional vision rooted in communities, bay habitats, and the economy.

Engage communities and stakeholders in envisioning a resilient future shoreline, relying on grassroots input from start to finish. Using Bay Adapt’s Guiding Principles to guide the process, it should define and articulate what successful adaptation should like at ground level, and around the Bay, beginning in the most at-risk frontline communities.

The vision must be built on a deep understanding of communities’ unique social, cultural, economic, and physical needs and be developed through a participatory, transparent, and iterative process and create opportunities for diverse stakeholders to learn about each other and have conversations.

The vision must also be built on regional environmental, housing, transportation, recreation, economic and other

priorities, including visions already established for these sectors, such as in Plan Bay Area 2050 or the San Francisco Estuary Blueprint.

The vision should be expressed through multiple deliverables that will be utilized throughout many other tasks included in the Joint Platform, including:

- ▶ A “vision statement” for the Bay shoreline that sets a long-term picture of successful adaptation.
- ▶ Regional and sub-regional objectives, tied to measurable metrics (such as safety, equity, a functioning and thriving ecosystem, reuse of sediment resources, shoreline access, and economic growth), to be used for tracking progress in Task 9.1.
- ▶ Specific regional and sub-regional strategies, actions, and an assessment of priority project locations, types, and timelines, building off existing analysis such as on vulnerable communities, Bay interconnectedness, and the Adaptation Atlas. This can be used in conjunction with the above guidelines to incentivize and prioritize the right kinds of actions in the right locations.
- ▶ Guidelines, evaluation methodologies, and technical modeling capacities for evaluating local plans and projects for funding and other incentives that align with desired outcomes (Tasks 5.1, 6.2, and 8.1).

How the regional vision can inform Joint Platform actions

Figure 7 | Many different tasks outlined in the Joint Platform flow from the vision, guidelines, and metrics outlined in Task 1.1, either directly or indirectly.



TASK 1.2: Lay the foundation for a proactive regional legislative agenda.

Build a unified advocacy voice for Bay Area adaptation needs. In the short term (next two years), pilot a legislative working group to work toward consensus on regional priorities and shared criteria for future legislation while taking advantage of opportunities within current state and federal legislative sessions. Foster relationships with state and federal legislators to lay the groundwork for future legislation. Build support for the nine-county Bay Area as the focus for new regional climate adaptation programs. In the mid-term (2-4 years), build support for multi-year sources of

funding for a wide range of adaptation activities, such as a regional ballot measure. Identify and collectively advocate for additional regional priorities that would require legislation, such as regulatory changes, planning guidance, new fiscal authorities, and funding support. In the long term (5+ years), coordinate, update and communicate legislative needs on a biennial basis, such as through an annual legislative agenda.

Action 1 Benefits



EQUITY

Elevates frontline community voices in long-term regional visioning and advocacy.



ENVIRONMENT

Elevates environmental advocacy voices in long-term regional visioning and advocacy.



ECONOMY

Elevates business and economic voices in long-term regional visioning and advocacy.

ACTION 2

Elevate communities to lead.

Goals:

- ▶ Adaptation grounded in local vision and needs.
- ▶ Increased capacity of community members, especially those historically excluded from decision-making, to contribute to the process.
- ▶ Long-term funding that supports sustained community leadership and equitable partnerships among communities and governments.

TASK 2.1: Improve how communities and public agencies learn from each other and work together.

Build community capacity to influence government and support a region-wide training program led by communities and geared towards government to shift values towards place-based expertise. Adopt and share best practices for equity-focused adaptation decision-making throughout the region. Ensure that best practices nurture meaningful relationships, center community concerns and priorities, and make community and social benefits clearer.

Support community leaders in raising awareness and capacity within their own communities. Host trainings for communities on sea level rise risks, adaptation options, community storytelling, and best practices for engaging effectively with governments. Whenever possible, choose community-based organizations (CBOs) or community members to lead trainings geared toward government and communities.

Training topics for agency staff may include general environmental justice and local histories, community mapping, culturally appropriate communication, meaningful community engagement at all phases of planning, use of community benefit agreements, alternative approaches to traditional cost-benefit analyses that elevate community value, and measuring successful engagement.

“Conversations and decisions are being made without the community’s input. How do we make sure that people’s stories and perspectives are at the forefront?”

- East Palo Community Focus Group Participant

Ideas for the Bay Area

The Greenlining Institute, an Oakland-based advocacy group, has created a guidebook to help users embed equity in a meaningful way in climate adaptation and community resilience policies and programs. [Access the Guidebook.](#)

*A coalition of community organizations in East Oakland partnered with the City of Oakland to secure a **Transformative Climate Communities** grant for local equitable climate planning. City staff and community groups collaborated on the scope of work, goals, and budget for the project. The resulting community-driven plan led to a \$28 million implementation grant. [Access the Plan.](#)*

*The **West Oakland Environmental Indicators Project** received a Restoration Authority grant to lead a **Shoreline Leadership Academy** to raise the capacity of local frontline community residents to engage and lead in climate adaptation. Participants are paid for their time to develop plans for the shoreline while increasing their knowledge and participation.*

*The **Resilient Communities Initiative** created an equity checklist and sample partnering agreement that could be a model for successful future partnerships. [Access them Here.](#)*

*The **Bay Area Regional Health Inequities Initiative (BARHII)** recently released a new report on best practices for community engagement to create healthy and resilient communities. This report can serve as a resource for governments. [Access it Here.](#)*



Community forum in East Palo Alto on rising sea level. Photo by Jaclyn Mandoske, BCDC.

TASK 2.2: Fund the participation and leadership of CBOs and frontline communities in adaptation planning.

Establish a stable and ongoing funding program to support frontline communities and CBOs as full partners and leaders in adaptation planning. Use the funding to build and sustain community capacity to participate in decision-making as described in Task 2.1. Support CBO operating expenses, staffing, stipends for community representatives in planning processes and meetings, and expenses associated with participation such as transportation, food, and childcare. Also fund the community-led training programs identified in Task 2.1.

Consider state budget or bond allocations, legislation, grants, development fees, or regional funding measures as sources of funding. Equity initiatives could receive a dedicated percentage of any resilience-focused funding, for example. Other initiatives to increase community access to funds could include supporting collaborative grant-writing, or streamlining the process for governments or industry partners to contract with CBOs (such as setting up a bench of CBOs available for fee-based consulting and managing those contracts on behalf of the CBOs).

“It is harder to ask communities to engage on something that they have not been involved in shaping. You need representatives with direct experience and engagement in these communities, what they want, and agency staff typically doesn’t have that.”

- Bay Adapt EJ Caucus Member

Action 2 Benefits



EQUITY

Elevates frontline community members as key decision-makers and compensates them for their time and expertise.



ENVIRONMENT

Prioritizes natural resources that people value, promoting local stewardship.



ECONOMY

Prioritizes local businesses and jobs, keeping local economies thriving.

INFORMATION

Cities, landowners, residents and students all need to understand how the latest science on sea level rise applies to their lives and decisions. Understanding risks, consequences, options, and tradeoffs enables everyone to be part of the solution. We also need ways to share our stories, struggles, and successes as we confront climate change and learn to adapt. Stories of individual and shared experiences of change are the foundation of future action. But where do we find and keep up with the latest science and these evolving stories? And how do we share the best of them?

ACTION 3

Broaden public understanding of climate change science and impacts.

Goals:

- ▶ Increased climate literacy in the region's general public.
- ▶ Communities and youth who are better prepared to plan and implement adaptation solutions.
- ▶ More value placed on community history and first-hand experience.

TASK 3.1: Tell local and regional stories about people and places adapting to climate change.

Launch a sustained storytelling campaign to amplify awareness of climate change, sea level rise impacts, and Bay health in the Bay Area. Listen and learn from residents' direct experiences and empower them to advance their own solutions for climate adaptation. Encourage youth, neighborhoods, and frontline communities to shape and share their own stories. Base stories on local successes and hopeful narratives about what makes the Bay Area special, including the Bay's unique natural ecosystems and culture of environmental and social activism. Allow communities to share their stories of concern, risk, needs, and loss in order to center these narratives and base future adaptation planning on mitigating these challenges. Share stories widely, and make them available on diverse platforms – newspapers, radio, television, social media, neighborhood news apps, and the web. Use these stories to train local government staff about the communities they serve and increase trust between communities and local staff (coordinated with the trainings outlined in Task 2.1).



BCDC staff presenting to stakeholders on sea level rise vulnerability. Photo by Jaclyn Mandoske, BCDC.

Ideas for the Bay Area

*As part of the Islais Creek Adaptation Strategy, the San Francisco Planning Department developed a magazine, **I Am Islais**, that provided a platform for residents and stakeholders to speak about sea level rise in the neighborhood and how it would affect their lives. Platforms like these allow residents to have their voices heard.*





Middle schoolers from Oakland learn about rain catchment systems. Photo courtesy of Estuary News from March 2019.

TASK 3.2: Weave climate adaptation literacy into school programs.

Support partnerships between public and private schools and community-based organizations (especially those led by youth and frontline community members) to educate students about the health and future of the Bay and ways to adapt to climate change. Share adaptation visions, solutions, and local pilot projects showcasing innovation with teachers, students, school districts and parent associations. Support schools so they can get more involved as partners in educating their local communities about rising sea levels and as leaders in elevating the importance of climate action and adaptation. Help schools offer both climate-literate curricula and career pipeline opportunities based in diversity and inclusivity. Consider partnerships with local employers to connect training with local jobs. Provide our future decision-makers and workforce with the knowledge and experience to tackle climate problems with equitable and innovative solutions.

Ideas for the Bay Area

The Mycelium Youth Network partnered with The Exploratorium and BCDC to engage local youth in the science, political issues, and civic processes involved in responding to climate change and its impacts on infrastructure and people. The collaboration produced **Water Is Life**, a program that offered an in-depth analysis of water justice issues with a specific focus on sea level rise and how it will impact the entire Bay Area.

The program reached 150 students at several Title I schools around the Bay Area, including Leadership High School and Mission High School in San Francisco, and Elmhurst United Middle School in Oakland. [Learn More Here.](#)

The San Mateo County Environmental Literacy Program works with school districts, community-based environmental literacy partners, educators, and youth to actively integrate environmental sustainability into school communities, classrooms, and programs. [Learn More Here.](#)

Action 3 Benefits



EQUITY

Empowers frontline community members by increasing awareness of climate risks, sharing stories about their own communities, and engaging youth in schools.



ENVIRONMENT

Raises awareness of the health and future of the Bay and its resources and the value of natural and nature-based solutions in addressing rising sea levels.



ECONOMY

Reduces likelihood of economic damage by flooding by building public support for adaptation measures; prepares youth to enter climate resilience careers.

ACTION 4

Base plans and projects on the best science, data, and knowledge.

Goals:

- ▶ Data and research tailored to the region's specific needs.
- ▶ Accessible science, analysis, and monitoring information.
- ▶ User-friendly technical support.

TASK 4.1: Align research and monitoring with information gaps.

Partner with academics, scientists, and communities to fill information gaps through original research, data collection, analysis, and monitoring. Tailor the interpretation of science to the audience or user, ranging from the general public to academics. Curate and archive information for use and updates across decades. Align with similar statewide initiatives but ensure data is tailored to the Bay Area.

From a technical perspective, identified information needs include:

- ▶ Enhanced regional flood modeling related to multiple hazards (such as groundwater, watershed, riverine/tidal, subsidence, erosion).
- ▶ Expanded networks of water elevation monitoring stations for real-time updates to the rate and timing of sea level rise in the Bay.
- ▶ Expanded open data initiatives to facilitate sharing.
- ▶ Standard operating procedures for validating and nominating data for common use.
- ▶ More research on the cost and suitability of adaptation strategies for different Bay conditions.
- ▶ Identification of potential wetland migration pathways.
- ▶ Tracking, sharing, and integrating data from various sectors to spotlight opportunities to reuse sediment.
- ▶ Research on the equitable distribution of burdens and benefits of adaptation.
- ▶ More explicit research on the impacts and consequences of contaminated sites as they intersect with flooding and/or rising groundwater and strategies for mitigating these impacts.

Solicit and value local knowledge from residents, particularly in frontline communities, and use it to inform research needs and priorities and to confirm and validate academic research. Prioritize co-production of data and tools with communities through community-based asset mapping and storytelling or participatory science to form a more complete data picture.

Ideas for the Bay Area

Created in 2000, the California Ocean Science Trust recognizes the value of independent science and the opportunity to better connect the wealth of scientific expertise in academia with policy and management decisions in the state. The Ocean Science Trust seeks and provides funding for ocean resource science projects and encourages coordinated, multi-agency, multi-institution approaches to ocean resource science.

It can serve as a model for how to connect real-world planning and policy needs with scientific and academic research but be adapted for the unique needs and constraints of the Bay Area.

[Learn More Here.](#)

The Wetlands Regional Monitoring Program (WRMP) is convening stakeholders from a broad range of backgrounds and expertise to develop a regional monitoring program for wetlands in the Bay Area. The program aims to use wetland habitat data to improve the efficiency of permitting and monitoring wetland restoration projects and to evaluate the condition of the tidal marsh ecosystem at a regional scale. [Learn More Here.](#)



CALIFORNIA
OCEAN
SCIENCE
TRUST



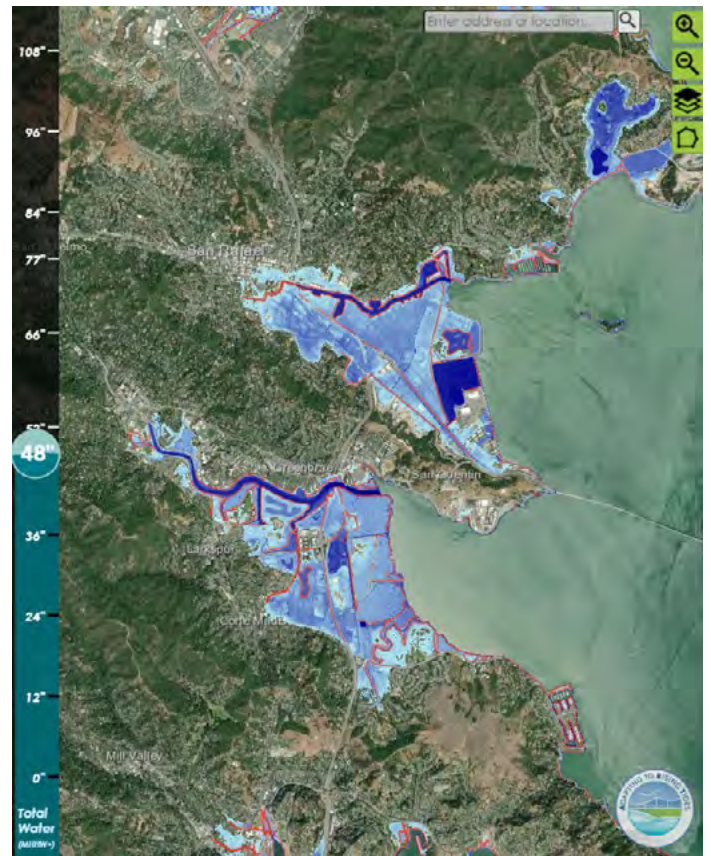
TASK 4.2: Make scientific data, information, and guidance easier to access and use.

Help users creating adaptation plans and projects understand where, when, and how to use climate science and planning tools. Facilitate widespread access to, and understanding of, technical information and guidance. Improve and ease access to the most relevant information.

Establish or support an independent Climate Science Consortium that provides high-quality science translation tailored to the Bay Area’s needs and fed by the research outlined in Task 4.1.

Also offer a separate technical assistance “storefront” to support plans and projects that provides users:

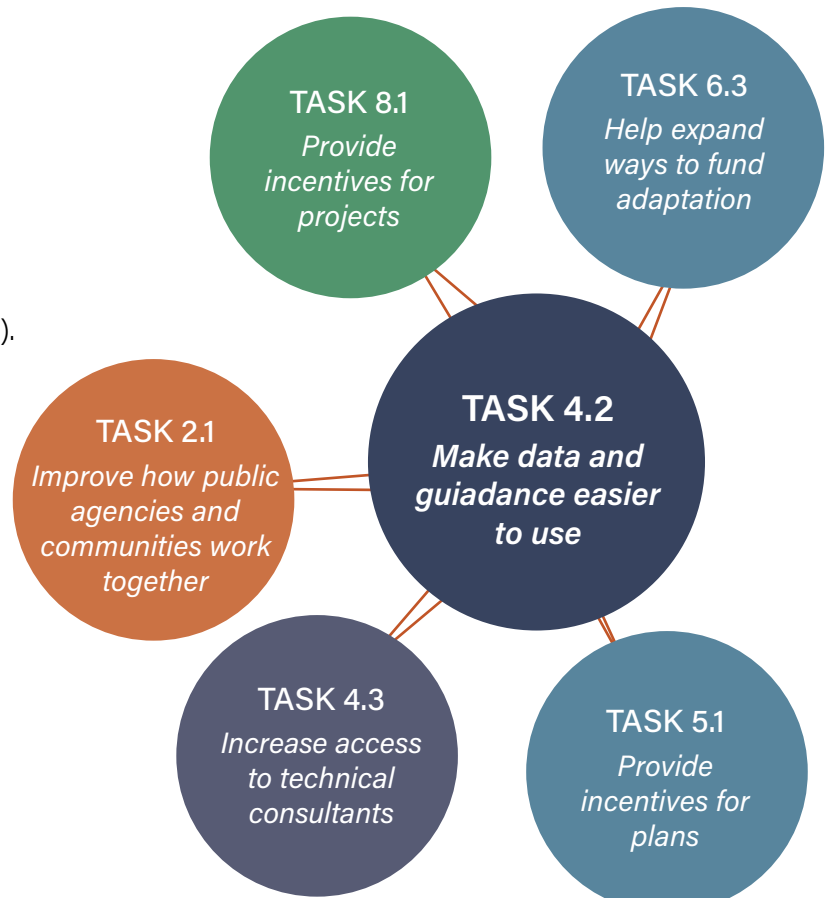
- ▶ Standardized, up-to-date scientific data, such as common flood models and sea level rise projections, as created by the Climate Science Consortium.
- ▶ Best available science white papers on specific issues, as curated or developed by the Climate Science Consortium.
- ▶ Individualized consultations via a professional help desk network.
- ▶ How-to guidance on the steps of assessing vulnerability and developing adaptation plans.
- ▶ Adaptation plan and project examples and case studies.
- ▶ Tools for evaluating adaptation options.
- ▶ Funding and financing assistance.
- ▶ Lecture series, conferences, trainings, working groups, and/or workshops.
- ▶ Access to a technical consultant bench (Task 4.3).



The Adapting to Rising Tides Bay Shoreline Flood Explorer is a tool developed by BCDC to explore current and future flooding scenarios. This information is available at explorer.adaptingtorisingtides.org.

How science and planning assistance can assist other Joint Platform actions

Figure 8 | Many different tasks outlined in the Joint Platform should connect to and coordinate with the technical assistance outlined in Task 4.2; however, they are not included in the task because they have technical assistance as their secondary function and/or have a natural home elsewhere.





Levee breach in the Montezuma wetlands restoration project. Photo courtesy of the Montezuma wetlands project.

TASK 4.3: Increase access to technical consultants for local adaptation partners.

Establish a region-wide consultant bench that cities, counties, and others can tap for technical services. Use regional planning and project guidelines (Task 1.1) to articulate common technical needs in region-wide RFPs for consultants to serve on the bench. Also use guidelines to guide evaluation of proposals from potential consultants. Contract with consultants to be “on call” for cities and counties, as needed. Simplify and manage contracting processes for users when accessing a consultant. Vet consultant-led goods and services to ensure they align with the region’s vision and objectives.

Ideas for the Bay Area

MTC/ABAG’s Housing Technical Assistance (TA) Consultant Bench is an effort to recruit and vet multiple consultants with various skill sets to support local planning at favorable rates and facilitate access to consultant resources, achieve economies of scale, and reduce costs. This bench supports regional TA efforts and local jurisdictions can use it to connect with specialized resources on a wide range of issues and services using their SB2, LEAP, REAP, and PDA planning funds. [Learn More Here.](#)

Action 4 Benefits



EQUITY

Elevates local knowledge and needs in the development of data to inform decision-making and ensures data transparency and accessibility to communities.



ENVIRONMENT

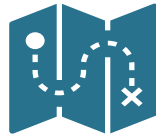
Improves guidance, data, and feedback on projects that preserve and enhance habitats and on natural and nature-based solutions to increase implementation of these projects.



ECONOMY

Increases information and better planning and project processes to expedite shoreline protection projects.

PLANS



Now is the time to plan for carrying out the region's adaptation vision and seeking the billions of dollars needed to pay for it. As shoreline communities incorporate adaptation into local plans, we must ensure that those plans contribute to a "One Bay" solution, whose goals and objectives are shared across cities, counties and the region. Decisions in one community, municipality or new development can displace costs and impacts to others. How can we help locals make successful, coordinated plans? And how will we pay for new initiatives?



Community engagement for Plan Bay Area 2050.
Photo by Karl Nielsen.

ACTION 5

Align local and regional plans into a unified adaptation approach.

Goals:

- ▶ Local plans that are coordinated across the region, and incentivized by expanded adaptation funding.
- ▶ Improved and coordinated state planning requirements for adaptation plans and projects.

TASK 5.1: Provide incentives for robust, coordinated local adaptation plans.

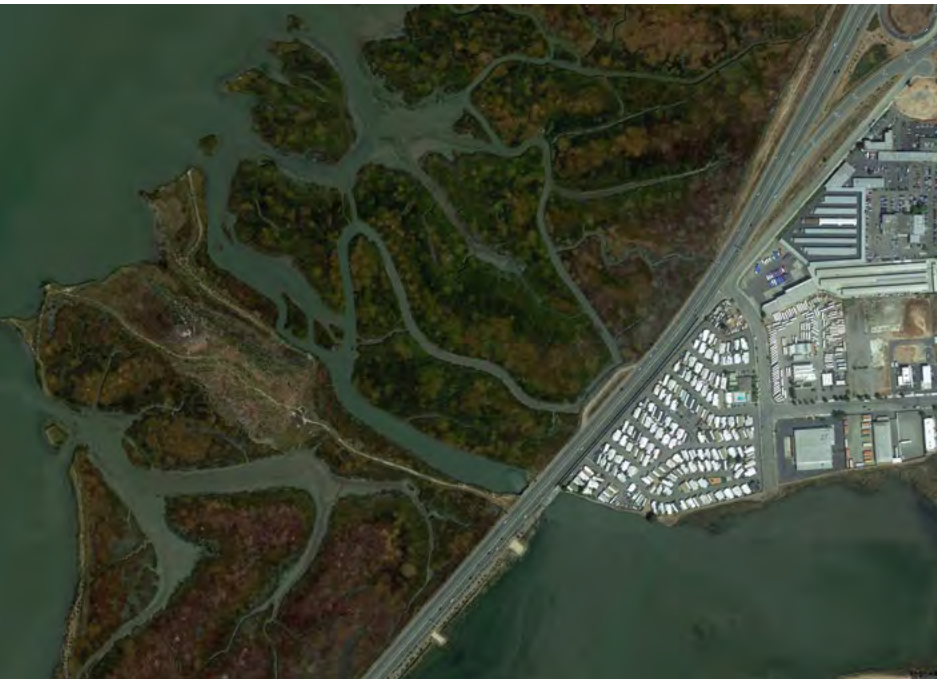
Utilize collectively-developed plan guidelines and minimum requirements (Task 1.1), tied to financial incentives (Task 6.2), to develop strong local and community-driven adaptation plans that also contribute to regional goals and align with current state guidelines for adaptation plans. Incentives should include funding to develop the plans. Plans should also include planned projects that contribute to regional goals (Task 8.1).

Guidelines should be developed with the input of many stakeholders but may provide:

- ▶ Guidance on how to prioritize and include vulnerable communities in sea level rise planning, including best practices for community engagement and community-led adaptation planning processes.

- ▶ Common minimum short and long-term sea level rise climate projections for planning.
- ▶ Standard flood data sets.
- ▶ Regionally-appropriate strategies for protecting natural areas, frontline communities, public access, regional transportation links, and other critical regional assets.
- ▶ Guidance on how and where to prioritize nature-based solutions along the shoreline where feasible and appropriate.
- ▶ Land use guidance, such as how to plan for habitat migration with sea level rise.
- ▶ Guidance on how to plan for long-term implications of sea level rise beyond current planning horizons.
- ▶ Guidance on how to connect sea level rise planning to other critical topics, including public and environmental health, emergency response, and housing considerations.

Assistance on applying the guidelines should be available through regional technical assistance programs (Task 4.2).



Wetlands and development near Highway 37. Map data ©2019 by Google Earth Pro.

TASK 5.2: Align state-mandated planning processes around adaptation.

Assess the state’s myriad planning requirements beyond adaptation (such as those for housing, emergency response, local hazard mitigation, social equity, and climate action) through the lens of adaptation planning for conflicts, redundancies, and synergies. Jointly advocate for updated legislation to coordinate these requirements. Also create opportunities and incentives at the state level for cross-jurisdictional planning to improve the siloed scope of local plans that are often limited to jurisdictional boundaries.



Ideas for the Bay Area

The San Francisco Bay Shoreline Adaptation Atlas has extensively evaluated the Bay shoreline to identify the most appropriate adaptation strategies for the unique physical characteristics shared by different “Operational Landscape Units” around the Bay. It identifies where nature-based approaches can help create a resilient shoreline with multiple benefits and where these solutions can work together across the interconnected Bay to avoid unintended impacts in neighboring locales. The Adaptation Atlas can provide a guide toward appropriate plans and projects in different locations around the Bay to ensure that the most appropriate strategies are considered in any given location. [See it Here.](#)

Action 5 Benefits



EQUITY

Rewards planning processes that value inclusive engagement and equitable outcomes.



ENVIRONMENT

Rewards planning processes that value long-term protection of Bay habitats and prioritization natural and nature-based adaptation outcomes.



ECONOMY

Rewards planning processes that value the protection of jobs, businesses, and infrastructure.



The East Bay Shoreline looking towards Emeryville and Oakland. Photo by Andre Perrin-Martinez.

ACTION 6

Figure out how to fund adaptation.

Goals:

- ▶ Clear assessment of the region's adaptation funding needs.
- ▶ Identification of local and regional funding sources and financing tools.
- ▶ Mechanism for prioritizing and distributing funds for adaptation over the next several decades.

TASK 6.1: Expand understanding of the financial costs and revenues associated with regional adaptation.

Reduce unknowns and uncertainties related to the costs of adaptation. Start by expanding on the existing MTC/ABAG Sea Level Rise Needs and Revenue Assessment, which supports Plan Bay Area 2050 and also advocates for more state and federal funding. Build on and improve the assessment's calculations of what it may cost the region to adapt to sea level rise as well as the cost of inaction. As part of this calculation, consider both actual costs of current projects and the anticipated costs of untested or new construction or restoration techniques, as well as the costs for pre-construction phases of projects such as engagement, planning, and land acquisition or post-construction costs such as monitoring and maintenance. Consider when future funds may be needed as sea levels rise and impacts accelerate. Also develop a more in-depth understanding of possible revenue from related special assessments, taxes, and fees to refine estimates of the potential funding gap.

Ideas for the Bay Area

The San Francisco Bay Restoration Authority is a regional agency created to fund shoreline projects that will protect, restore, and enhance San Francisco Bay through the allocation of funds raised by the Measure AA parcel tax. This parcel tax generates \$25 million in grants annually for wetland restoration projects throughout the region. The Restoration Authority is overseen and staffed by representatives from several Bay Area government agencies with various types of expertise and authority. The Restoration Authority could either be expanded to fund a wider variety of adaptation projects or could serve as a model for a new adaptation-focused finance authority for the Bay. [Learn More Here.](#)



SAN FRANCISCO BAY
RESTORATION AUTHORITY

TASK 6.2: Establish a framework for funding plans and projects.

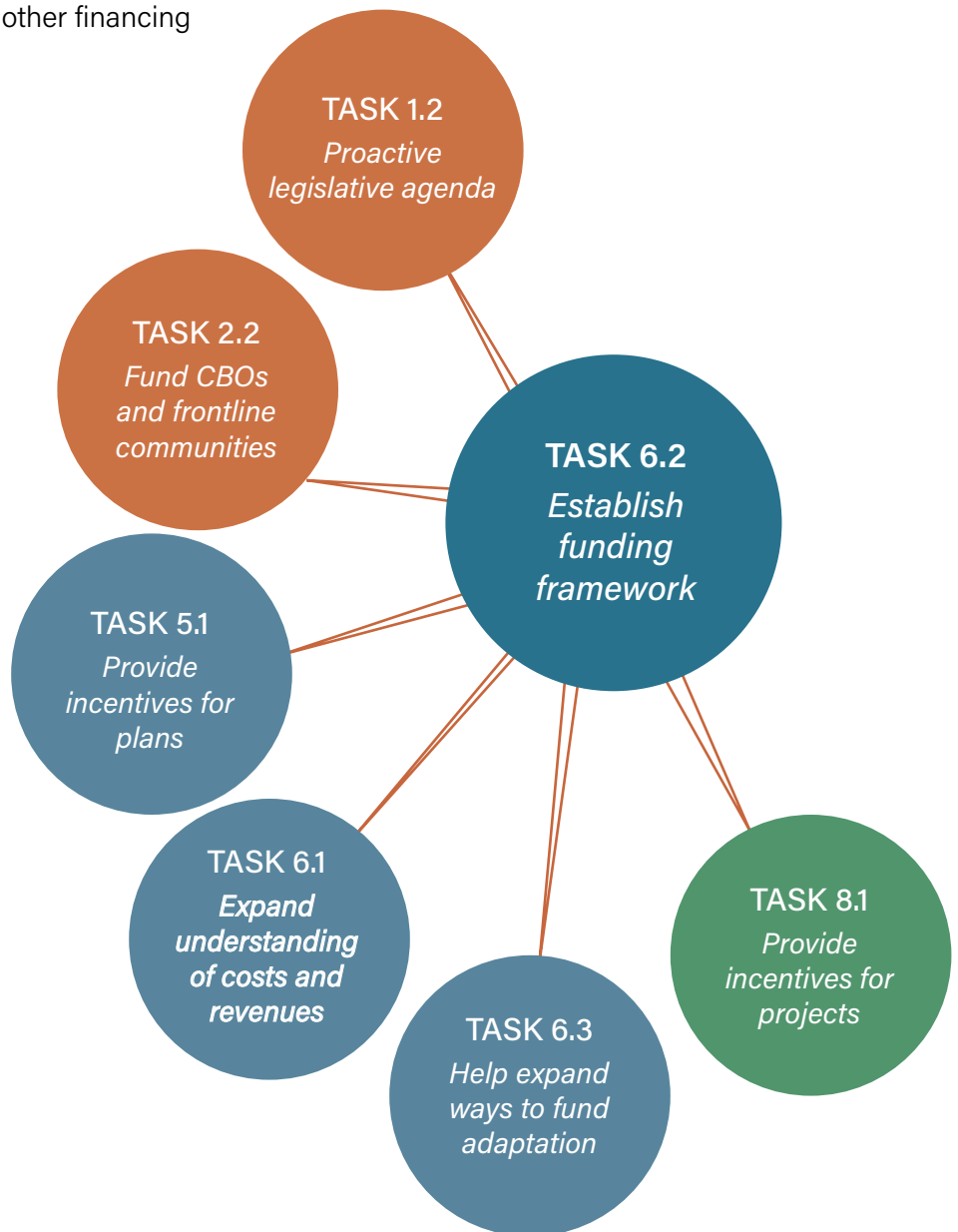
Develop and implement a framework or process to aggregate, generate, and distribute adaptation funding for communities, plans and projects. Use guidelines developed in Task 1.1 to direct funding to incentivize successful local planning (Task 5.1), and to evaluate and assign funding to proposed adaptation projects included in such plans (Task 8.1). Consider modeling the process on the MTC/ ABAG Transportation Project Performance framework, in which partners nominate local projects for evaluation based on specific criteria and then prioritize them for funding. Actively advocate for adaptation funding for the region (Task 1.2) and consider spearheading new regional taxes, fees, or other financing mechanisms to fund plans and projects.

“How can we see future things happening if we can't even fix our streets and drains?”

- East Palo Community Focus Group Participant

How the funding framework can assist other Joint Platform actions

Figure 9 | Many different tasks outlined in the Joint Platform should be considered in the funding framework outlined in Task 6.2; however, they are not included in the task because 6.2 focuses on the creation of the funding framework while the related tasks rely on the outcomes of the funding framework.





Isais Creek in San Francisco. Photo by SF Baykeeper, Robb Most, and LightHawk.

TASK 6.3: Help cities and counties expand ways to fund adaptation planning and projects.

Provide local governments with expertise and assistance to generate additional funds by identifying, evaluating, and applying local financing tools and to apply for other sources of funds for local adaptation needs (above and beyond any regional funds identified in Task 6.2). Work with cities and counties to identify their needs and match the myriad federal, state, regional, and local funding sources to local needs for planning, community engagement, project implementation and costly project resources (i.e. sediment). Help local governments understand grant requirements and shape projects to fit them. Assist with project cost-benefit analysis, grant writing, and fulfilling reporting requirements. This assistance should be provided through the regional technical assistance storefront outlined in Task 4.2.

Ideas for the Bay Area

There are several existing resources that can help serve as the foundation for the services outlined in Task 6.3:

- ▶ **Finance Guide for Resilient by Design Bay Area Challenge** Design Teams, *NHA Advisors, 2018*
- ▶ **Paying for Climate Adaptation in California**, *AECOM, 2018*
- ▶ **Climate Adaptation Finance and Investment in California**, *Routledge Focus, 2018*
- ▶ **Adaptation Finance Challenges: Characteristic Patterns Facing California Local Governments and Ways to Overcome Them**, *California Natural Resources Agency, 2018*
- ▶ *The California Grants Portal is an access portal to all grants and loans offered on a competitive or first-come basis by California state agencies. [Learn more here.](#)*
- ▶ *The Funding Wizard, hosted and maintained by the California Air Resources Board, is a searchable database of grants geared toward sustainability projects, including climate change mitigation and adaptation. [Learn more here.](#)*

Action 6 Benefits



EQUITY

Outlines a process to pay for adaptation that does not rely on a community's wealth, advocacy skills, or grant-writing success to fund plans and projects.



ENVIRONMENT

Identifies ways to prioritize long-term protection of Bay habitats and natural and nature-based adaptation outcomes in funding decisions.



ECONOMY

Increases funding for shoreline projects and protection of key assets critical to the region's economic health.

PROJECTS



Getting adaptation projects approved and built can be challenging. Permitting and construction should accelerate, not hold back, resilient shoreline adaptation projects that value ecosystems and people, align with the region's vision and funding priorities, and apply innovative approaches. Measures to smooth and speed regulatory approvals for multi-benefit projects are important. Other measures can help facilitate place-based collaboration around project development and remove logistical challenges to construction.

ACTION 7

Refine and accelerate regulatory approvals processes.

Goals:

- ▶ Less time and fewer resources spent on permitting adaptation projects so they can be constructed ahead of sea level rise.
- ▶ Updated laws, regulations, and policies that reflect the changing shoreline.

TASK 7.1: Accelerate permitting for equitable, multi-benefit projects.

Dedicate a multi-agency group to work collaboratively on permits for adaptation projects that reflect regional guidelines and have been identified as regional priorities (see *Ideas for the Bay Area* at right for a possible model or forum). Achieve smoother, speedier regulatory approvals that don't compromise environmental protections, transparency, or community engagement by:

- ▶ Using standard, transparent criteria and checklists (linked to Task 1.1. guidelines) to evaluate candidate projects for eligibility for accelerated permitting.
- ▶ Providing opportunities for proactive coordination and collaboration between agencies and project proponents and sharing criteria and checklists with project proponents early in their design process.
- ▶ Improving coordination across agencies and between potential project proponents and regulators before projects are even designed (such as regular engagement with the groups



Conceptual drawing of the Islais Hyper-Creek project from Resilient By Design.

Ideas for the Bay Area

The San Francisco Bay Restoration Regulatory Integration Team (BRRIT) is a multi-agency team dedicated to improving the permitting of multi-benefit habitat restoration projects and associated flood management and public access in and along San Francisco Bay. The BRRIT consists of staff from state and federal regulatory agencies who work closely with project proponents from the pre-permit application stage through permit completion. However, the BRRIT is a small team that reviews only a limited number of habitat projects and has a limited scope. The BRRIT could be expanded to cover additional green or hybrid shoreline protection projects, or a similar team could be created to handle projects that provide regional adaptation benefit but do not meet current BRRIT criteria.



(TASK 7.1 continued)

outlined in Task 8.2).

- ▶ Establishing a dispute resolution process among permitting agencies.
- ▶ Conducting CEQA and permitting concurrently.
- ▶ Enhancing the technical knowledge of permitting staff (via working groups and by tapping outside expertise).
- ▶ Increasing regulatory capacity for permit review.

TASK 7.2: Assess environmental regulations and policies that slow down progress on projects.

Review plans and laws, including BCDC's Bay Plan, RWQCB's Basin Plan, the California Endangered Species Act, California Environmental Quality Act, National Environmental Policy Act, Federal Clean Water Act, and Federal Endangered Species Act, to pinpoint policies that may unintentionally impede permitting or construction of adaptation projects. Starting with local and regional plans and policies, develop consensus on recommended policy changes that balance original intent with changing conditions due to sea level rise, and help facilitate multi-benefit projects. The scope of the review could include:

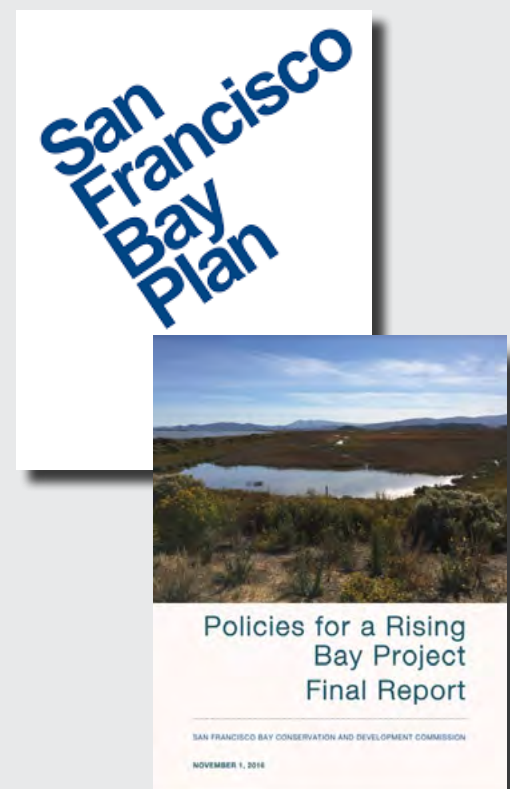
- ▶ Clarifying or creating new policies on climate change.
- ▶ Identifying conflicting regulatory mandates.
- ▶ Identification of "regulatory gaps," such as wetland migration space that is not currently protected.
- ▶ Clarifying design standards for nature-based projects.
- ▶ Integrating data from pilot projects into planning for new projects.
- ▶ Reevaluating restrictions on Bay fill for shoreline protection.
- ▶ Reevaluating criteria for dredged material disposal to incentivize beneficial reuse over in-Bay or ocean disposal.
- ▶ Reevaluating contaminant criteria for beneficial reuse.
- ▶ Identifying more funding sources for sediment delivery to beneficial reuse sites and other adaptation projects.
- ▶ Updating land use policies to allow for habitats to migrate upland.
- ▶ Permitting that allows for temporary impacts to achieve long-term adaptation goals.
- ▶ Ensuring that construction work windows provide the expected benefit to special status species.
- ▶ Addressing the short and long-term impacts of turbidity plumes in water.
- ▶ Strengthening requirements around long-term monitoring of adaptation outcomes to inform regulatory and policy updates.

Ideas for the Bay Area

In 2016, BCDC completed Policies for a Rising Bay, which outlines the policy issues identified in the Commission's laws and policies in light of new challenges, including sea level rise. The report identifies four policy issues where BCDC's policies were found to be inadequate regarding risks associated with rising sea levels, including:

1. *Fill for Resilience and Adaptation - Habitat Restoration and Protection*
2. *Fill for Resilience and Adaptation - Innovative Shoreline Solutions*
3. *Environmental Justice and Social Equity*
4. *Adaptive Management*

In 2019, BCDC adopted its Fill for Habitat and Environmental Justice Bay Plan Amendments that formally amended its regulatory program to address these policy gaps.





Wetlands along the San Jose shoreline during King Tides in December 2019. Photo by SF Baykeeper, Robb Most, and LightHawk.

Action 7 Benefits



EQUITY

Rewards projects that value inclusive engagement and equitable outcomes.



ENVIRONMENT

Rewards projects that value long-term protection of Bay habitats and natural and nature-based adaptation outcomes.



ECONOMY

Rewards projects that protect jobs, businesses, and infrastructure.

ACTION 8

Fund and facilitate faster adaptation projects.

Goals:

- ▶ Accelerated and funded projects that advance the regional adaptation vision.
- ▶ More efficient construction processes for multi-benefit, equitable shoreline adaptation projects.

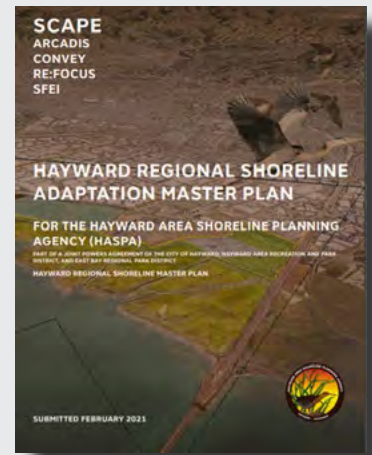
TASK 8.1: Incentivize projects that meet regional guidelines.

Jump start critical local projects that also contribute to regional goals using collectively developed plan guidelines and minimum requirements (Task 1.1), tied to financial incentives (Task 6.2) and permitting incentives (Task 7.1). Projects eligible for financial incentives should be included in successful local plans that follow compatible guidelines (Task 5.1).

Guidelines should be developed with the input of many stakeholders but may provide:

- Guidance on how to prioritize and include vulnerable communities in sea level rise projects, such as through robust and meaningful community engagement in the project planning process.
- Evaluation of the degree to which a project protects the health of the bay and local ecosystems, and considers space for habitat migration.
- Evaluation of project impacts on flooding or wave erosion in other areas of the Bay, and guidance for best practices to avoid unintended consequences in an interconnected Bay system.
- Evaluation of project impacts on natural areas, frontline communities, public access, and other consequences to neighbors or the region, such as displacement.
- Use of an equitable cost-benefit analysis that values frontline communities and other non-monetary benefits.
- Adaptive project plans that consider flooding above and beyond the design level or flooding that occurs more rapidly than planned.

Guidelines should be made easily accessible via regional technical assistance programs (Task 4.2).



Ideas for the Bay Area

The Hayward Area Shoreline Planning Agency Joint Powers Authority brings together the City of Hayward, East Bay Regional Parks District, and Hayward Area Recreation and Parks District and works with the Hayward Area Shoreline Citizens Advisory Committee to coordinate agency planning activities and adopt and carry out policies for the improvement of the Hayward Shoreline. It has recently completed and adopted a Shoreline Master Plan that outlines adaptation measures to prepare for sea level rise. [Read it Here.](#)

TASK 8.2: Encourage collaboration among people doing projects in the same places.

Establish place-based, ongoing work groups to coordinate large-scale, multi-jurisdictional plans and projects. Provide a forum for building relationships among agencies, project proponents, and communities, enhancing communication, transparency, and synergies among diverse players, and connecting communities to projects they care about.

Create local visions tied to the regional vision (Task 1.1) and share best practices for project design, governance, and delivery. Use a neutral, third-party facilitator to facilitate these groups and help ensure a balance of voices, achieve consensus on common project goals, resolve challenges and conflicts, identify and nurture project champions, and broker community benefits agreements. Consider formalizing these structures such as in the Hayward example (above) to accelerate project funding, development and construction across jurisdictional boundaries.



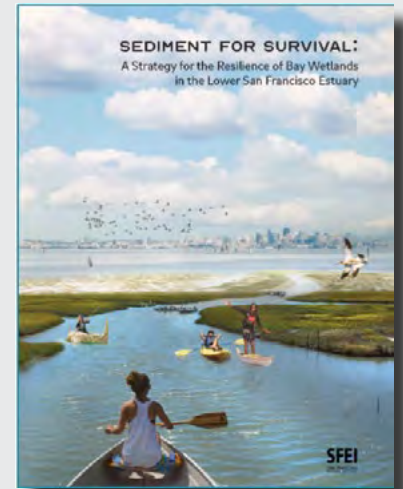
South Bay Salt Ponds restoration project. Photo by San Francisco Restoration Authority.

TASK 8.3: Facilitate faster construction of nature-based projects.

Increase the capacity of contractors to build multi-benefit or nature-based projects. Establish training programs on techniques and approaches to construct natural and nature-based shoreline projects for contractors, aligned with regional project guidelines (Task 1.1) and informed by monitoring data (Task 9.2). Coordinate the use of the limited regional supply of fill across the region and improve fill logistics (e.g. stockpiling, contaminant testing, delivery, etc). Strengthen partnerships with regulated communities. Expand RFP and State bond proposition language to make funding such complex projects more flexible.

Improve construction bidding and contracting processes by:

- ▶ Demystifying project costs.
- ▶ Contracting earlier in the design process (via construction management general contracts).
- ▶ Incentivizing contracts with local or equity-focused businesses.
- ▶ Incentivizing the reduction of construction impacts on communities.



Ideas for the Bay Area

Sediment for Survival, published by the San Francisco Estuary Institute in 2021, analyzes current data and climate projections to determine how much natural sediment may be available for tidal marshes and mudflats and how much supplemental sediment may be needed under different future scenarios, and offers a strategy for sediment delivery that will enable wetlands to survive a changing climate and provide benefits to people and nature for many decades to come. This report can form the foundation for a region-wide conversation about how to meet the region’s future sediment needs for nature-based shoreline adaptation projects. [Read it Here.](#)

Action 8 Benefits



EQUITY

Advocates for community voices in projects; supports construction practices that minimize impacts to communities and support local businesses.



ENVIRONMENT

Expands the ability of contractors to build natural and nature-based solutions.



ECONOMY

Facilitates cross-pollination early on, resulting in multi-benefit projects with shared costs; supports construction practices that support local businesses.

PROGRESS



The cycle of adaptation never stops. Science evolves and we learn lessons from existing projects, often requiring updates to our plans and policies. But how do we know if our efforts have been successful, and whether everything is working out as planned? Tracking and learning from our successes and failures will allow the region to adjust course, celebrate progress, maintain transparency, and adapt to uncertainty. Accountability for how well we achieve our collective adaptation goals goes hand-in-hand with future support for this critical work.



People visiting recreational trails near the Palo Alto Baylands.
Photo by Jitze Couperus licensed under CC BY 2.0.

ACTION 9

Track and report progress to guide future actions.

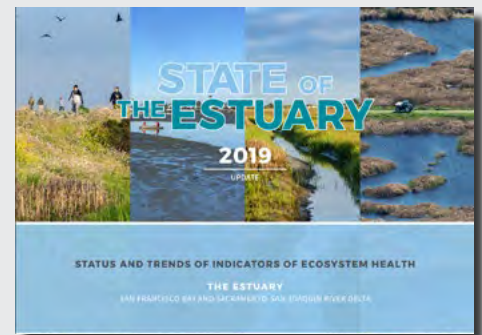
Goals:

- ▶ A process for gathering feedback and measuring progress on local and regional adaptation efforts.
- ▶ Clarity on how to adapt plans and projects to changing conditions and outcomes.
- ▶ Enhanced monitoring of nature-based projects to better understand the benefits and challenges of an ecosystems approach to adaptation.

TASK 9.1: Measure regional progress using metrics and share results.

Regularly check and report on adaptation progress based on the established and shared regional metrics identified in Task 1.1. Metrics should measure the difference between today's "baseline"—the region's current risk profile and adaptation status—and changes related to adaptation activities, or other measures of long-term sustainability. Also consider collecting qualitative reports, such as narratives and community feedback.

Resulting "report cards" should be transparent and understandable (through visually compelling online dashboards) to partners, stakeholders and the public. When appropriate, they should suggest ways to increase alignment with the regional vision, such as changes to incentives (Tasks 5.1 and 8.1), funding models (Task 6.2), technical assistance programs (Task 4.2), or the legislative agenda (Task 1.2).



Ideas for the Bay Area

The State of the Estuary report tracks indicators and trends that measure the San Francisco Estuary's ecological health. Likewise, the Delta Stewardship Council's Delta Plan Performance Measures uses several metrics to measure, progress, and track performance across the coequal goals of a reliable water supply for California and a healthy Delta ecosystem. It uses an easy-to-access, graphics-rich online interface to illustrate performance measure information and data to ensure transparency around the Delta Plan's goals and performance measures. This website and the metrics it tracks could be a model for how the Bay Area could transparently track its adaptation goals and progress.



Creosote-treated pilings at the Red Rocks warehouse site in Richmond. Photo by Marilyn Latta, State Coastal Conservancy.

TASK 9.2: Monitor and learn from pilot projects.

Monitor pilot projects to identify lessons learned and update or establish guidance based on these lessons. Expand and support existing monitoring programs, such as the Wetland Regional Monitoring Program and the San Francisco Bay National Estuarine Research Reserve, to increase the context for learning and adaptation. Use monitoring to update and refine best practices for innovative, multi-benefit projects covered in regional vision (Task 1.1), funding criteria (Task 6.2), technical assistance guidance (Task 4.2), and permitting processes (Task 7.1).



Ideas for the Bay Area

Pilot projects don't have to be limited to nature-based solutions. The San Francisco Bay Area Rapid Transit District (BART) can serve as a model for other agencies pursuing adaptation. With limited funding and resources, BART has conducted a number of pilot projects to evaluate resiliency risks and develop adaptation solutions. Pilot findings have been used to inform BART capital projects of risks. As a pilot outcome, BART requires in the BART Facilities Standards (BFS) that capital projects account for SLR risk in their designs. BART's approach to leverage existing data and partnerships to maximize pilot outcomes are examples of practices that can be shared and benefit other agencies.

Action 9 Benefits



EQUITY

Ensures accountability for equity and community-focused adaptation outcomes.



ENVIRONMENT

Ensures accountability for nature-based, ecosystem, and habitat-based adaptation outcomes; monitoring and reporting will improve the design, permitting, funding, and construction of nature-based adaptation strategies.



ECONOMY

Ensures accountability for job and housing growth adaptation co-benefits; monitoring of pilot projects will lead to more efficient and effective projects and expedited protection for critical assets.

Bay Adapt Implementation Chart

Draft as of October 2021

		GOVERNMENT												NON-GOVERNMENTAL ORGANIZATIONS												CO-LEADS IDENTIFIED				
		BCDC	RWQCB	MTC/ABAG	SFEP	SCC	BARC	Caltrans	DSC	Other State	NOAA	US-ACE	Other Federal	Local Juris.	Bay-CAN	SFEI	CHARG	Nor-Cal RN	WOEIP	Exploratorium	Greenbelt Alliance	CBOs	EJ Advo	Enviro Orgs	Business	Priv Phil	Academia	Media*	Education/Cultural Orgs	
PEOPLE	Task 1.1: Create a long-term regional vision rooted in communities, bay habitats, and the economy.	L	.	..	..	.	.	..					L	.	..	.				..	L	.	.	.		..		..		BCDC Local Jurisdiction(s) CBO(s)
	Task 1.2: Lay the foundation for a proactive regional legislative agenda.	..		..			L						..	..	..	..							..	..	..					BARC
	Task 2.1: Improve how communities and public agencies learn from each other and work together.	..	L	..	..	..	..		.		..			..	L			L	L			.	.			..				RWQCB, BayCAN, Norcal Resilience Network, WOEIP
	Task 2.2: Fund the participation and leadership of CBOs and frontline communities in adaptation planning.	..		..	..		L							..	..			L	L			.				..				BARC, Norcal Resilience Network, WOEIP
INFORMATION	Task 3.1: Tell local and regional stories about people and places adapting to climate change.	.		.	..	.	L						..	..					L		..				..		L		BARC, Exploratorium Media*	
	Task 3.2: Weave climate literacy into school programs.	.								.			..												..	.		..		TBD
	Task 4.1: Align research and monitoring with information gaps.	..	L		..			.	..		..		..	.	L	L	..				..	.	.	.	.		..			RWQCB, BayCAN, SFEI
	Task 4.2: Make scientific data, information, and guidance easier to access and use.	L	..	L	..	..		..		..		..	.	L	L	..							.	.	.		.			BCDC, MTC/ABAG, BayCAN, SFEI
	Task 4.3: Increase access to technical consultants for local adaptation partners.			L	L	..							.	..	..	..					.									MTC/ABAG, SFEP
PLANS	Task 5.1: Provide incentives for robust, coordinated adaptation plans.	..		..		..	.							..	..	.														TBD
	Task 5.2: Align state-mandated planning processes around adaptation.	.		..						.			..	..																TBD
	Task 6.1: Expand understanding of the financial costs and revenues associated with regional adaptation.	L	..	L			..						.				.									.				BCDC, MTC/ABAG
	Task 6.2: Establish a framework for funding plans and projects.	L		L	.	..	.	.			.		.									.	.	.	.					BCDC, MTC/ABAG
	Task 6.3: Help cities and counties expand ways to fund adaptation planning and projects.	.		L	.	..	.	..					.	..																MTC/ABAG
PROJECTS	Task 7.1: Accelerate permitting for equitable, multi-benefit projects	L	L		L	..		.		..		.				.					.	.	.	.					BCDC, RWQCB, SFEP	
	Task 7.2: Assess environmental regulations and policies that slow progress on projects.	L	L		L	..		.		..		.				.					.	.	.	.					BCDC, RWQCB, SFEP	
	Task 8.1: Incentivize projects that meet regional guidelines.	.	.	..	..	..		..			..	..	..				.				.									TBD
	Task 8.2: Encourage collaboration among people doing projects in the same places.	..	..	..	..	L	..	.	.				..	..	L	.					..				.					SCC, SFEI
	Task 8.3: Facilitate faster construction of nature-based projects.	..	.		L	..		.	.			.		.		..	.					.	.	.	.					SFEP
PROGRESS	Task 9.1: Measure regional progress using metrics and share results.	L		..	L		..					.			L						.	.	.	.		.				BCDC, SFEP, SFEI
	Task 9.2: Monitor and learn from pilot projects.	..	L	.	..	..		.		.	.		.				.				.	.	.			..				RWQCB

- L** Lead
- ..** Participate
- .** Advise

Tasks Assigned as Lead	7	5	5	5	1	3	0	0	0	0	0	0	1	3	4	0	2	2	1	0	1	0	0	0	0	0	1	0
Tasks Assigned to Participate	8	3	9	9	11	4	3	2	0	3	3	3	7	8	5	4	0	0	0	2	3	1	1	1	4	3	0	2
Tasks Assigned to Advise	5	2	2	2	2	4	4	6	2	1	3	0	11	1	0	8	0	0	0	0	10	10	9	8	0	5	0	0

*May include KneeDeepTimes, KQED, and Joint Venture/SFEP Bay Area Regional Communications Team

Acronyms

- BCDC**
Bay Conservation and Development Commission
- RWQCB**
Regional Water Quality Control Board
- MTC/ABAG**
Metropolitan Transportation Commission Association of Bay Area Governments
- SFEP**
San Francisco Estuary Partnership
- SCC**
State Coastal Conservancy
- BARC**
Bay Area Regional Collaborative
- Caltrans**
California Department of Transportation
- DSC**
Delta Stewardship Council
- NOAA**
National Oceanic and Atmospheric Association
- USACE**
US Army Corp of Engineers
- Local Jurisdictions**
City and County Government
- BayCAN**
Bay Area Climate Action Network
- SFEI**
San Francisco Estuary Institute
- CHARG**
Coastal Hazards Adaptation Resilience Group
- Norcal RN**
NorCal Resilience Network
- WOEIP**
West Oakland Environmental Indicators Project
- CBOs**
Community Based Organizations
- EJ Advo**
Environmental Justice Advocacy Organizations
- Enviro Orgs**
Environmental Organizations
- Business**
Businesses, Associations, and Civic Advocacy
- Pri Phil**
Private Philanthropy
- Academia**
Universities or research

Bay Adapt process and Leadership Advisory Group (LAG)

Bay Adapt was convened by the San Francisco Bay Conservation and Development Commission (BCDC) in partnership with a broad range of Bay Area leaders that comprise the Leadership Advisory Group (LAG). The LAG consists of leaders from public agencies, interest groups, community-based organizations, and academia and provides strategic direction, feedback, and leadership in implementing the Joint Platform actions.

The strategies in this document were developed by BCDC staff with nearly 100 stakeholders who participated in hundreds of hours of working group meetings. The strategies were also informed by one Public Forum, ten Community and Stakeholder Focus Groups, an Environmental Justice (EJ) Caucus which was convened regularly throughout the process, and many presentations to other region-wide existing groups consisting of local government staff and elected officials.

For a summary of feedback from the Public Forum, Community and Stakeholder Focus Groups, and a list of outreach presentations, visit the Bay Adapt website at www.bayadapt.org.

Leadership Advisory Group Members

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Jaclyn Mandoske, Environmental Scientist

Acronyms

<i>Acronym</i>	<i>Description</i>
ABAG	Association of Bay Area Governments
BARC	Bay Area Regional Collaborative
BARHII	Bay Area Health Inequities Initiative
BART	Bay Area Rapid Transit
BayCAN	Bay Area Climate Adaptation Network
BCDC	SF Bay Conservation and Development Commission
BRRIT	Bay Restoration Regulatory Integration Team
CHARG	San Francisco Bay Regional Coastal Hazards Adaptation Resiliency Group
EBRPD	East Bay Regional Parks District
MTC	Metropolitan Transportation Commission
NERR	National Estuarine Research Reserve
NOAA	National Oceanic and Atmospheric Administration
RWQCB	Regional Water Quality Control Board
SCC	State Coastal Conservancy
SFEI	San Francisco Estuary Institute
SFEP	San Francisco Estuary Partnership
SFBRA	San Francisco Bay Restoration Authority
SFPUC	San Francisco Public Utilities Commission
USACE	U.S. Army Corps of Engineers
WOIEP	West Oakland Environmental Indicators Project



Rashi Kesarwani
Councilmember District 1

CONSENT CALENDAR
December 14, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author) and Councilmembers Susan Wengraf, Lori Droste, and Ben Bartlett (Co-Sponsors)

SUBJECT: Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval

RECOMMENDATION

Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels.

Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage:

- **ADU Universal Checklist.** A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by (1) all City staff to review ADU permit applications and (2) by customers to understand code requirements and development standards. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time.

Progress To Date: Recently, the City of Berkeley's Planning Department has added both a [Single-Family ADU/JADU Checklist](#) and a [Multi-Family ADU Checklist](#) which clearly delineate development standards as adopted by the State of California, effective January 1, 2020. An ADU Universal Checklist would take these checklists one step farther by including current amendments

to Berkeley's local ADU ordinance (once adopted) as well as the full list of fire and safety code requirements.

- **Accompanying User-Friendly Webpage.** As a companion to the ADU Universal Checklist, the City should also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline for the creation of an ADU or Junior ADU, which is within a main dwelling unit. At a minimum, the webpage should include:
 - A list of relevant fees and expected payment amounts for permits, inspections, and other requirements;
 - Plan requirements, worksheets, and projected timelines for each step of the process; and
 - Consolidated up-to-date state and local regulations that are easy to understand.

Progress To Date: The City now has a [dedicated webpage](#) that contains:

- [A Graphic Summary Table of our local ADU ordinance](#)
- An [ADU flow-chart](#) detailing allowable development standards
- A [Single-Family ADU/JADU Checklist](#)
- A [Multi-Family ADU Checklist](#)
- [Deed Restrictions Forms](#)
- A list of [Impact Fees](#)

Additional information that could prove useful to prospective residents, builders and architects includes:

- Links to fire safety and emergency access requirements;
- A list of site conditions that do *not* warrant easy installation of an ADU;
- A list of Frequently Asked Questions;
- Additional frequently requested Planning and Development forms, such as our [Tree Protection Instructions](#) and [Creek Protection Instructions](#) forms, and our Public Works Engineering forms pertaining to [Curbs, Gutters, Sidewalks and Driveway Approaches](#) listed elsewhere on the City of Berkeley website;
- Information about financing options; and
- Links to additional resources, such as [The Casita Coalition](#), an organization that disseminates information on policies and programs, best practices, and resources throughout the state.

Recommend that the City Manager consider adoption of the following two best practices:

- **Pre-Approved ADU Design Plans.** Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of

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vendors with architectural designs, construction drawings, or pre-fabricated units that have already been approved by the City.

- **ADU Ally.** Consider creation of a single point of contact e-mail address dedicated to serving those interested in ADU construction, along the lines of an “ADU Ally.” The ADU Ally would be a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process. Currently, our Planning Department does have a team of planners with an expertise in ADU laws and requirements, although the public lacks an easy and efficient way to access this team.

POLICY COMMITTEE RECOMMENDATION

On November 4, 2021 the Land Use, Housing and Economic Development policy committee took the following action: M/S/C (Droste/Robinson) Qualified positive recommendation with direction for the item to be updated to include progress already made in this area as described by the Planning Director.

CURRENT SITUATION AND ITS EFFECTS

The City’s Process for Reviewing ADU Plans Is Not Efficient. Getting approval to construct an ADU remains one of the biggest challenges in their development. A survey of 752 new ADU builders in California found that 50 percent thought it was difficult to obtain the necessary permits to build their ADU, and they struggled with the length and complexity of the process.¹ Today, builders and homeowners report that building an ADU in Berkeley is costly, cumbersome, and frustrating. ADU plans submitted by applicants to the City’s Permit Service Center are routed to multiple departments for review--a time-consuming process that requires review from multiple plan examiners and complicates the ADU process, as homeowners, and even architects, are often unaware of the rules of these other departments and have trouble navigating through the different requirements.² Further, the ADU plans are put in the same queue as other larger building projects, creating substantial wait times for approval. While the City recently created a webpage for ADUs, more work is needed to alert customers about the process, fees, and requirements for obtaining an ADU permit, enabling prospective customers to understand whether they are eligible to create an ADU and how to embark on the process. In fact, a number of jurisdictions have found that lack of awareness around ADUs and their permitting

¹ See Chapple, et. al., *Implementing the Backyard Revolution: Perspectives of California’s ADU Owners*, 2021, Center for Community Innovation, Univ. of California, Berkeley: <https://www.aducalifornia.org/wp-content/uploads/2021/04/Implementing-the-Backyard-Revolution.pdf>

² See Chapple, et. al., *ADUs in CA: A Revolution in Progress*, 2020, Center for Community Innovation, Univ. of California, Berkeley: <https://www.aducalifornia.org/wp-content/uploads/2021/05/ADU-Progress-in-California-Report-October-Version.pdf>

requirements remains a critical barrier to their development. Homeowners often show up at the permitting counter unaware of certain building and engineering requirements, connection fees, and other local requirements that are not explicitly outlined in the code or in publicly accessible formats.³ Enhancing the City's webpage could alert residents that the state has eliminated minimum lot size requirements for ADUs, for example, which could encourage more homeowners to consider building an ADU.

Inefficiency Leads to High Permit Fees. Currently, the City of Berkeley permitting fees are estimated at a flat rate (3-5 percent) of the job valuation.⁴ Spending less staff time on permit reviews will result in lower fees over time. Construction costs in California are high and building an average-sized detached ADU typically runs upwards of \$150,000. By creating greater certainty and a more streamlined process, customers will be better able to plan for financing their ADU.

Recent State Law Changes Have Made It Easier to Create ADUs. Recent changes to state law have made it easier for more homeowners to pursue ADU development, such as:

- ADUs are now required to be approved and permitted ministerially (AB 68, 2019)
- Elimination of minimum lot sizes for ADU development (AB 68, 2019)
- Exemption of ADU parking requirements under certain circumstances (SB 13, 2019)⁵

Best Practices From Other Local Jurisdictions Can Help to Increase ADU Production in Berkeley. Cities throughout the state are meeting an increasing demand among homeowners for ADUs by: revising their local ADU ordinance and simplifying zoning requirements, offering customer-friendly services, and streamlining the permit approval process, and Berkeley, too, has started down this path. Taken together, these actions have shortened processing time, increased consistency, and reduced homeowner expenses. In Berkeley, interest in creating an ADU is growing: a total of 119 permits were approved for the construction of ADUs in 2020, a number that has steadily grown over the last five years, as shown in Exhibit 1. However, to date, the City of Berkeley has not implemented ADU best practices related to customer-friendly services and streamlining the permit approval process, meaning that more

³ See Chapple, et. al., ADUs in CA: A Revolution in Progress, 2020, Center for Community Innovation, Univ. of California, Berkeley: <https://www.aducalifornia.org/wp-content/uploads/2021/05/ADU-Progress-in-California-Report-October-Version.pdf>

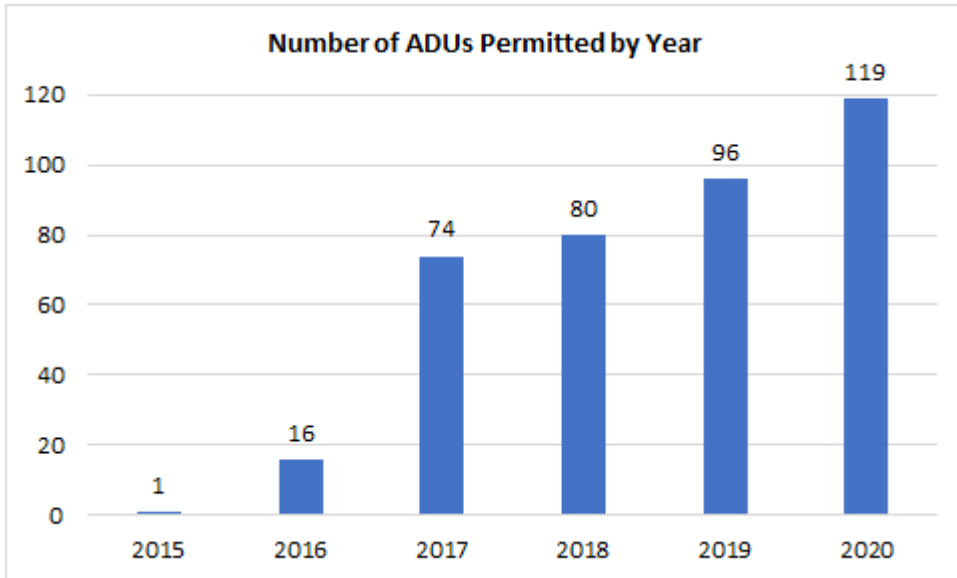
⁴ See the City of Berkeley's Department of Planning and Development's Building Permit Fee estimator: <https://www.cityofberkeley.info/PermitFeeEstimator.aspx>

⁵ For a complete discussion of statutory changes to California's ADU codes see the Department of Housing and Community Development's ADU Handbook, p. 23: https://www.hcd.ca.gov/policy-research/docs/adu_december_2020_handbook.pdf

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could be done to increase the number of ADU permits issued annually. We note that Berkeley is currently in the process of amending its ADU ordinance to comply with new state law changes.⁶

Exhibit 1: Number of ADUs Permitted in the City of Berkeley Has Steadily Grown



Source: “Response to Short Term Referral for Amendments to the Accessory Dwelling Units (ADU) Ordinance and Related Definitions to Address Public Safety Concerns,” Planning Commission Agenda Packet, April 7, 2020,

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-04-07%20PC_Item%209.pdf.

Three Best Practices From Other Jurisdictions Recommended for Berkeley

- ADU Universal Checklist and Accompanying User-Friendly Webpage.**
 The City of San Jose has become well known for its adoption of an ADU Universal Checklist (see attached) that reduces the amount of time that City staff spend reviewing ADU permits and answering customer questions. Prior to the creation of San Jose’s Universal Checklist two years ago, ADU customers were required to work with four different departments (Building Development, Planning, Fire, and Public Works) to know the requirements and get their ADU permits approved--similar to the situation in Berkeley today. The Universal Checklist now provides a one-stop shop that lists all the requirements across all four City departments. This tool gives homeowners and builders clear guidance on what is required and simplifies the plan check

⁶ See “Response to Short Term Referral for Amendments to the Accessory Dwelling Units (ADU) Ordinance and Related Definitions to Address Public Safety Concerns,” Planning Commission Agenda Packet, April 7, 2021, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-04-07%20PC_Item%209.pdf

process. The initial effort to establish the Universal Checklist took three to four months of weekly meetings among staff from the four relevant departments, according to the San Jose Public Information Manager for the Department of Planning, Building and Code Enforcement Division. However, now that the Universal Checklist is in place, those same staff have more available time to devote to other projects, according to the Public Information Manager. San Jose began utilizing the Universal Checklist in early 2019 shortly before some changes to state ADU laws (such as AB 68) went into effect; that year saw a notable jump in annual applications to build ADUs--from 376 permit applications in 2018 to nearly double in 2019 at 688 permit applications, which the Public Information Manager attributes to changes in state law, streamlined permitting, and marketing both of these changes.⁷

The marketing and advertising of these changes were facilitated by a user-friendly webpage that includes links to additional webpages with full descriptions of:

- The ADU Universal Checklist
- ADU plan review and permit process
- Pre-approved ADUs and lists of vendors
- Fees for ADUs
- ADU fire requirements
- Parking requirements and exemptions
- State and local ADU ordinances and updates⁸

The ADU Universal Checklist and accompanying user-friendly webpage are simple tools that could help all parties to be clear about the requirements for receiving an ADU permit. Websites have been found to be effective in educating homeowners and increasing knowledge of local zoning and permitting processes.⁹ There is also precedent for using customer-friendly checklists, as the City of Berkeley already has many examples listed on its website, in addition to the recently added Single-Family and Multi-Family ADU/JADU checklists, as shown in Exhibit 2.

Exhibit 2: Building Checklists Currently Available from Online Service Center

⁷ E-mail communication with Cheryl Wessling, San Jose's Public Information Manager, Department of Planning, Building and Code Enforcement Division, April 14, 2021.

⁸ See City of San Jose's Department of Planning, Building and Code Enforcement ADU webpage: <https://www.sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus>

⁹ See Chapple, et. al., ADUs in CA: A Revolution in Progress, 2020, Center for Community Innovation, Univ. of California, Berkeley: <https://www.aducalifornia.org/wp-content/uploads/2021/05/ADU-Progress-in-California-Report-October-Version.pdf>

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Type of Checklist	Use
Code Compliance Checklists	Kitchens; Building Permits Submittals; Bathroom and Laundry; Decks, Porches, Stairs; Electric Vehicle Charging; Reach code low-rise residential; Reach code non-residential high rise and hotel/motel; Residential floor plan; Solar Photovoltaic; Windows and Doors
Energy Conservation Checklists	CalGreen residential; CalGreen non-residential
Stormwater Requirements Checklists	C.3 and C.6 projects; C.3.i projects
Land Use Planning Checklist	Landmark Alterations Submittal Checklists

Source: Online Service Center webpage, City of Berkeley website,
https://www.cityofberkeley.info/Online_Service_Center/Home/Forms.aspx.

- Pre-Approved ADU Design Plans.** Typically, homeowners interested in building ADUs must start their design from scratch, which creates lengthy and variable permitting processes. In fact, over 25 percent of new ADU builders in California found design constraints to be their top challenge.¹⁰ To address this, numerous jurisdictions, including several in the Bay Area, have developed publicly accessible ADU design plans that are pre-approved by the jurisdiction's Planning and Building Departments, ranging from conceptual drawings to full sets of building plans, which greatly reduces the amount of staff time required to approve planning and building permits. This approach streamlines the process for issuing a permit, which reduces design costs for the customer, reduces staff time for City Departments, and increases consistency among all the approved permits. San Diego County¹¹ and the City of Encinitas¹², for example, both offer a set number of optional pre-approved ADU designs (free and available for download) of varying sizes and styles that can eliminate fees for hiring an architect and streamline some of the permitting processes. San Jose utilizes a slightly different model, in which it offers a list of vendors with pre-approved full sets of construction drawings that homeowners may use for a small fee to the architect. The primary benefit of pre-approved ADU design plans is that they reduce homeowner uncertainty and City staff only need to evaluate the site-specific elements to approve the

¹⁰ See Chapple, et. al., Implementing the Backyard Revolution: Perspectives of California's ADU Owners, 2021, Center for Community Innovation, Univ. of California, Berkeley:
<https://www.aducalifornia.org/wp-content/uploads/2021/04/Implementing-the-Backyard-Revolution.pdf>

¹¹ See San Diego County's Accessory Dwelling Units webpage:
<https://www.sandiegocounty.gov/content/sdc/pds/bldg/adu.html.html>

¹² See City of Encinitas' Permit Ready ADU (PRADU) webpage: <https://encinitasca.gov/pradu>
 2180 Milvia Street, Berkeley, CA 94704 • Tel: (510) 981-7110 • Fax: (510) 981-7111
 E-Mail: Rkesarwani@cityofberkeley.info

building permit, leading to a more efficient review and lower permit fees for the customer.¹³

- **ADU Ally.** The cities of Encinitas and San Jose both have dedicated staff whose sole responsibilities concern ADU development, providing staff responses to permitting requests and knowledgeable assistance steeped in state and local regulations.

BACKGROUND

As Home Prices Climb, ADUs are a Form of “Naturally Occurring” More Affordable Housing. Home prices continue to climb across the Bay Area, and Berkeley now ranks as the third most expensive large Bay Area city, with an average home price of \$1.45 million, as shown in Exhibit 3. The state of California has the third highest median home price in the country, after Hawaii and Washington, D.C.¹⁴ ADUs and Junior ADUs (within the main dwelling) are currently the only avenues available to increase the number of units in many residential zones. ADUs, also known as backyard cottages, have been found to be a form of “naturally occurring” more affordable housing when compared to the monthly cost to rent or own a single-family home.¹⁵

Exhibit 3: Berkeley Home Prices are Third Highest Among Large Bay Area Cities

¹³ See City of San Jose’s Pre-approved ADU webpage:

<https://www.sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus/adu-permit-plan-review-process/adu-single-family-master-plan-program>. It should be noted that residents need to seek out the vendors and the designs are not free. San Jose also offers a process through which vendors can get their designs approved by the City and thus be added to the binder of pre-approved vendor designs.

¹⁴ Experian, *Median Home Values by State*, Nov. 19, 2019, <https://www.experian.com/blogs/ask-experian/research/median-home-values-by-state/>.

¹⁵ See both San Mateo County – April Report, *Affordability of Secondary Dwelling Units — 21 Elements*, April 9, 2014 (Used data from 2010- 2013): <https://norcalapa.org/wp-content/uploads/2018/07/Affordability-of-Second-Units-April-2014.pdf>; and Chapple, et. al., *Yes in My Backyard: Mobilizing the Market for Secondary Units*, 2012, Center for Community Innovation, Univ. of California, Berkeley, Page 10: https://communityinnovation.berkeley.edu/sites/default/files/yes_in_my_backyard_mobilizing_the_market_for_secondary_units.pdf?width=1200&height=800&iframe=true

City	% change from Feb. 2020 to Feb. 2021	Average value in Feb. 2021
Sunnyvale	11.1%	\$1.8M
San Mateo	1.6%	\$1.5M
Berkeley	6.9%	\$1.5M
San Francisco	-3.2%	\$1.4M
Santa Clara	12.2%	\$1.4M
Fremont	7.7%	\$1.2M
San Jose	14.0%	\$1.2M
Daly City	3.2%	\$1.1M
Livermore	10.4%	\$900K
Oakland	8.9%	\$870K

Source: Zillow, as reported by Neilson, Susie, Sumida, Nami, "Every major Bay Area city has seen home values go up in the pandemic. Except for one," *The San Francisco Chronicle*, April 10, 2021, <https://www.sfchronicle.com/local/article/Mapped-Real-estate-prices-soared-in-the-Bay-Area-16091650.php>.

RATIONALE FOR RECOMMENDATION

The proposed recommendations for streamlining the review of ADU permit applications are intended to ensure that staff time is used efficiently, customers receive their permits in a timely manner at a competitive price, and that ultimately, these process improvements encourage more homeowners to create ADUs--a form of naturally-occurring more affordable housing that is greatly needed across the Bay Area and state.

It should be noted that senior staff in both City of Berkeley's Planning and Fire Departments were consulted in advance of submitting this council referral. On April 14, 2021, the District 1 office met with then Fire Chief David Brannigan and Fire Marshall Steven Riggs who both expressed support for providing better information to the public via our city website and commented that an ADU checklist with city-wide approved codes would indeed streamline the permitting process. Planning Director Jordan Klein was consulted the following day, on April 15th. He, too, expressed support for this referral, noting that he had wanted to initiate such process improvements himself, though often lacked the time to do so. Adding this referral to the department work plan will help ensure these improvements get put into practice.

FISCAL IMPACT

Time-limited staff time from relevant departments (Planning, Fire, and Public Works) to develop standardized sets of requirements to satisfy all building codes and safety regulations. Additional staff time from the Planning Department would be required to implement related ADU streamlining recommendations. We note that over time the initial outlay of staff time would lead to more efficient processing of ADU permit applications.

ENVIRONMENTAL SUSTAINABILITY

Encouraging the creation of ADUs and Junior ADUs enables the City to make more efficient use of residential land that is generally located in close proximity to public transit. Studies show that infill development is an effective strategy for reducing greenhouse gas emissions by reducing vehicle miles traveled when compared to homes created in outlying undeveloped areas.

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

Attachment:

City of San Jose ADU Universal Checklist

ADU Universal Checklist

Are you thinking about building an Accessory Dwelling Unit (ADU)? This checklist will help ensure that your lot qualifies for an ADU and that your concept conforms to zoning codes and fire safety requirements. Homeowners, designers, and construction professionals should all review this checklist before investing in building plans.

Instructions. You'll need to identify your property designations, which you can find at www.SJPermits.org. Tap "Permits & Property Information"; enter your address; and on the next screen, click on your property and select "Property Information." A list of designations will appear.

Let's get started with the checklist. You can get feedback from a City Planner by sending a completed ADU checklist and a rough ADU site plan to ZoningQuestions@sanjoseca.gov. If you need further help, contact the ADU Ally (see page 4).

QUESTION	YES	NO						
PART 1. PROPERTIES THAT QUALIFY								
<p>1. Do you have a San Jose address? This worksheet is only for properties in the City of San José jurisdiction. If you're not sure, you can confirm that a property is in San José at SJPermits.org (see above instructions).</p> <p>2. Zoning. Is the property in a residential zone that begins with R-1, R-2, R-M, or PD? Or, regardless of zoning, is the property in one of the following General Plan designations (find out at SJPermits.org):</p> <ul style="list-style-type: none"> - Residential Neighborhood or Mixed-Use Neighborhood or Mixed-Use Commercial - Urban Residential or Transit Residential or Rural Residential - Downtown or Urban Village <p>If you have questions about a PD zone, speak with a Planner at 408-535-3555 during these service hours.</p> <p>> Outcome: If no, an ADU is not allowed. If yes, see the table below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Property Type</th> <th style="text-align: left;">Qualifying Units</th> </tr> </thead> <tbody> <tr> <td>Single-family</td> <td>Subject to standards, one ADU and one JADU may be allowed — see definitions, pages 2-4.</td> </tr> <tr> <td>Duplex or Multifamily</td> <td>Subject to standards (pages 2-4), two detached ADUs may be allowed. For a duplex, one attached ADU may also be allowed. For multifamily lots, a number of attached ADUs equivalent to up to 25% of existing units may also be allowed (for example, a building with 12 units may qualify for 3 attached ADUs).</td> </tr> </tbody> </table>	Property Type	Qualifying Units	Single-family	Subject to standards, one ADU and one JADU may be allowed — see definitions, pages 2-4.	Duplex or Multifamily	Subject to standards (pages 2-4), two detached ADUs may be allowed. For a duplex, one attached ADU may also be allowed. For multifamily lots, a number of attached ADUs equivalent to up to 25% of existing units may also be allowed (for example, a building with 12 units may qualify for 3 attached ADUs).		
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PART 2. PROPERTY DESIGNATIONS								
<p>3. Flood Zones. Is the property in Flood Zones A, AE, AH, or AO? <i>Properties in D or X zones are excluded from these requirements.</i> Find designation at SJPermits.org. Questions: Call 408-535-7803 or email floodzoneinfo@sanjoseca.gov</p> <p>> Outcome: If yes, see flood zone design requirements in Bulletin #211-ADU Plan Requirements, found at www.sanjoseca.gov/home/showdocument?id=39040</p>								
<p>4. Geohazard Zone. Is the property in a designated "geohazard" or "landslide" zone? Find designations at SJPermits.org.</p> <p>> Outcome: If yes, obtain a Geologic Hazard Clearance. Call Public Works at 408-535-7802 or email pwgeneralinfo@sanjoseca.gov</p>								
<p>5. Historic Designation. Is the property located in a Historic District identified on the California Register of Historic Resources? Find historic designations: www.sanjoseca.gov/HistoricResourcesInventory.</p> <p>> Outcome: If yes, simplified design standards will apply. Please speak with a Planner at 408-535-3555.</p>								
<p>6. Easements. Does the property have a dedicated easement? Easements are described in the title report that came with the purchase of your home, or contact a title company for a report copy. Tract and parcel maps at the County Surveyor Record Index tool at http://bit.ly/2ZhGjXc may show easements, but may be less accurate than a title report.</p> <p>> Outcome: If yes, you must comply with the requirements of the easements, which may include no construction allowed within the easement area.</p>								

PART 3. DEVELOPMENT STANDARDS - Per Municipal Code Section 20.30.150: <http://bit.ly/33Knz6c>

A great way to ensure your proposed ADU complies with the Zoning Code Development Standards is to meet with a City Planner. This free consultation can help you avoid designing plans that will NOT be approved. Come to the Permit Center and bring a completed Universal Checklist and a rough sketch of your property showing dimensions and the location of the main home and location of the proposed ADU. See full instructions for this consultation at www.sanjoseca.gov/ADUs.

QUESTION **YES** **NO**

7. Location. Is your proposed ADU located as follows?

Property Type	Location Requirements
Single-Family	<p>Attached ADU: Must share a wall with main residence OR share a roof structure with main residence and be separated by no more than 10 feet. For an attached ADU in the front yard, the front door cannot be on same street-facing façade as that of the primary residence, with some exceptions (learn more by speaking with a Planner at 408-535-3555).</p> <p>Detached ADU: Must be in the rear yard or 45 feet from the front property line. Must have a minimum 6-foot separation from the main dwelling unit. May be a converted detached garage or accessory building OR may be built attached to a detached garage or accessory building.</p> <p>Junior Accessory Dwelling Unit (JADU): Must locate entirely within the main home’s existing footprint. You may have a JADU and a detached ADU. Both a JADU and attached ADU are not allowed.</p>
Duplex or Multifamily	<p>Attached ADU: Location is limited to a conversion of existing non-livable space, such as converting an attic, basement, garage, storage room, boiler room, or passageway.</p> <p>Detached ADU: Must be in the rear yard or 45 feet from the front property line, with a minimum 6-foot separation from the main building. The ADU may be a conversion of a detached garage or accessory building, or attached to a detached garage or accessory building.</p> <p>JADU: Not allowed.</p>

> **Outcome:** If yes, your planned location for the ADU is in compliance. If no, your plans will not be approved.

8. Size. Is the size of the proposed ADU within the maximum limits as shown in the tables below AND does the proposed size account for the Rear Yard Coverage Limitation?

SINGLE-FAMILY LOTS	
Lot Size	Maximum Floor Area Allowed
Up to 9,000 sf	Detached ADU: 1,000 sf maximum
	Attached ADU: Size can be up to 800 sf OR up to 50% of the primary residence area without exceeding 1,000 sf. Example: For an 1,800 sf home, a 900 sf attached ADU is allowed.
9,000 sf and greater	Detached ADU: 1,200 sf maximum
	Attached ADU: Size can be up to 800 sf OR up to 50% of the primary residence area without exceeding 1,200 sf. Example: For an 2,400 sf home, a 1,200 sf attached ADU is allowed.
Any lot with a JADU	JADU: 500 sf maximum
	Detached ADU: 800 sf maximum
	Attached ADU: not allowed with a JADU

DUPLEX & MULTIFAMILY LOTS	
Lot Size	Maximum Floor Area Allowed
Any lot size	Detached ADU: 800 sf maximum
	Attached ADU: 800 sf maximum
	JADU: not allowed

How to calculate allowable square footage (sf):
The square footage of all living areas (existing or proposed) connected by a door or other opening counts toward the total allowable square footage of the ADU.

Rear Yard Coverage Limitation. The rear yard is the area that extends from the rear lot line to the rear of the main home across the full width of the lot. The cumulative coverage of the rear yard by structures — including coverage by the ADU, accessory buildings, sheds, gazebos, or other structures — may not exceed 40% of the rear yard or 800 sq.ft., whichever is greater. Does your project comply with this rule?

> **Outcome:** If yes, your ADU size is in compliance. If no, your plans will not be approved.

QUESTION	YES	NO												
<p>9. Setbacks. Does your proposed ADU comply with these rules for setbacks?</p> <table border="1" data-bbox="168 205 1409 751"> <thead> <tr> <th data-bbox="168 205 370 233">Property Type</th> <th data-bbox="375 205 1409 233">Location Requirements</th> </tr> </thead> <tbody> <tr> <td data-bbox="168 239 370 422">Single-family</td> <td data-bbox="375 239 1409 422"> Attached ADU: Same setback requirements as apply to the main dwelling unit. Detached ADU: - Must be set back 45 feet minimum from front property line. - Rear/side setbacks less than 3 feet may be subject to fire mitigation measures, see p. 4. - A second story OR new ADU with greater than 40% rear yard coverage must be set back 4 feet from both rear and side property lines. </td> </tr> <tr> <td data-bbox="168 428 370 604">Duplex or Multifamily</td> <td data-bbox="375 428 1409 604"> Attached ADU: Setbacks not applicable as the attached ADU is limited to a conversion of existing non-livable space. Detached ADU: - Must be in the rear yard or 45 feet from the front property line. - Rear/side setbacks: Minimum 4 feet, allows for up to 1-foot projection for eaves - A second story is not allowed on a detached ADU for duplex/multifamily properties. </td> </tr> <tr> <td data-bbox="168 611 370 646">Corner lots</td> <td data-bbox="375 611 1409 646">A 10-foot setback is required on the street side.</td> </tr> <tr> <td data-bbox="168 653 792 688">Lots ½ acre or greater along riparian corridors</td> <td data-bbox="797 653 1409 688">Minimum 100-foot setback required.</td> </tr> <tr> <td data-bbox="168 695 792 751">Decks, unenclosed entry landings, and second-story balconies</td> <td data-bbox="797 695 1409 751">Minimum 15-foot rear/side setback required. May not locate along building walls nearest to rear and side property lines.</td> </tr> </tbody> </table> <p>> Outcome: If yes, the setbacks for your ADU are in compliance. If no, your plans will not be approved.</p>	Property Type	Location Requirements	Single-family	Attached ADU: Same setback requirements as apply to the main dwelling unit. Detached ADU: - Must be set back 45 feet minimum from front property line. - Rear/side setbacks less than 3 feet may be subject to fire mitigation measures, see p. 4. - A second story OR new ADU with greater than 40% rear yard coverage must be set back 4 feet from both rear and side property lines.	Duplex or Multifamily	Attached ADU: Setbacks not applicable as the attached ADU is limited to a conversion of existing non-livable space. Detached ADU: - Must be in the rear yard or 45 feet from the front property line. - Rear/side setbacks: Minimum 4 feet, allows for up to 1-foot projection for eaves - A second story is not allowed on a detached ADU for duplex/multifamily properties.	Corner lots	A 10-foot setback is required on the street side.	Lots ½ acre or greater along riparian corridors	Minimum 100-foot setback required.	Decks, unenclosed entry landings, and second-story balconies	Minimum 15-foot rear/side setback required. May not locate along building walls nearest to rear and side property lines.		
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<p>10. Height. Does your proposed ADU comply with these height limitations?</p> <table border="1" data-bbox="168 871 1409 1087"> <thead> <tr> <th data-bbox="168 871 370 898">Property Type</th> <th data-bbox="375 871 1409 898">Location Requirements</th> </tr> </thead> <tbody> <tr> <td data-bbox="168 905 370 1003">Single-family</td> <td data-bbox="375 905 1409 1003"> Attached ADU: Same height limitations as apply to the main dwelling unit. Detached ADU: One story: 18 feet maximum. Two-story: 24 feet maximum If the property includes a JADU, height of a detached ADU is 16 feet maximum per state law. </td> </tr> <tr> <td data-bbox="168 1010 370 1087">Duplex or Multifamily</td> <td data-bbox="375 1010 1409 1087"> Attached ADU: Limited to a conversion of existing non-livable space and must maintain existing height. Detached ADU: 16 feet maximum per state law </td> </tr> </tbody> </table> <p>Outcome: If yes, the height of your ADU is in compliance. If no, your plans will not be approved.</p>	Property Type	Location Requirements	Single-family	Attached ADU: Same height limitations as apply to the main dwelling unit. Detached ADU: One story: 18 feet maximum. Two-story: 24 feet maximum If the property includes a JADU, height of a detached ADU is 16 feet maximum per state law.	Duplex or Multifamily	Attached ADU: Limited to a conversion of existing non-livable space and must maintain existing height. Detached ADU: 16 feet maximum per state law								
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Duplex or Multifamily	Attached ADU: Limited to a conversion of existing non-livable space and must maintain existing height. Detached ADU: 16 feet maximum per state law													
<p>11. Sleeping Area. Up to two bedrooms are allowed, and the maximum bedroom size is 400 sf. Does the sleeping area or bedroom/s planned for the ADU or JADU comply with these standards?</p> <p>> Outcome: If yes, your layout for the sleeping area is allowed. If no, your plans will not be approved</p>														
<p>12. Kitchen, Bathroom, Storage. Does your proposed ADU or JADU comply with these rules?</p> <p>Kitchen - ADUs must have a sink, food preparation counter, storage, cabinets, and permanent cooking facilities such as a range or cooktop and oven. JADUs may have the same OR a small efficiency kitchen with plug-in appliances.</p> <p>Bathroom/s - For ADUs, up to two bathrooms are allowed, requiring a sink, toilet, and shower and/or bath facilities. For JADUs, sharing the bathroom with the main residence is allowed or one bathroom or a half bathroom is allowed.</p> <p>Storage - A closet or other enclosed storage area cannot exceed 60 sq. ft.</p> <p>> Outcome: If yes, your design is in compliance. If no, your plans will not be approved.</p>														
<p>13. Second Story Window Sill Height. Sill height for any openings must be a minimum 5 feet from the floor for walls nearest to rear and side property lines. Does your project comply with this rule?</p> <p>> Outcome: If yes, this window design is allowed. If no, the plans will not be approved.</p>														
<p>14. Parking Requirements. Does your proposed ADU either provide a parking space OR qualify for an exemption?</p> <p>Exemptions: Many ADUs qualify for a parking exemption in accordance with state law. Please see the Parking Requirements page at www.sanjoseca.gov/ADUs for a list of the exemption criteria.</p> <p>Parking space location: If you are required to provide a parking space, it must be located on a surface free of mud or dust. It may be located within the front and side setbacks of the property, with a minimum driveway length of 18 feet.</p> <p>Parking requirements after a garage conversion: If you converted a garage to an ADU, replacement parking for the main home is no longer required.</p> <p>> Outcome: If yes, your proposed project is in compliance. If no, your plans will not be approved.</p>														

PART 4. FIRE SAFETY & EMERGENCY ACCESS		
<p>We will review your ADU project for compliance with the California Fire Code (CFC) so that projects are built for safety and ease of access during an emergency. For questions, call the Fire Prevention Bureau at 408-535-7750 or email SJFDPermitSpecialist@sanjoseca.gov</p>		
QUESTION	YES	NO
<p>15. Hydrant Water Flow. Is a minimum flow of 1,000 gpm at 20 psi available at the closest hydrant? Ask your Water Company for this information. Send an email with “ADU WATER FLOW REQUEST” in the subject line and present this information:</p> <ul style="list-style-type: none"> ▪ Your name ▪ Street name and address of the project ▪ Nearest cross street to that location <p>Submit the letter from the Water Company that contains this water flow data with your building permit application. DON'T WAIT! A top reason for permit issuance delays is not having this letter. Your water company will respond, so contact them today. Find Water Company contact information at the ADU Fire Requirements webpage: https://www.sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus/adu-fire-requirements</p> <p>> Outcome: If the flow is other than 1,000 gpm at 20 psi, Fire staff will review flow data and will evaluate if additional fire safety measures are required.</p>		
<p>16. Hydrant Proximity. Are all exterior walls of the ADU within 600 feet of a fire hydrant?</p> <p>On the Site Plan Vicinity Map for plan submittal, mark one or more locations of fire hydrants closest to the project. Indicate the distance from the hydrant/s to the farthest exterior wall of the ADU, using the minimum 3-foot clear path of travel.</p> <p>> Outcome: If no, your project may require a Fire Variance that entails additional safety measures. Call 408-535-7750 for direction. Find the Variance application at: www.sanjoseca.gov/Home/ShowDocument?id=9343</p>		
<p>17. Fire sprinklers. Is the primary residence protected by fire sprinklers?</p> <p>> Outcome: If yes, the ADU must have a fire sprinkler system.</p>		
<p>18. Fire sprinklers and attached ADUs. Is the project an attached ADU greater than 500 square feet AND does the overall gross floor area with the main unit exceed 3,600 square feet?</p> <p>> Outcome: If yes, the entire house and ADU are required to be protected with a fire sprinkler system.</p>		
<p>19. ADU Address. Does the ADU have its own address and is the address visible and legible from the street?</p> <p>Premises Identification guidelines: www.sanjoseca.gov/Home/ShowDocument?id=9323.</p> <p>On the Site Plan for plan submittal, show the address location on the primary dwelling unit and on the ADU.</p> <p>> Outcome: If no, please complete Form #302, found at: www.sanjoseca.gov/home/showdocument?id=25943</p>		
<p>20. ADU Access. Is the distance from the street curb of the lot to all portions of the proposed ADU no greater than 200 feet as measured along a minimum 3-foot clear path to all sides of the ADU?</p> <p>On the Site Plan for plan submittal, show the distance along the minimum 3-foot clear path from the front property line to the ADU's farthest exterior side or projection (such as eaves), whichever is farthest.</p> <p>> Outcome: If no, your project may require a Fire Variance that entails additional safety measures. Call 408-535-7750 for direction. Find the Variance application at: www.sanjoseca.gov/Home/ShowDocument?id=9343</p>		
SECTION E. MISCELLANEOUS		
<p>21. Tree Removal. Will constructing an ADU require removal of an ordinance-size or heritage tree?</p> <p>> Outcome: If yes, please see the City's rules for removing trees: www.sanjoseca.gov/treepermit</p>		

ADU ALLY - HERE TO HELP YOU

Our ADU Ally is a staff member that will answer your questions; connect you to other staff who may be of assistance; and schedule your appointment for ADU plan submittal and review.

Email: adu.ally@sanjoseca.gov

Phone: 408-793-5302

Find more ADU information at www.sanjoseca.gov/ADUs



CONSENT CALENDAR
December 14th, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Budget Referral: Pedestrian Crossing Improvements at Ashby and Acton

RECOMMENDATION

That the City Council refers to the FY2023 budget process the funding of Rectangular Rapid Flashing Beacons (RRFB) at Ashby Avenue and Acton Street.

CURRENT SITUATION AND ITS EFFECTS

As a "High-Injury Street" under Berkeley's Vision Zero Action Plan and Pedestrian Plan, Ashby Avenue is among the most dangerous streets in the entire city.¹ As a state highway that runs east-west along the entirety of Berkeley, Ashby attracts high volumes of vehicle traffic. The importance of Ashby Avenue as a connection to residential and commercial parts of Berkeley make it an important street for pedestrians and cyclists as well. The high speed of automobiles on Ashby, however, has resulted in a regular stream of tragic deaths and injuries on the street over the years.

Berkeley's Pedestrian Plan singles out Ashby Avenue from San Pablo to Shattuck as a street in need of prioritized investment and pedestrian safety improvements. Among the numerous recommendations for Ashby Avenue in the Pedestrian Plan, a Rectangular Rapid Flashing Beacon (RRFB) at Acton Street² is one that should be pursued as soon as possible. This intersection currently has a crosswalk with pedestrian yield signs, but an RRFB would be an important enhancement of this pedestrian crossing.

FISCAL IMPACTS

Staff time, an estimated \$50,000 for installation of Rectangular Rapid Flashing Beacons, and an estimated \$50,000 for 10 years of maintenance.³

ENVIRONMENTAL IMPACTS

¹https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/2020%20Pedestrian%20Plan%20Chapter%203%20adopted.pdf

²https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/2020%20Pedestrian%20Plan%20Chapter%203%20adopted.pdf

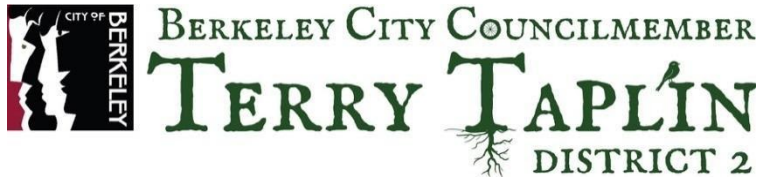
³[https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixF_Facility%20Design%20Toolbox\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixF_Facility%20Design%20Toolbox(1).pdf)

Establishing a network of safe streets for pedestrians and bicycles, promoting bicycle literacy, and distributing bicycles to those in need incentivize nonautomobile travel, reducing greenhouse gas emissions. The City estimates that transportation-related emissions accounts for approximately 60% of our community's total annual greenhouse gas emissions.⁴ By encouraging alternatives to car transportation by making pedestrian and cyclist infrastructure safer and more accessible, these improvements stand to lower the emissions from our community's dominant source of carbon emissions.

CONTACT

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

⁴https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-06_WS_Item_01_Climate_Action_Plan_Update_pdf.aspx



CONSENT CALENDAR
December 14th, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Budget Referral: Russell Street Bicycle and Pedestrian Improvements

RECOMMENDATION

That the City Council refers to the FY2023 budget process the funding of the following bicycle and pedestrian improvements along Russell Street:

- Traffic Circle at Russell & King Street
- Cycle Track Crossing at Russell & San Pablo Avenue
- Pedestrian Hybrid Beacons at Russell & Sacramento Street

CURRENT SITUATION AND ITS EFFECTS

In November 2021, the City Council deliberated on and chose its top six priorities for the next two-year budget cycle. In order of importance, the Council chose infrastructure, public safety, houselessness, transportation, housing, and economic recovery. The fulfillment of Berkeley's Bicycle Plan, which aims to establish a network of streets where bicycle transportation is safe and convenient with access to the whole city, is explicitly in line with three of the Council's top four priorities — infrastructure, public safety, and transportation.

This intersection of priorities that the Bicycle Plan offers makes the funding of its numerous recommendations an important opportunity for the Council to focus on in the coming years. The centerpiece of the Bicycle Plan, a network of "Bicycle Boulevards", includes a West-East Bicycle Boulevard running along Russell Street from Mabel Street to Claremont Boulevard, connecting southwest Berkeley to central Berkeley and Elmwood.¹ This Bicycle Boulevard, while recently updated with quick-build traffic diverters, is in need of serious investments in the improvements recommended by the Bicycle Plan in order to reach its full potential. The recommendations, ranging from traffic circles and crossing improvements to bike lane enhancements, while obviously infrastructure, also act on the Council's new public safety and transportation priorities by strengthening the safety and ease of passage along Russell Street.

¹https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_Ch5_ProposedBikewayNetwork.pdf

Beyond Council's new priorities, regular and unsparing investments in the improvements laid out by the Bicycle Plan for the entire city are essential for Berkeley to meet its climate and Vision Zero goals. In order to reduce Berkeley's greenhouse gas emissions, non-car travel must become the default mode-share in Berkeley as soon as possible. Council cannot expect this to happen unless bicycle travel is safe, easy, and well funded. Furthermore, Berkeley's Vision Zero goal of zero traffic deaths and severe injuries by 2028 is only achievable when infrastructure that improves the safety of pedestrians and cyclists is prioritized for funding.²

FISCAL IMPACTS

Staff time and an estimated \$360,000³ for the following improvements:

- \$50,000 for one Traffic Circle
- \$60,000 for Cycle Track Crossing
- \$250,000 for Pedestrian Hybrid Beacons

ENVIRONMENTAL IMPACTS

Establishing a network of safe streets for pedestrians and bicycles, promoting bicycle literacy, and distributing bicycles to those in need incentivize nonautomobile travel, reducing greenhouse gas emissions. The City estimates that transportation-related emissions accounts for approximately 60% of our community's total annual greenhouse gas emissions.⁴ By encouraging alternatives to car transportation by making pedestrian and cyclist infrastructure safer and more accessible, these improvements stand to lower the emissions from our community's dominant source of carbon emissions.

CONTACT

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

²https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley_Vision_Zero_Action_Plan_Approved_03102020.pdf

³[https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixE_Project%20Recs%20Priorities\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixE_Project%20Recs%20Priorities(1).pdf)

⁴https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-06_WS_Item_01_Climate_Action_Plan_Update_pdf.aspx

CONSENT CALENDAR

December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin (Author), Councilmember Ben Bartlett, Councilmember Sophie Hahn, and Mayor Jesse Arreguín (Co-Sponsors)

Subject: Commit the City of Berkeley to a Just Transition from the Fossil Fuel Economy

RECOMMENDATION

Adopt a resolution (1) committing the City of Berkeley to a Just Transition from the fossil fuel economy, that secures a livable future for all Berkeleyans, combats environmental racism, ensures access to good paying jobs, and cultivates economic and social prosperity for Berkeley in the 21st century and beyond and (2) requiring that all Council reports related to climate include a Just Transition section.

POLICY COMMITTEE RECOMMENDATION

On June 2, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee took the following action: M/S/C (Harrison/Robinson) to send the item to Council with a positive recommendation as submitted in the supplemental material and further revised to include a recommendation that all Council reports related to climate include a just transition section.

BACKGROUND*Climate Change is Here*

At this moment, our atmosphere has a higher concentration of carbon dioxide than ever before in human history. This concentration, and the fossil fuel emissions that have caused it, is rapidly making our planet into a hotter and more volatile place for all of its inhabitants. Estimates of the degree of warming that we can expect over the course of the next century vary and are contingent on how policymakers respond to the growing threat in the next decade. Still, there is enormous consensus that a certain amount of warming is inevitable and that rising sea levels, higher frequency of extreme weather events, declining public health, and economic volatility will certainly follow. With estimates ranging from increases in temperature between 1.4 and 5.8 degrees Celsius

by 2100, global warming will have severe impacts at even the most modest of estimates.¹

Here in the Bay Area, we are already seeing a wide range of impacts including more extreme El Niño seasons some years, dramatic droughts in other years, a decline in coastal fog, 8 inches of sea-level rise, and more intense fire seasons in the rest of the state which have regularly brought smoke and ash to Berkeley.² These effects, which are already impossible to ignore, are just the beginning. The future will bring deeper and longer droughts, unreliable precipitation, an overall increase in temperature, and as much as 3 meters of sea-level rise by 2100.³ On top of the weather and climate-related impacts, projections paint a grim picture for national economies under extreme warming scenarios. The reach of global warming will leave no stone unturned, with consequences for agriculture, trade, and industry internationally and at the national and local levels. At the national level, estimates currently project -0.1 to 1.7% GDP loss at 1.5 degrees Celsius of warming, 1.5 to 5.6% loss at 4 degrees, and 6.4 to 15.7% loss at 8 degrees.⁴ All who call Berkeley and the Bay Area home are feeling the early impacts of climate change and will continue to be affected as warming intensifies, but not all effects are felt equally across demographic groups.

Unequal Impacts: Environmental Racism and Economic Dangers

Poor Americans and people of color have always had a relationship with their environments characterized by poor health and unique exposures to environmental hazards and extreme weather conditions, often in ways designed and perpetuated by government policies that seek to segregate and discriminate against people of color. As the effects of climate change intensify in the coming decades, this relationship will only be exacerbated as extreme weather, declining public health, and economic devastation disproportionately harm poor Americans and drag more and more into poverty. As the economy takes on damage, the unemployment rate will rise and bring the poverty rate up with it.⁵ Economic damage at the scale of climate change will subject millions more to the poor health, extreme weather vulnerabilities, and general ruin that is all but guaranteed for those who enter the coming decades already in impoverished conditions. The fight against climate change

¹ <https://www.nature.com/articles/nature04188>

² https://www.energy.ca.gov/sites/default/files/2019-11/Reg_Report-SUM-CCCA4-2018-005_SanFranciscoBayArea_ADA.pdf

³ https://www.energy.ca.gov/sites/default/files/2019-11/Reg_Report-SUM-CCCA4-2018-005_SanFranciscoBayArea_ADA.pdf

⁴ <https://science.sciencemag.org/content/356/6345/1362>

⁵ <https://www.aeaweb.org/articles?id=10.1257/089533006776526102>

The disparate impacts of extreme weather between racial and economic groups have been repeatedly demonstrated in recent history, with dire warnings for Berkeley's approach to climate resilience. In the summer of 1995, a year when global temperatures had already increased by nearly half a degree Celsius above pre-industrial levels, Chicago, Illinois was hit by a record-breaking heat wave.⁶ "Temperatures reached 106 degrees; the heat index, or experienced heat, climbed to 120 degrees; uncommonly 'high lows' (daily low temperatures that were themselves dangerously high), sparse cloud cover, and a dearth of cooling winds kept the city broiling, without relief, for a full week"⁷. After a week of intense heat, "medical examiners confirmed that over five-hundred Chicagoans had died directly from the heat, public health workers reported over seven-hundred deaths in excess of the weekly average, and hospitals registered thousands of visits for weather-related problems"⁸. The entire Chicago area felt the 1995 heat wave, but the effects of this extreme weather event were not leveled evenly across the entire area of the event. It was reported very quickly during and after the event that the victims of the heat wave were mostly elderly, poor, and Black⁹. The more fragile health of the elderly makes the raised vulnerability of older residents of Chicago less of a surprise, but the disproportionately poor and Black victimhood during this disaster further demonstrates the incredible exposure these groups have during extreme weather events.

The unequal effects of the 1995 heat wave in Chicago were neither wholly natural nor apolitical despite occurring in the early years of global climate change. The disproportionate victimhood of poor people of color in this case occurred as a result of political decisions. On top of the financial conditions that limit healthcare access and quality air-conditioning in the homes of the groups that ended up most vulnerable to the heat wave, the Chicago and Illinois government also acted in ways that led to an excess of deaths among elderly, poor, and Black residents during the heat crisis. The Chicago Police Department's own senior assistance unit was neglected to be activated at all and the Department of Human Services failed to contact isolated seniors or transport them to any of the few public cooling centers that the city erected.¹⁰ State and local governments have demonstrated both a lack of preparedness for extreme weather events and a bias against poor people and people of color in the few preparation policies they do have. Governments can learn from their mistakes, but they must do so in a way that moves faster than escalating global warming. The impacts of environmental racism and the unique relationship between poverty and ecological hazards has continued to this day and will continue under more and more extreme

⁶ <https://link.springer.com/article/10.1023/A:1006995507723>

⁷ <https://link.springer.com/article/10.1023/A:1006995507723>

⁸ <https://link.springer.com/article/10.1023/A:1006995507723>

⁹ <https://journals.sagepub.com/doi/abs/10.1177/000312240607100407?>

¹⁰ <https://link.springer.com/article/10.1023/A:1006995507723>

climate change. Chicago's 1995 heat wave is just one example among many demonstrating the ways in which climate change has already begun to exacerbate poverty and racism in the United States.

Beyond the unique vulnerability of people of color and the poor to climate change, the deeply embedded nature of fossil fuels in our economy means that the jobs of many in Berkeley are dependent on carbon-emitting industries. While Berkeley may not be home to any coal mines, oil refineries, or other industries widely associated with climate change, Berkeley's economy is no less reliant on fossil fuel extraction and combustion. Transitioning off of fossil fuels will inevitably mean existing jobs and businesses will have to radically change or cease to exist at all. Berkeley's transition must take into account the economic consequences of all of its climate initiatives, not to stifle what the City must do to curb climate change, but to ensure that the workers most proximate to those economic consequences are supported as we rework our economy for a carbon neutral world. The transition off of fossil fuels can ignore the economic realities of the dramatic changes that are necessary to fight warming no more than it can ignore the unequal threat that climate change poses to the poor and people of color.

On a broader scale, studies indicate that a national transition to a 100%-renewable energy sector would likely result in the loss of around 3.9 million jobs while creating 5.9 million jobs.¹¹ Exact job loss and gain forecasts in Berkeley are unknown, but it stands to reason that the job impacts will be comparable to the national figures if the transition is done proactively. The net gain in employment opportunities from the fossil fuel transition provides an optimistic vision for the transition, but does not mean that the road to net-zero will be easy. Not every lost job will be immediately accompanied by the creation of a new job, nor is it guaranteed that those who lose their job will automatically be offered employment in newly created industries or that those new jobs will offer the same wages and benefits as the jobs that are lost. Governments, including the City of Berkeley, must play an active role in ensuring that their transitions provide a net-gain in quality, good-paying jobs and that those who lose their job to the transition are prioritized for newly created jobs. Job losses are not a reason not to transition off of fossil fuels. To secure a prosperous future and save millions of lives, the transition must continue at an aggressive pace. Reckoning with future job losses, however, will help ensure that those losses are overshadowed by the benefits of the transition and that an ample supply of new jobs are available for all.

Governments have a small window that they can and should take advantage of to justly transition their economies, industries, and infrastructures to net-zero carbon emissions. This is the bare minimum, and will only stop the most extreme levels of climate change

¹¹ <http://web.stanford.edu/group/efmh/jacobson/Articles/I/USStatesWWS.pdf>

towards the end of this century. A properly planned and justly executed transition should stand to be an economic opportunity for Berkeley rather than an economic downturn. Berkeley must recognize what is coming, and the unique vulnerabilities of people of color and the poor, and enact policies to mitigate damages to these communities from warming and the transition to carbon neutrality.

What is a Just Transition?

At varying levels, the consumption of fossil fuels is immersed in every aspect of daily life in modern society. Shifting our entire way of life towards carbon-neutrality will require significantly more than changing our energy sources to renewables. The truly comprehensive embeddedness of fossil fuels in our lives means that achieving net-zero fossil fuel emissions within just a few decades will be difficult, but not necessarily equally difficult for everyone.

Due to historic discrimination, impoverishment, and proximity to environmental hazards, people of color and poor people are disproportionately vulnerable to the impacts of climate change. In rebuilding our economy, policymakers at every level must be intentional in ensuring that the fossil-free economy of the future does not reproduce the same inequities and societal harms of today. There are wrong ways to fight the climate crisis. Governments can achieve net-zero emissions in such a way that enriches those who profited off of fossil fuel extraction and consumption and protects the already well-off from warming while abandoning the historically disadvantaged to the ravages of extreme weather and economic chaos. The transition away from fossil fuels must ensure that the vulnerable in our society are protected from both the turbulence of restructuring our entire economy and the effects of global warming that are already set in stone. “After centuries of global plunder, the profit-driven industrial economy rooted in patriarchy and white supremacy is severely undermining the life support systems of the planet. Transition is inevitable. Justice is not.”¹² The environmental justice movement calls this approach to the climate crisis a “Just Transition.”

The Climate Justice Alliance, a climate organization at the forefront of the fight for a Just Transition, lays out the following Just Transition principles:

A Just Transition moves us toward Buen Vivir

Buen Vivir means that we can live well without living better at the expense of others. Workers, community residents, women and Indigenous Peoples around the world have a fundamental human right to clean, healthy and adequate air, water, land, food, education and shelter. We must have just relationships with each other and with the natural world, of which we are a part. The rights of peoples, communities and nature must supersede the rights of the individual.

¹² https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA_JustTransition_Principles_final_hi-rez.pdf

A Just Transition creates Meaningful Work

A Just Transition centers on the development of human potential, creating opportunities for people to learn, grow, and develop to their full capacities and interests. We are all born leaders, and a regenerative economy supports and nurtures that leadership. In the process, we are transforming ourselves, each other, our communities, and our society as a whole. Meaningful work is life-affirming.

A Just Transition upholds Self Determination

All peoples have the right to participate in decisions that impact their lives. This requires democratic governance in our communities, including our workplaces. Communities must have the power to shape their economies, as producers, as consumers, and in our relationships with each other. Not only do we have the right to self determination, but self determination is one of our greatest tools to realize the world we need. The people who are most affected by the extractive economy — the frontline workers and the fenceline communities — have the resilience and expertise to be in the leadership of crafting solutions.

A Just Transition equitably redistributes Resources and Power

We must work to build new systems that are good for all people, and not just a few. Just Transition must actively work against and transform current and historic social inequities based on race, class, gender, immigrant status and other forms of oppression. Just Transition fights to reclaim capital and resources for the regeneration of geographies and sectors of the economy where these inequities are most pervasive.

A Just Transition requires Regenerative Ecological Economics

Just Transition must advance ecological resilience, reduce resource consumption, restore biodiversity and traditional ways of life, and undermine extractive economies, including capitalism, that erode the ecological basis of our collective well-being. This requires a re-localization and democratization of primary production and consumption by building up local food systems, local clean energy, and smallscale production that are sustainable economically and ecologically. This also means producing to live well without living better at the expense of others.

A Just Transition retains Culture and Tradition

Capitalism has forced many communities to sacrifice culture and tradition for economic survival. It has also defaced and destroyed land held as sacred. Just Transition must create inclusionary spaces for all traditions and cultures, recognizing them as integral to a healthy and vibrant economy. It should also make reparations for land that has been stolen and/or destroyed by capitalism, colonialism, patriarchy, genocide and slavery.

A Just Transition embodies Local, Regional, National and International Solidarity

A Just Transition must be liberatory and transformative. The impacts of the extractive economy knows no borders. We recognize the interconnectedness of our communities as well as our issues. Therefore, our solutions call for local, regional, national and global solidarity that confronts imperialism and militarism.

A Just Transition builds What We Need Now

We must build the world we need now. This may begin at a local small scale, and must expand to begin to displace extractive practices. We must build and flex the muscles needed to meet our communities' needs.¹³

Embarking on a Just Transition would make Berkeley a leader on climate action done right, but existing Just Transition examples from around the world can provide much guidance. In Poland, a 75% decline in coal mining jobs was coupled by a mining social package and special privileges for mining communes. Canada's efforts to phase out coal-powered electricity have been accompanied by a national stakeholder task force that has travelled the country to hear from Canadians on how to justly shepherd the transition. Egypt's fuel price increases were paired with minimum wage boosts, food stipends, and progressive taxation.¹⁴

Here in Berkeley, there are a number of policies that the City may take up in pursuit of a Just Transition. In the realm of mitigating climate change, the retrofitting of residential buildings for electrification and enhanced energy efficiency is a necessary – and expensive – component of any transition towards a sustainable Berkeley. Estimates suggest that all-electric single-family homes can “reduce annual GHG emissions by 33 - 56% in 2020 and by 76 – 88% in 2050 compared to a natural gas-fueled home.”¹⁵ Residential emissions can also be reduced through the densification of our community and a long-term shift away from single-family homes as a primary form of living, but Berkeley's existing stock of single-family homes isn't just going to go away.¹⁶ Retrofitting and electrifying our existing housing stock is important, but is too expensive a lift for the City to expect or require all homeowners to go about alone.¹⁷ A Just Transition in building electrification would involve the City dedicating its own resources as well as engaging the state and federal governments to fund retrofits and support residential homeowners through the process of electrifying their homes.

While Berkeley has been at the forefront of guaranteeing a generous minimum wage, any Just Transition must ensure that all workers in Berkeley earn a living wage into the future as the global economy is shaken by the impacts of climate change. On top of the direct economic impacts of climate change, the ongoing shift in employment opportunities toward gig-based and contractor work that does not always guarantee a living wage and good benefits presents a threat to the livelihoods of workers in Berkeley and elsewhere. On a warming planet with rapidly intensifying weather conditions, access to food, shelter, and quality healthcare will be more important – and more precarious – than ever before. Local and state policies, such as ensuring that minimum wage laws apply to app-based contract work¹⁸, will go a long way in a warming-afflicted

¹³ https://climatejusticealliance.org/wp-content/uploads/2018/06/CJA_JustTransition_Principles_final_hi-rez.pdf

¹⁴ <https://www.iisd.org/articles/just-transition-examples>

¹⁵ https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf

¹⁶ <https://www.pnas.org/content/117/32/19122>

¹⁷ https://www.nahb.org/-/media/NAHB/nahb-community/docs/committees/construction-codes-and-standards-committee/home-innovation-electrification-report-2021.pdf?_ga=2.114118479.990433442.1620163394-283412800.1620163394

¹⁸ <https://cities-today.com/seattle-passes-minimum-wage-for-rideshare-drivers/>

future towards shoring up the health and economic stability of workers. Additionally, Berkeley's Living Wage Ordinance, which ensures "that businesses in a contractual relationship with the City pay their employees a wage that can support a family at, or above, the poverty level"¹⁹, is an important labor policy that can be upheld and even strengthened as economic stresses require more support for employees on the part of employers. Beyond the active role that Berkeley's City government must play in ensuring a Just Transition, workers themselves need to be empowered to ensure that the sweeping economic changes of the transition to a sustainable economy does not leave them behind. Berkeley must, at every turn, protect the rights of workers to organize and bargain collectively and support the efforts of workers in the private-sector to assert their rights in every instance possible.

There is a wealth of potential policies in academic literature and real-world examples that the City Council can draw upon in enacting a Just Transition for Berkeley. "Smart growth" strategies offer effective and just climate mitigation and adaptation policies that Berkeley can draw upon to effectively manage its transition off of fossil fuels and foster economic opportunities for the City. These include planning for a denser city, preserving green spaces, discouraging new construction in areas at risk of extreme weather conditions such as wildfires, upgrading stormwater systems, and generally encouraging energy efficient land use patterns.²⁰ There is an expansive world of policy opportunities for Berkeley to draw on in envisioning and pursuing a fossil-free Berkeley that protects frontline communities, expands worker rights, and fosters a more prosperous future for our city in the face of this crisis.

RATIONALE FOR RECOMMENDATION

In 2006, Berkeley residents voted in favor of Measure G, which committed the City of Berkeley to reduce its emissions by 80% below 2000 levels by 2050. The City Council, staff, and the community subsequently worked in tandem to develop the Berkeley Climate Action Plan, which lays out the City's path to achieving the stated goal on Measure G.²¹ In 2018, the City Council voted to declare a Climate Emergency citing an "existential Climate Emergency that threatens our city, state, nation, civilization, humanity, and the natural world."²² Both the establishment of the Berkeley Climate Action Plan and the declaration of a Climate Emergency put the City leagues ahead of other cities, states, and even the country on initiating climate action, but we're still nowhere near enough.

¹⁹https://www.cityofberkeley.info/Finance/Home/Vendors__Living_Wage_Ordinance.aspx#:~:text=Effective%20July%201%2C%202021%2C%20the,of%20not%20less%20than%20%2419.67.

²⁰<https://www.epa.gov/smartgrowth/smart-growth-and-climate-change#:~:text=Smart%20growth%20policies%20contribute%20to,effects%20of%20a%20changing%20climate>

²¹ <https://www.cityofberkeley.info/climate/>

²²https://www.cityofberkeley.info/uploadedFiles/Council_2/Level_3_-_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf

At the state level, California's environmental efforts place it well ahead of most other states. Even California's efforts, however, are insufficient at best and ineffective at reducing emissions at worst.²³ The City of Berkeley must lead the state and the country both in aggressive and ambitious climate legislation that gets us to net-zero carbon emissions as soon as possible as well as climate mitigation and adaptation efforts that overcome and reverse historic environmental racism and lessen the economic turbulence that will accompany reshaping our economy in the coming decades so that all working Berkeleyans have the right to a good job and secure future. Past and future efforts to reach net-zero fossil fuel emissions must be examined in an active pursuit of a Just Transition for Berkeley.

ENVIRONMENTAL IMPACTS

This proposal advances and enhances Berkeley's climate goals.

FISCAL IMPACTS

None.

CONTACT

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

ATTACHMENTS

1. Resolution
2. California's Fourth Climate Change Assessment: San Francisco Bay Area Region Report
3. Climate Justice Alliance: Just Transition Principles

²³ <https://www.kqed.org/science/1972957/state-auditor-says-california-air-regulator-overstated-emission-reductions>

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

COMMIT THE CITY OF BERKELEY TO A JUST TRANSITION FROM THE FOSSIL FUEL ECONOMY

WHEREAS, in Berkeley, fossil fuel-driven global warming has already caused sea level rise, droughts, extreme weather conditions, and longer and more intense fire seasons, and

WHEREAS, business-as-usual fossil fuel emissions will lead to major increases in temperature, more dramatic droughts, more frequent extreme weather, and up to 3 meters of sea level rise, and

WHEREAS, historic inequities and environmental racism leave people of color and the poor in a uniquely vulnerable position when faced with dramatic warming, economic turbulence, and extreme weather, and

WHEREAS, the transition off of fossil fuels will have inevitable economic consequences including the loss of jobs and industries that are reliant on fossil fuel extraction and consumption, and

WHEREAS, a proactively planned and equitably executed transition away from the fossil fuel economy can be an opportunity to correct historic wrongs and boost Berkeley's economy,

NOW THEREFORE, BE IT RESOLVED, that the City Council commits the City of Berkeley to a Just Transition to net-zero carbon emissions that secures a livable future for all Berkeleyans, combats environmental racism and the unique vulnerabilities of people of color, and ensures that all Berkeleyans have access to good paying jobs free from the fossil fuel economy, and

BE IT FURTHER RESOLVED, that all City Council reports relating to climate be required to include a Just Transition section wherein the Just Transition impacts of climate-related items are outlined and discussed.



San Francisco Bay Area Region Report



Coordinating Agencies:

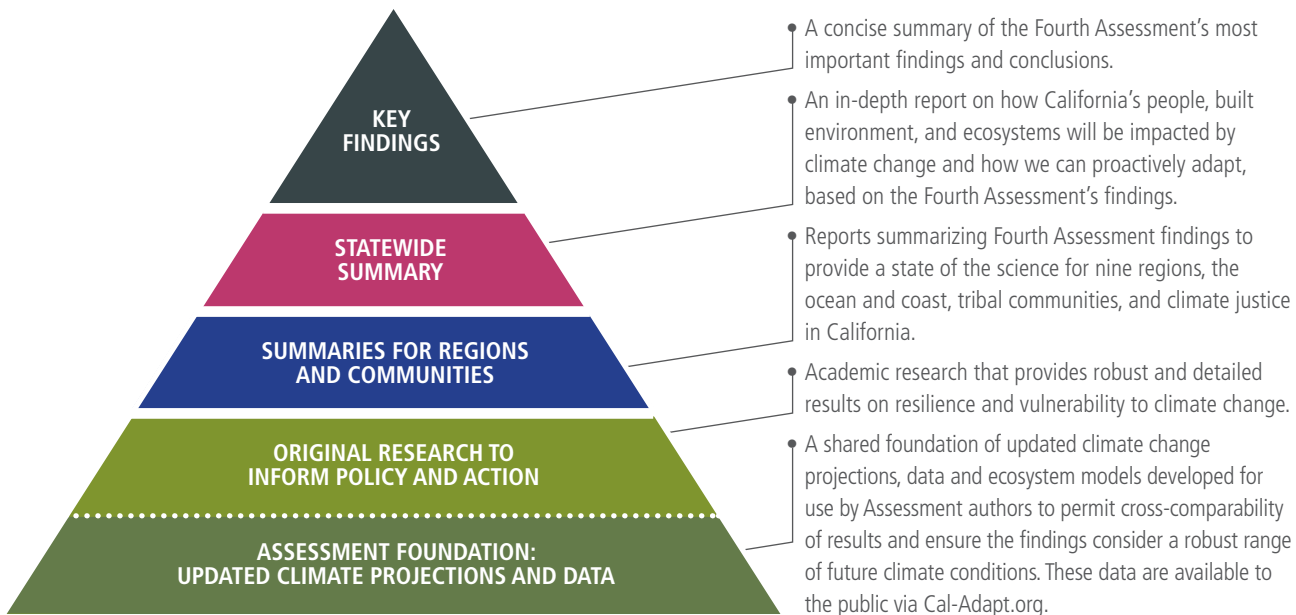




Introduction to California's Fourth Climate Change Assessment

California is a global leader in using, investing in, and advancing research to set proactive climate change policy, and its Climate Change Assessments provide the scientific foundation for understanding climate-related vulnerability at the local scale and informing resilience actions. The Climate Change Assessments directly inform State policies, plans, programs, and guidance to promote effective and integrated action to safeguard California from climate change.

California's Fourth Climate Change Assessment (Fourth Assessment) advances actionable science that serves the growing needs of state and local-level decision-makers from a variety of sectors. This cutting-edge research initiative is comprised of a wide-ranging body of technical reports, including rigorous, comprehensive climate change scenarios at a scale suitable for illuminating regional vulnerabilities and localized adaptation strategies in California; datasets and tools that improve integration of observed and projected knowledge about climate change into decision-making; and recommendations and information to directly inform vulnerability assessments and adaptation strategies for California's energy sector, water resources and management, oceans and coasts, forests, wildfires, agriculture, biodiversity and habitat, and public health. In addition, these technical reports have been distilled into summary reports and a brochure, allowing the public and decision-makers to easily access relevant findings from the Fourth Assessment.

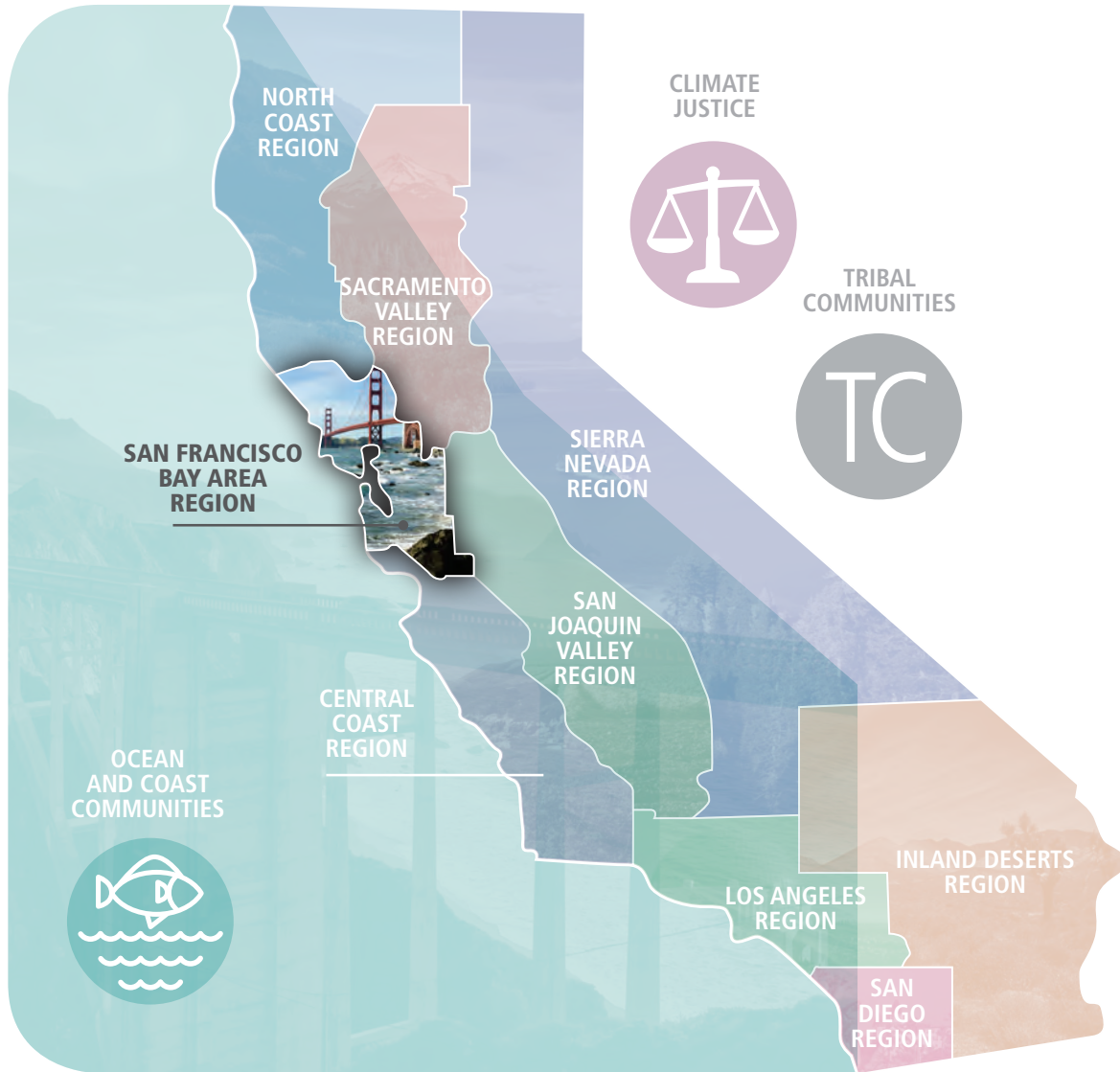


All research contributing to the Fourth Assessment was peer-reviewed to ensure scientific rigor as well as, where applicable, appropriate representation of the practitioners and stakeholders to whom each report applies.

For the full suite of Fourth Assessment research products, please visit: www.ClimateAssessment.ca.gov



San Francisco Bay Area Region



The San Francisco Bay Area Region Summary Report is part of a series of 12 assessments to support climate action by providing an overview of climate-related risks and adaptation strategies tailored to specific regions and themes. Produced as part of California’s Fourth Climate Change Assessment as part of a pro bono initiative by leading climate experts, these summary reports translate the state of climate science into useful information for decision-makers and practitioners to catalyze action that will benefit regions, the ocean and coast, frontline communities, and tribal and indigenous communities.

The San Francisco Bay Area Region Summary Report presents an overview of climate science, specific strategies to adapt to climate impacts, and key research gaps needed to spur additional progress on safeguarding the San Francisco Bay Area Region from climate change.



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Highlights from the SF Bay Area Report

The San Francisco Bay Area spans nine counties and 100 cities and towns with a population of more than 7 million people and a \$750 billion economy (~30% of California's total). The Mediterranean climate, with mild, wet winters and a warm, sun-drenched summer, supports extraordinary biological diversity and a thriving wine and dairy industry. This report examines the potential impacts of 21st century climate change on the physical climate, social systems and built environment, and natural and agricultural systems of the Bay Area. The geography of the region sets the stage for understanding how rising temperatures, changes in precipitation and fog, and rising sea levels will impact the region (section 1). We then examine projected impacts on social systems and infrastructure, from coastal flooding to wildfire and public health, with attention to the effects of social inequity on the vulnerability and resilience of local communities (section 2). Finally, we examine the impacts of climate change on biodiversity and open space conservation, and the effects on agriculture, with a focus on vineyards and rangelands (section 3). Where possible, we summarize proposed climate mitigation and adaptation strategies in a regional context to highlight potential actions and solutions necessary to meet these diverse challenges.

The impacts of climate change are already being felt in the San Francisco Bay Area and Northern California.

- Overall, the Bay Area's average annual maximum temperature increased by 1.7°F (0.95 °C) from 1950-2005.
- Several studies suggest that coastal fog along the California coast, so critical to our Bay Area climate, is less frequent than before.
- Sea level in the Bay Area has risen over 20 centimeters (8 inches) in the last 100 years.
- The powerful 2015-16 El Niño, one of the three largest in the historical record, resulted in winter wave energy that was over 50% larger than the typical winter in the Bay Area, driving unprecedented outer coast beach erosion.
- The 2012-2016 California drought led to the most severe moisture deficits in the last 1,200 years and a 1-in-500 year low in Sierra snowpack. The 2012-2016 record low snowpack resulted in \$2.1 billion in economic losses and 21,000 jobs lost in the agricultural and recreational sectors statewide and exacerbated an ongoing trend of groundwater overdraft.

These changes are projected to increase significantly in the coming decades over the region.

- Even with substantial global efforts to reduce greenhouse gas emissions, the Bay Area will likely see a significant temperature increase by mid-century. By the end of the century, the difference between lower and higher global emissions scenarios will make a major difference in how much Bay Area temperatures rise.
- Precipitation in the Bay Area will continue to exhibit high year-to-year variability - "booms and busts" - with very wet and very dry years. The Bay Area's largest winter storms will likely become more intense, and potentially more damaging, in the coming decades. Under a high emissions scenario, average Sierra Nevada snowpack is projected to decline by nearly 20% in the next 2-3 decades, 30% to 60% in mid-century and by over 80% in late century.



- Future increases in temperature, regardless of whether total precipitation goes up or down, will likely cause longer and deeper California droughts, posing major problems for water supplies, natural ecosystems, and agriculture.
- California's Fourth Climate Change Assessment projects median sea level rise between 0.74 m (RCP 4.5) and 1.37 m (RCP8.5) for 2100 along the California coast. However, recent science studies, using advanced models and ice sheet observations, suggest the possibility of extensive loss from Antarctic ice sheets in the 21st century — possibly producing sea level rise by 2100 that could approach 3 meters.
- Even with high levels of emissions reductions, research now suggests that at least 2 meters of sea level rise is inevitable over the next several centuries due to the lag of sea level rise in response to increasing global temperatures.

Changes in temperature, precipitation, and sea level rise will produce substantial impacts on Bay Area social systems and the built environment.

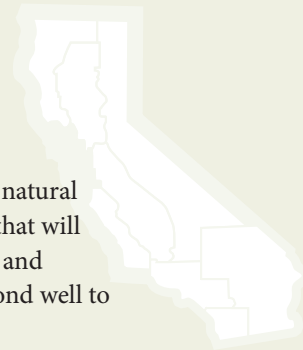
- The three-way relationship between land use, transportation infrastructure, and energy systems — all of which are vulnerable to climate impacts — is perhaps the most critical interdependence in determining the future growth and prosperity of the Bay Area.
- Future land use decisions will significantly influence the Bay Area's efforts to address climate change, affecting building and transportation energy, urban water demand, and wildfire ignitions. For example, the critical lack of affordable housing in the core of the region is forcing households further south, north, and inland, with negative energy and environmental consequences. At the same time, building energy demand is higher in inland regions (warmer summers/cooler winters) so reducing Bay Area energy consumption will strongly depend on where new housing and business growth are located.
- Much of the Bay Area's transportation system — airports, roads, and railways — is concentrated along the bay where flooding from sea level rise and storm surge is a major vulnerability.
- The Bay Area electrical grid is vulnerable to power outages during wind and wildfire events while much of our natural gas transmission system is located along waterways and will be impacted by flooding from sea level rise and extreme storm events.
- Warmer summers will increase summer energy demand across the region, with the largest increase expected in coastal cities as air conditioning adoption grows there.
- Climate impacts — such as earlier melting of snowpack, increasing seawater intrusion into groundwater, increased rates of evapotranspiration, and levee failures or subsidence that contaminate Delta supplies — will affect both the quantity of water available and the quality of supplies.
- Wastewater treatment plants, historically located along bay shorelines where effluent discharge was convenient, are now highly vulnerable to future sea level rise. Rising bay water and groundwater levels will also increase salinity intrusion and subsurface flooding. Climate change will require improved stormwater management in the Bay Area as extreme storm events increase in size and frequency.
- Bay Area public health is threatened by a number of climate-related changes, including more extreme heat events, increased air pollution from ozone formation and wildfires, longer and more frequent droughts, and flooding from sea level rise and high-intensity rain events.



- High levels of socioeconomic inequity in the Bay Area create large differences in the ability of individuals to prepare for and recover from heat waves, floods, and wildfires. Financial resources as well as improved social structures are important to enhance community resilience and reduce these disparities.
- Heat waves pose increased health risks due to urban heat islands and lack of local experience and cooling infrastructure (air conditioning) in bayside cities. These risks are compounded for low-income communities.
- Natural infrastructure can play an important role in climate change adaptation, enhancing biodiversity and ecosystem services while reducing societal risks.
- While bayside communities are on the front lines for future flood risk, many may have limited ability or resources to pursue adaptation strategies. Without inclusive engagement among communities, disparities in economic and political power will undermine regional solutions and leave communities acting independently, with highly variable results for resilience and community health.

Climate change will produce substantial impacts on Bay Area natural and managed resource systems.

- The future climate of the Bay Area will become less suitable for evergreen forests — redwoods and Douglas fir — and more favorable for hot adapted vegetation such as chaparral shrub land.
- The ability of vegetation to respond to the rapidly changing conditions in the 21st century is poorly understood. It is possible that vegetation will be increasingly “out of sync” with climate and vulnerable to heat and drought.
- The most threatening effect of climate change to Bay Area wildlife is the impact of rising sea levels on wetlands because of the limited potential for wetlands to move inland and become established. At the same time, less rainfall, more summer heat, and increased drought will hurt amphibians and reptiles, while heat and wildfires may negatively affect upland birds, mammals, amphibians, and reptiles. Some wildlife species may need to shift locations as the vegetation they inhabit transforms with a changing climate.
- The Bay Area’s mild climate and accessible open spaces are vital to the region’s quality of life. Regional conservation efforts, including coordinated open space protection design and implementation of landscape corridors, climate-smart conservation, and restoration practices, will enhance success in a changing climate.
- In the Bay Area, future fire activity will be driven by both changes in urban development and in climate. Land use planning, together with fire-safe building standards and near-building vegetation management, are important strategies for managing future fire risk to people and structures.
- Forests can play an important role in carbon sequestration. Fuel and fire management will be critical, as fire is the primary source of carbon loss from forests. Recently, carbon loss from fires exceeded carbon uptake by vegetation in California.
- Nearly every aspect of Bay-Delta ecosystems will be affected by climate change as a result of rising sea levels, increases in air temperatures, changes in precipitation, changes in sediment supply and more. All natural areas of the shore will need to adapt or transform.



- The interruption of natural processes over the past 200 years as the region has developed has decreased natural Bay-Delta resiliency. A dynamic, resilient ecosystem has become a rigid landscape with brittle features that will have trouble adapting. New approaches that use natural shoreline infrastructure, like beaches, marshes, and mudflats, together with managed retreat where necessary, can create more resilient shorelines that respond well to changing conditions.
- Nearly 70% of California's existing area of wine production will be vulnerable under future climate change projections by mid-century. Wine grape production in the Bay Area could be vulnerable to extreme temperatures and temperature-related water scarcity.
- The sensitivity of Bay Area rangeland vegetation to precipitation dynamics makes these ecosystems particularly vulnerable to climate change. Changes in rainfall regimes are also likely to affect plant production and associated patterns in soil carbon and greenhouse gas production. Grazing and rangeland management practices can play a significant role in enhancing soil moisture and belowground carbon sequestration. Current research highlights the potential role of compost together with grazing on California pasturelands as a targeted strategy to increase carbon sequestration.

A growing number of Bay Area local governments, regional agencies, nonprofits, and private sector stakeholders are taking actions that advance climate adaptation and resilience.

- Projects include comprehensive vulnerability assessments, plans for infrastructure improvements, new governance structures, and actual on-the-ground projects to address sea level rise, drought and other climate impacts.
- Examples include Resilient by Design: Bay Area Challenge, the Sonoma County Regional Climate Authority, Adaptation to Rising Tides, the Bay Area Regional Reliability Project, Bay Area Regional Health Inequities Initiative (BARHII), San Francisco Climate & Health Profile, RISE SF Bay, Marin County C-SMART, Sea Change San Mateo County, Climate Ready North Bay, and the San Francisco Bay Restoration Authority.



Introduction

The San Francisco Bay Area spans nine counties and 100 cities and towns with a population of more than 7 million people and a \$750 billion economy (~30% of California's total). The Mediterranean-type climate, with mild, wet winters and a warm sun-drenched summer, supports extraordinary biological diversity and a thriving wine and dairy industry. The amenable climate is one factor that has drawn people from across the U.S. and all corners of the globe, contributing to the growth of the region's economy and the rise of Silicon Valley. San Francisco was the gateway to the Gold Rush, and that spirit of opportunity and innovation has permeated California culture and been reflected in continuing cycles of boom and bust. Economic growth has been accompanied by social inequity and accompanying disparities in health, education, and job opportunities. The current housing crisis has reflected that disparity with waves of displacement unfolding across the region.

FIGURE 1



The Bay Area, as defined for the Fourth Assessment. Note that the eastern half of Solano County is included in the Sacramento Valley report.



This report examines the potential impacts of 21st century climate change on the physical climate, social systems, and built environment, and natural and agricultural systems of the Bay Area. The geography of the region, adjacent to the cool Pacific Ocean and wrapped around San Francisco Bay, sets the stage to understand how rising temperatures, changes in precipitation and fog, and rising sea levels will impact the region. We then examine projected impacts on social systems and infrastructure, from coastal flooding to wildfire and public health, with attention to the effects of social inequity on the vulnerability and resilience of local communities. Lastly,

we examine impacts of climate change on biodiversity and open space conservation, and the effects on agriculture, with a focus on vineyards and rangelands. Where possible, we summarize proposed climate mitigation and adaptation strategies in a regional context to highlight potential actions and solutions necessary to meet these diverse challenges.





Regional Climate Science

With its diverse microclimates, highly variable rainfall, dependency on snow-fed mountain water supply, extensive shorelines, and propensity for wildfire, it is not surprising that the physical climate of the Bay Area is changing in complex ways. This first section examines recent historical trends in temperature, precipitation, snowpack, extreme storms, drought, and sea level, as well as their projected changes over the course of the 21st century and key uncertainties, such as the changing role of fog in shaping microclimates.

Except where noted, the temperature and precipitation data we present are drawn from the downscaled daily products prepared for California's Fourth Climate Change Assessment by Pierce et al. (2018), using a statistical downscaling technique known as Localized Constructed Analogues (LOCA) (Pierce et al. 2014). Pierce et al. (2018) downscaled daily temperature and precipitation projections from 32 global climate models (GCMs) over California to a spatial resolution of 1/16° (around 6 kilometers, or 3.7 miles). The dataset includes observationally based historical data covering 1950-2005 that were used to train the statistical model, as well as historical downscaled data sets from the GCMs covering the same period. It also includes future projections spanning from 2006 to 2100 based on two greenhouse gas emissions scenarios - Representative Concentration Pathways (RCP) 4.5 and 8.5. RCP4.5 represents a mitigation scenario where global CO₂ emissions peak by 2040, while RCP8.5 represents a business-as-usual scenario where CO₂ emissions continue to rise throughout the 21st century (van Vuuren *et al.* 2011). A subset of 10 downscaled GCMs were shown to adequately sample changes across the entire ensemble of 32 models, and results from this 10-member ensemble are used for figures in this report. Public access to the downscaled data, along with mapping and other visualization tools, can be found at Cal-Adapt¹. We also draw insight and data from a larger literature, including the National Climate Assessment and the IPCC 5th Assessment Report, to inform the confidence with which various aspects of the climate system are expected to change. These datasets are described in more detail where they are presented below.

Where applicable, we note key uncertainties and model limitations, as well as phenomena for which there is a high degree of confidence. Projection uncertainties can arise from a number of factors including the representation of physical processes in models, model resolution, and natural variability in the climate system. For instance, while theory suggests that storm tracks will shift northward as a result of climate change, the global climate model runs used to drive LOCA downscaled products do not show such a trend for North America (Collins *et al.* 2013) and are likely too coarse to detect any such changes less than 100 kilometers (about 60 miles) with confidence. Moreover, it is important to remember that the actual climate and weather experienced contains elements of both natural and human factors. For instance, annual mean precipitation in the Western U.S. is naturally highly variable, meaning that it is difficult to detect climate change-driven trends. On the other hand, there is high confidence that temperatures are rising and trends that are directly associated with temperature, such as decreased snowpack and more intense extreme precipitation events, can be characterized with greater confidence.

Methods for downscaling global climate models to finer spatial scales introduce an additional layer of uncertainty. Different downscaling procedures may, in general, produce different results due to biases in regional climate models or limitations of statistical assumptions. LOCA belongs to a class of statistical downscaling methods that use historic

¹ www.cal-adapt.org



patterns as a basis to infer finer scale outcomes in space and time from Global Climate Models. However, future climate change might lead to dynamic changes in the local patterns of circulation that would not be captured by such statistical approaches. For instance, the observed trend of greater fog frequency over the ocean yet less frequency over land could be pointing to future changes in fog and sea breeze that would alter the temperature differential between the coast and inland areas. Such changes would not be captured in Global Climate Models (because they are too coarse) or in LOCA downscaling (because it is based on historic spatial patterns). Changes in fog and sea breeze in the Bay Area remain an active area of research as discussed in the fog section below.

Temperature

HIGHLIGHTS

- Overall, the Bay Area average annual maximum temperature increased by 1.7°F (0.95 °C) from 1950 to 2005.
- Even with substantial global efforts to reduce greenhouse gas emissions in the coming decades, the Bay Area will likely see a significant increase in temperature by mid-century.
- By the end of the century, the difference between lower and higher global emissions scenarios will make a major difference in how much Bay Area temperatures rise.
- While all parts of the Bay Area are projected to get warmer, inland areas will heat up more than coastal areas.
- Warming near the coast will be affected by changes in fog and sea breeze, but the influence of climate change on these highly localized features of the Bay Area climate is poorly understood at this time.

The Bay Area is characterized by a Mediterranean-type climate, defined by its cool, wet winters and warm, dry summers. Unique microclimates are created by regional topography, oceanic currents, fog exposure, and onshore winds (Cayan & Peterson 1993; Kottek *et al.* 2006). The combination of these processes acts like a natural air conditioner resulting in low interannual and daily temperature variability compared with much of California (O'Brien *et al.* 2013; Torregrosa *et al.* 2014, 2016). However, over the 20th century, some studies suggest that eastern Pacific summertime fog has declined substantially (Johnstone & Dawson 2010), and the influence of climate change on historical and future changes in fog prevalence remains an unresolved issue (see Fog section, below).

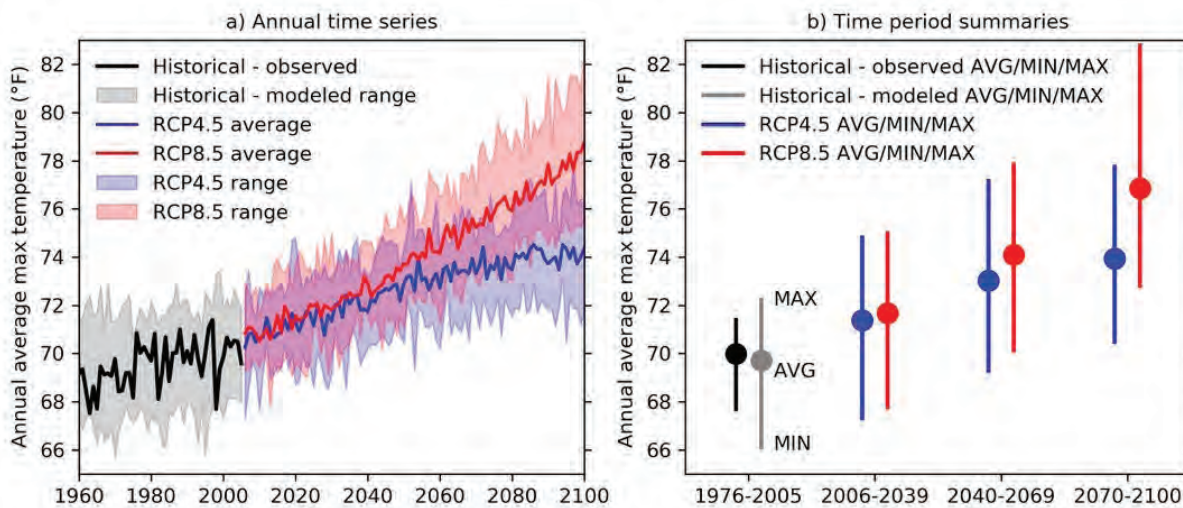
Regardless, increased surface temperatures have increased summertime cooling costs for residents of the Bay Area, especially at night when onshore winds diminish (Gershunov & Guirguis 2012). In addition, the built environment has played a role in shaping the local climatology of the San Francisco Bay Area, mainly through the effects of the urban heat island, which can be moderated by urban forestry and the cooling effects of irrigation in urban landscapes. For instance, landscape irrigation practices are estimated to reduce daytime summer temperatures across the urbanized portions of the Bay Area by an average of 1.8°F (1.0 °C) (Vahmani & Jones 2017).

Figure 2 highlights the annual average maximum surface temperature trend (annual average of the highest temperature on each day of the year) across the nine counties of the region produced from LOCA downscaling for California's Fourth Assessment (Pierce *et al.* 2018). Annual average maximum temperatures remained within the



relatively narrow range of 67.5°F to 71.9°F (19.7 °C to 22.2 °C) over the period 1950-2005, with an overall average maximum temperature of 69.5°F (20.1 °C). The estimated upward trend of 1.7°F (0.95 °C) in the Bay Area over this period is consistent with the global mean temperature change attributable to anthropogenic influences over a similar timeframe (Bindoff *et al.* 2013). By mid-century (2040-2069), the projected mean annual maximum temperature for the Bay Area, across multiple climate models, exceeds the maximum historical annual mean, regardless of which emissions trajectory is chosen. Thus, even with significant efforts to mitigate climate change (RCP4.5), the Bay Area will likely see annual mean warming on the order of approximately 3.3°F (1.8 °C) by mid-century. This increment increases to 4.4°F (2.4 °C) warming by mid-century under the high-emissions RCP8.5 scenario. The difference between emissions scenarios becomes more apparent by end of century (2070-2100), when the multi-model average shows warming on the order of 4.2°F (2.3 °C) for RCP4.5 and 7.2°F (4.0 °C) for the RCP8.5 scenario.

FIGURE 2

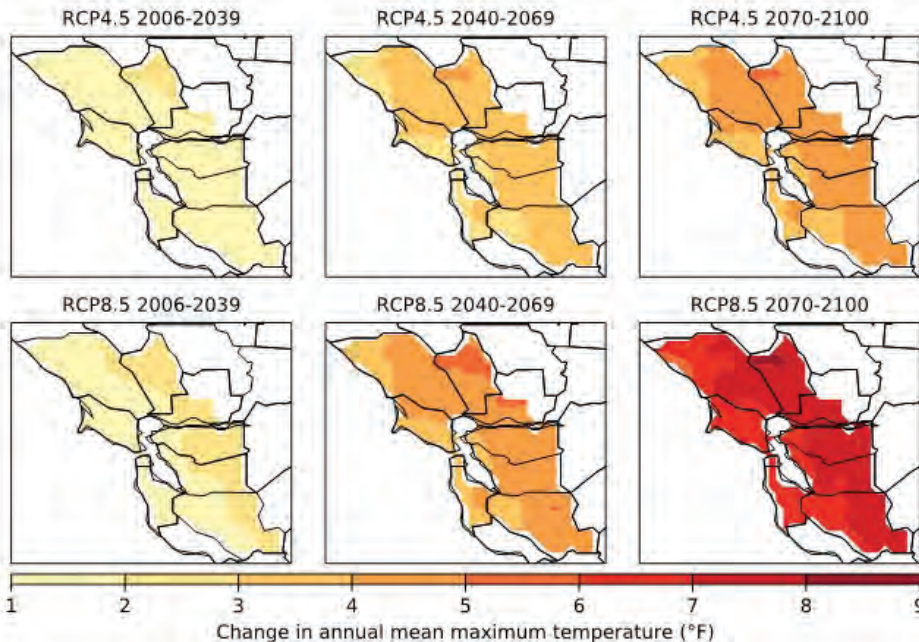


Observed historical (black), modeled historical (grey), and projected future (RCP4.5 - blue, RCP8.5 - red) annual average maximum temperature over the Bay Area. (a) Annual time series of data (future projections begin in 2006), with solid lines representing observed annual mean in the historical period and model-averages in the future. Shading represents the spread across models. (b) Summary of multi-year average (circles) and spread (vertical lines) across four time periods: 1975-2005 (historical), 2006-2039 (early-21st century), 2040-2069 (mid-21st century), and 2070-2100 (late-21st century). Note that the spread of values in panel b is smaller for the observed historical data compared to both the modeled historical data and modeled future data because the modeled quantities reflect model-to-model variability in addition to year-to-year variability, whereas the observed historical data only reflects year-to-year variability. Unit is °F.



Changes in annual mean maximum temperatures do not convey information about changes in heat extremes, which typically occur over the course of one to several days, nor do they convey spatial differences in the pattern of warming across the sub-regions and microclimates of the Bay Area. Figure 3 shows the spatial change in the annual mean of maximum daily temperatures across the nine counties under RCP4.5 and RCP8.5. Coastal cooling processes, such as fog and onshore winds, buffer some of the surface temperature increase in regions close to the coast and San Francisco Bay whereas regions further inland warm at a faster rate. However, as noted elsewhere in the report, the LOCA downscaling procedure does not explicitly account for potential changes in the characteristics of local phenomena such as fog and sea breeze. Thus, the maps shown in Figures 3 and 4 reflect an assumption that current fog and sea breeze patterns remain the same relative to larger scale temperature conditions in the future. The differential warming signal between the coast and inland areas is also apparent in Figure 4, which highlights the average change in the hottest day of the year. Under RCP8.5, the average hottest day of year is projected to increase by a minimum of 6.3°F (3.5 °C) near the coast up to 10°F (5.6 °C) further inland. Under RCP4.5, warming trends for the average hottest day of year reduce to 3.9°F (2.2 °C) near the coast up to 6.4°F (3.6 °C) further inland.

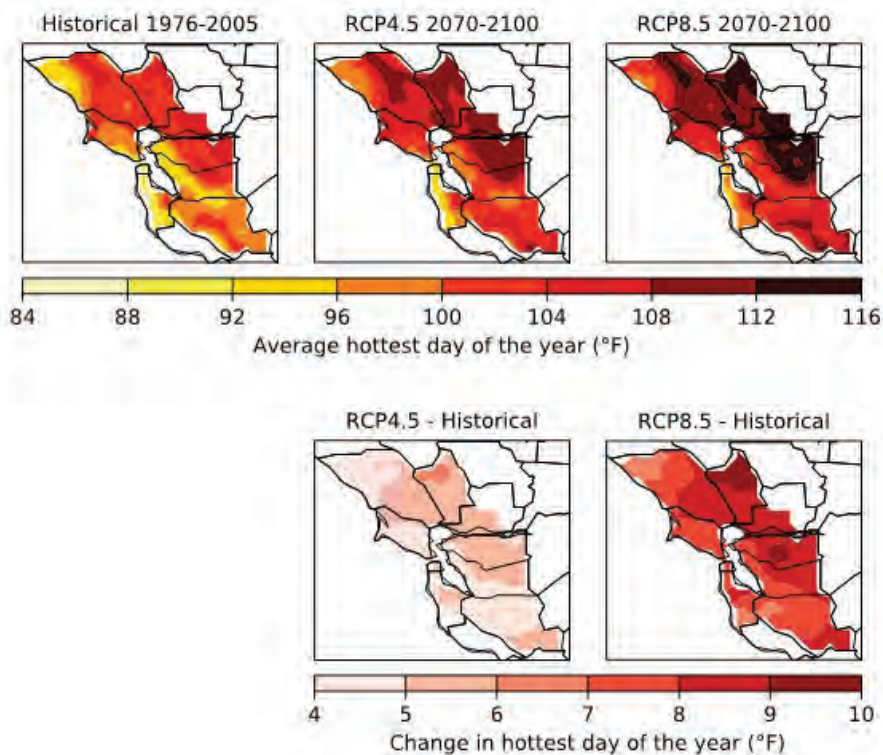
FIGURE 3



Spatial patterns of projected model-average change in annual mean maximum temperature (unit: °F) under RCP4.5 and RCP8.5 for three time periods: 2006-2039 (early-21st century), 2040-2069 (mid-21st century), and 2070-2100 (late 21st-century). Unit is °F.



FIGURE 4



Top row: Average hottest day of the year in the historical (1976-2005) period, and in the late-21st century (2070-2100) under RCP4.5 and RCP8.5. Bottom row: change (late-21st century minus historical) in the hottest day of the year under RCP4.5 and RCP8.5. Unit is °F. All data are derived from LOCA.



Precipitation, Drought and Snowpack

HIGHLIGHTS

- Precipitation in the Bay Area will continue to exhibit high year-to-year variability - “booms and busts” - with very wet and very dry years.
- Our largest storms, called “atmospheric rivers,” contribute on average 40% of the Sierra snowpack and can also produce heavy rainfall and substantial flood risk.
- The Bay Area’s largest winter storms will likely become more intense, and potentially more damaging, in the coming decades.
- Future increases in temperature, regardless of whether *total* precipitation goes up or down, will likely cause longer and deeper California droughts, posing major problems for water supplies, natural ecosystems, and agriculture.
- The 2012-2016 California drought led to the most severe moisture deficits in the last 1,200 years and a 1-in-500 year low in Sierra snowpack. Importantly, paleoclimatic records show that mega-droughts spanning multiple decades have occurred in California’s past.
- Consecutive years of low or no snowpack are especially worrisome. The 2012-2016 record low snowpack resulted in \$2.1 billion in economic losses, 21,000 jobs lost in the agricultural and recreational sectors statewide and exacerbated an ongoing trend of groundwater overdraft.
- Under a high emissions scenario, average Sierra Nevada snowpack is projected to decline by nearly 20% in the next 2-3 decades, 30% to 60% in mid-century, and by over 80% in late century.

California precipitation is the most episodic in the nation, often with relatively long duration between storms (Dettinger *et al.* 2011). As a result, large, discrete storms provide a substantial fraction of California’s rainy season total precipitation, and annual precipitation is highly variable from year to year. There are two emerging perspectives on how climate change is affecting precipitation in California. On one hand, any changes in annual mean precipitation that occur are currently expected to be relatively small compared to the range of natural variability experienced in the region (USGCRP 2017). On the other hand, atmospheric theory and climate models both indicate that the largest individual storms are becoming more intense with climate change (Pall *et al.* 2017; Prein *et al.* 2017; Risser & Wehner 2017), and there is some evidence that this might also be accompanied by more frequent extremely dry precipitation periods, as well as more frequent “whiplash” events that swing from extremely dry to extremely wet conditions in California (Swain *et al.* 2018), further enhancing variability in a system already characterized by “booms and busts.” We describe these changes in both mean annual precipitation and extreme events further below.

Mean Precipitation Changes

The high variability of mean annual precipitation in California makes it difficult to detect a strong signal in future projections of annual precipitation. Moreover, the physical processes that lead to regional precipitation change as a result of global climate change are complex and vary by region, leading to a higher degree of model uncertainty



compared to projections of temperature change. As the planet warms, the atmosphere holds more water, but the consequences for rainfall vary across the globe (Allen & Ingram 2002; Collins *et al.* 2013). Across North America, even under the strongest emissions scenario (RCP8.5), little change is projected for summer and fall precipitation, but larger changes may occur in winter and spring (USGCRP 2017). In general, precipitation in northern regions is projected to increase while precipitation in the southern regions, especially the Southwest, is projected to decrease. California straddles the boundary between these regions, contributing to the high uncertainty about future precipitation that has been reported through several generations of climate modeling (i.e., IPCC AR3, AR4, and AR5; Collins *et al.* 2013).

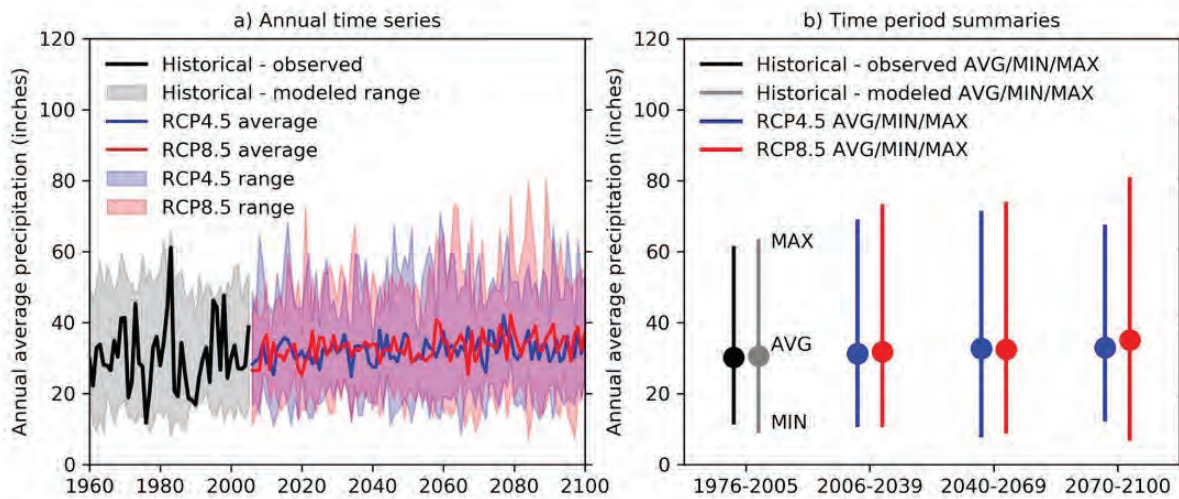
This relatively small signal in mean annual precipitation relative to variability can be seen in the downscaled LOCA data for mean annual precipitation in the Bay Area as seen in Figure 5. Mean annual precipitation ranged considerably from year to year over 1950-2005, from 11.7 inches to 61.1 inches (29.7 cm to 155 cm). Thus, while the multi-model average projections do show a small increase in annual precipitation (i.e. 2.5 inches (6.4 cm) per year in RCP4.5 and 4.6 inches (11.7 cm) per year in RCP8.5 by end of century (2070-2100) relative to the baseline period of 1976-2005), these changes are nearly imperceptible relative to the high interannual variability, with a range of almost 50 inches (130 cm) in total rainfall between the driest and wettest years in the historical record.

There is also concern that even if statewide mean precipitation does not change, there could be important local changes due to a northward shift in storm tracks as large-scale patterns of atmospheric circulation are expected to shift away from the equator toward the poles in a warmer climate. The degree to which this phenomenon will impact regional precipitation within California is still poorly understood. We note that the coarse horizontal resolution (~100-200km) of the global climate models used as input to the LOCA downscaling procedure may be too large to resolve such a shift, in which case the shift would not be reflected in downscaled climate data products based on them. The IPCC WG1 AR5 (Collins *et al.* 2013) reveals that end-of-21st century winter storm track shifts under the RCP8.5 forcing scenario are small and not statistically robust in the Eastern Pacific basin. Although these projected shifts are larger in the Western Pacific, North Atlantic, and throughout the Southern Hemisphere, confidence in these projections off the coast of California is *low* due to model limitations.





FIGURE 5



Observed historical (black), modeled historical (grey), and projected future (RCP4.5 - blue, RCP8.5 - red) annual average precipitation over the Bay Area. (a) Annual time series of data (future projections begin in 2006), with solid lines representing observed annual mean in the historical period and model-averages in the future. Shading represents the spread across models. (b) Summary of multi-year average (circles) and spread (vertical lines) across four time periods: 1976-2005 (historical), 2006-2039 (early-21st century), 2040-2069 (mid-21st century), and 2070-2100 (late-21st century). Unit is inches.

Extreme Precipitation Events — Historical and Projections

Generally, the largest California storms are what have recently been dubbed “atmospheric rivers” as they carry more water than seven to 15 Mississippi Rivers combined (Ralph & Dettinger 2011) and often bring an end to drought conditions (Dettinger 2013). These storms result in heavy rainfall over a narrow area (Gimeno *et al.* 2014). Moreover, they contribute an average of 40% of the annual snowpack in California (Guan *et al.* 2013). However, they also present substantial flood risk, especially for the Russian River (Ralph *et al.* 2006) and the Sierra Nevada region, where they account for 50% of rain-on-snow events despite representing only 17% of all precipitation events (Guan *et al.* 2016).

Several lines of evidence point to an enhancement of precipitation extremes due to climate change, although the degree of enhancement is an active area of research. The extreme precipitation literature in recent years has focused on how anthropogenic climate change will impact the magnitude and frequency of extreme storm events through what is known as the Clausius-Clapeyron relationship, which describes the increased capacity of the atmosphere to hold moisture as it warms. One hypothesis holds that if the atmosphere can hold more moisture, the potential for more extreme precipitation should increase as well (Allen & Ingram 2002). This hypothesis is supported by recent



global climate model simulations (Kharin *et al.* 2013); however, climate models at these horizontal resolutions (i.e., ~100-200 km) fail to reproduce observed extreme precipitation amounts (Wehner *et al.* 2010, 2014), especially atmospheric rivers that make landfall in California (Dettinger 2011). The implication for projected changes in extreme precipitation is unclear but several recent analyses suggest that certain storm types may yield precipitation increases substantially in excess of what the Clausius-Clapeyron relationship might predict (Pall *et al.* 2017; Prein *et al.* 2017; Risser & Wehner 2017). A recent analysis of precipitation extremes focused specifically on California corroborates this finding of enhanced wet extremes under climate change and also indicates higher occurrence of extremely low precipitation periods, as well as greater occurrence of “whiplash” events in which extremely dry periods are followed by extremely wet periods (Swain *et al.* 2018).

Consistent with global climate models, the downscaled LOCA projections show an increase in the magnitude of large precipitation events. Figure 6 shows changes in the average wettest day of the year for the nine counties of the Bay Area. Historically, the greatest precipitation events in the Bay Area have occurred in the coastal mountains of northern Sonoma County. Percent increases in the largest precipitation events (measured in inches of rain per day) range from 6% to 21% in RCP4.5 and as high as 37% in RCP8.5 by end of century.

Another way to measure changes in extreme precipitation is to calculate the change in return frequency of a storm of a particular magnitude. For instance, using data prepared for the IPCC WG1 AR5 by Kharin *et al.* (2013), we estimate that under RCP8.5, what is currently considered a 20-year return frequency one-day storm event for the Bay Area would increase in frequency by a factor of three or more by end of century. In other words, a once-in-20-year storm would become a once-in-seven-year or more frequent storm. Similarly, Swain *et al.* (2018) estimate that a once-every-200-year sequence of storms comparable to that which caused the great California flood of 1862 could occur every 40-50 years by 2100 under a high emissions scenario (RCP8.5).

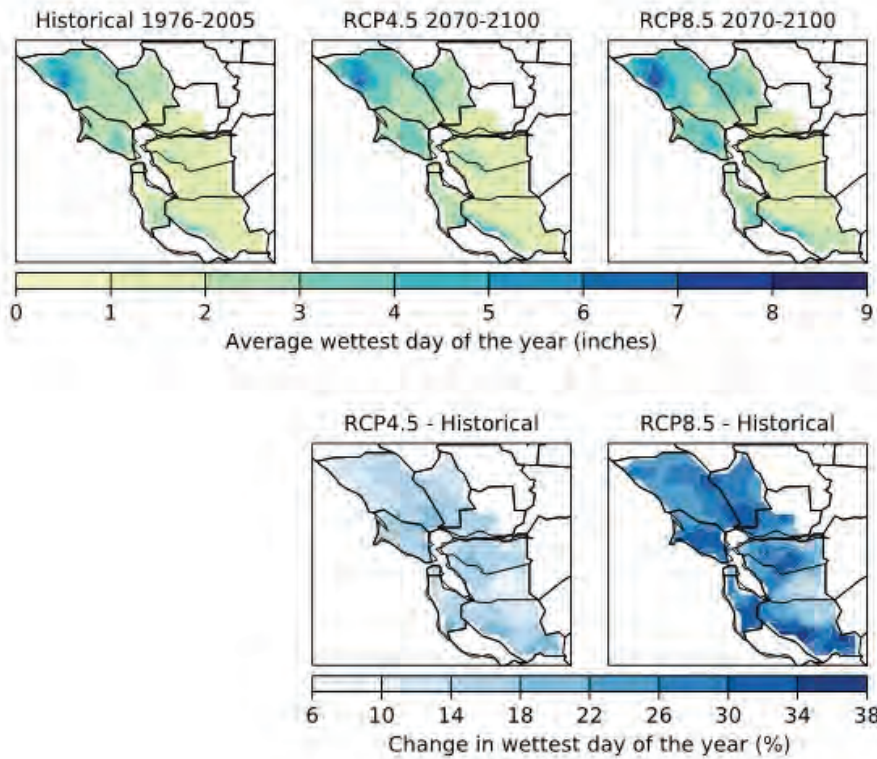
BOX 1: IS THAT AN ATMOSPHERIC RIVER I HEAR COMING?

New \$19 million advanced weather radar system for the Bay Area

Bay Area water districts are teaming up with USGS and Scripps to develop and deploy a fabulous new Bay Area weather monitoring system that will provide critical data for flood control and water supply issues during our big atmospheric river events. Being able to accurately forecast exactly where the storms will make landfall and how long they will linger over an area will provide a tremendous boost to water and flood managers. Current systems have allowed for 7-day forecasting, which limits preparations on the ground, but the new system will eventually expand to 14- and 21-day advance notices.



FIGURE 6



Top row: Average wettest day of the year in the historical (1976-2005) period and in the late-21st century (2070-2100) under RCP4.5 and RCP8.5. Unit is inches. Bottom row: Change (late-21st century minus historical) in the wettest day of the year under RCP4.5 and RCP8.5. Unit is percent. All data are derived from LOCA.

Drought and Snowpack

To formally quantify drought, or a prolonged period of water deficit, four main indices have been created over the last several decades including: meteorological, soil moisture, hydrological and, most recently, snow (Van Loon 2015). Each index quantifies drought with a unique lens focused on impacts on agriculture, drinking water, ecosystems, energy, and industry and/or recreation. The occurrence of drought is not uncommon in California (Griffin & Anchukaitis 2014) largely due to persistent atmospheric ridges (high pressure systems over the Pacific Ocean; Swain *et al.* 2016) and extreme and intermittent precipitation (Dettinger 2013). The 2012-2016 California drought was a prime example of the implications of atmospheric ridging as it led to the most severe moisture deficits in the last



1,200 years (Griffin & Anchukaitis 2014) and a 1-in-500 year low in Sierra Nevada snowpack (Belmecheri *et al.* 2016). The 2012-2016 drought was associated with significant declines in groundwater across the state, particularly in the Central Valley region², continuing a long-term overdraft trend that tends to accelerate during periods of drought³. Paleoclimatic records have shown that even longer periods of drought, i.e., mega-droughts or persistent droughts that span decades to centuries, have occurred in California's past (Malamud-Roam *et al.* 2007; Cook *et al.* 2010). In recent years, the contribution of anthropogenic climate change to the intensity and persistence of drought has been a major topic of interest (Diffenbaugh *et al.* 2015; Mann & Gleick 2015; Seager *et al.* 2015; Swain 2015; Cheng *et al.* 2016; Angélil *et al.* 2017). Most of the studies have concluded that current and future increases in temperature, regardless of changes in precipitation, raise the probability of enhanced drought magnitude and duration in California (Wehner *et al.* 2017). This has major implications on California's agricultural industry and water supply through modifications in snowpack, soil moisture, and evapotranspiration.

Water storage in mountain snowpack is an important feature that alleviates seasonal fluctuations in rainfall. The snowpack of the Sierra Nevada acts like a natural reservoir by increasing California surface water storage by ~72% in addition to man-made surface reservoirs (Dettinger & Anderson 2015). Approximately 60% of Bay Area water supply is sourced in the Sierra Nevada (Bay-Area-IRWMP n.d.) and Sierra snowmelt provides 40% of the annual water to the San Francisco Bay Delta (Cloern *et al.* 2011). Further, mountain snowpack acts to delay the rate of release of water to man-made surface reservoirs into the summer, when precipitation is low and water demand is high (California Department of Water Resources 2015) (Figure 7). Therefore, snow drought, or consecutive years of low-to-no snowpack, has become a major topic of interest over the last decade (Harpold *et al.* 2017). This was made apparent in the drought period of 2012-2016 when the combination of warm temperatures and low precipitation led to record low Sierra Nevada snowpack (5% of normal) with economic impacts felt throughout the agricultural and recreational industries (i.e., \$2.1 billion and 21,000 jobs lost) and a mandatory statewide surface water use reduction of 25% (Mote *et al.* 2016).

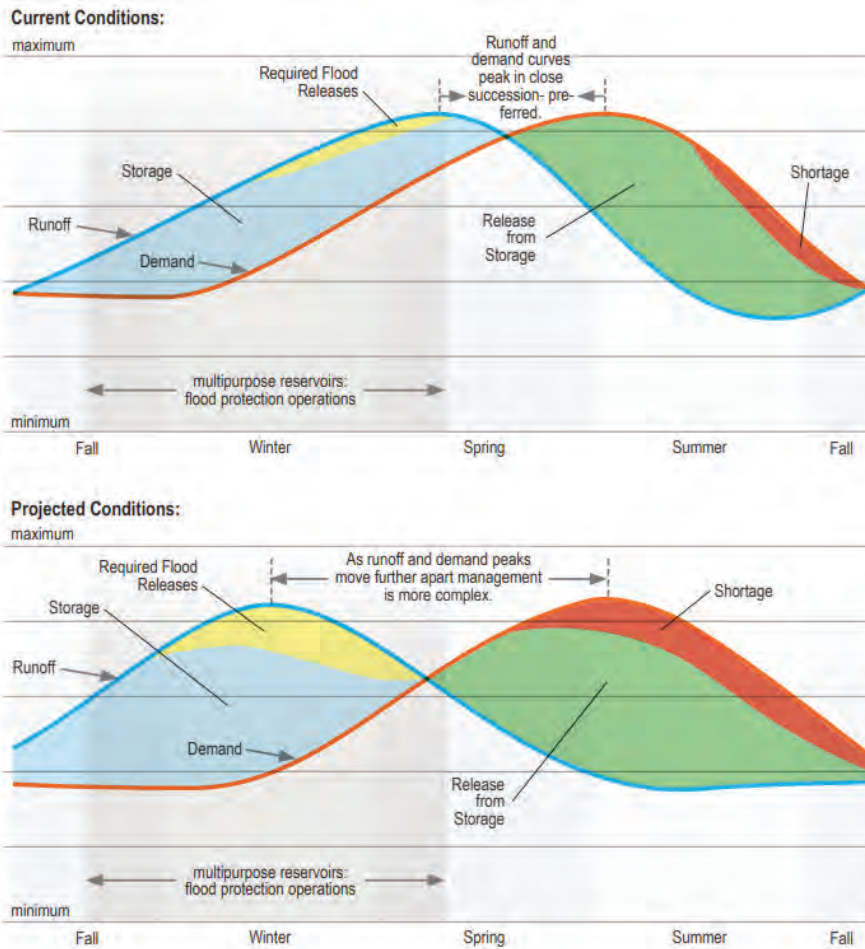


2 <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Groundwater-Management/Data-and-Tools/Files/Statewide-Reports/Fall-2017-Groundwater-Level-Data-Summary.pdf>

3 http://www.ppic.org/wp-content/uploads/JTF_GroundwaterJTF.pdf



FIGURE 7



Top row: Current water supply surplus (blue shading) and demand deficit (green) curves with yellow (red) areas highlighting flood release loss (shortages). Bottom row: Same as top row, however with climate change projected onto the water supply surplus and demand deficit curves. Source: Adapted from the California Department of Water Resources (2015) report on "California Climate Science and Data for Water Resources Management."

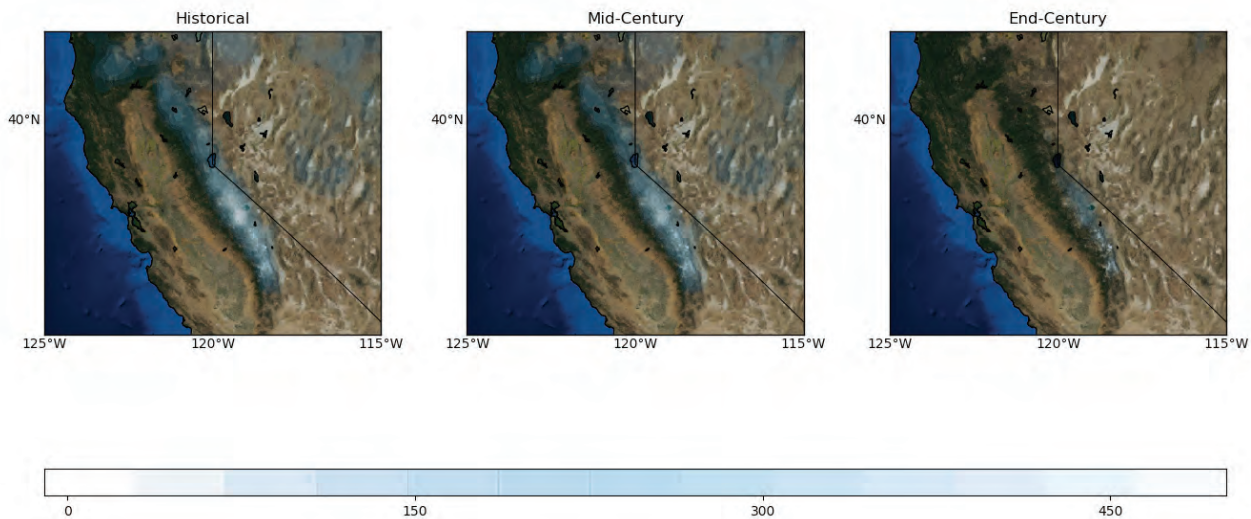


Decline in Sierra Nevada snowpack has occurred over the last half-century (Mote *et al.* 2018) and is *very likely* to continue given the physics of climate change (Wehner *et al.* 2017). This was shown in the most recent National Climate Assessment (USGCRP 2017) where a *high confidence* was attributed to an earlier spring melt and reduced snowpack in Western U.S. states as the climate continues to warm (Wehner *et al.* 2017). This is because as surface temperatures continue to rise, the historical location of the freezing line in mountains will move upslope, snow will persist for shorter durations at low elevation, and more storms will fall as rain rather than snow (Pierce & Cayan 2013). Although snowpack decline is *very likely*, the changes will be heterogeneous in both time and space. Conventional global climate model simulations, such as those used for the IPCC, are unable to realistically represent mountainous regions due to limited spatial resolution in current models. This makes it difficult to infer snowpack change at scales where decisions are made (e.g., watershed regions). Therefore, to properly evaluate this decline, the use of regional downscaling techniques is necessary.

An intercomparison of several regional climate downscaling strategies was conducted by Rhoades *et al.* (2018) for the major mountain ranges of the Western U.S., including the California Sierra Nevada. By 2040-2065, average Sierra Nevada snowpack was shown to decline by 30 to 60% under a business-as-usual emission scenario across the various regional downscaling methods. Using a new downscaling technique, the authors also found that average Sierra Nevada snowpack could decline by 19% by 2025-2050 and amplify to an 83% decline by 2075-2100 (Figure 8) (Rhoades *et al.* 2018). The effect of future warming on snowpack during periods of drought is of particular concern. With increased warming, the decline in Sierra Nevada snowpack seen during the 2012-2016 drought could be exacerbated by 60 to 85% if it occurred at end-century (Berg & Hall 2017). The changes in Sierra Nevada snowpack will undeniably pressure California to preemptively invest in climate adaptation measures such as alternative water storage, water-use efficiency, and updated reservoir storage operations. Without these preemptive measures, there is *very high confidence* that reoccurring and persistent hydrological drought will define California's future (Wehner *et al.* 2017).



FIGURE 8



The figure highlights a new variable-resolution global climate model simulation of average winter snowpack in the California Sierra Nevada over a historical period (left), at mid-century (middle) and at end-century (right) under a business-as-usual emissions scenario (Rhoades et al. 2018). Units are mm of snow water equivalent (SWE) averaged over the winter months of December, January and February (DJF).

Source: Adapted from Figure 8.2 in the National Climate Assessment 4 by Hari Krishnan at Lawrence Berkeley National Laboratory

Fog

HIGHLIGHT

- Several studies suggest that coastal fog along the California coast, so critical to our Bay Area climate, is less frequent than before. However, the causes of this decline and implications of climate change are complicated because coastal fog formation is the result of a delicate moving balance between heat and humidity from three different sources: ocean, air, and land.

Coastal fog in the San Francisco Bay Area has been such a regular summer feature that songs are written about it, pilots taking off and landing at SFO keep a watchful eye on delays caused by it, and the phenomenon is even recognized by its twitter handle #KarltheFog. Several lines of evidence suggest that coastal fog along the California coast and other coastal upwelling zones is less frequent than before. However, the story is complicated because the dynamics of coastal fog formation and disappearance are the result of a delicate moving balance between heat and humidity from three different sources: ocean, air, and land. This balance is in turn driven by upstream processes



important to fog such as the high-pressure winds causing cold water upwelling, Arctic-cooled ocean currents that lead to changing fog frequency, and turbulence that mixes the moister fog layer into the drier air layer above. These factors change the thickness and timing of the fog and the highly localized offshore and onshore movements of fog across complex topography (Koračín *et al.* 2014; Torregrosa *et al.* 2016; Clemesha *et al.* 2017a).

Some of these interactions are strongly affected by warming climates but how they all work together under changing climate conditions is not yet well understood. Planet wide changes in air patterns can cause strong change in fog at our local level, such as the resilient atmospheric ridge that parked warm dry air over California in August 2017, shutting down the usual pattern of onshore coastal fog advection into coastal ecosystems (see also September 2010 event) (Kaplan *et al.* 2017; Swain *et al.* 2018).

Long term observations of fog come from airport and ship records (Dorman *et al.* 2017) and are being augmented with satellite remote sensed data (Rossow & Dueñas 2004). Using 60 years of Arcata and Monterey airport data, Johnstone and Dawson (2010) derived a temperature-based statistical method to estimate coastal fog frequencies for the last century, which showed a 33% reduction in coastal fog. Periodic increases of coastal fog have been associated with the warm phase of the Pacific Decadal Oscillation (Witiw & Ladochy 2015), an ocean temperature index. The one dynamic simulation model for California coastal fog that exists (O'Brien *et al.* 2013) shows a long term trend of 12- 20% reduction in coastal fog over the model's 1900-2070 period. Although the model improves on regional climate models by including important turbulence processes, it did not include several feedbacks and processes that may be important for the future of fog, such as coastal upwelling and shifts in the center of summertime high pressure zones.

Fog is also affected by local conditions. Recent analyses of coastal fog in Southern California showed fog is reduced near heavy urban areas (Williams *et al.* 2015) and affected by pollution (LaDochy & Witiw 2012). Urban surfaces warm during the day, causing warmer nighttime air temperatures that prevent fog droplets from forming until the air rises high enough and cools (adiabatically) for condensation to occur. Reductions in summertime coastal fog have also been observed in other regions such as Hokkaido, Japan (Sugimoto *et al.* 2013), Kiril Islands, Russia (Zhang *et al.* 2015), and Central Europe (Egli *et al.* 2017). An opposite trend of increasing fog and low clouds in the South China region is attributed to an increase in heavy pollution that prevents rain formation (Fu & Dan 2018). Reductions in non-marine Central Valley tule fog have been correlated with lower levels of NO_x and other air pollutants (Herckes *et al.* 2015; Gray *et al.* 2016).

In California, summertime fog and low clouds can move deep into northwest-oriented valleys that are well positioned to receive the summer northwestern winds that help form fog and move it inland (Torregrosa *et al.* 2016). Some of the state's most productive agricultural regions benefit from these inland incursions of fog such as the Salinas Valley, where fog moves more than 75 kilometers inland and protects lettuce and strawberries from sunburn, or the wine grape-growing regions of Sonoma and Napa, where fog penetrates inland through the San Francisco Bay and over the Petaluma Gap.

Species restricted to the coastal zone, such as coast redwood trees, grow in forests that can get up to a third of their water from fog (Burgess & Dawson 2004). The discovery that plants in fog-filled forests can take in water through their leaves (Dawson 1998) changed our understanding of fog's contribution to ecosystems. Fog drip can be lifesaving to salmonids in low flow coastal streams that would otherwise dry out during the late Mediterranean dry season. In



the high fog areas of the Santa Cruz Mountains, Sawaske and Freyberg (2015) found summer streamflow increases of 100% during fog events and increase of up to 200% with a two-day lag. Shade from summertime fog and low clouds cools coastal systems with a cascading effect: less heat (Walker & Anderson 2016) reduces the rate of plant evapotranspiration (Chung *et al.* 2017), which reduces the use of subsurface water reserves by plant roots (Burgess & Dawson 2004), leaving more water in the system (Flint *et al.* 2013). When fog disappears in late summer, it can exacerbate the climatic water deficit for entire watersheds leading to fire-ready tinder conditions and increased electrical demand as air conditioners are turned on for relief from the heat.

The importance of fog to California's water and energy balance and to human and wildlife well-being is receiving increased attention and study (Torregrosa *et al.* 2014; Clemesha *et al.* 2017b). Research on climate change impacts to fog (Wang & Ullrich 2018), the relationship between fog, species, and ecosystem resilience (Burns 2017), and even the geoengineering technique of increasing marine clouds to cool the planet (Ahlm *et al.* 2017) will help to improve forecasts of future trends and understanding of coastal fog impacts on California (Koraćin 2017).

Wildfire

HIGHLIGHTS

- In the Bay Area, future fire activity will be driven by both changes in urban development and changes in climate.
- Warming temperatures combined with expansion of the wildland-urban interface are projected to increase fire risk in most of the Bay Area, though risks may decline in some areas as they become more heavily urbanized.
- Land use planning, together with fire-safe building standards and near-building vegetation management, are important strategies for managing future fire risk to people and structures.

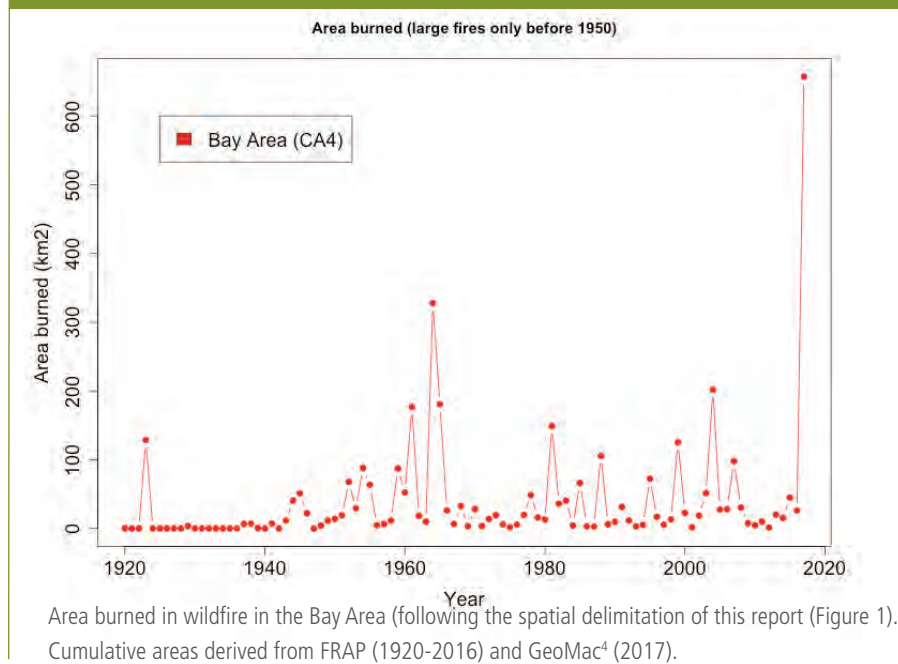
Wildland fire is a recurrent feature of ecosystems in semi-arid climates throughout the world, including the American West and California. The Mediterranean-type climate of California (and climatically similar regions in other parts of the world) is especially fire prone, as the winter rains support vigorous plant growth and the summer dry season dries out the vegetation, making it exceedingly flammable. Hot and dry conditions, combined with offshore winds in autumn (Santa Anas in Southern California, Diablo winds in Northern California) create high risk conditions that rapidly spread fires. Fire ignitions in California are primarily due to human activity, and the dry fuels and climate contribute to higher risk of rapid fire spread. While attention to wildfire has mostly focused on the Sierra Nevada and Southern California, the large and destructive fires in the Bay Area and North Coast, particularly in 2015 and 2017, have rapidly shifted attention to the ongoing risks in these regions.





State and federal agencies have pursued aggressive policies of fire suppression, both for protection of timber resources but increasingly to protect human life and infrastructure as fires ignite and spread in areas with high population density. As is well documented in the Sierra Nevada, fire suppression can contribute to fuel buildup (i.e., dense forests where fire can spread more easily to the canopy) (Agee & Skinner 2005). There is also strong evidence that anthropogenic climate change, especially rising temperatures and periodic droughts, have made substantial contributions to the increase in area burned in wildfires in the America West (Westerling *et al.* 2006; Abatzoglou & Williams 2016). Like storms and hurricanes, however, it is difficult to pinpoint the contribution of climate change to the occurrence or severity of any individual fire event.

FIGURE 9



4 <https://www.geomac.gov/>



Analysis of the Fire and Resource Assessment Program (FRAP) fire history database⁵ shows recurring years with high wildfire activity (in terms of area burned) in the Bay Area (Fig. 9). Prior to 2017, the peak year was 1964, due to the large Hanly fire and the smaller Nuns and Roadside #42 fires; the perimeters of these three fires were eerily similar or contained within the 2017 Tubbs, Nuns and Atlas fires, respectively. The North Bay fires of October 2017 burned more than twice the area of any previous year, following close on the heels of the large and destructive Lake County fires of 2015. As of 2018, six of the top 20 most destructive fires in California history (in terms of buildings lost) have occurred in the Bay Area (Table 1).

TABLE 1

RANK	FIRE	DATE	COUNTY	ACRES	STRUCTURES	DEATHS
1	Tubbs	October 2017	Sonoma	36,807	5,643	22
2	Tunnel	October 1991	Alameda	1,600	2,900	25
4	Valley	September 2015	Lake, Napa, Sonoma	76,067*	1,955	4
6	Nuns	October 2017	Sonoma	54,382	1,355	2
11	Atlas	October 2017	Napa, Solano	51,624	781	6
15	Berkeley	September 1923	Alameda	130	584	0

Bay Area fires ranked in the top 20 most destructive fires in California history, in terms of structures burned. Source: CalFire.

*Note: Most of the acreage burned was in Lake County, outside of the Bay Area as defined here.

Climate change and future wildfire activity: Projections of future fire activity depend on our understanding of what controls wildfire historically in each region, how those controls may change in the future, and the ranges of uncertainty associated with key variables. At relatively broad scales, climate affects fire regimes in two different ways, either by altering vegetation growth rates (e.g., fuel accumulation) or through changes in fire season length and severity (e.g., fuel flammability and fire weather) (Krawchuk & Moritz 2014). At finer scales, recent studies demonstrate that fire exhibits a “hump-shaped” response to human development, with fire activity peaking in the wildland-urban interface (WUI) due to increased ignitions and dropping off both in more urbanized areas and in less developed rural regions and open space (Syphard *et al.* 2007; Butsic *et al.* 2015; Mann *et al.* 2016). Thus, future patterns of land use together with climate change are crucial for assessing what fire regimes may emerge in the coming decades.

⁵ http://frap.fire.ca.gov/data/frapgisdata-sw-fireperimeters_download

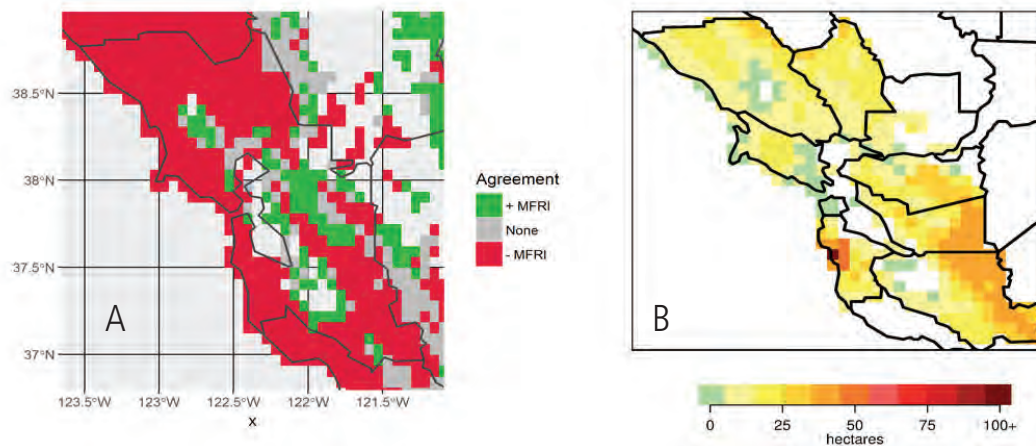


The impact of climate change on future fire activity has been the focus of considerable research in California and elsewhere (Krawchuk & Mortiz 2012). Where fires are fuel limited (as in the desert), changes in fire depend on whether future climates have higher or lower rainfall. In the Bay Area, although there is a strong moisture gradient from the coast inland, fire is not generally fuel limited. As a result, there are more consistent projections of increased fire activity (i.e., more frequent or greater area burned), due to a warmer climate (Figure 10).

Projections of the impact of development and land use change are less well developed. These effects are incorporated in two modeling studies for the Bay Area (Mann *et al.* 2016; Westerling 2018). While the studies are not directly comparable, Mann *et al.* suggest that future fire activity will be driven as much by changes in human development as by changes in climate. Continued development will likely dampen fire probabilities in areas closest to high-density human development, while potentially increasing fire risk where development expands in the wildland-urban interface. Westerling (2018) projected increased fire probability in most of the Bay Area, especially the dry hills around Mt. Hamilton, with reduced fire risk near urban areas and development corridors.

Given the importance of land use patterns, additional work is needed to understand their importance relative to changes in climate. It is also worth noting that local human development is under society's direct control, meaning that land use planning may be the most effective tool for managing future fire risk to human life and infrastructure. Continued building in the wildland-urban interface exposes more structures to fire risk and also alters fire probabilities. On the other hand, improved building codes and management of defensible space around structures can significantly reduce losses when fires do occur.

FIGURE 10



Projections for future changes in wildfire. A) Predictions for increase (red) or decrease (green) in fire frequency (2026-2050, compared to baseline of 1976-2000), showing areas of agreement across an ensemble of climate models (Mann *et al.* 2016). B) Composite projections from Westerling (Westerling 2018) for mid-century (2035-2064) average annual area burned under RCP 4.5 (results for RCP 8.5 are very similar).



Sea Level Rise

HIGHLIGHTS

- Sea level in the Bay Area has risen over 20 centimeters (8 inches) in the last 100 years.
- The regional signal of SLR is complicated at the local level by highly variable rates of vertical land movement across the Bay Area due to seismic effects, sediment compaction, marsh accretion, and groundwater fluctuations.
- California's Fourth Climate Change Assessment projects median sea level rise of 0.74 m (RCP 4.5) and 1.37 m (RCP8.5) for 2100 along the California coast.
- Recent science studies, using advanced models and ice sheet observations, suggest the possibility of extensive loss from Antarctic ice sheets in the 21st century — possibly producing sea level rise by 2100 that could approach 3 meters. California's Fourth Climate Change Assessment finds, under the RCP 8.5 scenario, that extremely high SLR by 2100 (as high as 2.87m at San Francisco) is plausible with very low probability.
- Even with high levels of emissions reductions, research now suggests that at least 2 meters of sea level rise is inevitable over the next several centuries due to time lags in response to increasing global temperatures.
- The powerful 2015-16 El Niño, one of the three largest in the historical record, resulted in winter wave energy that was over 50% larger than the typical winter in the Bay Area, driving unprecedented outer coast beach erosion.

Numerous studies have documented the acceleration of global (i.e., eustatic) sea level rise (SLR) during the latter part of the 20th century and early 21st century, with rates of ~1-2 mm/yr prior to 1990 as much as tripling to ~3 mm/yr during the satellite altimetry era (1993-present) (Jevrejeva *et al.* 2014; Dangendorf *et al.* 2017). Regional rates of SLR are highly variable in space and time, depending on ocean and atmospheric circulation patterns, gravitational and deformational effects due to land-based ice mass changes, and tectonics and other drivers of vertical land motion (NRC 2012).

Historical SLR rates in the San Francisco Bay Area are well documented. The Ft. Point tide gauge adjacent to the Golden Gate has the longest tide record in North America (1855-present), with a long-term rate of SLR of 1.94 mm/yr (1897-2016). Other tide gauges across the region report similar results, including Redwood City (1.99 mm/yr, 1974-2016), Alameda (0.72 mm/yr from 1939-2016) and Port Chicago (1.58 mm/yr, 1976-2016) within San Francisco Bay, and Pt. Reyes (1.98 mm/yr, 1975-2016) along the outer coast (NOAA 2018). Moderate variability among these observations (with Alameda being a significant outlier) could be attributed to factors such as record length, local vertical land motion, and datum issues.

Importantly, each of the Bay Area tide gauges shows significant acceleration since 2011. These observations are consistent with the satellite altimetry-observed West Coast acceleration of SLR from 2011-2015 due, at least in part, to a shift in low frequency climate variability in the Pacific as well as a strong El Niño peaking in fall of 2015 (Hamlington *et al.* 2016). This recent acceleration of regional SLR follows decades of dynamical SLR suppression across the U.S. West Coast, possibly related to the mode of the Pacific Decadal Oscillation (PDO) (Bromirski *et al.* 2011). It is unclear how long this recent trend of higher than eustatic rates of SLR will continue for the San Francisco Bay Area but will



largely depend on the patterns of shorter (e.g., ENSO) and longer (e.g., PDO) modes of climate variability that drive regional circulation patterns.

The regional signal of SLR is further complicated at the local level by highly variable rates of vertical land motion across the Bay Area due to co-seismic and intra-seismic land movement, sediment compaction, marsh accretion, and groundwater fluctuations. Extensive groundwater pumping in the Santa Clara Valley from 1916-1966 led to as much as 1 meter of subsidence along the shoreline of South San Francisco Bay, leading to the periodic flooding of low-relief land adjacent to the bay (Poland & Ireland 1988). Some of the submerged land has been recovered over the last several decades due to more responsible groundwater pumping practices (Schmidt & Bürgmann 2003), resulting in recent uplift of 1-2 mm/yr (Shirzaei *et al.* 2017).

Despite active tectonics, the largest recent vertical rates of change measured in the Bay Area are due to non-tectonic processes, particularly the consolidation of bay mud and artificial fill that comprise a large proportion of the land lining the Bay Area's shoreline. For example, InSAR data show that the northwestern tip of Treasure Island dropped ~20 mm/yr from 1992-2000 (Ferretti *et al.* 2004), and subsidence of up to 10 mm/yr occurred along mud-dominated shoreline areas, such as the San Francisco waterfront, San Francisco International Airport, and Foster City, though most subsidence rates in the Bay Area are less than 2 mm/yr (Bürgmann *et al.* 2006; Shirzaei & Bürgmann 2018). The recent launching of the Sentinel-1A (2014) and Sentinel-1B (2016) satellites equipped with advanced synthetic aperture radar (SAR) antenna sensors will allow for greater resolution of vertical land motion rates across the Bay Area (Shirzaei *et al.* 2017), and more precise integration of these changes into coastal flood projections (Ballard *et al.* n.d.; Barnard *et al.* 2014; Shirzaei & Bürgmann 2018).

Projected SLR over the course of the 21st century is being thoroughly discussed as part of the Fourth Assessment, and therefore only a brief summary is provided here. The National Research Council study (NRC 2012), which incorporated steric and dynamic ocean components of SLR, mountain glacier and ice sheet loss, and vertical land motion, projected 92 centimeters of relative SLR for the San Francisco Bay by 2100 (range 42-166 centimeters). More recent California-focused SLR projections, including California's Fourth Climate Change Assessment (Pierce *et al.* 2018) and "Rising Seas in California" (Ocean-Protection-Council 2018) have incorporated advanced models and observations of ice sheets, suggesting the possibility of more extensive loss from Antarctica in the 21st century than previously considered (DeConto & Pollard 2016), along with a probabilistic approach to support risk assessment (Kopp *et al.* 2014). These more recent efforts have not produced a marked change in the median projections of sea level rise by 2100; e.g., the Fourth assessment projects 0.74 m (RCP 4.5) and 1.37 m (RCP8.5) for California in general, and the Ocean Protection Council projects 0.49 m (RCP 2.6) and 0.76 m (RCP8.5) for San Francisco Bay. However, they do indicate that SLR by 2100 of ~3 meters is physically plausible. For example, under the RCP8.5 scenario, California's Fourth Climate Change Assessment projects a 0.1% and 5% chance of sea level rise reaching 2.87 m and 2.41 m by 2100, respectively (Pierce *et al.* 2018). Sweet *et al.* (2017) have integrated this latest SLR science into continuous probabilistic projections across North America, including San Francisco Bay, and placed them in the context of a flood risk framework, with similar upper-end SLR projections (Sweet *et al.* 2017). Median SLR projections have not changed markedly in recent years and significant uncertainty remains in terms of the timing of SLR projections (based in large part on uncertainty in emissions pathways). Even with net zero future emissions, research now suggests that at least ~2 meters of sea level is inevitable over the next several centuries due to the lag in



response time of SLR with temperature; current emission trajectories in the 21st century would commit the oceans to 9 meters of SLR eventually (Clark *et al.* 2016).⁶

Wave Conditions and El Niño: The potential changes in long-period wave energy (i.e., swell) are primarily a concern for the exposed open coast although there is some swell penetration into the Central Bay, and Hanes and Erikson (2013) documented a peak in wave energy along Crissy Field during outer coast, southwest swell events. Increases in wave heights over the last several decades have been documented along portions of the U.S. West Coast (Allan & Komar 2006; Wingfield & Storlazzi 2007; Menéndez *et al.* 2008), including the region adjacent to the Bay Area (Hanes & Erikson 2013), but these trends have more recently been found to be largely insignificant when adjusted for buoy hardware modifications (Gemrich *et al.* 2011). The use of Global Climate Models (GCMs) to determine the future wave climate shows a projected poleward migration of storm tracks and generally a slight decrease in wave heights for the outer coast of the Bay Area (and California in general) compared to the historical record (Graham *et al.* 2013; Erikson *et al.* 2015). This future projection is consistent with the observed multi-decadal trend of poleward Hadley cell expansion since 1979 and, therefore, the location of the sub-tropical jet stream (Hu & Fu 2007). However, we note that the poleward shift in storm tracks is not consistent across all GCMs (Collins *et al.* 2013).

Periodic El Niño events exert a dominant control on coastal hazards across the region, driven by seasonally elevated water levels as high as 30 centimeters above normal, and, on average, 30% larger winter wave energy (Barnard *et al.* 2015). The powerful El Niño of 2015-16, one of the three largest in the historical record, resulted in elevated water levels of 10-20 cm and winter wave energy that was over 50% larger than the typical winter in the Bay Area, driving unprecedented outer coast beach erosion (i.e., landward shoreline retreat) that was 98% higher than normal (Barnard *et al.* 2017). The frequency and magnitude of future El Niño events, combined with SLR, will be a key driver of coastal vulnerability in the coming decades, including influencing nuisance flooding patterns due to the combination of seasonally elevated sea levels with background sea level rise. Research to date on future El Niño patterns is largely inconclusive (Collins *et al.* 2010), although a recent study suggests a potential doubling in the frequency of extreme El Niño events (Cai *et al.* 2014), such as those that occurred in 1982-83, 1997-98, and 2015-16.

⁶ More information on the specific impacts climate change will have on California's Ocean and Coast – including sea level rise, rising temperatures, and rising ocean acidity – can be found in a companion Fourth Assessment report (California's Ocean and Coast Summary Report 2018).



Social Systems and Built Environment

In this section, we consider the threats to social systems and the built environment in the Bay Area that are created by climate change. We examine energy consumption, including both buildings and vehicle charging; energy distribution, including electricity, natural gas, and transportation fuels; land use; infrastructure and services that support transportation and urban water resources; and direct and indirect impacts on public health in the region. In each of these areas, we describe the specific vulnerabilities that manifest in the Bay Area and note cases where Bay Area vulnerability is more or less than that for the state as a whole.

Throughout this section, we emphasize the risks for vulnerable communities, which are particularly pronounced for certain climate stressors in the Bay Area. These vulnerable populations include but are not limited to: low-income individuals and families, people of color, women, the young, the elderly, people with disabilities, people with existing health issues including mental health issues, people with limited-English proficiency (LEP), immigrants and refugees, agricultural workers and day laborers, traditional communities, people who are or have been incarcerated, people without a high school education, and other groups or a combination of groups. These populations will often not only feel the immediate impacts of climate change more significantly, but also are less able to adapt to climate changes or recover from their impacts.

Finally, it is important to note that a complex set of interdependencies underlie these vulnerabilities. An understanding of these feedbacks and dependencies across infrastructure and social systems is critical to assessing how California's social and built environments will respond in the coming century. Examples of interdependencies developed further below include the links between (1) land use, transportation infrastructure and traffic, energy consumption, and air pollution; or (2) water resources, energy consumption, and public health. In the subsections that follow, we consider each component individually and examine how it is likely to be impacted by different aspects of climate change. Within each section, we also include a brief discussion of the interdependencies that would influence outcomes within the segment under consideration. This structure does not do justice to the highly integrated aspects of social and built systems in California, but it begins to convey the complexity that must be addressed.

Transportation Infrastructure

HIGHLIGHTS

- The three-way relationship between land use, transportation infrastructure, and energy systems—all of which are vulnerable to climate impacts—is perhaps the most critical interdependence in determining the future growth and prosperity of the Bay Area.
- Much of the Bay Area's transportation system—airports, roads, and railways—is concentrated along the bay where flooding from sea level rise and storm surge is a major vulnerability.
- Disruptions to the transportation system from flood events will occur at critical links, such as highways and rail lines serving the port of Oakland, as well as low-lying roadways that connect the region's bridges and highways.



Nearly 7.2 million people live in the Bay Area, and regional residents take more than 21 million total trips on an average weekday (MTC & Caltrans 2008). In 2007, more than 82% of all trips were made by automobile, and most of the remainder were made by bus or rail transport. The Bay Area has 620 miles of freeways, 800 miles of state highways, and 19,000 miles of local roadways owned and maintained by Bay Area cities and counties (MTC & Caltrans 2008). The region's rail network has more than 600 miles of track and moves both freight and passengers (BCDC 2009). Dedicated trackways exist for Bay Area Rapid Transit (BART), the San Francisco Municipal Transportation Agency (MUNI), Sonoma-Marín Area Rail Transit (SMART), and the Valley Transportation Authority (VTA) light rail system in San Jose and the Silicon Valley. All other tracks (e.g., Amtrak, Caltrain, ACE) are shared by passenger and freight service, leading to substantial congestion. In addition, over the next 50 years, freight demand is expected to increase up to 350% (MTC 2007; BCDC 2009).

The greatest impact of climate change for the U.S. transportation system will be the flooding of roads, railways, and airport runways in coastal areas (NRC 2008), as well as sea level rise and storm surges. San Francisco Bay has approximately 1,000 miles of shoreline, and airports, roads, and railways throughout the region are concentrated along the coastline. That means coastal flooding to transportation systems is a major vulnerability (see above for a summary of sea level rise projections). Sea level rise will also be accompanied by sizable wind waves (Cayan *et al.* 2008). For example, very high seas and storm surge caused hundreds of millions of dollars in storm and flood damage around San Francisco Bay in 1997–1998 (Ryan *et al.* 1999).

To understand the effect of sea level rise on the Bay Area transportation network, Biging *et al.* (2012) created a high resolution digital elevation model (DEM) using data from Lidar, an airborne technology that provides very precise measurements of land surface elevation. In addition, they developed a digital surface model (DSM) of vegetation, buildings, bridges, and other infrastructure to better calculate the risk of flooding by sea level shifts and storm surges. To visualize potential inundation, they considered sea level rise scenarios in increments up to 1.4 meters, plus the equivalent of a 100-year storm event. Peak water level is modeled to an upper level that is in excess of 4 meters to visualize the extent to which transportation features and facilities become inundated. Results for the Port of Oakland (Figure 11) (Biging *et al.* 2012) are presented here to demonstrate the combined effect of progressive sea level rise and extreme storm events on inundation. With just modest sea level rise (0.5 meters), the approach to the Bay Bridge (upper portion of Figure 11) and portions of interstates 880 and 980 (running through the center-right of Figure 11) are compromised by inundation. As sea levels progress to 1.0 meters of rise (yellow) and 1.4 meters of rise (red), the inundated regions expand. At these higher sea levels, new transportation arteries

FIGURE 11



Inundation scenarios for the Port of Oakland. This delineates the area at risk of a 100-year flood event under different sea level rise elevations (none or 0 m, 0.5 m, 1.0 m, and 1.4 m). Source: Biging *et al.* 2012.



aren't necessarily cut, but the depth and duration of inundation will proportionally increase with rising sea levels. The result is that the Port of Oakland's vulnerability lies primarily in the links between the port and the terrestrial transportation network, which are fundamental to the port's functioning.

In addition, Biging et al. (2012) quantified the impact of sea level rise and storm events on the transportation network of the greater Bay Area by examining travel time between key nodes (high connectivity nodes) of the highway system. Figure 12 illustrates the greatest impact on individual links in the sample network by mapping the increase in access time to neighboring nodes. The results show that disruptions are greatest between east-west linkages, compared to north-south connections, and the overall regional network itself breaks down in several locations as key nodes become inaccessible. Travel times will increase significantly although much of the regional system remains accessible via secondary roadways further inland and not adjacent to areas of inundation.

BOX 2: 9 FABULOUS SLR DESIGNS FOR 9 BAY AREA COMMUNITIES

Resilient By Design: Bay Area Challenge

Financed through a \$5 million grant from the Rockefeller Foundation, Resilient By Design (RBD) was a year-long collaborative design challenge bringing local, national, and international experts together with local residents and public officials. The result is nine innovative and community-based solutions that will strengthen the Bay Area's resilience to sea level rise, severe storms, flooding, and earthquakes. RBD was inspired by and modeled on the Resiliency By Design competition in the New York City area after Superstorm Sandy.

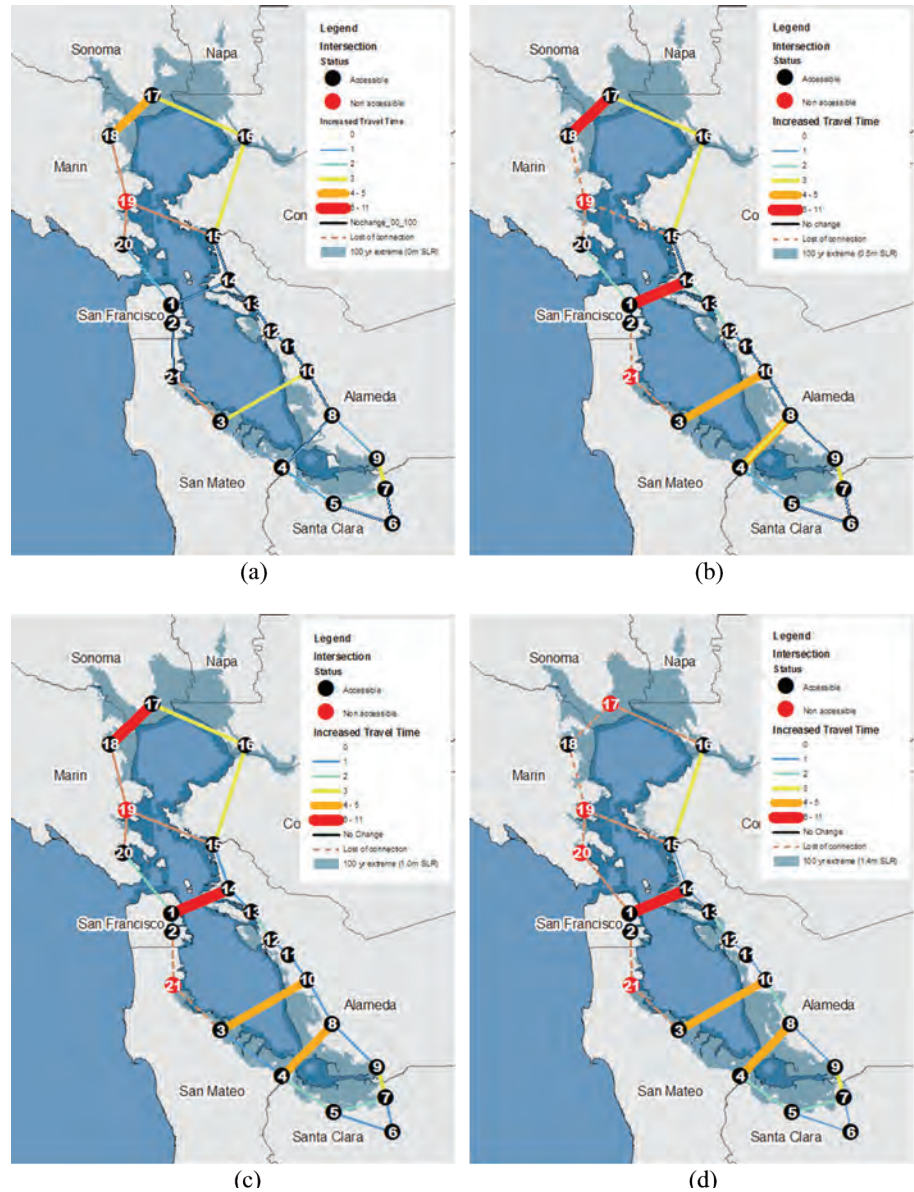
After receiving 51 submissions and undergoing an extensive jury process, RBD selected **10 winning Design Teams** to participate in the Bay Area Challenge. The teams include designers, urban planners, architects, engineers, and other resilience experts with local, regional, national, and international expertise. In Phase 2, the 10 teams spent two months touring potential project sites and meeting with community organizations and local government leaders. From this intensive research phase, 10 sites were selected and matched with the 10 teams for five months of collaborative planning and design. Finally, the proposed projects were presented and judged in May 2018. Now, Bay Area stakeholders are turning to the task of financing and implementing these innovative futures.



Interdependence with Other Sectors

In addition to the direct disruption of the transportation network by inundation, the transportation infrastructure is also vulnerable to disruptions in the energy sector, particularly the electrical grid and fuel delivery. Over the longer term, land use and population shifts will be a critical driver of the efficacy of the transportation network and will also simultaneously dictate energy consumption by the transportation system. As discussed below, low-income households are increasingly being displaced inland, increasing demands on the transportation infrastructure to carry this population to employment or medical care in the urban centers of the Bay Area. At the same time, the functioning of the transportation system will affect shifts in population and employment distributions throughout the region. This three-way relationship between land use, transportation infrastructure, and energy systems is perhaps the most critical interdependence in determining the future trajectory of the San Francisco Bay Area.

FIGURE 12



Increased travel time (ratio of impaired to normal travel times) between near neighbor intersections after a 100-year extreme event with different sea-level rise scenarios (none or 0 m, 0.5 m, 1.0 m, and 1.4 m). Source: Biging et al. 2012.



Land Use and Community Development

HIGHLIGHTS

- Future land use decisions will significantly influence the Bay Area's efforts to address climate change, affecting building and transportation energy, urban water demand, and wildfire ignitions.
- Land use choices can also exacerbate climate risks by creating urban heat islands, changing runoff following extreme rain events and other factors.
- The critical lack of affordable housing in the core of the region is forcing households further south, north, and inland, with negative energy and environmental consequences.
- Regional equity issues will be exacerbated in the coming decades as lower income and minority households disproportionately live in the least desirable locations with higher vulnerability to climate and other environmental risks.

Land use in the Bay Area, in which we include housing and non-residential buildings and development, is evolving rapidly due to the interaction of markets and policies. Market forces of particular relevance to the Bay Area include housing supply, real estate prices, increases in population, and employment and growth in high-tech industries and incomes. Policies include both local land use plans and zoning regulations and regional efforts such as Plan Bay Area (see Box 3).

A fundamental crisis for the future of the Bay Area is the lack of affordable housing in the core of the Bay Area, except for a few neighborhoods which are bayfront, at low elevation, and at high risk of current and future flooding. This lack of affordable quality housing, and the climate threat to the housing of that type that does exist, is forcing households further south, north, and inland, in some cases as far as the Central Valley, to find housing they can afford. The movement of "Bay Area" residents further from the urban core increases commuting time and distances, with economic and environmental consequences.

Because of the close connection between the distribution of residents throughout the region and commute distances, transportation and land use are tightly linked. This has always been the case for the Bay Area, raising concerns about disruption due to seismic risk. Now, however, natural risks arising from climate change, including increased flood and fire frequency and magnitude, must be featured in long-term decision-making and planning. Models in support of Plan Bay Area (Box 3) are already incorporating the interaction between transportation, real estate, and climate change risks.



BOX 3: TACKLING CLIMATE CHANGE, SEA LEVEL RISE, AND RESILIENCE THROUGH INTEGRATED PLANNING

Raising the Bar on Regional Resilience

Resilience planning is fast becoming a priority for the Bay Area with its low-lying shorelines susceptible to flooding and rising sea levels, as well as its active earthquake faults and social inequity issues compounded by an affordable housing crisis. Resilience is commonly defined as the ability to recover from setbacks and adapt to change (Ovans 2015). A resilient Bay Area would be well-positioned to manage and respond to the uncertainties and physical hazards associated with the Bay Area's geographic setting and changing climate while protecting vulnerable communities, critical infrastructure, and the natural environment.

With the July 2017 adoption of [Plan Bay Area 2040](#) — including new commitments to resilience-building actions — the region is at an important crossroads where research, planning, design, and management activities focused on resilience are coming together both in policy and on the ground. The plan's adoption is one of several milestones reached in 2017 that demonstrate both how far the region has come and the opportunities ahead to raise the bar on the resiliency of the Bay Area's transportation system and other critical infrastructure, urbanized areas, and environmental systems.

The first milestone in 2017 was the assembly of a critical mass of research and analysis on vulnerability to sea level rise and flooding all around the bay by local and regional partners through the Bay Area Regional Collaborative (BARC) and other efforts. Some of this work — led by the San Francisco Bay Conservation and Development Commission's Adapting to Rising Tides program (BCDC ART) and the Association of Bay Area Government's (ABAG) Resilience Program — identified four areas of vulnerability related to sea level rise and flooding in need of more than just local attention. These regional level vulnerabilities include transportation infrastructure, fragile housing, disadvantaged communities, and natural areas and parklands close to shore.

A second 2017 milestone is the use of this information to identify six actions in Plan Bay Area 2040 (the region's state-mandated Sustainable Communities Strategy) that would help the region address vulnerabilities in an integrated way. These six actions address regional governance, resilient housing, funding, social equity, mitigation, and other issues arising from climate adaptation planning on a regional level. The substance of these actions reflects coordinated work on the part of BARC, BCDC, ABAG, and the Metropolitan Transportation Commission (MTC), as well as the California State Coastal Conservancy and the San Francisco Estuary Partnership. These actions include the completion of a regional assessment that identifies the most vulnerable transportation assets, communities, and natural areas and begins to develop appropriate strategies to address those vulnerabilities in a phased approach. This work is being funded through a grant from Caltrans, with matching funds from the Bay Area Toll Authority (BATA), a strong indication that transportation agencies are seeking solutions to make the region more resilient.

A third 2017 milestone is the launch of the Resilient by Design | Bay Area Challenge, which is now engaging 10 multi-disciplinary design teams in addressing resilience challenges at 10 project locations around the bay. The results, to be completed in summer 2018, will add to the region's toolbox of options for forging more resilient shorelines, cities, and communities.

An important component of integrating resilience planning across the region will be informing the development of the next Sustainable Communities Strategy, a process scheduled to take place between now and 2021. The Sustainable Communities Strategy integrates land use and transportation planning to meet aggressive greenhouse gas reduction targets (required to be updated every five years by Metropolitan Planning Organizations in California through State Bill 375). While Plan Bay Area 2040 is the current version of the state-mandated Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), just approved in July 2017, the next version may take a different form. Over the next two years, regional partners will be laying the



groundwork for enhancing this regional planning process so that it more strongly supports multi-hazard, multi-benefit initiatives and strategies that increase the Bay Area's resilience.

Strengthening local and regional resilience through this existing, state-mandated planning process is particularly important since the resulting plans commit the region to focusing growth and development in specific places within the metropolitan Bay Area. The RTP/SCS also prioritizes transportation investments over the next 20 to 30 years. When considered together, and in light of new information about their vulnerability to flooding, sea level rise and other hazards, choices made around these areas identified for future growth and investments will be central to the Bay Area's overall resilience.

In addition, Plan Bay Area 2040's strong focus on the housing affordability crisis highlights the particular vulnerability of people already living within the economic margins of our costly region. Both the affordability and safety of regional housing options are critical components of resilience. This became even more evident in October 2017, when the region lost 3,000 homes within one week in Sonoma, Napa, and Solano counties to devastating wildfires, leaving thousands homeless and many unable to find affordable replacement or temporary housing.

Addressing climate change in the context of regional resilience is a complex challenge for those charged with integrating planning across nine counties, more than a hundred cities, and myriad local jurisdictions and special districts. Clearly, the region must continue to accelerate mitigation of climate impacts by reducing greenhouse gas emissions and improving air quality, activities which the Bay Area Quality Management District, MTC, and ABAG have led for many years. At the same time, the region must work to ensure our longstanding and future residents have safe and affordable places to live. Strengthening our urban and natural infrastructure, ensuring public safety, and growing our regional resilience equitably will require a partnership across regional agencies, local jurisdictions, and non-governmental organizations. They'll also need to work with residents, businesses, designers, builders, academics, health professionals, and others in the community.

Equity issues will be significant as lower income and minority households disproportionately live on the least desirable land, and frequently have higher degrees of vulnerability to environmental risks. At the same time, low-income communities and communities of color are often left out of land use planning and decision-making. This long-term vulnerability is made acute by the fact that these communities may not be sufficiently connected to institutions and agencies that can help them after a climate event.⁷ In contrast, we note that high-priced real estate on the urban edge and with views can be among the most vulnerable in the Bay Area to wildfire risk, as occurred in the 1991 Tunnel Fire in the Oakland hills.

⁷ More details on Climate Justice issues – including the disproportionate impacts and barriers to adaptation faced by several California communities – can be found in a companion Fourth Assessment that covers Climate Justice and Climate Equity issues in-depth (Climate Justice Summary Report 2018).



Interdependence with Other Sectors

Land use in the Bay Area is tightly linked with almost all other considerations of climate change impacts. In fact, it is arguable that population shifts (geographically or in terms of total numbers) may be just as important as (or even more important) climate factors in establishing the future trajectory for the social and built systems of the Bay Area. Shifts in land use will influence energy demand, transportation demand and congestion, public health, and even urban water demand. Further, changes in Bay Area land use will feedback into climate risks, through the creation of urban heat islands, and changes in the runoff response to precipitation potentially exacerbating urban flooding and shifts in the sediment supply to the San Francisco Bay ecosystem.

Urban Water

HIGHLIGHTS

- The Bay Area's water agencies rely on a diverse portfolio of local and imported sources. The reliability of these sources will vary dramatically in both the short and long term as the climate changes.
- Climate impacts — such as earlier melting of snowpack, increasing seawater intrusion into groundwater, increased rates of evapotranspiration, and levee failures or subsidence that contaminate Delta supplies — will affect both the quantity of water available and the quality of supplies.
- Wastewater treatment plants, historically located along bay shorelines where effluent discharge was convenient, are now highly vulnerable to future sea level rise.
- Rising bay water and groundwater levels will also increase salinity intrusion and subsurface flooding. If this groundwater intrudes into sewer systems, treatment processes will become more expensive and wastewater recycling capabilities will be reduced.
- Climate change will require improved stormwater management in the Bay Area as extreme storm events increase in size and frequency.

Urban water systems include the infrastructure and institutions required to: (1) provide, manage and treat water supplies for potable and non-potable uses; (2) collect, treat, and discharge or recycle wastewater; and (3) manage, and, if necessary, treat stormwater after rain events. Historically, these functions often have been planned and operated separately. Increasingly, however, California urban water agencies recognize the need to view all water as a resource and are moving toward more interdependent systems, commonly referred to as “One Water” systems, as interconnections in the following discussion illustrate.



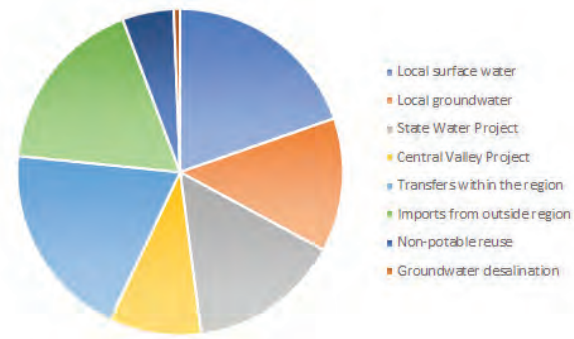
Climate Effects on Water Supply

The Bay Area has 376 community water systems (CWS) (Ekstrom *et al.* 2018). Of those, over 70 are classified as urban water agencies that provide wholesale and retail water supplies. These suppliers rely on a diverse portfolio of sources, including local surface water, groundwater, the State Water and Central Valley Projects, other water imported from outside the region (especially the Sierra Nevada via Hetch Hetchy and Mokelumne Aqueducts), water transferred within the region, groundwater desalination, and water reuse. Figure 13 shows the mix of sources used by urban water suppliers as reported in each agency's 2015 Urban Water Management Plan. Note that this figure aggregates over the entire region, and reliance on local sources is considerably higher in some sub-regions (e.g., Marin and Sonoma Counties) and considerably less in others (e.g., San Francisco).

The reliability of these sources in both the short and long term will vary dramatically. Hydrologic changes affecting the amount and location of precipitation and snowpack in California's mountainous regions will stress existing storage reservoirs, impacting surface supply, imported water, and water transfer availability, especially in the summer and fall. While many strategies to address scarcity are similar for imported and local supplies (e.g., water recycling), the impacts of climate change on the available quantities of surface water could be different for local supplies (e.g., Marin, Sonoma) than those originating from the Sierras (e.g., San Francisco), as changes in local precipitation patterns are different than changes in snowpack and snowmelt. Recent and potential political decisions may affect the quantity and reliability of Bay Area supplies, including changes to water rights (e.g., to protect environmental flows), the fate of the Delta Tunnels, and implementation of the Sustainable Groundwater Management Act (SGMA) of 2014. Institutional structure can also affect supply reliability. Two-thirds of the region's CWS can be classified as small, self-sufficient (S3) systems that serve less than 10,000 people and are not connected to state or federal water projects (Ekstrom *et al.* 2018). Therefore, S3 systems tend to have fewer resources and alternatives in times of scarcity. In the recent drought (2011-2016), these S3 systems were more likely to experience reliability issues due to water shortage and more likely to address these issues with short-term coping strategies (e.g., outdoor watering restrictions) than with substantial or transformational changes (e.g., developing new water supply). Though there are a large number of S3 systems, they serve a very small portion of the population (<2%) in the highly urbanized Bay Area. Also, some of these systems identified as S3 may be connected to the Hetch Hetchy system and are therefore not be entirely self-reliant.

Climate change will exacerbate reliability concerns as it could potentially affect the quantity of water available and the quality of supplies (e.g., earlier melting of snowpack); increasing seawater intrusion into groundwater; levee failures, either structural or due to subsidence of the levees themselves (Brooks *et al.* 2018) that contaminate Delta supplies). Twenty climate change scenarios were evaluated to determine the economic and hydrologic effects on water supply in

FIGURE 13



2015 Water Supplies to the Bay Area. Source: Cumulative values from 2015 Urban Water Management Plans for each agency.



California (Herman, J. *et al.* 2018). Some results, including average water availability and optimal supply portfolios, are reported on a statewide basis. However, costs associated with climate change-related water shortages are reported regionally and, in the Bay Area, may be as high as \$200 million per year in extreme conditions.

Reliability concerns can be mitigated with more diverse water supply portfolios, additional water storage infrastructure above and belowground, and innovative groundwater management. Strategies for increasing supply reliability are being pursued by individual agencies and as part of a regional effort called the Bay Area Regional Reliability (BARR) partnership made up of several large water suppliers serving six counties (see Box 4). Alternatives under consideration by BARR and other Bay Area agencies include: expanding storage and conveyance infrastructure; increasing non-potable water recycling; implementing potable reuse and/or seawater desalination; promoting groundwater augmentation, banking, and conjunctive use; constructing interties between systems to enable additional water transfers; and harvesting stormwater.

Reducing water demand can also increase reliability. In 2015, water consumption in the region was 104 gallons per capita per day (gpcd), about 20% lower than the statewide average for urban water agencies that year. For individual agencies, it ranged from 56 to 204 gpcd. (Water consumption in 2015 was lower than a typical year because an executive order required urban water agencies to reduce water use as an emergency drought response.) For comparison, per capita water consumption in Singapore is around 40 gpcd and in Germany is just over 30 gpcd. In Israel and Australia, countries with similar climates to California, water consumption averages about 65 and 90 gpcd, respectively. (Note: Water demands vary by necessity due to, for example, climate and economic drivers. Further, data for consumption rates were obtained through diverse online sources and the underlying accounting methods may not be consistent.) The relatively low per-capita water use in much of the Bay Area reduces the potential for cost-effective conservation at the low end of the reported values. This may explain why water agencies in this region report lower reliance on demand management in times of water shortage than most other regions (Ekstrom *et al.* 2018). Finally, we note that without adequate management, water demand may increase due to climate change-related warmer temperatures, especially for outdoor irrigation or cooling.

Climate Effects on Wastewater

An estimated 200 billion gallons of wastewater are generated in the Bay Area per year (*SF RWQCB staff summary report* 2011). Most wastewater in the region is collected and discharged to San Francisco Bay, directly or indirectly, with a few agencies discharging to the Pacific Ocean (Figure 14). Much of the discharge from inland wastewater treatment plants (WWTPs) shown in the graphic ultimately flows to the San Francisco Bay through surface water channels. Some WWTPs have limits on their discharge volumes. For example, some North Bay plants are not allowed to discharge to the Russian River in the summer to protect public health when recreational uses are common.

The San Francisco Bay ecosystem sits at the center of the region and is a strong driver of policies that limit discharges by volume and quality. Currently, no stringent limitations have been placed on nutrient discharge into the bay due to the fact that the bay ecosystem is limited by other factors, specifically grazing (mostly benthic) and low light levels due to high suspended sediment concentrations. A study of water quality in the bay has indicated a trend toward lower sediment concentrations and clearer waters (Wright & Schoellhamer 2004), as the gold mining sediment pulse works its way through the reservoir and river systems of the Central Valley and San Francisco Bay. If this



trend continues, low light conditions may no longer limit ecosystem growth, raising the potential for eutrophication (excessive plant and algae growth due to high nutrient concentrations) in the bay ecosystem.

This trend would be compounded by a shift in the physics of the bay toward a more persistently stratified condition (Cloern *et al.* 2011), which could be caused by longer, hotter heat waves or increases in precipitation. A more stratified bay would allow phytoplankton to grow at the surface, unchecked by the species that consume them, reinforcing the risk of eutrophication. The future trajectory of the bay ecosystem is uncertain, but if eutrophication occurs, nutrient discharges from WWTPs may need to be limited. Implementation of nutrient reduction technologies at WWTPs would take years to decades and would come at great regional cost. There is currently significant investment in applied research to understand and project future ecosystem conditions, specifically to determine whether WWTPs will need to invest in strategies to reduce nutrient discharges.

Water reuse is being implemented in partnerships between water and wastewater agencies both to reduce the environmental implications of discharging wastewater to the San Francisco Bay and to provide drought-resilient, local water supply. Water agencies in the region project that non-potable reuse will double by 2035, reducing discharges to the bay by an additional 20 billion gallons (10%) per year. In addition, the BARR partnership (Box 4) is evaluating three potable reuse projects that would use advanced methods to treat water to drinking water standards before it is used for groundwater recharge. Demand management strategies that reduce water consumption may potentially reduce wastewater volumes and reuse in the future.

BOX 4: TAKING A REGIONAL APPROACH TO BAY AREA WATER SUPPLY RELIABILITY

Bay Area Regional Reliability Project (BARR)

The Bay Area's largest water agencies are working together to develop a regional solution to improve water supply reliability for over 6 million area residents and thousands of businesses and industries. The BARR partners include Alameda County Water District, Bay Area Water Supply and Conservation Agency, Contra Costa Water District, East Bay Municipal Utility District, Marin Municipal Water District, San Francisco Public Utilities Commission, Santa Clara Valley Water District, and Zone 7 Water Agency. The BARR Partners have joined forces to leverage existing facilities and, if needed, build new ones to bolster regional water supply reliability. The benefits of a *regional* approach include:

- Addressing climate resiliency needs
- Facilitating the transfer of water supplies during critical periods of drought or following natural disasters
- Bolstering emergency preparedness
- Leveraging existing infrastructure investments
- Enhancing overall water supply reliability

The 176-page [BARR Drought Contingency Plan](#) serves as the first phase of the BARR project. The DCP differs from planning efforts in the past because it focuses on the Bay Area as a region as opposed to individual agencies and integrates all of the required elements into one document.

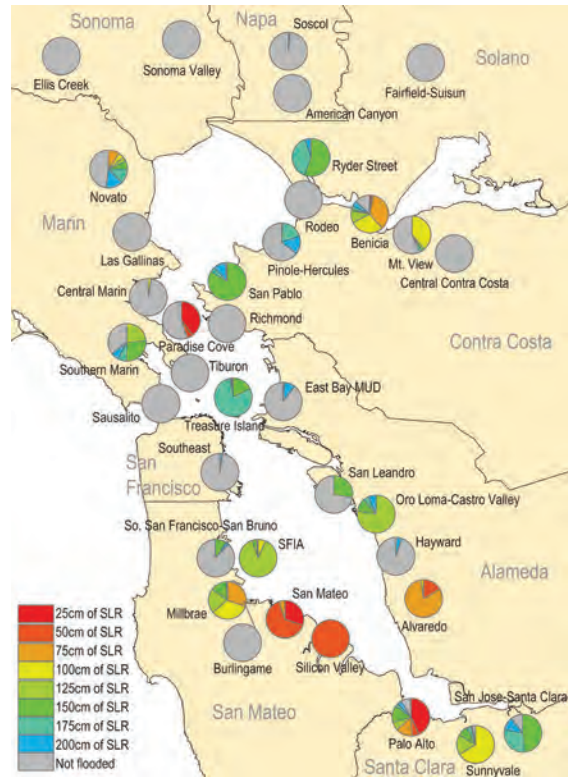


Many of the region's WWTPs are located along bay shorelines and discharge treated effluents directly to San Francisco Bay waters (Figure 14). While convenient historically, this placement now makes WWTPs vulnerable to inundation if the sea level rises. Using CoSMoS (Barnard *et al.* 2014) model simulations of bay water levels responding to a range of future sea level and tidal forcing, Hummel *et al.* (2018) found that that WWTPs in the South Bay are most immediately vulnerable to coastal flooding disruption, but other sites, such as Benicia, Paradise Cove, San Pablo, and Southern Marin, are also vulnerable but on longer timelines (Figure 14). The large costs of protecting, retrofitting, or relocating this critical infrastructure must be considered in capital investment plans for these facilities.

Although the results summarized in Figure 14 are based purely on coastal flooding, Hummel *et al.* (2018) also projected the influence of rising groundwater tables on inundation of WWTPs. Accounting for this flooding mechanism leads to more inundation of WWTPs in the central and northern portions of the Bay Area than appears in Figure 14, over a similar timeframe. As an additional risk, rising bay water and groundwater levels are also associated with increased salinity intrusion into the subsurface, threatening drinking water supplied from these aquifers. If saline groundwater intrudes into sewer systems, the treatment costs associated with wastewater recycling will increase.

WWTPs in the Bay Area are making efforts to mitigate their contributions to climate change. Several agencies that digest sludge anaerobically have implemented programs to augment their digesters with other organic wastes (e.g., slaughterhouse and dairy waste, food waste) to increase their production of methane (natural gas). The East Bay Municipal Utility District, for example, produces electricity with their methane. Though methane burning releases CO₂ as a waste product, this is considered a carbon neutral energy source as it reuses a waste product and offsets purchases of electricity from more carbon-intensive sources.

FIGURE 14



Wastewater treatment plants (WWTPs) in the San Francisco Bay Area. Pie graphs show for each facility the fraction of its footprint that will be inundated for the specified level of sea level rise; colors are cumulative so that the inundation fraction at 100 centimeters is represented by the portion of the pie associated with 25, 50, 75 and 100 centimeters. Many of the region's WWTPs are located along bay shorelines and discharge treated effluents directly to San Francisco Bay waters. Note: Only those facilities on the shorelines of San Francisco Bay are shown here; those on the outer coast are not included. Source: Hummel *et al.* 2018.



Climate Effects on Stormwater

For much of the region, stormwater is managed through separate sewers from wastewater. San Francisco, however, operates a combined system where wastewater and stormwater are collected and treated through the same infrastructure. Influent volumes to San Francisco's two wastewater treatment plants can be seven times greater during significant rain events (SFPUC 2014). These dramatic shifts in both the quantity and composition of the influent can overwhelm the treatment process and lead to discharges of untreated wastewater to the bay or Pacific Ocean. Other municipalities that operated separate sanitary and storm sewer systems can also experience significant fluctuations in influent volumes and composition to their wastewater treatment plants due to leaks, which allow inflow of stormwater into the collection pipes and manholes with similar results (EBMUD 2013).

Climate change will affect stormwater management in the Bay Area due to changes in the frequency and severity of storm events (see Precipitation section, above). Urban flooding could become more severe, although potentially less frequent, and could vary significantly from year to year. Cities such as San Francisco and Berkeley are investing in green infrastructure (e.g., porous pavements, bioswales, rain gardens) to collect and manage stormwater on a small scale to provide flexible, integrated stormwater management, dampening the flooding and sewer overflow risks associated with storm events. Some water agencies, including the Santa Clara Valley Water District, are planning to expand larger-scale stormwater collection as a potential source of water supply in the future.

Interdependencies with Other Sectors

Population growth is expected in inland communities as individuals and households seek affordable housing. This growth of the inland population, independent of rising temperatures, will lead to increased irrigation and cooling water consumption; warmer climates will contribute further to increased water demand. Public health would be at risk if the water system was significantly disrupted, either due to a lack of potable water or through failures in wastewater treatment systems. Beyond that, the interdependencies that involve the Bay Area water systems are less extensive than in the other sectors discussed in this section, except for some basic dependence of water delivery and wastewater treatment on energy grids, and vice versa.

Energy Distribution

HIGHLIGHTS

- The Bay Area electrical grid is vulnerable to power outages during wind and wildfire events.
- Much of our natural gas transmission system is located along waterways and will be impacted by flooding from sea level rise and extreme storm events.
- California's transportation fuel sector, which distributes oil from refineries to end users, will be increasingly exposed to extreme weather events such as flooding and wildfire.



The generation and distribution of electricity throughout the Bay Area are driven by the need to supply sufficient energy for consumption, which is dominated by buildings and, increasingly, vehicle charging. Distribution of energy resources throughout the region (1/3 of the region's electricity is generated outside of the region) is supported by networked infrastructure systems, including those that distribute electricity, natural gas, and other fuels (BAAQMD 2017). The nature of networked infrastructure systems creates particular vulnerabilities to environmental disruptions, where a local disruption (such as would occur due to flooding or fire) cascades through the infrastructure systems to create a regional impact. Understanding the local-regional interactions created by the infrastructure networks is critical to regional resilience.

Electrical Grid

The electrical grid in the Bay Area consists of both above and belowground links to households and businesses, which leaves neighborhoods and subregions vulnerable to outages during wind and wildfire events. Under scenarios of climate change, extreme storm events with stronger winds may become more frequent, and urban wildfires most certainly will. The combined effect is that aboveground elements of the electrical grid will face more frequent and severe threats in the coming decades.

Natural Gas Distribution

In the Bay Area, extreme storm events coupled with long term sea level rise (SLR) present critical risks for networked infrastructure. In California, the natural gas transmission system is just such an at-risk critical infrastructure structure, with much of it located along the state's waterways and thus vulnerable to greater frequency, duration, and depth of inundation. Such inundation may result in increased buoyancy or pressure forces, erosion, debris flows, disruption of supporting materials, and saline conditions. These conditions have the potential to accelerate structural failures and potentially threaten the functionality of California's natural gas transmission system as a whole.

While household and business electrification are emerging trends in the Bay Area, we remain dependent on an uninterrupted supply of natural gas, both for the economy and the well-being of the region's population. Natural gas supplies meet nearly one-third of California's total energy requirements and natural gas-fired generation is the dominant source of electricity in the state, accounting for 43% of all generation in 2012 (CEC 2014).

Recent work (Radke *et al.* 2016) characterized the vulnerability of the natural gas transmission system to SLR by simulating where assets are likely to be affected by inundation and collaborating with asset operators to analyze the risks that this inundation poses to their system. This analysis integrated geographic information systems (GIS) and a state-of-the-art hydrodynamic model, 3Di, to simulate the location and depth of potential inundation in California under realistic extreme storm events coupled with various increments of SLR. Overlaying the resulting inundation projections with the location of natural gas led to the identification of vulnerable locations.

During a near 100-year storm event with no sea level rise, approximately 41 kilometers (26 miles) of PG&E's transmission pipelines are predicted to be inundated. (PG&E voluntarily assessed the risk such inundation poses to their assets and helped inform efforts to design mitigation strategies). This more than doubles to approximately 96 kilometers (60 miles) with a SLR of 0.5 meters and doubles again to 193 kilometers (120 miles) at a SLR of 1.0 m. Finally, when SLR reaches 1.41 meters, the amount of inundated PG&E pipeline increases a further 1.6 times to 308



kilometers (191 miles). However, a simulated SLR of 1.0 meters inundates only 28 km (17 miles) of transmission pipeline to Peak Water Levels (PWLs, which are the highest total water level achieved in the simulation) of more than 2.5 meters and much less, approximately 5 kilometers (3 miles) of more than 3.5 meter PWLs. Although the extent of pipeline inundated is substantial, the amount experiencing deep PWLs is quite small. A simulated SLR of 1.41 meters exposes approximately 53 kilometers (33 miles) of pipeline to PWLs of more than 2.5 meters and approximately 30 kilometers (18 miles) to PWLs of more than 3.5 meters.

As a result, even if a near 100-year storm event may be considered catastrophic for some infrastructure, it may not have a catastrophic effect on natural gas pipeline infrastructure. From a reliability (systemwide) perspective, the worst-case scenario of 1.4 meters in sea level rise with storm surges poses a long-term threat to the PG&E transmission assets. PG&E made a preliminary estimate that the annual cost of natural gas transmission upgrade may be approximately \$4 to \$7 million and that only about 37 kilometers (23 miles) of transmission pipeline would need to be replaced and secured with a concrete coating. In addition, approximately another 19 kilometers (12 miles) may need to be anchored in place with concrete footings, and less than 1 kilometer (0.6 mile) of pipeline may need to be deactivated. Therefore, the SLR of 1.41 meters plus a near 100-year storm event scenario does not pose a catastrophic threat to the natural gas transmission system as managed by PG&E.

Transportation Fuels Distribution

California's transportation fuel sector (TFS), which distributes oil from its source to end users, will increasingly be exposed to extreme weather events including flooding and wildfire under climate change. Radke and Biging (2018) organized the TFS into a physically and organizationally connected, multi-sector network. Using this network, they projected and analyzed climate change-induced flooding and wildfire exposure at both coarse and fine spatial resolutions, across multiple temporal horizons and climate scenarios, resulting in an assessment of the TFS's exposure and vulnerability. Statewide, the results show that California's TFS assets are minimally exposed to coastal flooding but will suffer increasing exposure due to rising sea levels. Higher proportions of TFS assets are exposed to wildfire (e.g., 28% of refineries in a 5-year period). Direct heat exposure can disrupt fuel distribution, and in extreme instances permanently damage infrastructure. Understanding where wildfires occur, with what frequency, and with what intensity is crucial information to plan for a resilient TFS.

For the Bay Area, fine resolution simulations (Radke *et al.* 2018) indicate that TFS assets in low-lying, flat, and coastal areas, such as the San Francisco Bay Area and the Sacramento-San Joaquin Delta, are vulnerable to coastal flooding. Using 50-meter (164-foot) resolution coastal flood models, Radke *et al.* (2018) show that a relatively small proportion of each TFS asset type is exposed to any depth of coastal flooding in the state. Docks and terminals are the most exposed assets with on average 12.2% and 11.9% (respectively) flooded between 2000 and 2100, whereas only 0.92% of the state's gas stations are exposed. From the 2000-2020 period to the 2080-2100 period, the exposed proportions of assets increase from 0.44-9.00% (in 2000-2020) to 1.99-21.60% (in 2080-2100). Additionally, increased proportions of the assets are exposed to more severe levels of flooding later in the century. During the 2000-2020 period, 0.01-5.16% of the assets are exposed to extreme flooding with depth greater than 2.0 meters, and these proportions increase to 0.21-6.10% during the 2080-2100 period.

Wildfire threat varies geographically, and Radke *et al.* (2018) make use of the projections by Westerling (2018) for a regional analysis that estimates the amount of area burned by large (> 1000 acres or 1.56 square miles) future



wildfires. These projections were used to determine which regions and TFS assets in California are potentially threatened by large wildfire events. In a complementary analysis, Radke and Biging (2018) also pursued high spatial resolution analysis (5 meters or 16.4 feet) to assess wildfire hazard with fine precision at the individual asset level. By identifying the wildfire heat exposure hazards, TFS asset managers can assess their own vulnerabilities and damage scenarios, develop targeted risk mitigation strategies, and prepare for wildfire events where firefighters cannot control wildfires around the asset. While the detailed interaction between fire risk and TFS assets analyzed by Radke and Biging (2018) focused on assets in the Sierra foothills, supply lines extend this vulnerability into the San Francisco Bay Area.

Radke et al. (2018) conclude that product pipelines and central distribution terminals are the most critical assets within the TFS network from the perspective of climate vulnerabilities. Their statewide analysis identifies that docks, terminals, and refineries are the most exposed TFS assets to coastal flooding, whereas roads and railroads are the most exposed assets to wildfire. In response, stakeholders are planning to adopt hardening measures, such as improvements on physical infrastructure, as well as resiliency actions, including improvements to behavioral responses at the organizational level. Fine spatial resolution exposure projections are also effective tools to facilitate stakeholder discussions. The fact that many low-income and under-represented communities sit near TFS facilities reinforces the community vulnerabilities through the effects of multiple stressors and limited resources to making preventative investments.

Interdependence with Other Sectors

Radke et al. (2018) concluded that the TFS network depends on supporting inter-connected sectors such as electricity and gas, and that the vulnerability of the TFS network has two external impacts beyond disruption of its own operations: (1) failures in the TFS network disrupt the transportation systems that rely on it for fuel delivery; and (2) disruptions to transportation fuel delivery will place increased pressure on the state's emergency management infrastructure, both through the direct risks associated with TFS failure and through reduced capacity due to a lack of fuel delivery.



Energy Consumption and Distributed Generation

HIGHLIGHTS

- Warmer summers will increase summer energy demand across the region, with the largest increase expected in coastal cities as air conditioning adoption grows there. Warmer winters will lead to decline in winter heating demand.
- Building energy demand is higher in inland regions (warmer summers/cooler winters), so reducing Bay Area energy consumption will strongly depend on where new housing and business growth are located.
- Increasing building energy efficiency and resilience at a regional level will be challenging due to large numbers of older houses, multi-family housing units, and small office buildings.
- Changes in daily and seasonal energy demand, coupled with increased reliance on solar and wind energy, create novel challenges in management of the electrical grid.
- Since transportation accounts for 40% of the Bay Area's GHG emissions, reducing vehicular fossil fuel consumption through both adoption of zero-emission vehicles and by reducing vehicle miles traveled is crucial, a shift that will also produce substantial public health benefits. The shift to electric vehicles will require large investments and innovations in charging infrastructure.

This section examines the demand side of Bay Area energy usage. We consider the energy needs for buildings and vehicles separately, and highlight the expansion of PV installation and its value for building and vehicle energy needs.

Building Design, Smart Buildings

One striking feature of the Bay Area is the age of the building stock⁸. Nearly half of the housing stock was built before 1969, years before the first building codes became law in 1974 (BayREN 2017). Older homes often lack insulation, and most have single-paned windows and can benefit from energy-saving retrofits. Another important element is that the Bay Area has over 700,000 housing units with five or more units in multifamily buildings. This represents 25% of Bay Area housing units and almost a quarter of statewide multifamily units. Multi-family housing is difficult to retrofit because tenants do not own the unit and building owners have little incentive to invest in upgrades. The Bay Area is home to about 62,000 office, retail, hotel, and industrial buildings. The great majority of these buildings (over 90%) are less than 25,000 square feet. These buildings are part of the Small and Medium Business sector and can be difficult to successfully reach for retrofit. Large owner-occupied and government buildings are more accessible for energy efficiency retrofit programs.

Considering anticipated trends in both summer and winter temperatures, we can anticipate how building energy demand for cooling (air-conditioning electricity demand, summer months) and heating (natural gas demand, winter months) will evolve in the coming century. Warmer summers will increase summer energy demand across the region

⁸ This section draws heavily on data from the Bay Area Regional Energy Network. The BayREN is a collaboration of the nine Bay Area counties led by the Association of Bay Area Governments. Bay Area Regional Energy Network. BayREN Energy Efficiency Business Plan 2018-2025. Jan. 2017.



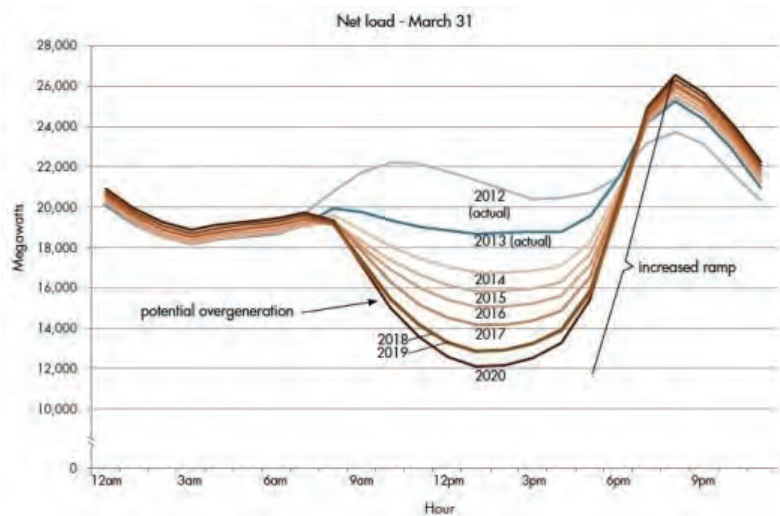
(Auffhammer 2018), with the most pronounced increase occurring in coastal urban settings as air conditioning adoption grows in these communities (see further discussion below in the context of public health). Milder winter temperatures will decrease winter energy demands (Auffhammer 2018), and the most pronounced effect is likely to occur in inland suburban and exurban regions; the moderating effect of the Pacific Ocean on winter temperatures in coastal regions result in low heating demand under current climates.

A key element of California's energy and environmental policies for buildings is to invest in retrofits and move toward zero net energy (ZNE) buildings. In such units, on a source energy basis, the actual annual consumed energy is less than or equal to the on-site renewable generated energy. The Bay Area's mild climate provides a good location for ZNE buildings - over a dozen ZNE commercial buildings have been built in the region (New Buildings Institute 2016). One notable site, the Zero Net Energy Center in San Leandro, is a training facility for electric workers (Zero-Net-Energy-Center n.d.). The building is designed with advanced energy efficiency to achieve ZNE. The site features natural daylighting with operable skylights, exterior windows, and solar light tubes. The building also uses advanced controls integrated with natural ventilation and passive cooling. The efficient design allows the roof to provide all of the space needed for the photovoltaics (PV) to support ZNE performance.

A related trend in the Bay Area is the growing capability of solar PV systems. In fact, San Francisco alone has more than 6500 buildings with PV systems. Unfortunately, less than 1% of these systems can be used if there is a power outage, which could be caused by emergencies such as earthquakes, distribution circuits overheating, or fires. A recent Department of Energy-funded study led by SF Environment (the city's sustainability office) and supported by the Lawrence Berkeley National Laboratory developed guidelines to improve the use of existing PV systems during an electric outage for resilience and community microgrids.⁹

While the number of ZNE buildings and the greater use of PV systems reduce greenhouse gas (GHG) emissions in the Bay Area, the impacts on the timing of electric loads are problematic. Homes and commercial buildings with PV systems create a sharper ramp-up in the late afternoon, as sunlight decreases, contributing to the so-called "Duck curve." Figure 15 shows California's net load curve (net load is defined as the

FIGURE 15



California's Duck Curve showing the daily cycle of net energy load.

Source: https://www.caiso.com/documents/flexibleresourceshelprenewables_fastfacts.pdf

9 <https://sfenvironment.org/solar-energy-storage-for-resiliency>



energy required from non-renewable sources to supplement on-site renewable generation). The electric system is difficult to manage with such a steep afternoon ramp. This problem is growing and by 2025 will occur not only in spring, but in every month of the year (Alstone *et al.* 2016).

A recent study explored how to mitigate problems related to the Duck curve, in particular by using more electricity in the middle of the day or overnight and less in the late afternoon, thus shifting the daily load curve (Alstone *et al.* 2016). Public service announcements and variable pricing are two mechanisms for shifting individual and household electricity consumption. Buildings can also eventually provide demand response from dynamic and demand-responsive lighting, heating, and cooling. This can be achieved by more time-differentiated pricing as well as fast demand response to adjust building loads dynamically. Another element of this trend is the strong push toward electrification of buildings.

Several cities in the Bay Area (San Jose, San Francisco, Palo Alto) have pledged to reduce their carbon emissions by more than 80% by 2050¹⁰ and the University of California has pledged a zero-emission building footprint by 2025. One key method to reach these GHG goals is to electrify buildings. Natural gas for space and water heating often accounts for greater levels of GHG than electricity use in California. As we move toward using electric heat pumps for cooling as well as space and water heating, we need to ensure these loads are controllable and do not result in the Duck curve having an even steeper afternoon ramp. The evolving Internet of Things supports the control of emerging electric loads. New technology to measure, control, and integrate building end-use loads is developing quickly. In particular, collection and analysis of smart meter data offer new insights into energy use trends.

Electric Vehicle Adoption and Charging Infrastructure

Transportation accounts for about 40% of the Bay Area's GHG emissions¹¹. Consequently, reducing California's vehicular fossil fuel consumption through adoption of zero-emission vehicles (ZEVs) (or reducing vehicle miles traveled, see Land Use section, below) is crucial for reducing California's GHG emissions. For the Bay Area, the important role that automobile emissions play in reducing the region's air quality means that a shift to ZEVs will have associated public health benefits. Making ZEVs affordable and convenient for people in the Bay Area will require thoughtful and strategic investments by both public and private sectors.

For the purpose of discussion in this section, we consider the general group of plug-in electric vehicles (PEVs), which replace internal combustion engines with electrochemical batteries and electric motors, to be divided into battery electric vehicles (BEVs) and plug-in hybrid electric vehicles (PHEVs), which still use small amounts of fossil fuel as backup. The economic cost and driving range of PEVs are primarily dictated by battery technology. Over the past 10 years, we have witnessed PEV battery prices fall from 1000 USD/kWh to about 250 USD/kWh (Nykqvist & Nilsson 2015). These declining costs, albeit crucial to enabling PEV adoption, are not the only necessary ingredient for transitioning California's fleet to ZEVs. We also require a robust EV charging infrastructure to fuel these vehicles.

There are two distinct categories of non-residential PEV charging infrastructure: *destination charging* and *fast charging*. Destination charging refers to infrastructure placed at destinations, such as homes, work, or shopping centers. These chargers are distributed throughout urban areas and typically achieve a full charge in several hours.

¹⁰ <https://www.sierraclub.org/ready-for-100/commitments>

¹¹ <http://www.baaqmd.gov/research-and-data/emission-inventory>



Fast charging refers to infrastructure placed along intercity corridors, e.g., between the Bay Area and Southern California. These fast chargers can provide a partial charge in less than one hour, to complete the trip. Both categories of PEV charging infrastructure are required to transition California's transportation fleet.

An integrated approach to PEV charging infrastructure planning requires consideration of both energy and transportation systems, since total ("well to wheel") GHG emissions for PEVs must include emissions created by the electric power generators used to charge the vehicles (Tamayao *et al.* 2015). Consequently, if the objective is to minimize GHG emissions due to transportation, then planning EV charging infrastructure must be considered in tandem with the electric power infrastructure. Recent research has focused on planning EV fast charging stations by jointly analyzing the transportation and electric power networks (Zhang *et al.* 2016, 2017). This work provides one of the first comprehensive approaches to understanding EV charging infrastructure planning across this interdisciplinary boundary.

The implementation of destination charging requires infrastructure to be developed and installed at commercial locations, such as shopping centers, hotels and business parks. Adding EV chargers to these locations can significantly increase electric bill costs, particularly the demand charges associated with peak usage. Demand charges comprise a significant portion of commercial and industrial customers' total electricity costs, typically between 30% and 70%. Adding EV chargers to these sites can significantly increase these costs, further challenging the transition to PEV transportation.

A compelling solution to each of the aforementioned issues is "smart charging." Smart charging refers to automatically controlled charging of PEVs that reshape their power consumption to provide benefits to the PEV infrastructure owner and/or grid operator. At the household level, for example, peak charge structures can create incentives to redistribute demand to periods when regional demand is low. Smart charging can also be applied to minimize the well-to-wheel GHG emissions, by shifting charging to times when the highest percentage of low-carbon electricity sources are online. Recent work has included proof-of-concept computations that scheduled large fleets of PEVs to flatten the Duck curve described in the previous section (Le Floch *et al.* 2016).

A robust PEV charging infrastructure is not yet available. Although significant funds are being allocated to build EV charging infrastructure, such as \$100 million per year from California's Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP, www.energy.ca.gov/altfuels/) and \$800 million distributed over 10 years from the Volkswagen settlement for ZEV projects in California, whether the state will efficiently plan and operate this infrastructure remains an open question. To accelerate this transition, we require more investment into research and technology around smart charging and PEV infrastructure planning tools. Moreover, pilot projects should provide open source data to enable rapid scaling and learning. Finally, economically disadvantaged communities often can experience the greatest benefit from ZEV transportation, due to low operational costs and benefits for local air quality. Mechanisms to provide these communities with equitable access must be investigated.

Interdependence with Other Sectors

Future energy demand will be impacted by climate and has important interdependence with land use, transportation and public health. Of particular importance from the perspective of building energy consumption are geographic shifts in population and employment. Building energy demand is higher in inland regions, due to both warmer



summers and cooler winters relative to the coast, so energy consumption in the employment and commercial sector will strongly depend on future regional development. At the same time, shifts in residential distributions may increase or decrease commute times, depending on the trajectory for the region and where densification does or doesn't occur. Longer commutes will create increased energy demand for the transportation sector, but this must be interpreted relative to building energy consumption. Finally, investments in building climate control are critical to reduce public health risks from heat waves, discussed below with reference to the 2017 heat wave in San Francisco.

We conclude this section by noting that each of these steps towards adaptation, whether in buildings or in vehicles, requires the investment of additional resources versus alternative approaches. Low-income individuals and households will have limited capacity to electrify, and renters will have limited control over the structure and function of their homes or apartments. Widespread adoption in the region will therefore be limited by socioeconomic inequalities until and unless these energy-saving strategies become affordable for all.

BOX 5: FIRST COUNTY IN CALIFORNIA WITH ITS OWN CLIMATE AUTHORITY

Sonoma County Regional Climate Protection Authority (RPCA)

Sonoma County's RPCA was formed in 2009 to provide a formal collaborative structure on climate protection for nine cities and multiple countywide agencies. The RPCA helps its stakeholders to set goals, pool resources, and create partnerships across silos. It also coordinates local activities with state and federal entities. The RPCA is governed by a board of 12 elected officials — nine representing cities and three from the County Board of Supervisors — and provides an invaluable forum for in-depth discussions on climate planning, program management, and project delivery. The RPCA has developed Climate Action 2020 (countywide greenhouse gas reduction implementation program), produced a set of Climate Adaptation forums to educate and broaden support for building resilience, created Shift Sonoma County (transportation greenhouse gas reduction), and has assisted with numerous countywide projects such as Sonoma Clean Power and the innovative PAYS financing program for home water improvements. In 2014, the RPCA and the local governments of Sonoma County were designated Climate Action Champions by the White House, in recognition of their outstanding leadership in climate action.



Public Health

HIGHLIGHTS

- Bay Area public health is threatened by a number of climate-related changes, including more extreme heat events, increased air pollution from ozone formation and wildfires, longer and more frequent droughts, and flooding from sea level rise and high-intensity rain events.
- High levels of socioeconomic inequity in the Bay Area create large differences in the ability of individuals to prepare for and recover from heat waves, floods, and wildfires. Financial resources as well as improved social structures are important to enhance community resilience and reduce these disparities.
- Heat waves pose increased health risks due to urban heat islands and the lack of local experience and cooling infrastructure (air conditioning) in bayside cities. These risks are compounded for low-income communities.
- Hazardous waste sites across the region are at risk of flooding with future sea levels. Release of contaminants, particularly in low-income and densely populated communities, creates a serious and direct health risk.
- Climate-related disruption of the transportation network creates three key risks for public health: the capacity of people to evacuate and move away from danger; the difficulty in accessing hospitals and other health-related infrastructure; and the reduced ability of hospitals, clinics, and emergency responders to operate.

Long-term climate change creates a variety of direct and indirect threats to human health, but with geographic variability impacting the severity of each threat. Ekstrom and Moser (2012) outlined the threats for the San Francisco Bay area due to increased frequency and magnitude of extreme heat events, changes in precipitation (including both more intense events and the potential for longer and deeper droughts), and long-term sea level rise. Direct effects include a broad spectrum of heat-related diseases, ranging from heat exhaustion to heat stroke to death, and injuries and fatalities that result from severe weather. Indirect effects of climate change on human health arise from connections of climate and weather conditions with health responses. Examples include air pollution, pollen and allergens, water quality and harmful algal blooms, disease vectors (insects and rodents), and supply of water and food. As climate change transforms conditions for each of these elements, threats to human health emerge. In aggregate, if conditions deteriorate in a region or subregion, human migration will follow, as people seek new homes that can better support their health and well-being.

Health risks due to climate change are strongly influenced by broader issues related to community vulnerability and resilience. While it may be obvious that economic strength and financial resources are important to community preparedness and response, the role that social structures play in preparing communities is now emerging more clearly. An example of the role that social networks and supporting infrastructure can play is seen in the Chicago heat wave of 1995 (Klinenberg 1999). In that instance, the most important factor that reduced death rates in local communities was the presence of strong social networks ensuring that community members were looking out for each other.



Regardless of the particular type of event, it is understood that shifting conditions and increasing disruptions of normal activity by extreme environmental events can have negative effects on mental and emotional health. This risk is elevated among communities in which basic needs themselves are threatened by the changing climate. Social and economic factors impact both the exposure and ability of vulnerable communities to adapt to climate change, and as a result, health outcomes from heat, air quality, wildfires, etc., due to climate change are amplified and multiplied in these communities.

In the Bay Area, the threats of climate change for human health vary within the region, with coastal urban communities having different vulnerabilities than inland suburban and exurban communities due to differences in environmental conditions and the magnitude of climate change impacts. Further, socioeconomic variability is high in the Bay Area, which creates large inequities in the vulnerability to health risks associated with climate change. In the remainder of this section, we develop descriptions of individual and community health vulnerabilities by considering those processes that may be exacerbated by climate change.

Direct Impacts of Heat and Heat Waves in the Bay Area

More frequent, larger magnitude, and longer duration heat waves are already emerging as an important aspect of climate change in the Bay Area (see Regional Climate Science section, above). A key factor in surviving these events is the level of preparedness at both the local and community scale. Because of this, at the moment, coastal regions of the Bay Area are more at risk than inland communities due to differences in both individual acclimatization and investment in protective infrastructure (CNRA 2009). The risk for coastal communities in the Bay Area is exacerbated in urban settings (San Francisco and Oakland) due to the urban heat islands they create, which results in nighttime temperatures that do not cool as they would in natural conditions. Elevated nighttime temperatures, which can be as much as 22°F (12 °C) higher in urban settings (CNRA 2016), eliminate the physiological benefit of periodic cooling leading to cumulative heat effects and elevated risks of illness and death (Chan *et al.* 2001).

As an illustration of the devastating impacts of heat waves in Bay Area urban communities, we need look no further back than the fall of 2017. At the beginning of September, a series of all-time high temperature records were set in San Francisco and Oakland. These events overwhelmed the protective and social infrastructure in San Francisco, resulting in 6 deaths and 38 hospitalizations (Rodriguez 2017). During these heat events, temperatures are just as high or higher in inland suburban communities than they are at the coast, but the preparedness in the inland communities is greater. Not only are individuals in inland communities acclimated to hot temperatures, but more cooling infrastructure is available to protect against severe heat illness (i.e. air conditioning at home, work, stores, and community centers) (CNRA 2014). While some of this difference can be attributed to socioeconomic factors, the commitment of resources to cooling infrastructure and the acclimatization of individuals are due to the high frequency of hot days those communities face.

This vulnerability gap between inland and coastal communities suggests that increased investment in cooling infrastructure in coastal areas of the Bay Area will be an important component of climate adaptation. Nonetheless, the intermittent nature of heat events in the coastal urban communities means less widespread adoption of air conditioning, leaving them more vulnerable than their inland counterparts. This gap is compounded for low-income communities, in which individuals are unable to invest in these protective features, and community-based cooling center availability is likely to be very limited (Ekstrom & Moser 2012).



Impacts of Wildfire on Vulnerable Populations

Wildfires disproportionately impact vulnerable populations, due to health disparities, higher risk of job loss during economic downturns, and lower access to social resources, exacerbated by language barriers, lower internet access, and unwillingness to contact authorities for undocumented individuals (Cornwall *et al.* 2014). Renters and lower-income home owners generally have lower financial capacity to build or upgrade to fire-safe building codes and maintain defensible space, and have higher rates of uninsured or underinsured homes and belongings lost in fires (Cooley *et al.* 2012). The >5,500 structures lost in the Tubbs Fire represented about 5% of the housing stock for the city of Santa Rosa. In a region with elevated housing prices and low availability, these losses have caused considerable displacement, especially for low-income residents.

Air pollution from wildfire smoke, especially particulate matter, creates higher risks for children, elderly, and those suffering from respiratory illness (Lipsett *et al.* 2008). Burning structures and vehicles also release high levels of toxins (from building materials, paints and solvents, etc.) creating greater health risks compared to vegetation fires. Control of particulate matter pollution is a major factor that limits the scope and frequency of prescribed burning, especially near populated areas. However, more research is needed to determine if higher levels of prescribed burning would lead to a net reduction in health risks by reducing the risk of high severity wildfire and associated structure fires. Mechanical fuel treatments can achieve some of the same benefits as prescribed fire, without creating air pollution, and may offer the only viable option near populated areas (Moghaddas *et al.* 2018).

BOX 6: HELPING BAY AREA HEALTH DEPARTMENTS TAKE ON CLIMATE CHANGE

Bay Area Regional Health Inequities Initiative (BARHII)

After a major (and successful) effort with health, social, and environmental justice allies to move health equity issues into the Bay Area's first Sustainable Communities Strategy (Plan Bay Area), BARHII has expanded its focus to include building community resilience to the impacts of climate change.

To support the capacity-building of Bay Area health departments, BARHII has developed five two-page "Quick Guides" on why climate change is a public health and equity issue, the environmental and health co-benefits of climate change action, how to get involved in climate change action planning, and tangible steps to address climate change.

- Guide 1: Climate Change: What's Public Health Got to Do With It?
- Guide 2: Health and Equity Co-Benefits of Addressing Climate Change
- Guide 3: Climate Change and Health Equity
- Guide 4: How Public Health Can Address Climate Change
- Guide 5: Getting Involved in Climate Change Action Planning

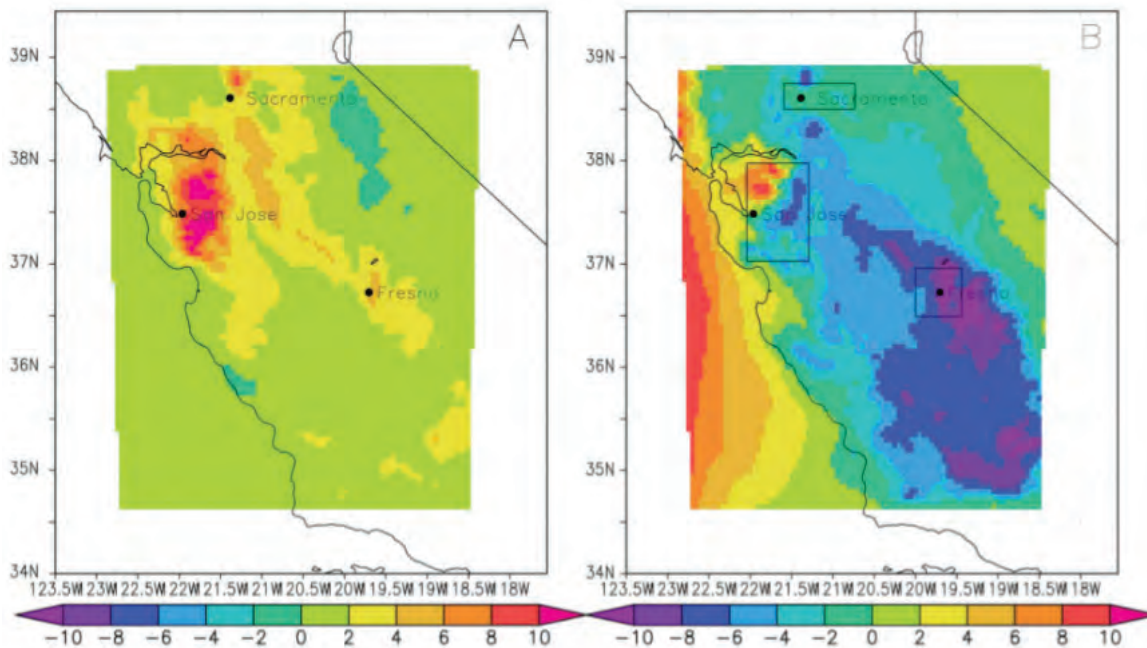


Indirect Impacts of Climate Change on Health Due to Air Quality

Three factors dominate the landscape of air quality in the San Francisco Bay Area: (1) ozone pollution during the summer (and, increasingly, the fall); (2) particulate matter during the fall and winter; and (3) allergen production and distribution during the spring and summer. Vulnerable individuals and communities experience the impacts of these contaminants through asthma, lung disease and cardiovascular health risks (Bernard *et al.* 2001). While these risks exist today, we focus here on the direction and mechanisms by which climate change is likely to exacerbate them.

The reactions that create ozone are facilitated by higher ambient temperatures, leading to increases in near-ground and near-source ozone hot spots. While emissions that are the precursors to ozone production may decrease in the coming decades, the net effect for the Bay Area is expected to be an increase in ozone levels (Steiner *et al.* 2006) (Figure 16).

FIGURE 16



Change in ozone concentration (3 p.m. local time) for (a) combined climate effects; and (b) including emissions reductions. For the Bay Area, increases in ozone concentration mostly increase, except in the far southeast portions of the region, where reduced emissions dominate the increases due to climate factors. Source: Steiner *et al.* 2006



During the fall and winter months, the dominant consideration in Bay Area air quality conditions is the near-ground trapping of particulate matter by high pressure systems. Recent studies of global circulation have shown that the loss of arctic ice cover has resulted in a change in winter weather patterns. Historically, high pressure systems tended to alternate with low pressure systems over the Western United States on a synoptic timescale of 4-7 days. In recent years, however, high pressure systems have been locked in place over the Western United States for weeks, or even months, during the winter. This response to global climate conditions (termed the “ridiculously resilient ridge” of high pressure) (Swain 2015) not only creates drought conditions for California, but it also leads to deteriorating air quality in inland Bay Area communities due to the persistent trapping of particulate matter in inland valleys.

The combination of heat waves and persistent high-pressure systems during the fall months is leading to wildfires of increased frequency and magnitude. Urban wildfires in the region, and large wildfires to the north and east of the Bay Area, undermine air quality in the Bay Area through the creation and distribution of particular matter in the lower atmosphere, leading to increased hospitalizations and even deaths due to cardiovascular and asthma related emergencies (see further discussion below).

Direct Health Risks due to Extreme Weather Events and Sea Level Rise

The most pronounced risk of life in the Bay Area linked to climate change is likely to be due to wildfires during summer and fall and landslides or sudden flooding due to extreme precipitation and infrastructure failures during the winter. The wildfires in Fall 2017 in the Northern Bay Area (Santa Rosa, Sonoma, Napa County) killed 44 people and hospitalized 185. Prior to this event, the largest urban wildfire in the Bay Area was the 1991 Oakland-Berkeley Hills Fire, which killed 25 (Ekstrom & Moser 2012). As described in the Regional Climate Science section, and as discussed above in the context of land use changes, future heat conditions, combined with development at the urban edge, increases the risk of future wildfire events for human health and lives.

In Bay Area hills, the risk of landslides is a function of the interaction between precipitation and soil conditions (Collins *et al.* 2012), and seismic activity. Climate change creates increased likelihood of extreme precipitation and wildfire events; both create increased risk of slope failures for the coming century.

Sudden flooding events in the greater Bay Area are most likely to result from levee system failures, which are increasingly likely due to higher river flows, higher sea levels, and seismically poor levee structures. Exacerbating this risk is the expansion of impervious surfaces in Bay Area watersheds and the subsidence of bayfront lands to the point that many waterfront communities are already below mean high-water levels. Communities like Alviso in the South Bay or Bethel Island in the Sacramento-San Joaquin Delta are already vulnerable to levee failure-induced flood events. Urbanized lower watersheds, which surround San Francisco Bay, exacerbate the risk of dangerous flood events, as was evident in San Jose during the Coyote Creek flooding of early 2017 (Giwargis 2017).

For low-income residents and communities, risks of isolation and lost resources are elevated in flooding events. Due to the fact that these residents have a lower rate of car ownership than the general population, they are heavily reliant on public transportation and frequently have limited mobility during extreme weather events and emergencies. During climate disasters, such as Hurricane Katrina (New Orleans, 2005) and Hurricane Harvey (Houston, 2017), people who had cars were able to evacuate, and those without (who also had limited public transportation options available) were often unable.



Bayfront nuisance flooding, which is created by sea level rise and high tidal conditions, poses little direct physical threat to human health, although it may undermine regional health through interdependencies described below. A health risk does emerge, however, when considering the mobilization of contaminants, or the deterioration of water quality, in response to long-term change. In the Bay Area, there are dozens of hazardous waste sites at risk of nuisance flooding with future sea levels. The mobilization of these contaminants, particularly in densely populated communities, creates direct health risk due to exposure to metals and petrochemicals (Heberger *et al.* 2009).

From the perspective of drinking water, rising sea levels and more variable precipitation and river flows mean the freshwater supply for much of the Bay Area (and State) is at risk due to salt water intrusion, both into groundwater aquifers (Heberger *et al.* 2009) and into the Sacramento-San Joaquin Delta (Chua & Xu 2014).

Interdependencies with Other Sectors

Interdependencies among different parts of regional infrastructure create risks to human health. Regional infrastructure networks, particularly the transportation, fuel distribution, and power networks, support human function throughout the region, including health-related infrastructure such as hospitals, clinics, and pharmacies.

Disruption of the transportation network, as would occur due to flood or fire, creates two risks for public health: (1) the capacity of the system to evacuate from the event itself may be reduced; and (2) individuals may have difficulty accessing hospitals and other health-related infrastructure. Power and fuel distribution networks provide support for powering health infrastructure, and the capacity of hospitals, clinics, and emergency responders will be reduced by disruptions. Finally, disruptions to the water delivery or wastewater treatment systems would create risks to public health, particularly if the disruptions persisted for more than a few days.

BOX 7: FOCUSING ON VULNERABLE POPULATIONS

San Francisco Climate & Health Profile

San Francisco's Department of Public Health, with funding from the Centers for Disease Control and Prevention, developed a 44-page profile that identifies local climate impacts and associated potential health outcomes, highlighting populations and locations in the city especially vulnerable to these changing conditions.

By systematically using climate projections to prioritize the most critical health impacts and risk factors, the profile reveals essential information needed to take adaptation actions to protect San Francisco residents. By utilizing the best climate science available and engaging community partners to understand vulnerabilities and interventions for communities and populations at highest risk for illness, the profile helps to advance urban health and environmental justice in the climate and health field.

Although all San Franciscans will be affected by climate change, certain San Franciscans will be affected more than others. The profile shows that residents who live, work or recreate along San Francisco's waterfront are more vulnerable to flood risk. Those in areas with poor air quality or limited access to open space are vulnerable to heat-related hazards. In particular, the urban poor are most vulnerable to climate change as its impacts amplify socioeconomic and racial disparities. The degree to which an individual San Franciscan is impacted by climate change often depends on his or her age, race, income, language, educational



BOX 7: FOCUSING ON VULNERABLE POPULATIONS

attainment, housing conditions, and pre-existing physical conditions such as diabetes and mobility disabilities.

After analysis of environmental, demographic, and socioeconomic infrastructure and individual pre-existing indicators, the profile concludes that certain neighborhoods in San Francisco will be disproportionately affected by climate change: Chinatown & Downtown, Bayview Hunters Point, Soma, Excelsior, Crocker Amazon, Visitacion Valley, and Treasure Island.

HAZARD	CLIMATE IMPACT	HEALTH IMPACT
Heat	Average yearly temperature to increase between 4.1 and 6.2 degrees Fahrenheit by 2100	Heat-Related Illness
		<ul style="list-style-type: none"> • Dehydration • Heat Stroke
	Extreme Heat Days (over 85F) to increase by 15-40 by 2050 potentially 90 by 2100	Heat-Related Mortality
		<ul style="list-style-type: none"> • Heart Disease
	Increase in heat wave length and frequency	Air Quality Effects
		<ul style="list-style-type: none"> • Respiratory Illness • Asthma • Allergies
Mental and Behavioral Health		
Sea-level Rise	Sea-levels projected to rise between 7-15 inches by 2050, 25-46 inches by 2100	Fatal and Nonfatal Injury
		Water-borne Disease
		Mental and Behavioral Stressors
		Income Loss
Extreme Storms	As precipitation levels fluctuate year-to-year, in rainy years, the frequency and severity of extreme storms is predicted to increase	Fatal and Nonfatal Injury
		Water-borne Disease
		Mental and Behavioral Stressors
		Strain on public health infrastructure
		Income Loss
Drought	As precipitation levels fluctuate year-to-year, in dry years where the high-pressure system off the coast does not dissipate, the frequency and severity of droughts will increase	Food Insecurity
		<ul style="list-style-type: none"> • Malnutrition
		Air Quality / Allergens
		<ul style="list-style-type: none"> • Respiratory Illness • Asthma • Allergies
		Mental and Behavioral Health
		Income Loss



Natural Infrastructure

HIGHLIGHTS

- Natural infrastructure can play an important role in climate change adaptation, enhancing biodiversity and ecosystem services while reducing societal risks.
- Natural shoreline infrastructure includes options such as oyster beds, marshlands, and dune enhancement that reduce wave energy and shoreline erosion. In some locations, managed retreat may be the only viable option in the face of sea level rise.
- Urban parks and trees enhance cooling and provide shade and can strengthen social ties and local communities.
- The role of natural infrastructure to protect vulnerable communities may face tradeoffs related to displacement and public safety.

In this section, we discuss the role that natural infrastructure can play by providing indirect support for adaptation by either preserving the function of other infrastructure systems or through mitigating the extent of the event that other infrastructure systems must endure. We consider here two distinct types of natural infrastructure that are represented in the Bay Area: first we consider marsh and wetland habitats as an element of shoreline infrastructure and flood protection, and then we consider how urban green or open space may be protective against heat and other community risks.

Shoreline and Flood Protection Infrastructure

When considering the risk of bayfront flooding under scenarios of sea level rise, decision makers must face the multiple threats of sea- and bay-forced flooding (sea level variability plus tidal forcing), groundwater flooding (where the groundwater table emerges above the land surface), and watershed or stormwater flooding (precipitation and runoff). Integrated flood protection infrastructure must be developed with consideration of all of these sources of flooding, which may create the need for supplemental infrastructure systems.

For the Bay Area, the risks associated with sea level rise are of critical importance in the coming decades, including both tidal flooding (created by the daily high tides) and lower watershed flooding (interaction between bay water levels and flows in bay tributaries). The value of natural elements in these protective infrastructure systems lies in their ability to create a more resilient shoreline infrastructure and in the ecosystem benefits that may accrue from the habitats within the natural infrastructure elements (Newkirk *et al.* 2018). These benefits are described in more detail below, but we start with a discussion of the role that natural infrastructure would play in the primary goal of shoreline infrastructure, which is flood protection.

The first, and most important, aspect of shoreline planning and flood mitigation is determining where to place the protective shoreline infrastructure, and what areas are going to be protected from flooding by that infrastructure (Holleman & Stacey 2014; Wang *et al.* 2018). Controlling flood waters with infrastructure (regardless of whether it is engineered or natural) is a containment strategy; allowing flooding to proceed as it would naturally occur is a strategy of flood accommodation. Pursuing flood accommodation as a strategy in an urban environment will necessarily



require retreat – either out of a local region or vertically – or a fundamentally different type of community and its associated infrastructure systems, which can function while intermittently inundated. For any segment of protective shoreline infrastructure, the role that natural approaches can play should be considered within the local context, considering the specifics of the forcing and the needs of the community to be protected by the segment.

In a tidally dominated and urbanized estuary such as San Francisco Bay, the opportunity for truly natural shorelines around San Francisco Bay is relatively limited, due to the requirement that tidal marshes be allowed to progress inland and up the topographic gradient as sea levels rise. We note that this is in contrast to open coastal and beach environments, where natural features have steeper slopes and require less inland space for adjustment. For natural marsh shorelines to be allowed to evolve with forcing from sea level rise in an urbanized or otherwise developed community, retreat would be required. As such, this natural flood protection infrastructure approach, with natural processes allowing the shoreline to evolve in response to environmental variability, may consist primarily of retreat and restoration, and provide limited in-place flood protection for the existing waterfront communities.

For tidal and urbanized systems such as San Francisco Bay, unless a community pursues a flood accommodation strategy, the flood protection infrastructure must have an engineered or artificial element to them to constrain and alter the natural inundation patterns that would occur. The opportunity for natural infrastructure in San Francisco Bay therefore lies in hybrid approaches, in which natural elements are integrated into what would otherwise be engineered structures. The horizontal levee is an example: As seas rise, the fronting marshes in these structures will accrete sediment and their bed elevations will increase. In urban and developed regions that do not retreat, the marshes will not be able to progress landward, however, and the landward edge of the marsh will need to be an engineered structure to transition to lower elevations in the community.

With these limitations in mind, it is important to recognize that the use of natural features in engineered shorelines does bring with it a number of advantages and benefits (Newkirk *et al.* 2018). The presence of marsh or other vegetated habitat on the bay side of engineered structures reduces wave energy (Möller *et al.* 2014), which reduces the wave setup and hence the total water level that the engineered structure must endure. Further, the dissipation of wave energy by the marsh or other habitat leaves less wave energy impinging on the engineered infrastructure that is providing the flood protection. Thus, the use of natural habitats as a fronting feature to engineered structures can be an effective addition to the flood control infrastructure, reducing total water levels and wear-and-tear on engineered protections, creating a more resilient hybrid infrastructure system. Further, the development of natural habitats as a part of the shoreline protective infrastructure creates habitat benefits for Bay ecosystems, including support for endangered species, ecosystem diversity, and recreation.

Urban Green Space and Trees

The role of urban parks and green space in community resilience to climate change and environmental disruption includes both mitigating the effects of climate change itself and providing stronger social connections for the community to respond to events.

First, as noted in the Regional Climate Science section, the density of trees, green space, and irrigation can play an important protective role in urban communities by reducing the heat island effect by several degrees. As discussed above, higher temperatures, particularly during the nighttime, in urban communities increase the risk of heat-related



illness compared to suburban or rural communities. The presence of trees and parks provides a protective element against this risk factor.

Secondly, the presence of parks and open space can create social linkages in the community, even if only at the scale of tree-lined sidewalks or “parklets” (Klinenberg 1999). These social ties are a critical component in establishing the resilience of the community to environmental events, including those worsened by climate change. Using the Chicago heat wave of 1995 as a case study, Klinenberg established that the presence of sidewalks and inviting public space in one neighborhood resulted in strong social networks and a lower fatality rate than in an otherwise similar neighborhood. This type of “natural infrastructure” is frequently overlooked when discussing protective infrastructure because it is through the social system that the protection is achieved, and the social functions are enhanced by the open space.

Disadvantaged Communities

The advantages of natural infrastructure as protection from either flooding or heat-related risks associated with climate change may not be easily achieved in disadvantaged communities. From the perspective of vulnerable communities along the bay shoreline, a retreat-and-restore strategy for flood protection may achieve the same end point as would gentrification: community displacement. Further, urban green space is limited and tree density is small in disadvantaged communities (Jesdale *et al.* 2013), so targeted investment at a relatively large scale would be required to mitigate urban heat island effects. A lower cost opportunity may lie in creating inviting open space to facilitate strong social networks and to improve community resilience.

Economic Resilience

HIGHLIGHTS

- The disruption of Bay Area commerce by climate change will likely be most strongly influenced by inundation and flooding in bayside communities and commercial areas.
- While bayside communities are on the front lines for future flood risk, many of them have limited ability or resources to pursue adaptation strategies.
- Without inclusive engagement among communities, disparities in economic and political power will undermine regional solutions and leave communities acting independently, with highly variable results for resilience and community health.

In a recent interview with the San Jose Mercury News (Baron 2018), former Stanford President John Hennessey identified housing and transportation shortfalls as the biggest risks to the future sustainability of Silicon Valley. Both of these factors are strongly impacted by climate vulnerability and disruptions, as noted above in discussion of the transportation network and changes in land use. The disruption of Bay Area commerce by long-term climate change will likely be most strongly influenced by the interaction of sea level rise with extreme storm events, creating inundation and flooding in lower elevation communities and commercial areas. The “Risky Business” report



concluded that \$62 billion worth of property and infrastructure are at risk under moderate (4 feet) end-of-century sea level rise scenarios. Some 160,000 Bay Area residents would face disruptions either at home or at work with sea level rise of just half the end-of-century value. (*Risky Business: The Economic Risks of Climate Change in the United States* 2015)

From a community impact perspective, it is instructive to examine similarities and differences among communities to understand the nature of their vulnerability to long-term sea level rise. Hummel et al. (2017) overlaid inundation projections with census data to define exposures, then used formal clustering analysis to identify similar communities based on variables with particular links to community resilience. The analysis led the authors to two general conclusions. First, communities that are clustered together are frequently not geographically proximate. For example, San Rafael's Canal District and East Palo Alto share many of the same socioeconomic factors that underpin community vulnerability. Secondly, clustering of communities varies significantly through time, with more similarities emerging as sea levels rise. For example, under current conditions, Foster City seems to be unique in the threat that it faces, but by the end of the century, three additional communities will face similar risks to their populations. These results may help to build regional resilience through improved communication about adaptation approaches.

Finally, we must acknowledge the key role that social equity and environmental justice must play in considerations of regional resilience for the Bay Area. There is wide disparity in the ability of Bay Area communities to invest in climate change adaptation, which reinforces a "go-it-alone" approach to shoreline management. Due to historical development patterns and regional investment, low elevation communities (the bayfront communities most susceptible to flooding) are also frequently disadvantaged. While these communities are on the front lines for future flood and inundation risk, they themselves have limited ability or incentive to pursue adaptation strategies. Further, their vulnerability is reinforced by this positioning, and experiences both within the region and beyond have led vulnerable communities to fear that adaptation strategies may increase the attractiveness of their communities to outside investors, resulting in displacement.

Taken together, regional resilience planning will necessarily integrate threats to infrastructure and social systems into discussions that engage all communities around the bayfront. Absent such inclusive discussions, disparities in economic and political power will undermine regional solutions and leave communities acting independently and individually, with highly variable results for resilience and community health.



BOX 8: CREATING A REGIONAL APPROACH FOR SEA LEVEL RISE

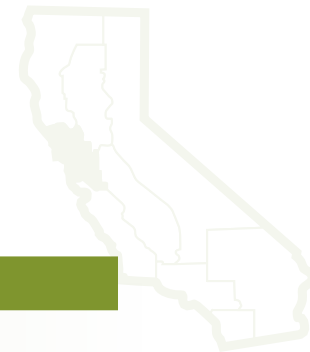
RISer SF Bay — Resilient Infrastructure as Seas Rise (riser.berkeley.edu)

RISer SF Bay is a silo-busting sea level rise project for the Bay Area looking at hydrodynamics, transportation, governance, and other critical topics. The [RISer team](#) includes engineers from UC Berkeley, transportation experts from New York University Abu Dhabi, political scientists from UC Davis, and ocean and sea level rise experts from the U.S. Geological Survey. A stakeholder advisory group from the Bay Area's public, private, and nonprofit sectors provides important input and feedback for the project.

The first phase of the [hydrodynamics](#) work has created state-of-the-art modeling for the San Francisco Bay showing how sea level rise protection projects built in one county would affect water levels and flooding in nearby counties. RISer is demonstrating that regionalism isn't just a good *idea* — regional collaboration and decision-making on sea level rise will be required to protect and enhance critical infrastructure, human health, and our natural systems. It is also showing how local cities might group themselves for [collaborative planning](#).

Similarly, in RISer's transportation modeling, the team is showing how flooding of a local segment of a single freeway can produce far-reaching traffic impacts on other sections of the Bay Area transportation network. Again, regional collaboration will be needed to address these regional issues.

In the [governance](#) area, RISer is studying the complex network of actors engaged in Bay Area sea level rise planning and [recommending](#) a first set of steps to improve regional decision-making. This work also includes polling and other methods to better understand public knowledge and viewpoints on sea level rise solutions for the region.



BOX 9: COMPREHENSIVE SEA LEVEL RISE VULNERABILITY ASSESSMENTS: 4 BAY AREA COUNTIES

Marin County, San Mateo County, Alameda County & Contra Costa County

Four Bay Area counties have completed detailed, in-depth assessments of their vulnerability to flooding from sea level rise and extreme storm events. These assessments will provide the scientific basis to design, fund, and implement a wide range of strategies to protect infrastructure, natural systems, and human health.

Marin County actually has two assessments, [C-SMART](#) for its ocean-facing areas and BayWAVE for Marin's considerable shoreline along San Francisco Bay and San Pablo Bay. Collaboration: Sea level Marin Adaptation Response Team (C-SMART) now includes both the [Vulnerability Assessment](#) and the [Adaptation Report](#) which identifies options for adaptation strategies for West Marin. The BayWAVE (Marin Bay Waterfront Adaptation Vulnerability Evaluation) [Vulnerability Assessment](#) is an informational document that catalogs impacts with six different sea level rise scenarios across the entire bay shoreline.

San Mateo County's extensive countywide effort on sea level rise is called Sea Change San Mateo County and includes assessments, projects, and public engagement activities. Their 215-page [Vulnerability Assessment](#) covers both the coast and the bay and looks in-depth at built infrastructure, natural areas, and human communities. The assessment includes regional networked assets as well as local assets and points to specific future actions and research gaps.

Alameda County was the first Bay Area county (2011-2014) to create a comprehensive sea level rise vulnerability assessment as the pilot project for the Bay Conservation and Development Commission's [Adapting to Rising Tides](#) program. The project included agencies and organizations from Emeryville to Union City and assessed the vulnerability and risk of shoreline and community resources to sea level rise and storm events. The project led to strategies to help communicate and resolve these complex issues, as well as processes to integrate adaptation into local and regional planning and decision-making. It also jump-started new collaborative adaptation planning efforts including the [Hayward Shoreline](#) and [Oakland/Alameda Resilience Studies](#), the [Bay Area Transportation Climate Resilience](#) focus area planning efforts, the [Capitol Corridor Passenger Rail](#) vulnerability assessment, and the [East Bay Regional Park District](#) planning effort.

BCDC collaborated with Contra Costa County and local stakeholders on the [Contra Costa County ART Project](#) (2014-2016), covering a diverse shoreline from Richmond all the way to Bay Point. The project area, with its varying local topographies (from bluff to wetland to creek mouth), different types of land uses, diverse communities, and the presence of extensive rail and energy infrastructure, offered an excellent opportunity to better understand the diversity of vulnerabilities and consequences from current and future flooding. The project's [Final Report](#) includes assessment of 11 sectors as well as asset-scale evaluation of 15 representative assets.



Emergency Management

Immediate emergency response depends on the interaction between communication networks, transportation networks and public health and safety. Disruption of any of these systems by inundation events, landslides or wildfire would undermine emergency responses and leave populations vulnerable both during and immediately after an environmental event. Further, the reliability and safety of the region's housing stock should be evaluated in the context of emerging climate threats due to the fact that it is easier for a region to respond and recover from an emergency if the housing is habitable post-disaster.

The response time for emergency responders for specific communities under future inundation scenarios was explored by Biging et al (2012). Results for the city of Richmond for an end-of-century storm scenario (1.4 meters of sea level rise, 100-year storm event) are shown in Figure 17.

FIGURE 17



Delay in emergency response due to inundation of transportation network for Richmond, CA. Forcing scenario is 1.4 meters of sea level rise and a 100-year storm event. Areas shaded black are inaccessible due to the depth of inundation. Source: From Biging et al. 2012.



These results from Richmond are illustrative of the type of coupled response one can expect for bayfront communities. Emergencies due to environmental disruptions simultaneously undermine the infrastructure systems needed for the emergency response.



The emergency preparedness and response of vulnerable communities will be shaped by their specific socioeconomic conditions. In advance of any emergency event, low-income households are less likely to invest in preparedness. Thus, during extreme events, houses and structures may be less protected than others in the region and individuals may not be able to move to safety due to a lack of transportation or other resources. In the immediate aftermath of the event, those who rely on food banks, health care facilities, shelters, or churches may not be able to access these resources. Finally, longer-term community recovery may be inhibited by the fact that renters are less likely to have insurance. At the same time, households with limited English proficiency might not be able to understand emergency instructions or might not listen to emergency evacuation instructions because of fears regarding their immigration status.



Natural and Managed Resource Systems

The Bay Area is recognized as a hotspot of biodiversity within California and at a national scale (Myers *et al.* 2000). This diversity is supported by sharp climate gradients, rugged topography and heterogeneous soils, a big beautiful bay, and the majority of tidal wetlands in the state. These ecosystems provide “natural capital” for the region, including improved water quality and supply, carbon sequestration, outdoor recreation, flood control, and enhanced quality of life for a large urban and suburban population.

Plant and animal diversity and distributions in the Bay Area are strongly influenced by climate gradients. The most important of these are the coastal-inland gradient in temperature (including fog frequency and the inland penetration of the marine layer around San Francisco Bay), elevational gradients on local mountain ranges, and distinct rain shadows on the eastern slopes of the Coast Ranges. The Bay Area has about 3000 native plant taxa, with over 50 local endemics (i.e., species or subspecies found nowhere else in the world), and a diverse array of invertebrates and vertebrates occupying terrestrial, freshwater, estuarine, and marine environments.

Habitats and biodiversity of the Bay Area have been profoundly influenced by human activities, from the arrival of Native Americans 13,000 (or more) years ago, to the Spanish, the Gold Rush, and the expansion of urban areas and agriculture through the 20th century and into the 21st. Native Americans altered the California landscape by harvesting, hunting, and extensive burning (Anderson 2006).¹² The arrival of the Spanish brought intensive cattle grazing to California, and the introduction of European alien plants, many of which rapidly invaded and replaced native vegetation, particularly in grasslands and open oak woodlands. Aquatic and coastal ecosystems around the San Francisco Bay and estuary have been transformed by urbanization, dredging and levee construction, especially in the Delta, and the continued impacts of gold mining, dam construction, agriculture, and water diversions on fresh water flows, water quality, and sediment loads.

This section of the regional report draws on a previous report on the impacts of climate change on Bay Area ecosystems from California’s Third Climate Change Assessment (Ackerly *et al.* 2012), updated with recent research and expanded discussion of agriculture, grazing lands, and aquatic habitats, including sea level rise impacts on the San Francisco Bay estuary.

¹² Further information on how California’s Tribal communities face unique threats from climate change – and how these communities are spearheading adaptation and mitigation efforts – can be found in a companion Fourth Assessment report (Tribal and Indigenous Communities Summary Report 2018).



Terrestrial Ecosystems

Impacts of Climate Change on Vegetation and Habitat Distributions

HIGHLIGHTS

- The future climate of the Bay Area will become less suitable for evergreen forests—redwoods and Douglas fir—and more favorable for hot adapted vegetation such as chaparral shrub land.
- Projected trends for grasslands are unclear and management (burning, grazing, etc.) will probably be more influential than climate change.
- The ability of vegetation to respond to the rapidly changing conditions in the 21st century is poorly understood. It is possible that vegetation will be increasingly “out of sync” with climate and vulnerable to heat and drought.

A recent high-resolution map of Bay Area vegetation distinguishes more than 25 major native vegetation types¹³, from interior grasslands to coastal redwoods (Figure 18). The distribution of these vegetation types is strongly influenced by the climate gradients identified above, as well as local topographic effects due to solar radiation (south- vs. north-facing slopes), cold air drainages, wind on exposed ridges, and a complex mosaic of different soil types. In general, Bay Area vegetation consists of coniferous forests (redwood and Douglas fir) in the coolest and wettest environments (including areas of high fog influence); oak and other evergreen woodlands on deep soils and areas of moderate rainfall; shrublands on hotter and drier sites, especially steep slopes with thin soils; and grasslands scattered across the region under a wide range of climate conditions.

Future climates will be warmer, and increased temperatures will lead to greater summer aridity, even for future climates with increased winter rainfall (Ackerly *et al.* 2015). Several studies have projected the impacts of climate change on California vegetation at a statewide level (Lenihan *et al.* 2003, 2008; Stralberg *et al.* 2009; Shaw *et al.* 2011; Thorne *et al.* 2017) and in targeted studies of the Bay Area (Ackerly *et al.* 2015) (also see Chornesky *et al.* 2015). The studies use a variety of methods and different projections for future climates. Despite this range of methods, some consistent results emerge, offering broad guidelines for what to expect in the future.

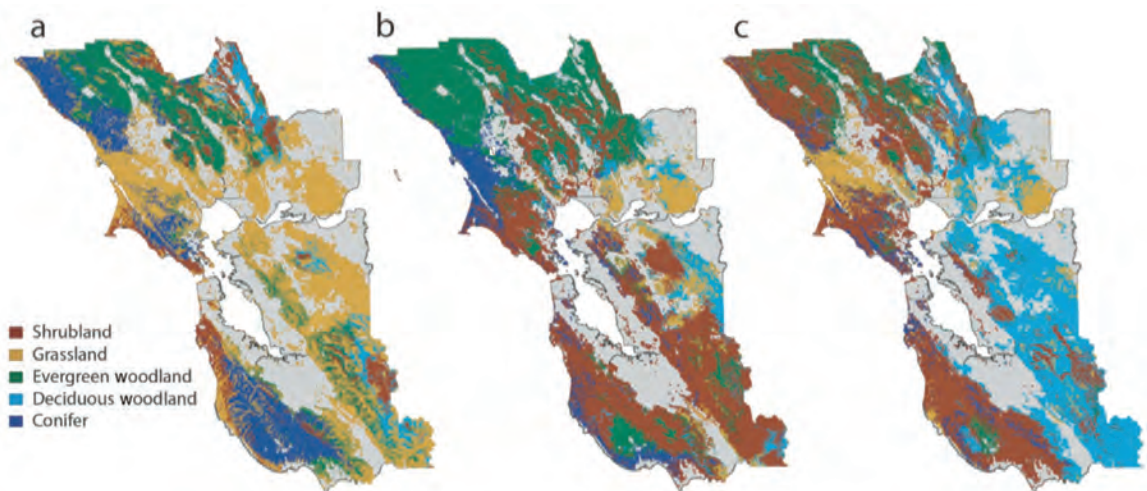
Projections generally agree that conditions will become less suitable for evergreen conifer forests (redwoods and Douglas fir), and these impacts will be greater if rainfall declines (and, for redwoods, if fog frequency declines). Suitable conditions for these forests will contract toward the coast. Projections are less consistent for mixed evergreen forests and differ depending on the tree species. For example, coast live oak forests may be able to expand in the future, while cool and moist adapted forests such as tanoak, canyon live oak, and Oregon oak will likely decline (Ackerly *et al.* 2015). Projections are also uncertain for blue oak woodlands, with some models predicting the potential for expansion, especially under hotter and lower rainfall scenarios (Ackerly *et al.* 2015). There is general agreement that conditions will become more favorable for chamise chaparral shrubland, with the potential to expand from interior mountains toward the coast. On the other hand, cool adapted montane chaparral and coastal sage

¹³ Bay Area Open Space Council (2012) The Conservation Lands Network, <http://www.bayarealands.org/>



scrub are both projected to decline (Figure 18). Projections are least consistent for grasslands, and in many locations management activities (burning, grazing, etc.) are probably more important than climate in determining the distribution of grasslands.

FIGURE 18



Shifts in potential vegetation of the Bay Area, in response to climate change. Changes were modeled for major vegetation types (e.g. redwood forest, blue oak woodland) and aggregated for illustration. a) historical climates (1951-1980); b) ~7°F (4 °C) warmer with increased rainfall; c) ~7°F (4 °C) warmer with decreased rainfall. See text regarding caveats in interpreting projected changes. Source: Chornesky et al. 2015.

There are three critical considerations to keep in mind about these projections of future change in vegetation. First, all models based on community and vegetation type distributions assume that the currently observed types will persist into the future (Ferrier & Guisan 2006). Models of existing vegetation types do not allow for “non-analog” communities composed of new combinations of existing species, or for novel types invading from outside the region. This problem can be addressed in part through more detailed models of individual species responses. Second, all modeling studies are limited in their ability to make projections under novel climates, i.e., future climate conditions that fall entirely outside the range of conditions observed in the present day. The statewide models are useful in this regard, as conditions found further south and inland provide analogs for future climates in the Bay Area.

Finally, and most importantly, models of vegetation distributions generally rely on an assumption that plant distributions are in equilibrium with historical climate and will rapidly equilibrate to future climate change. The models inform us that the conditions suitable for different species and vegetation types may expand, contract, or shift across the region. But the actual changes will depend on seed dispersal (which can be very limited), interactions with other species including competitors, pathogens, dispersers, pollinators, and herbivores, and the time required for seedlings to grow to adulthood and establish viable populations.



Studies of changes following the ice ages suggest that vegetation can continue to shift for hundreds or thousands of years following a major change in climate. A critical concern in the face of rapid climate change is that vegetation may become “out of sync” with environmental conditions, exposed to levels of heat or drought outside the range of historical variability. This could lead to increased tree mortality, as observed in the 2012-2015 drought, or higher vulnerability to fire (see below); dead trees eventually decompose and release CO₂ to the atmosphere, further contributing to GHG emissions and future climate change.

Wildlife

HIGHLIGHTS

- The most threatening effect of climate change to Bay Area wildlife is the impact of rising sea levels on wetlands because of limited potential for wetlands to move inland and become established.
- Less rainfall, more summer heat, and increased drought will have negative impacts on amphibians and reptiles, while heat and wildfires may negatively affect upland birds, mammals, amphibians, and reptiles.
- Some wildlife species may need to shift locations as the vegetation they inhabit shifts with a changing climate. Barriers to movement are substantial due to habitat fragmentation and urbanization.

The estuaries, wetlands, riparian habitats, forests, ponds, and grasslands of the region are home to a surprisingly diverse array of native wildlife species (mammals, birds, reptiles, and amphibians) supported by the variability of Bay Area microclimates and physiography. For example, birds are the best-known taxa and more than 200 species have been found in the area (BAOSC 2011). Wildlife communities are composed of native species found in California’s desert, Central Valley, Coast Ranges, and Pacific Northwest, as well as exotic species that have been introduced from around the world, accidentally or purposefully. The region also includes a large number of threatened or endangered vertebrates¹⁴, listed under the federal and/or California Endangered Species Acts (see Appendix E) (BAOSC 2011) that persist primarily in protected areas within the region (seven mammals, eight birds, two amphibians, and three reptiles).

Climate change is one of many threats faced by wildlife in this urbanized region, including habitat destruction and modification, pollution, pathogens and disease, and predation and competition from nonnative species including domestic cats. A changing climate, however, could exacerbate some of these threats. For example, climate change has been suggested to enhance the spread of exotic disease, such as the chytrid fungus that has decimated amphibian populations (Pounds *et al.* 2006; Clare *et al.* 2016), as well as invasive species in terrestrial and aquatic environments (Hellmann *et al.* 2008; Rahel & Olden 2008).

Arguably the most threatening effect of climate change to wildlife in the Bay Area could come from rising sea levels. Sea level rise is predicted to be severe for the San Francisco Bay estuary from the combined effects of climate warming and land subsidence (see Sea Level Rise section, above). Moreover, there is limited potential in most

¹⁴ <http://www.BayAreaWildlife.info/species/endangered.htm>



locations for these wetlands to move inland and become established within the region. Species specializing in the vegetated portions of marshes may be most vulnerable, since they likely won't find vegetated habitat flooded at a depth that supports them. This might include threatened species, like the California Black Rail, the Light-footed Ridgway's rail, and the salt marsh harvest mouse, as well as many nonthreatened species, such as herons and egrets. On the other hand, subtidal and intertidal mudflats could increase with sea level rise and provide additional habitats for species such as migratory shorebirds (Thorne *et al.* 2018).

Uncertainty in climate predictions characterizes expectations for the future of Bay Area wildlife. However, some general scenarios can be considered. A warmer and drier climate predicted by some analyses would likely have important impacts on riparian wildlife. Streams and riparian areas are key conservation targets for many amphibians and reptiles in the San Francisco Bay region (BAOSC 2011). Decreased winter precipitation and more summer heat, as well as increased intensity of drought, are likely to negatively impact amphibians and reptiles throughout the region. A warmer, drier climate will also lead to increased intensity and frequency of wildfires. These could harm populations of upland birds, mammals, amphibians, and reptiles, especially those persisting in remnants of old-growth forest vegetation.

Some wildlife species may need to shift locations as the vegetation communities they inhabit shift with a changing climate. Enhanced landscape connectivity and habitat corridors are particularly important for more mobile animals. Vegetation shifts from climate change may not be large in the Bay Area (which is buffered by topographic heterogeneity and lower levels of warming compared to inland regions) and may occur slowly (see above). However, barriers to movement may be substantial, especially for amphibians and reptiles, which have limited dispersal.

Invertebrates

HIGHLIGHTS

- The Bay Area is home to a diverse invertebrate fauna. Local extinction of populations of Bay checkerspot butterflies are believed to be due to increasing variability in precipitation, though this cannot be attributed to anthropogenic climate change.
- Phenology, the timing of seasonal events, such as flowering, insect emergence, etc., is highly sensitive to climate and offers important opportunities for monitoring biotic responses and engaging citizen science.

The Bay Area is also home to diverse invertebrates (insects, spiders, etc.), including a number of threatened and endangered species¹⁵ (mostly beetles and butterflies, as they are better studied, and the California freshwater shrimp which is endemic to streams in the North Bay).

Long-term studies of the federally threatened Bay checkerspot butterfly (*Euphydryas editha bayensis*) at Stanford's Jasper Ridge Biological Preserve and other locations in the Bay Area have served as a model for understanding effects of climate and topography on butterfly population dynamics. Checkerspot populations are very sensitive to the timing of larval emergence relative to the flowering time of their native food plants, and larval growth is also closely tied to thermal effects of topographic variation at very small spatial scales (Weiss *et al.* 1988; Weiss & Weiss 1998).

¹⁵ <http://www.BayAreaWildlife.info/species/endangered.htm>



Two of the Jasper Ridge study populations of Bay checkerspots went extinct in 1992 and 1998, and a demographic model strongly suggested that extinction was hastened by an increase in the variability in annual precipitation starting in the 1970s (McLaughlin *et al.* 2002). The later population to go extinct occupied a smaller area, but one with greater topographic heterogeneity, which buffered the impacts of precipitation by providing a greater range of microclimates. The increase in precipitation variability is consistent with projected effects of anthropogenic climate change, though it is not possible to attribute these individual extinction events to anthropogenic impacts.

The timing of seasonal events in plants and animals (known as phenology), such as flowering, hatching, migration timing, etc., is often sensitive to climate. Phenological shifts are important indicators of climate change, and timing mismatches between plants and their pollinators or fruit dispersers may lead to declines in either or both species. In central California, the first flights of butterfly species advanced by almost a month in some cases over the last three decades of the 20th century (Forister & Shapiro 2003). The study of phenology also offers excellent opportunities for community science, and several projects in the Bay Area engage students and community members as part of the California and National Phenology Projects (Charles 2013).

Open Space Protection and Climate-Smart Conservation

HIGHLIGHT

- The Bay Area's mild climate and accessible open spaces are vital to the region's quality of life. Regional conservation efforts, including coordinated open space protection design and implementation of landscape corridors, as well as climate-smart conservation and restoration practices, will enhance success in a changing climate.

With the Gold Rush and the ensuing rapid development of California (which has continued unabated to the present day), the Bay Area was rapidly transformed by logging for timber, bark, and charcoal, the growth of grazing and agriculture, especially related to the wine industry, and most important, by population growth and urbanization. As in other coastal zones, development has been concentrated around the coastline and the bay, leading to large-scale transformation of estuaries and salt marshes.

At the same time, San Francisco served as the heart of California's conservation movement, through its intimate role in conservation battles in the Sierra Nevada and early efforts in local land conservation. Big Basin Redwoods State Park (Santa Cruz County) became the first state park in 1902. Portions of Mt. Tamalpais, Mt. Diablo, the East Bay Hills, and other parcels were acquired for conservation prior to 1950, though formal protection came later in many cases. Large watersheds were set aside surrounding local reservoirs, some storing Sierra Nevada water in transit to the cities, such as Crystal Springs (San Mateo County) and Calaveras Reservoir (Santa Clara County). Development battles in Marin and Sonoma counties in the 1960s and 1970s led to the creation of numerous smaller parks and the preservation of extensive open space and agricultural land (Griffin 1998). These efforts included the creation of Point Reyes National Seashore (1962), one of the largest parks in close proximity to a major metropolitan area in the United States. In addition, the military kept large expanses of land off limits to development (e.g., the Presidio and Marin Headlands). Much of this land has now been converted to open space for public recreation and conservation.



As a result of these efforts, and many others by local, state and federal agencies, as well as non-governmental organizations and private landowners, approximately 25% of the Bay Area's 4 million acres are set aside in protected open space, either in fee title or under conservation easements (BAOSC 2011). Another 25% are urbanized, and approximately 50% are in working landscapes or natural vegetation that lacks formal protection. The mild climate and the accessible open spaces of the Bay Area are vital to the quality of life and the recreational activities of the region, representing a valuable component of the area's natural capital that is supported by native (and in some cases alien) biodiversity. The Bay Area, together with Cape Town, South Africa, probably represent the greatest concentrations in the world of native biodiversity in such close proximity to major metropolitan areas.

The Conservation Lands Network project (CLN) (BAOSC 2011) developed a prioritization for future land acquisition in the Bay Area, with the goal of protecting at least 50% of the area occupied by each major vegetation type in each subregion where they occur, and higher percentages of locations harboring threatened and endangered species and other targeted resources. The CLN has helped to coordinate conservation planning, and several priority locations have been protected in the years since it was released.

The original CLN project did not incorporate climate change into its prioritization scheme. In response to climate change, species movements and expanding or contracting habitats may undermine the conservation goals of the protected area network if species are no longer protected in parks where they once occurred. In response to this concern, conservationists have advocated for an approach of "conserving the stage," i.e., the physical setting and climate gradients that create the template for a diverse landscape, even if we cannot be confident of which species will occupy individual locations in the future (Lawler *et al.* 2015).

The rugged topography and steep climatic gradients of the Bay Area foster considerable habitat diversity within many parks and protected areas. This diversity of both species and physical conditions is expected to buffer impacts of climate change. The greater diversity of species means it is more likely that at least some native plants adapted to future conditions ("future winners") will be found within local landscapes. Heterogeneous conditions also allow species to find sites with suitable future conditions in close proximity, and more likely within natural dispersal distances. Persistent features, such as springs and other hydrologic refugia (McLaughlin *et al.* 2017) may be buffered from climate change impacts, facilitating the persistence of present day biota. However, general predictions are that species occupying cooler and moister locations in a landscape (e.g., north-facing slopes, deeper soils) will be threatened under warmer and drier futures, while those adapted to hot and dry locations (e.g., south facing slopes, thin soils) may spread across the landscape, resulting in homogenization of the biota and reduction of diversity.

Heller *et al.* (2015) evaluated the robustness of the CLN with respect to local climate gradients, and found that the proposed prioritization scheme, based on vegetation, was largely similar to the results that would be obtained by prioritizing the diversity of climate zones. This positive result largely arises because the plan distributed conservation priorities across the region by targeting vegetation types within 29 "landscape units" (mountain ranges, major valleys, etc.); the goal was to achieve at least 50% protection of each type in each region, with the result that the priorities are broadly distributed across regional gradients of climate and vegetation. CLN2.0 is currently in development, and will incorporate climate goals more explicitly, including maximizing topo-climate diversity and habitat connectivity for climate change adaptation.



A second major conservation priority in the face of conservation change is enhanced landscape connectivity and corridors, both for the traditional goals of enhancing wildlife movement and increasingly out of concern for facilitating species range shifts. To adapt to climate change, many of California's species will need to shift their distributions. Landscape planning for climate resilience should focus on maintaining and restoring habitat corridors that can facilitate species range shifts. Such corridors function by protecting climate refugia and places with slower rates of climate change and then linking protected areas to sites that will offer suitable conditions under future climates. To counter ongoing habitat loss and fragmentation and increase ecosystem resilience to climate change, it is urgent that the region speed up corridor implementation through land conservation and restoration. Targeted efforts to address regulatory barriers and incentives for resource agencies and private landowners could play an important role in this regard. Regional collaborations can create a common vision of connected landscapes, articulate the multiple benefits of corridors, build partnerships between stakeholders, and involve the public in corridor conservation. Scientific data, such as identifying animal movement paths and connectivity models are important for siting and justifying connectivity projects. California's Fourth Climate Change Assessment (Fourth Assessment) report "Climate-wise Landscape Connectivity: Why, How, and What Next" (Keeley *et al.* 2018) provides recommendations for selecting climate-wise modeling approaches and offers a framework to guide on-the-ground connectivity implementation.

These principles have been applied in the Bay Area-based "Building Habitat Connectivity for Climate Adaptation" project¹⁶, integrating habitat mapping, threat assessment, and climate change projections to enhance connectivity and climate resilience in the Mayacamas to Berryessa Coast Ranges (Napa, Sonoma, Lake, and Mendocino counties). The project is evaluating terrestrial and riparian connectivity across the study region to generate linkages between existing protected areas, then determining climate connectivity across the protected area network by calculating the climate benefit offered by each linkage (e.g. connecting warmer to cooler locations).

The development of landscape-scale planning efforts for conservation and connectivity poses new challenges for leadership and cooperative action among public, NGO and private land owners, and government agencies from the local to federal level. While individual agencies may manage networks of protected areas, sometimes across large regions, the open space, parks, and preserves within local landscapes have an array of owners often with contrasting goals, obligations, and jurisdiction for resource stewardship. Land managers are recognizing they need more tools to sustain the health of the lands that have been acquired; public ownership or protected status alone does not necessarily equal resiliency and sustainability. New initiatives in cooperative landscape governance and stewardship are emerging in California¹⁷ and elsewhere to tackle shared challenges posed by climate change, land use change, population growth and other factors. Looking ahead, the United States is expected to see an emergence of more nascent landscape-scale partnerships, as well as deepening levels of collaboration and integration among existing partners¹⁸.

¹⁶ <https://californialcc.org/projects/building-habitat-connectivity-climate-adaptation-s>

¹⁷ <http://landscapeconservation.org/california-landscape-stewardship-network/who-we-are/>

¹⁸ The Center for Natural Resources and Environmental Policy at The University of Montana, <http://naturalresourcespolicy.org/the-center/>



While landscape-scale stewardship partnerships are not a new idea, those committed to long-term action at a regional or landscape level are still not widespread. Recent shifts within the field towards embracing these kinds of innovative partnerships mean that the time is right to make a collaborative, landscape-scale approach the new norm for California. In the Bay Area, the Tamalpais Lands Collaborative — and its community-facing initiative OneTam — is an exemplary effort bringing municipal, county, state, and federal agencies together with a conservation-based NGO to focus on management of Mt. Tamalpais and surrounding lands in Marin County. Using a collective impact model, the NGO provides the backbone support to leverage this public-private partnership and scale the partners' resources to achieve restoration, stewardship, research, education, and sustainability goals. Within four years, OneTam has developed, prioritized, and is implementing collective conservation and stewardship goals through aggregating and analyzing hundreds of partner data sets, which establishes a baseline understanding of the mountain's overall ecological health across jurisdictional boundaries.

A third priority for climate-smart conservation is adapting restoration practice to ensure success in a changing climate. One example is expanding planting palettes (e.g. the range of genotypes or species used in a project), utilizing a broad range of climate tolerances as well as species with diverse flowering and fruiting times to provide more resilience in food resources for animals. The latter principles are embodied in the climate-smart Students and Teachers Restoring a Watershed (STRAW¹⁹) program run by Point Blue Conservation Science underway in the San Francisco Bay Area. STRAW, a community-based restoration program, has restored 36 miles of stream with over 46,000 plants and 45,000 students. STRAW has integrated the climate-smart approach into restoration projects, with the goal of providing enhanced water quality and wildlife benefits, as well as added carbon sequestration of restored woody vegetation.

BOX 10: CO-CREATING CLIMATE SCIENCE PRODUCTS TO MEET LOCAL RESOURCE MANAGERS' LONG-TERM PLANNING NEEDS

Climate Ready North Bay

To create a framework for adapting to climate change, decision makers working in the Bay Area's watersheds need to define climate vulnerabilities in the context of local opportunities and constraints in water supply, land use suitability, wildfire risks, ecosystem services, and biodiversity. Climate Ready North Bay, a public-private initiative spearheaded by Sonoma County's Regional Climate Protection Authority and funded by the California Coastal Conservancy's Climate Ready program, provides a valuable case study of a facilitated engagement process that effectively bridges the science-management divide.

Climate Ready North Bay succeeded in generating an innovative set of customized, "actionable" data products grounded in site-specific management objectives. The success of the project hinged on all participants (staff from eight municipal entities across three counties and a team of six climate scientists) committing to an in-depth facilitated exchange over a two-year period.

¹⁹ <http://www.pointblue.org/our-science-and-services/conservation-science/conservation-training/straw-program>



The project tapped into high-resolution downscaled watershed data products developed by the [Terrestrial Biodiversity Climate Change Collaborative](#) co-chaired by UC Berkeley and the Pepperwood Preserve. By working directly with staff (local water districts, parks and open space districts, and planning agencies) from the very start of the process to define their resource-specific information needs, Climate Ready North Bay developed spatially-explicit data products to help local agencies advance key climate adaptation strategies. Generated products include maps, graphs, data sets, and summary technical reports customized to client jurisdictions and management concerns. For full project documentation and sample products, click [here](#).

Lessons learned:

- Use an iterative process, an extended dialogue (12+ months) and multiple in-person exchanges.
- Frame resource-specific management questions at the project kickoff.
- Make sure managers participate in scenario selection to ensure relevancy and to learn why an ensemble approach is needed to capture model uncertainties.
- A critical member of the team is an “information broker” who speaks the languages of both “science” and “management” to facilitate discussions.
- Once results are available, managers need additional support from the technical team to scope how to translate results to specific planning applications.

Climate Ready North Bay provides a model of how to introduce municipal agencies to available climate science products and chart pathways for integrating those products into resource plans. Data packages are now being applied to multiple long-term resource plans (and on-line planning tools) including:

- Sonoma County Water Agency’s climate adaptation plan
- Napa County’s Groundwater Sustainability planning initiative
- Marin Municipal Water District’s Urban Water Management Plan
- OneTAM’s Mountain Health Scorecard
- Sonoma County Agricultural Preservation and Open Space District’s Vital Lands initiative
- Sonoma Regional Conservation Partnership Program: Venture Conservation
- BAOSC Conservation Lands Network 2.0 and Explorer Tool
- Bay Area Greenprint
- TBC3’s Bay Area Climate Smart Watershed Analysis



Forest Management, Fire Risk and Carbon sequestration

HIGHLIGHT

- Forests can play an important role in carbon sequestration. Fuel and fire management will be critical, as fire is the primary source of carbon loss from forests. Recently, carbon loss from fires exceeded carbon uptake by vegetation in California.

As noted above, fire is a recurrent event in the Bay Area, as in most of California. Native plants in California have evolved in the presence of fire and exhibit a range of life history strategies to promote post-fire regeneration. Some species, such as Bishop pine and some chaparral shrubs, are dependent on fire for regeneration from seed, and many species resprout from the base of the trunk or the larger branches following fire. As in the Sierra Nevada, fire suppression in the 20th century has led to the buildup of a dense understory of conifers, hardwoods, and shrubs in woodlands and forests throughout the region. At a landscape level, there is evidence that woodlands have expanded over the past 100+ years, while shrublands have declined, consistent with the effects of reduced fire frequencies (Evelt *et al.* 2013). Douglas fir, the dominant native conifer in the region, is quite fire sensitive when young. In the absence of fire, the seedlings establish and grow rapidly under the canopy of other trees, eventually overtopping shrubs and hardwoods leading to vegetation conversion and reduction of habitat diversity.

The buildup of dense understories and higher density of small trees, especially conifers, enhance the risk of high severity fires under hot, dry, and windy conditions. While these negative effects of fire suppression are well documented in Sierra Nevada conifer forests, their impacts on fire in oak woodlands and mixed hardwood forests of the Coast Ranges are less well understood. In addition, tree mortality due to drought and sudden oak death (Metz *et al.* 2013) have increased densities of dead fuels and likely contributed to higher fire risk in the Bay Area. It is well established that vegetation removal, either by prescribed burning, herbivory (i.e., goats), or mechanical thinning, reduces the risk or severity of fire in the immediate vicinity of the treatments and can help to limit fire spread (Agee & Skinner 2005). Under moderate conditions, oak woodlands generally present low fire risk, and treatments that remove understory fuels further reduce risk of high severity fire. It is harder to determine how aggressive fuels management would alter fire behavior under extreme fire conditions, as experienced at the outset of the 2017 North Bay fires. High severity fire increases risk, even when it occurs far from populated areas, as the fire is more likely to grow and spread quickly; production of burning embers carried on the wind can lead to rapid spread beyond the immediate perimeter, and these are often the primary cause of ignition for structures. Fire behavior in mixed hardwoods is not well characterized in the current generation of fire models, and more research is needed to be able to evaluate future fire risks, especially under a changing climate, and the scale and type of fuels management that could effectively reduce risk to structure loss.

Forests also play a critical role in carbon sequestration, and the management of natural and working lands is one of the pillars of California's emissions reduction policies (FCAT 2018) (see discussion of rangelands below)²⁰. Fire management is critical as fire is the primary source of carbon loss from forests and in the last decade losses exceeded carbon uptake at a statewide level (Gonzalez *et al.* 2015). Redwood forests are especially important as they have the highest aboveground carbon density of any ecosystem on earth (Van Pelt *et al.* 2016). With their disease resistant wood, large size, high densities, and the lower risk of fire along the coast, redwoods have an exceptional potential

²⁰ <https://www.arb.ca.gov/cc/pillars/pillars.htm>



to sequester carbon for long periods of time. While the largest stands are found further north, redwoods make important contributions to Bay Area vegetation in the Santa Cruz mountains, Mt. Tamalpais in Marin County, and along the Sonoma County coast.

California has played an important role in the development of carbon offset protocols for sustainable forest management, creating an income stream for management actions that enhance carbon sequestration by participating in California's cap-and-trade market. One Bay Area forest—Preservation Ranch in Sonoma County—is currently a registered carbon offset project, receiving credits for enhanced annual sequestration of about 2% of the standing stock (i.e., sequestration credited to sustainable management practices, over and above the baseline scenario of forest growth in the absence of these practices). It is unknown, however, whether future climatic conditions will allow these forests to persist and sustain these sequestration levels. Climate change adaptation planning to facilitate range shifts and species conversions is generally lacking from forest management guidance (e.g., FCAT 2017). Given their conservation value and iconic status, we can probably assume protection of redwood forests in this region to be a priority. Even so, it is not clear yet how to buffer these ecosystems, and the carbon they store, from the compound effects of novel pathogens, climates and fire regimes simultaneously.

Aquatic Systems

HIGHLIGHTS

- Nearly every aspect of Bay-Delta ecosystems will be affected by climate change as a result of rising sea levels, increases in air temperatures, changes in precipitation, changes in sediment supply, and more. Natural areas of the shore will need to adapt or transform.
- The interruption of natural processes over the past 200 years as the region has developed has decreased natural Bay-Delta resiliency. A dynamic, resilient ecosystem has become a rigid landscape with brittle features that will have trouble adapting.
- New approaches that use natural shoreline infrastructure, like beaches, marshes, and mudflats, together with managed retreat where necessary, can create more resilient shorelines that respond well to changing conditions.

Delta Baylands and Coast

The San Francisco Bay-Delta estuary consists of highly valuable ecosystems. Californians depend on the Bay and Delta for fresh water supply, shoreline protection, water quality, food web productivity, biodiversity support, carbon sequestration, and recreation. The cities and other infrastructure of the Bay Area and Delta are built around the geography of the estuary, which both shows the importance of these ecosystems and makes the impacts of climate change to Bay-Delta tidal wetlands very relevant to people.

Although naturally resilient, these ecosystems are threatened by climate change. The interruption of natural processes over the past 200 years as the region has developed has decreased that resilience. San Francisco Bay is now highly urbanized, with billions of dollars of infrastructure built up to and on top of tidal wetlands (Heberger *et al.* 2012). Much of the shoreline is protected by a series of earthen berms and marshes, rather than by engineered levees (SFEI 2016). The Golden Gate watershed (approximately 40% of California's land) is highly modified, so that the sediment



and water flows that reach the estuary are very different from their natural patterns of timing and magnitude. Tidal wetland habitats have been fragmented and isolated (Goals Project 2015), and several endangered and otherwise protected species are found only in these marshes (see Wildlife section). In sum, a dynamic, resilient ecosystem has become a rigid landscape with many brittle features that cannot adapt and must instead be protected. Impacts to the various elements of the Bay-Delta ecosystem are detailed below, and at the end of this section we discuss approaches for restoring natural process and resilience while protecting people and property and upgrading infrastructure.

Nearly every aspect of Bay-Delta ecosystems is likely to be affected by climate change, including physical, chemical, and biological elements. Effects that will stem from increasing sea levels include: changes in precipitation patterns (including storm intensity and timing of runoff); changes in freshwater supply and management of that supply; changes in sediment supply; increases in air temperature; more severe drought; and infrastructure adjustments in response to climate change. Across the elevation gradient from shallow subtidal to the tidal-terrestrial transition zone, natural areas of the shore will necessarily adapt or transform.

At the highest elevations of the Bay-Delta ecosystem, which are closest to people and built infrastructure, is the estuarine-terrestrial transition zone. This zone is a critical area for ecological functions, supporting many endemic species, and for ecosystem services, acting as a buffer for the wetland and aquatic habitats of the bay (Goals Project 2015). The transition zone of today becomes the tidal wetlands of tomorrow as marshes migrate inland in keeping with sea level rise. Much of the transition zone is already developed; little of what is undeveloped is protected (SFEP 2015). Barriers like berms, levees, and seawalls minimize and eliminate the transition zone, foreclosing the opportunity for tidal wetlands to migrate inland. This means that tidal wetlands are squeezed between a rising sea and levees and will lose their ability to protect the shoreline and its infrastructure from flooding and erosion. The fluvial-tidal transition zone (where rivers and creeks enter the estuary) is a critical area with increased value for its functions and benefits and also with increased flooding problems in developed areas.

Slightly lower in elevation than the estuarine-terrestrial transition zone is the intertidal area. Tidal marsh is the dominant natural intertidal habitat of this estuary, and a large effort is being made to restore tidal marshes across the estuary (Goals Project 2015), especially with the recent funding of the San Francisco Bay Restoration Authority (<http://BayAreaRestore.org/>).

Mudflats are found in the lower intertidal zone. Mudflats and tidal marsh are both extremely productive, providing food for fish, marsh wildlife (including several threatened and endangered species - see Wildlife section), and millions of migratory and resident shorebirds. Marshes are also important for water quality in terms of nutrient cycling and contaminant sequestration and breakdown.

Both mudflats and tidal marsh play critical roles in protecting the shoreline behind them. These habitats attenuate waves, reducing erosion of the shoreline. Thus, developed areas with substantial intertidal habitats adjacent require less substantial engineered protection from sea level rise. Recent studies from around the nation have shown that these types of natural shoreline protection perform better than engineered solutions and cost less (Gittman *et al.* 2014; Smith *et al.* 2017).

These intertidal habitats are very resilient to sea level rise, given enough sediment supply that they can keep accreting vertically or enough space that they can migrate inland. However, sediment supplies have recently decreased (Schoellhamer 2011), and modeling results indicate that San Francisco Bay marshes may not be able to keep up with



sea level rise in the long term, unless management practices change (Stralberg *et al.* 2011; Schile *et al.* 2014). Thus, sediment management choices in the bay and its watersheds are critical to outcomes for intertidal habitats and the shorelines behind them.

Sediment delivery to the shore could be increased by infrastructure updates to dams, changes in reservoir management, changes in creek alignments near the bay, and flood risk management approaches. Management of freshwater is equally critical because brackish and freshwater tidal marshes are able to increase in elevation rapidly by creating peat. Evidence of historical freshwater tidal marsh accretion rates in the Delta (Drexler *et al.* 2009) and modeling results (Swanson *et al.* 2015) indicate that these marshes may be sustainable at the lower end of projected sea level rise rates later this century (OPC 2018), but their long-term persistence may be jeopardized at higher rates. Placement and delivery of freshwater around the shoreline should be viewed as a resource to create resilient, protective marshes. Most of the edge of the estuary is leveed, so intertidal areas have very little space to move inland (SFEI 2016).

Intertidal habitats that have been largely removed from the bay, particularly beaches, and (transitioning into the subtidal area) eelgrass and oyster beds, are also resilient elements of the shore that can help protect built infrastructure while adding habitat value. Efforts to restore these habitats are in the nascent stages and could happen faster and at a larger scale.

Novel and managed habitats are common throughout the historic intertidal zone of the estuary, and these managed ponds, leveed areas, duck clubs, deepened and widened channels, and flooded islands are largely a liability in terms of climate change. These areas are prevalent in North and South San Francisco Bay, Suisun Bay, and the Delta. Where land has been kept dry for agriculture and other uses, the land surface continues to subside as the ancient marshes underneath lose CO₂ to the atmosphere. This increases future flooding risk and well as increasing greenhouse gases in the atmosphere.

Failure of levees around subsided lands, as well as sea level rise alone, will cause the estuary to grow in size, drawing in more saline water. As the estuary becomes saltier, habitat will shift from brackish to salt and from fresh to brackish. This is already a problem for fresh water supply in the Delta. The gradient of fresh to salt water and fresh to salt marsh will migrate inland, prompting the need to plan ahead for where natural communities can be supported in the Delta and Central Valley, where wetlands have been largely removed in the past two centuries (SFEI-ASC 2014). Many so-called levees around the estuary are berms made of peat, rather than engineered structures (SFEI 2016). They fail regularly due to flooding and could fail at a large scale in an earthquake. Such a levee failure in the Delta would cause the limited volume of tidal water passing through the Carquinez Strait to be spread over a larger area, thus reducing tidal range and intertidal area.

The way that people respond to the changing climate will determine the fate of estuarine habitats. The relationship between constructed systems, management choices, and natural systems is critical. Removal and interruption of the natural flooding processes of rivers and tides have created the current rigid landscape that cannot adapt over time, is difficult to protect from climate change impacts, and provides few benefits beyond flood risk management. Further removal and interruption of natural processes by tidal barriers, sea walls, and other engineered structures will exacerbate the situation (see Natural Infrastructure section, above). However, new approaches that use natural infrastructure, like beaches, marshes, and mudflats, and different management practices, such as planned flooding



during certain times of the year, can create more resilient shorelines that can respond to changing conditions and provide multiple benefits (Newkirk et al. 2018). Hybrid natural and engineered solutions are likely to be necessary in many areas. Beyond choices at the shoreline, the management of rivers, creeks, reservoirs and stormwater in watersheds will also be critical. Sediment and water coming off the land are the building materials of estuarine habitats, and how they are delivered is of paramount importance.

Incorporating natural elements into shoreline adaptation and watershed management requires advance planning, as well as changes in policies, funding, and coordination. Because the natural systems of the estuary are large in scale and some natural processes take time to play out, planning to incorporate natural elements needs to be at a large enough scale and far enough ahead to consider the full system and its multiple benefits. Pilot projects are underway that show the feasibility and efficacy of these approaches, including realignment of San Tomas Aquino Creek for better sediment delivery, the redesign of SR 37 for flood risk management and reduced impact to intertidal habitats, restoration of oyster reefs for shoreline protection, and pulsed flows in the Yolo bypass to create food web productivity for fish.

Local residents support this focus on restoring the estuary as the climate continues to change. In a recent historic vote, Bay Area residents levied upon themselves the first regional parcel tax measure in California's history (Measure AA). It passed with 70% approval across the nine-county region and went into effect in 2017. This parcel tax will raise approximately \$25 million annually, or \$500 million over 20 years, to fund habitat restoration projects in the Bay Area, including flood control and shoreline access elements of those projects.



BOX 11: BIG MONEY FOR RESTORING THE BAY (WHAT A CONCEPT!)

Measure AA: The San Francisco Bay Restoration Authority

This \$12/year parcel tax passed in 2016 by 70% of Bay Area voters is the first regional parcel tax in California history! The Authority is now handing out its **first checks** for bay wetlands restoration projects. The Authority will dispense \$25 million each year for 20 years with a number of the projects expected to address sea level rise as part of their focus.

Projects that benefit disadvantaged communities are among Measure AA's priorities and, working with representatives of environmental justice groups on the Advisory Committee, the Restoration Authority adopted a new definition of an economically disadvantaged community that considers income-based metrics as well as environmental and other burdens.

The first funded projects include:

- Deer Island Wetlands (Marin) - \$1 million
- Encinal Dune (Alameda) - \$450,000
- India Basin remediation (San Francisco) - \$5 million
- Lower Sonoma Creek (Sonoma) - \$150,000
- Montezuma Wetlands (Solano) - \$2 million
- North Bay wetland restoration (Sonoma, Marin) - \$3 million
- San Leandro Treatment Wetland (Alameda) - \$1 million
- South Bay Salt Pond Restoration Project (San Mateo, Alameda, Santa Clara) - \$8 million
- South San Francisco Bay Shoreline Project (Santa Clara) - \$4 million

Freshwater Systems

The ecology of freshwater systems and the dynamics of fish populations are tightly linked to water flows and water temperature, both of which are sensitive to climate change. Water flows in the Bay-Delta are directly coupled to winter precipitation, and the amount and timing of snowmelt in the Sierra Nevada. Rainfall is highly variable from year to year in California, and models project this variability may increase, with more extreme wet years and increased risk of drought; there is still considerable uncertainty, especially in central California, about whether average rainfall will increase or decrease (see Precipitation section, above). In the 3rd California Climate Change Assessment, Moyle et al. (2012) compiled a thorough estimate of the factors affecting the California fish fauna and ranked all members of that fauna, both native and alien, by their baseline vulnerability to extinction and by their sensitivity to climate change.

SALMONIDS

Salmonids have received considerable attention in relation to climate and conservation, reflecting their iconic life history and their long-standing economic importance. As the Delta is the entry point for populations throughout



the Central Valley and Sierra, potential impacts of climate change have widespread importance. In a recent review, Moyle et al. (2017) concluded that climate change is a major threat to salmon populations throughout California, and that the historic 2012-2016 drought contributed to continuing declines in recent years. The lack of cold water and low flows from Shasta Dam and other dams in the Central Valley contributed to the high mortality of eggs and fry (juvenile fish). The Russian River watershed, in Sonoma and Mendocino counties, is home to three threatened and endangered salmonid species: Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), and steelhead (*Oncorhynchus mykiss*). Current efforts by the Sonoma County Water Agency to enhance habitat conditions for salmonids include improvements to reservoir reliability to maintain a cold water pool in Lake Mendocino through the summer for downstream juvenile steelhead rearing and into the fall for adult salmonid migration. This could help reduce the impact of drought on rearing and migrating salmonids.

Emergency efforts to protect salmon during the drought led to a focus on restoring the original portfolio of salmon's adaptive strategies to California's variable climate. This support would include better providing for all life stages; different life stages fare better in different years, so diverse strategies increase the likelihood that some will be appropriate for whatever conditions occur in a given year and place. Broadening the salmon's genotypic and phenotypic portfolio requires different hatchery management practices and improved quantities and access to habitats of diverse types used by different salmon life stages.

NON-SALMONID FISHES

A diverse array of non-salmonid fish occur in the Delta and have been carefully monitored for many years²¹. Changes in these populations, coupled with analysis of life histories, have been used to rank species from critically sensitive to least sensitive to climate change. The most vulnerable species are Sacramento Perch and Sacramento Splittail, whose populations spike in the wet years and decline precipitously in dry years. Delta Smelt and Tule Perch are also highly vulnerable species, although their dynamics are less dependent on annual rainfall. Both species are tolerant of high salinities, but exhibit low thermal tolerance (Swanson et al. 2000, Moyle 2002) and have been declining in recent years. No Delta smelt were captured in 2017. Precipitation patterns are not firmly agreed upon for California's future climate, but the increase in temperature is common to all local models, suggesting that these two species will be highly vulnerable to continued change.

Several exotic species have established themselves in the Delta. One of these, American Shad, has populations that fluctuate with rainfall, like some of the natives, suggesting greater vulnerability in a future climate. Others, including Mississippi Silverside, Striped Bass, and Largemouth Bass, have more steady population sizes and high thermal tolerances and appear to be quite resilient in the face of variable rainfall and warming temperatures.

MANAGEMENT IMPLICATIONS FOR RESIDENT NATIVE FISHES

California's native fish fauna is adapted to a highly variable climate. However, much of California's water development has aimed to reduce the impacts of this variable climate on water supply to farms and cities. As climate change progresses, or as historical variability in flows is restored, the resident species have the adaptations to take advantage of good conditions and spawn prodigiously. However, habitat change and invasive species reduce their ability to survive through the intervening dry years. Restoration of diverse habitats used by native fishes will likely improve

21 https://view.officeapps.live.com/op/view.aspx?src=https://www.fws.gov/lodi/juvenile_fish_monitoring_program/data_management/Metadata_Updated_September_09_2014.doc



their survival. Hydrologic isolation of some of the restored habitats could offer refuge from environmental hazards that are more intense in drier years and thereby enhance survival and protect populations.

BAY AREA RIVERS AND CREEKS

Climate change could impact Bay Area creeks and rivers in several ways. On the one hand, longer dry seasons and more frequent and severe droughts could greatly reduce the quantity and quality of water in waterways. Droughts and higher mean temperatures could reduce the quantity of water available for flow in creeks and rivers in the Bay Area. Instream flows may be affected by longer dry seasons; increased evaporation; greater water demands from riparian vegetation due to higher rates of evapotranspiration; increased direct diversion and groundwater pumping by adjacent property owners; and reduced contributions to flow from adjacent groundwater aquifers (Micheli *et al.* 2016). On the other hand, increased frequency and magnitude of extreme precipitation events could lead to more flooding and erosion (NBCAI 2013).

Catastrophic wildfires associated with climate change, such as those that occurred in the North Bay in 2017, increase the risk of delivering ash, debris, and sediment to waterways during subsequent rain events. Toxins, particularly from urban fires, can directly affect invertebrates, fish, amphibians, and other species²². Fine sediments can impact spawning habitat for threatened and endangered salmonids, such as Chinook salmon, coho salmon, and steelhead present in the Russian River watershed. Introduction of dissolved organic carbon and other contaminants could impact downstream water supply operations. For example, a catastrophic wildfire in the watershed upstream of Lake Sonoma, a reservoir located in the Russian River watershed, would impact the primary drinking water source for approximately 600,000 North Bay residents and could affect the Sonoma County Water Agency's ability to supply clean, safe drinking water (SCWA 2018). The Water Agency is developing a fire risk and water quality assessment as part of its climate adaptation planning process to better understand how wildfire could affect hydrology and water quality in the Russian River watershed.

Flooding is already a significant problem in some Bay Area communities. The Russian River, located in Sonoma and Mendocino counties, is a major source of flooding in Sonoma County, which contains the highest number of properties suffering repetitive flood losses of any community in California (SCHMP 2017). Atmospheric rivers play a large part in these flooding events and recent studies (see Regional Climate Science section, above) suggest that intense atmospheric rivers will occur more frequently as mean temperatures rise. The SCWA is working with the National Oceanic and Atmospheric Administration, Scripps Institution of Oceanography, and others to improve atmospheric river forecasting in region²³. Additionally, SCWA is developing a new flood model for the Russian River as part of its climate adaptation planning process²⁴.

IMPACTS OF DROUGHT

The 2012-2016 drought produced, in intense form, several of the expected long-term effects of climate change. Reduced precipitation caused lower stream flows, including the complete drying of some stream reaches, and reduced lake and reservoir levels. Reduced snowfall caused higher water temperatures, flashier hydrographs, and lower summertime flows. Higher air temperatures caused higher water temperatures and more rapid evaporation. Higher water temperatures produce physiological stress on fish, greater disease susceptibility, and higher rates of

²² <https://ca.water.usgs.gov/wildfires/wildfires-water-quality.html>

²³ <http://www.scwa.ca.gov/aqpi/>

²⁴ <http://cw3e.ucsd.edu/firo/>



primary productivity, including harmful algal blooms. Additional impacts were caused by tree mortality in forests, sedimentation following wildfire and changes in outflow, and salinity in estuaries. Many of these impacts were immediate, while some are still affecting fish populations. Impacts to fish populations are likely to continue for years even if higher precipitation years return.

Bay Ecosystem

The open water and benthic components of the San Francisco Bay ecosystem have undergone a series of fundamental changes in the past century, starting with a sediment flux resulting from hydraulic mining and the Gold Rush, followed by an invasive species of clams. A series of changes are anticipated in the coming century. In this section, we start with a discussion of current conditions in the bay, and how those conditions were shaped by historical conditions and change. We then consider the coming century and how the ecosystem is likely to be transformed.

The San Francisco Bay ecosystem is quite high in nutrient concentrations, due to the high levels of wastewater and urban water returns to the bay. In the South Bay, nutrient concentrations are comparable to those observed in Chesapeake Bay, but San Francisco Bay does not experience the same eutrophication evident in the Chesapeake, due to a number of physical factors that limit growth in the system.

In San Francisco Bay today, phytoplankton growth is not limited by nutrient concentrations, but instead biomass is limited by the combination of low light levels and high grazing rates. Low light levels in San Francisco Bay are a result of high sediment concentrations, which are suspended from the bed by energetic tidal flows and surface waves. The extensive shallows of San Francisco Bay play an important role in maintaining these high concentrations. They are, in part, a result of the pulse of sediment that entered the bay following hydraulic mining and the Gold Rush, which continues to work its way through California's rivers and reservoir system to the bay.

The grazing of phytoplankton in San Francisco Bay is dominated by benthic clams, which have sufficient density in portions of the bay to filter the entire water column in less than 2-3 days. The particular species of clam that dominates the benthos was introduced from Asia in the ballast waters of ships in the 1980s, and now helps to control phytoplankton growth throughout the bay. Physically, the ability of a benthic species to effectively filter the entire water column depends on the bay mixing regularly, which occurs in San Francisco Bay as a result of strong tidal forcing in relatively shallow channels. This is another contrasting characteristic to Chesapeake Bay, which remains stratified (unmixed) for months, eliminating the possibility of benthic grazers acting to reduce the high biomass that develops as it eutrophies during the summer.

Looking to the future, the key concern is whether the current limitations on biomass (low light levels due to high sediment concentrations; extensive benthic grazing due to high clam populations and mixed conditions) may be relaxed, thus allowing much more extensive growth in the bay in response to high nutrient levels.

THE KNOWN UNKNOWNNS

There are two key trends that may alter physical conditions in the bay, although the resulting changes in the ecosystem are uncertain. First, sediment concentrations are declining due to end of the post-Gold Rush hydraulic mining pulse. Recent analysis (Schoellhamer 2011) has indicated that there may be a significant decline in bay sediment concentrations in the coming century, which would result in higher light levels and more phytoplankton growth. The second key trend is toward more intense and longer heat waves, which will lead to thermally stratified conditions and



phytoplankton growth in the surface layer, including possibly harmful species (Cloern *et al.* 2011). There is uncertainty as to whether a threshold (and, if so, what the level of threshold) will be met in either case that would result in a transformation of the bay ecosystem. Ongoing research is attempting to determine the level of risk.

THE UNKNOWN UNKNOWNNS

The introduction of the Asian clam species in the 1980s fundamentally altered the San Francisco Bay ecosystem. The coming century will almost certainly involve additional ecological disruptions with uncertain consequences. Increases in clam predators, for example, would reduce or eliminate the ability of the clams to filter the bay and limit phytoplankton biomass. The probability of some kind of ecological disruption in the coming century is quite high, but the details and the consequences of that disruption are, of course, unknown at present.

Agriculture

HIGHLIGHTS

- Nearly 70% of California's existing area of wine production will be vulnerable under future climate change projections by mid-century. Wine grape production in the Bay Area could be vulnerable to extreme temperatures and temperature-related water scarcity.
- The sensitivity of Bay Area rangeland vegetation to precipitation dynamics makes these ecosystems particularly vulnerable to climate change. Changes in rainfall regimes are likely to affect plant production and associated patterns in soil carbon and greenhouse gas production.
- Grazing and rangeland management practices can play a significant role in enhancing soil moisture and below-ground carbon sequestration. Current research highlights the potential role of compost together with grazing on California pasturelands as a targeted strategy to increase carbon sequestration.

Climate Change and Wine Grape Production in the San Francisco Bay Area

The Bay Area supports a diverse portfolio of crops (NASS 2012). While wine grapes are its most notable crop, 32,600 acres of field-grown vegetables²⁵ produce annual sales of \$193.8 million²⁶. An additional \$4.2 million come from vegetables grown in protected conditions (i.e., tunnels, greenhouses) and \$5.1 million in sales are produced from just 373 acres of berries. Production of horticulture and floriculture crops contributes \$125.5 million in sales. Production of fruit and tree nuts contributes the greatest regional value, with \$1.259 billion in annual sales, largely due to wine grape production. The North Bay first began producing wines in the early 20th century and has since become one of the world's premier growing regions. More recently, parts of the East and South Bay have also emerged as producers of high quality wines (Figure 19). The region's diverse climate allows a wide range of cultivars, but the usual suspects rise to the top (*Grape Crush Final Report 2016 2017*). Listed in decreasing acreage, the top five red varieties are Cabernet

²⁵ Includes seeds and transplants

²⁶ Sales – Definition from USDA-NASS glossary: "Refers to both dollars (\$) received and quantities of commodities (e.g., head or bushels) sold or removed from the operation. Includes landlord share and value of product removed under production contract. Depending upon the data series, may refer to marketings or cash receipts. Excludes government payments. Used alone, *sales* refers only to the data item."



Sauvignon, Pinot noir, Merlot, Zinfandel and Petite Sirah, with nearly similar acreage from Syrah, Petit Verdot, Malbec and Cabernet Franc. The top white varieties are Chardonnay, Sauvignon blanc and Pinot gris, and Gewurztraminer, with Viognier, Semillon, Chenin blanc and White Riesling coming in at a near tie.

Nearly 70% of California's existing area of wine production may be vulnerable under future climate change projections by mid-century (Hannah *et al.* 2013). Recent spatial analysis of grape production across California used mean summer mid-century temperature projections to identify potential regions of vulnerability for grapes (Elias *et al.* 2015). The historic mean summer temperatures where grapes were grown in California were used as an estimate of suitable temperature conditions for grape production. When temperatures increased beyond historic means where 95% of California wine grapes were grown, the area was considered a new temperature regime. Mean summer temperature increase caused more than 60,000 acres of varied land use in northern Solano and Napa counties to exceed the normal historic temperatures. In contrast, portions of Marin, Sonoma and San Mateo counties along the coast transitioned to typical mean summer temperatures where grapes are grown (Figure 19). Only northern Solano County had a small area presently growing grapes that is predicted to shift outside the 95% percentile of optimal temperatures.

FIGURE 19



Changes in climatic suitability for wine grapes Source: Elias et al. 2015.



The pattern of decreased inland suitability but increased coastal suitability has been reported independently (Hannah *et al.* 2013; Elias *et al.* 2015). While mean temperatures may have minimal impact on Bay Area grape production by mid-century, wine grape acreage in the Bay Area could be vulnerable to extreme temperatures and temperature-related water scarcity by mid-century. When the composition and acreage of the specialty crops in all of California's counties were evaluated for sensitivity at mid-century, the nine counties in the Bay Area ranked in the mid-level of sensitivity for summer and winter changes in temperature because wine grapes have the relative potential to tolerate such increases better than other specialty crops more susceptible to increasing temperatures at key phenological stages (Kerr *et al.* 2017). Despite anticipated vulnerabilities, loss of wine grape production from the region is unlikely due to the heavy investment in institutional knowledge, capital and land, infrastructure, and supply chains to support the industry (A. Walker, pers. comm.). The varieties of wine grapes grown in the Bay Area likely will have to shift to accommodate changes in resource availability and climate.

Vines planted today will have a 20- to 30-year lifespan; thus, mid-century climate projections provide the relevant context for current adaptation and investment decisions. In the absence of adaptation efforts, climate change will likely have strong consequences for long-term growth and production. Wine grapes are a woody perennial crop that establishes the buds for one growth season in the preceding season; thus, management and weather events in the preceding and current growth season can cumulatively impact production and vine balance (Celette *et al.* 2009; Ripoché *et al.* 2010). Alterations in flavor development and accumulation of sugars in grapes may result from increases in absolute temperature and in the differential between day and night temperatures (Spayd *et al.* 2002; Keller *et al.* 2010; Nicholas & Durham 2012). Risk of Pierce's disease may increase as the infection rate of *Xylella fastidiosa* and the survival of its vector, the mealy bug, will benefit from increasing winter temperatures (A. Walker, pers. comm.). Continued prophylactic management of trunk diseases will be imperative. Warmer winter temperatures already lead to earlier growth of vines in spring, increases in yield in some cases, and risk of later frost damage, although this risk may be mitigated by reduced frost incidence in the future. High temperatures (>95 °F or 35 °C) during bloom can also hinder subsequent fruit set.

Similar to other agricultural systems, practices like cover crops, compost, and no-till soil management can improve soil health. They promote soil organic matter, stability of soil aggregates, stable pools of soil organic matter (SOM), water infiltration, microbiological activity, weed suppression, and trends for reductions in nitrate leaching and net greenhouse gas emissions (Steenwerth & Belina 2008b, a; Garland *et al.* 2011; Verhoeven & Six 2014; Belmonte *et al.* 2016; Yu *et al.* 2017). This body of work on wine grapes and other specialty crops has been incorporated into the USDA-NRCS tools, COMET-Farm, and COMET-Planner to support growers in implementing conservation practices that will reduce greenhouse gas emissions and improve soil organic matter and other aspects of soil health (Zhu *et al.* 2015). A yet unexamined concern is the potential limit of soils in the region to provide long-term stabilization of soil organic matter using these conservation practices under increasing climatic temperatures and any changes in quantity and timing of irrigation and rainfall.

Cover crops, compost, and no-till practices that improve soil health can provide adaptation, but vegetation on the vineyard floor can compete with the vines (Ripoché *et al.* 2010). Fortunately, irrigated vines in California are to some extent decoupled from effects of vineyard floor management compared to dry farm grapes. For instance, impacts of annual cover crops on vine nutrition and yields were not evident in a drip irrigated 12-year-old vineyard over three years (Steenwerth *et al.* 2016). Should future rainfall patterns limit available water for irrigation and subsurface sources,



vine balance and nutrition will be more sensitive to vineyard floor management, and effects will likely be evident two to four years after implementation (Celette *et al.* 2009). Managing irrigation with surface renewal and supporting continued investment in integrated technologies such as sensors at the vine and remote sensing scales will aid growers in precise, site-specific irrigation management (e.g., GRAPEX²⁷)

Novel approaches to adaptation were highlighted at a recent joint meeting involving university researchers, USDA-ARS scientists, and wine industry members (National Grape and Wine Initiative, Portland, November 2017). Surface renewal was developed decades ago, but recent advancements are enabling its diffusion into the wine grape industry to finely manage deficit irrigation. Development of rootstock germplasm and evaluation of tolerances to disease, deficit irrigation, and salt- and chloride-affected water sources are underway (See work by A. Walker – UC Davis, A. McElrone – USDA/ARS). Preliminary examination of wastewater streams from wineries using potassium-based cleaners and municipalities indicates that they can be tolerated by vineyard soil types with little observed impact on vines and wines in California (Mosse *et al.* 2013; Weber *et al.* 2014; Buelow *et al.* 2015b, a; Hirzel *et al.* 2017) and other Mediterranean regions (Quayle *et al.* 2009; Laurenson *et al.* 2012). Sun exposure and heat loading can be adjusted through changes in vine training, trellis type, and row orientation at planting to reduce sun exposure and heat loading, although these are less ideal adaptive measures due to inflexibility and potentially significant costs (Spayd *et al.* 2002). Effects of trellis type on wine grape quality for current and emerging varieties are not well understood, and efficient techniques to reduce temperatures across whole vineyards must still be developed.

The wine grape industry, and agriculture in general, also must mitigate risks of climate change on human capital, such as retention and access to seasonal labor and maintaining safe working conditions in extreme conditions. Job losses in the agricultural sector will disproportionately impact low-income communities, and these workers have limited access to labor and occupational health protections, especially for the undocumented community (Shonkoff *et al.* 2009). At a national level, crop workers experience elevated risk of mortality from heat stroke (CDC 2008). These risks are much lower in the Bay Area due to the coastal climate, but the lack of preparation and experience with extremes can increase vulnerability to heat waves (see Public Health section, above).

Rangelands and Belowground Carbon Sequestration

Rangelands are the dominant cover type in California, covering approximately 23 million hectares or over 40% of the state (*Forest and Rangelands Assessment Program* 2010). Rangelands are defined as ecosystems with plant cover suitable for grazing that are dominated by grasses, grass-like plants, forbs, or shrubs. Bay Area rangelands are dominated by oak savanna and annual grassland ecosystems (grasslands are here defined as rangelands dominated by grasses and forbs). Rangelands can include native and introduced plant species (*Summary Report: 2007 National Resources Inventory* 2009). Throughout California, including the Bay Area, annual plant species, especially exotic grasses, are the most common vegetation type in rangelands (D'Antonio *et al.* 2007). In the Bay Area, rangelands cover approximately 1.7 million hectares, or 40% of the land area (CDC 2009).

California's rangelands play an important role in the beef cattle and dairy industries. Livestock and livestock products in California accounted for 25% of the state's gross agricultural cash receipts in 2015 (*California Agricultural Statistics Report 2015-2016* 2016) which amounted to \$15.3 billion in 2014 and \$12 billion in 2015. Dairy products are the

27 <https://www.ars.usda.gov/northeast-area/beltsville-md/beltsville-agricultural-research-center/hydrology-and-remote-sensing-laboratory/docs/grapex/>.



state's leading commodity. The California dairy industry was responsible for 18% of the annual dairy receipts of the US in 2015. In 2016, revenue from milk and cream amounted to \$6.07 billion, while beef cattle revenue was \$2.53 billion (2016 Crop Year Report CDFA n.d.). The Bay Area supports over 230,000 head of cattle ("USDA NASS" 2016). Marin and Sonoma counties are the largest dairying regions in the Bay Area with 2% of the state's dairy cows on 7% of the dairies ("CDFA California Dairy Statistics Annual 2016" 2016).

Bay Area rangelands experience a Mediterranean climate with cool wet winters and hot dry summers. Plant productivity in California's rangelands is tightly coupled with patterns in precipitation. The high inter-annual variability in rainfall leads to large inter-annual differences in aboveground biomass (e.g. forage) production (Huntsinger & Bartolome 2014). The sensitivity of rangeland vegetation to precipitation dynamics makes these ecosystems particularly vulnerable to climate change. Changes in rainfall regimes are likely to affect plant production and associated patterns in soil carbon and greenhouse gas production (Jackson *et al.* 2007; Ma *et al.* 2007; Chou *et al.* 2008; Grant *et al.* 2012; Schwalm *et al.* 2012).

Climate models yield varying results for precipitation in the Bay Area. Under a wetter future scenario, some Bay Area counties could see an increase in forage production (Shaw *et al.* 2011), depending upon how that rainfall is distributed (George *et al.* 2010). Timing of rainfall is important to the physiology and growth of California's annual grassland species, as well as soil carbon dynamics (Chou *et al.* 2008). An increase in summer rainfall events with climate change is likely to stimulate soil respiration (Xu & Baldocchi 2004; Baldocchi *et al.* 2006; Chou *et al.* 2008). Simulated increases in early and late season rainfall events (i.e., September and May–July) increased microbial activity and associated decomposition of carbon stored in soils (Chou *et al.* 2008). Increased rainfall during the rainy season had little effect on carbon pools and fluxes. Drought leads to low net primary production and can result in a significant net source of carbon to the atmosphere in California rangelands as microbial respiration exceeds plant carbon uptake (Xu & Baldocchi 2003; Ma *et al.* 2007). Drought can also increase plant mortality, particularly in oak woodlands, leading to lower carbon uptakes and higher soil respiration losses (Fellows & Goulden 2013). An increase in fire associated with droughts and higher temperatures is also likely to lead to large carbon losses from Bay Area rangelands.

The effects of increased temperature on rangeland ecosystems is unclear. In a modeling experiment, Chaplin-Kramer (2013) found increased forage production in most Bay Area rangelands, particularly toward the end of the century. However, periodic drought, which was assumed to occur two to four times over a 30-year period, led to dramatic declines in aboveground production in all areas except the North Bay (Chaplin-Kramer 2013). The model projections also predicted a shorter growing season, particularly in the South Bay, which could partially offset the benefits of increased growth.

Rangelands have the potential to have large soil carbon pools. Periods of low rainfall and the occurrence of dry seasons favor plant species with high carbon allocation to root biomass. High root biomass stocks tend to facilitate the development of carbon-rich soils. A meta-analysis of research on California's rangelands showed that soils stored about 140 megagrams of carbons per hectare in the top meter of the profile (Silver *et al.* 2010) (for comparison, aboveground carbon in grasslands is generally <2 megagram of carbon per hectare). Carbon stocks in surface soils (0–20 cm depth) were similar to those of Midwestern perennial grasslands, but when the top meter was considered, California's annual grasslands generally had lower soil carbon stocks than perennial systems. Owen and Silver (2015) reported soil carbon stocks that ranged from 60 ± 2 to 223 ± 6 Mg C ha⁻¹ in the top 50 centimeters of soil on rangelands in Marin and Sonoma counties.



Soil carbon sequestration in rangelands has been proposed as a means to help mitigate climate change (Conant 2011; *CA Healthy Soils Initiative* 2016; Flint *et al.* 2018). Livestock manure is a common amendment on rangelands. A recent study of Bay Area rangelands showed that manure amendments significantly increased soil carbon stocks, but also stimulated the emissions of nitrous oxide (N₂O), a potent greenhouse gas (Owen & Silver 2015). Results suggested that rangelands are a net source of CO₂e²⁸ to the atmosphere under this management regime. Composting livestock manure with green waste, combined with grazing, can lower greenhouse gas emissions of organic matter amendments (DeLonge *et al.* 2013; Ryals & Silver 2013). Marin County rangelands experienced a net sink of approximately 1 Mg C ha⁻¹ y⁻¹ over the first three years following a single application of compost to surface soils (Ryals & Silver 2013; Ryals *et al.* 2014). There was no significant increase in N₂O emissions relative to untreated control plots. A lifecycle assessment model suggested that applying compost to only 5% of California's rangelands (an area equivalent to 68% of Bay Area's rangelands) could offset all of the annual livestock emissions for the state. Compost amendments significantly increased above and belowground net primary productivity over multiple years (Ryals & Silver 2013). Model output suggested that the net sink would persist for several decades (Ryals *et al.* 2015).

The effects of compost amendments on soil carbon storage was robust under different future climate change scenarios when modeled for seven locations across the state (Silver *et al.* 2018). Bay Area rangelands in Marin County showed a maximum increase of 6 Mg CO₂e ha⁻¹ relative to untreated soils 15 years after compost application. The same magnitude of benefit occurred under both an RCP 4.5 and RCP 8.5 scenario. The model predicted a similar benefit in Solano County, with a slightly greater 15-year impact under the RCP 8.5 scenario (6.49 Mg CO₂e ha⁻¹ relative to untreated soils) (Silver *et al.* 2018).

Soils high in organic matter stocks, and thus carbon content, can also play an important role in adaptation to climate change. Soil organic matter content plays an important role in the ecohydrology of rangelands. Organic matter generally holds more moisture than minerals in soils, and thus organic rich soils may be better buffered against drought. Bay Area rangelands that received organic matter amendments had higher water holding capacity than untreated soils (Ryals & Silver 2013). Flint *et al.* (2018), in a report for California's Fourth Climate Change Assessment, conducted a modeling study that suggested benefits of organic matter amendments would be widespread in California, with significant gains in water holding capacity and resilience to drought (Flint *et al.* 2018). They found that a 1% increase in soil organic matter content led to a 3.2% increase in soil moisture storage. When modeling with both a wetter and drier future climate scenario (both RCP 8.5), Flint *et al.* found that 97% of California's rangeland and cropland benefited hydrologically from compost application. Rangelands with a wetter climate, typical of Bay Area locations, were more likely to benefit from higher soil water storage than more arid regions.

²⁸ CO₂e refers to CO₂ equivalents, a metric of the cumulative heat-trapping potential of gases emitted to the atmosphere, including methane, NO_x, etc., in equivalent units of CO₂ emissions.



Conclusion

The Bay Area faces a panoply of challenges triggered by a changing climate. The region also has a unique economic, political, and social fabric, buttressed by California's national and global leadership on climate change mitigation and adaptation. While the challenges loom large, novel ideas and innovations are rapidly emerging that could show the way to a resilient future. The pace of change in the physical environment that is projected in the coming decades will outpace any episode in recent human history, and a similarly unprecedented pace of societal change may be necessary in response. This report, along with the summary reports for other regions of California and the contributions of California's most recent Climate Change Assessment, provide the knowledge base to design and test adaptation strategies and identify uncertainties and knowledge gaps that will need to be addressed moving forward.

The joint effort by Bay Area scientists and stakeholders to produce this report can also serve as a foundation for an on-going science-to-action collaboration among academics, government officials and staff, community organizations, and the private sector. To start, the data and information contained here, along with guidance on how to interpret and apply it, can be distributed widely to inform decision-making at the regional and local levels. This can include slide decks, printed and web-based materials, social media, and other channels. It can spotlight the growing number of exciting solutions and innovative pilot projects that are being developed in our region to respond to the challenge of climate change.

Moreover, the new Bay Area Climate Adaptation Network (BayCAN) and its partners can use this report and related materials to engage the public and elected leaders for in-depth discussions on how the Bay Area will accelerate its work to build a strong and resilient Bay Area for all. This campaign can include school activities, community meetings, facilitated discussions in workplaces and faith-based communities, and other approaches. Finally, this process of engagement can identify the key information and knowledge gaps that will be the focus of the next rounds of climate adaptation research. In this way, the Bay Area Regional Report can be seen as the *beginning* of a deep partnership between academic experts and a broad range of regional stakeholders that will help build the equitable and resilient 21st century Bay Area.



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CLIMATE JUSTICE ALLIANCE

Just Transition Principles

This short paper aims to articulate the shared analysis & principles held by members of the Climate Justice Alliance, recognizing that a Just Transition will look different in different places.¹

What Do We Mean By Just Transition?

“Just Transition is a principle, a process and a practice.”
— Just Transition Alliance

Just Transition is a vision-led, unifying and place-based set of principles, processes and practices that build economic and political power to shift from an extractive economy² to a regenerative economy. This means approaching production and consumption cycles holistically and waste free. The transition itself must be just and equitable; redressing past harms and creating new relationships of power for the future through reparations. If the process of transition is not just, the outcome will never be. Just Transition describes both where we are going and how we get there.

History & Context

Just Transition strategies were first forged by labor unions and environmental justice groups, rooted in low-income communities of color, who saw the need to phase out the industries that were harming workers, community health and the planet; and at the same time provide just pathways for workers to transition to other jobs. It was rooted in workers defining a transition away from polluting industries in alliance with fence line and frontline communities.

The environmental justice (EJ) movement grew out of a response to the system of environmental racism where communities of color and low-income communities have been (and continue to be) disproportionately exposed to and negatively impacted by hazardous pollution and industrial practices. Its roots are in the civil rights movement, and are in sharp contrast to the mainstream environmental movement, which has failed to understand or address this injustice³. The EJ movement emphasizes bottom up organizing, centering the voices of those most impacted, and shared community leadership.

Building on these histories, members of the Climate Justice Alliance, many of whom are rooted in the environmental justice movement, have adapted the definition of Just Transition to represent a host of strategies to *transition whole communities*⁴ to build thriving economies that provide dignified, productive and ecologically sustainable livelihoods; democratic governance and ecological resilience.

Some of the movement leaders who have built a strong foundation for just transition



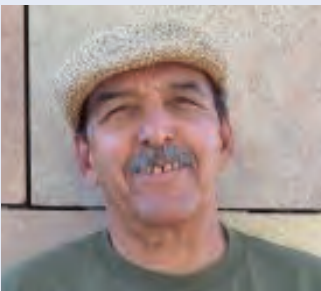
Connie Tucker, Southern Organizing Committee for Economic & Social Justice



Jose Bravo, Just Transition Alliance



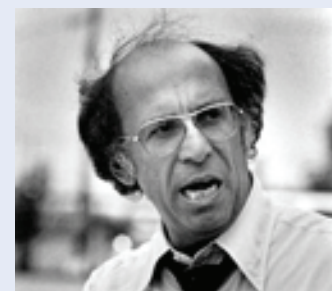
Pam Tau Lee, Chinese Progressive Association



Richard Moore, Southwest Network for Environmental and Economic Justice and Los Jardines Institute



Tom Goldtooth, Indigenous Environmental Network



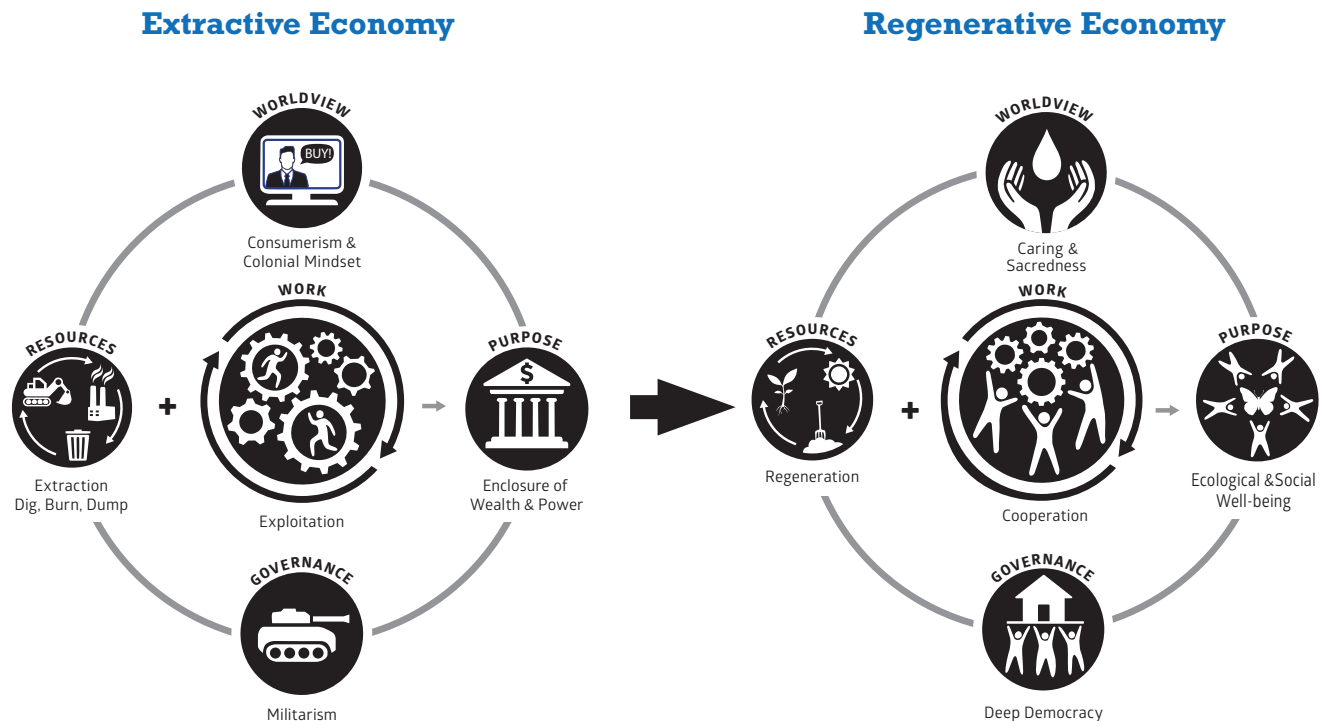
Tony Mazzocchi, Oil, Chemical & Atomic Workers International Union

Analysis, Framework and Strategy

After centuries of global plunder, the profit-driven industrial economy rooted in patriarchy and white supremacy is severely undermining the life support systems of the planet. Transition is inevitable. Justice is not.

We must build visionary economy that is very different than the one we now are in. This requires stopping the bad while at the same time as building the new. We must change the rules to redistribute resources and power to local communities. Just transition initiatives are shifting from dirty energy to energy democracy, from funding highways to expanding public transit, from incinerators and landfills to zero waste, from industrial food systems to food sovereignty, from gentrification to community land rights, from military violence to peaceful resolution, and from rampant destructive development to ecosystem restoration. Core to a just transition is deep democracy in which workers and communities have control over the decisions that affect their daily lives.

To liberate the soil and to liberate our souls we must decolonize our imaginations, remember our way forward and divorce ourselves from the comforts of empire. We must trust that deep in our cultures and ancestries is the diverse wisdom we need to navigate our way towards a world where we live in just relationships with each other and with the earth.



CJA Just Transition Principles

There are existing principles, including the Principles of Environmental Justice and Jemez Principles for Democratic Organizing, that have been important in guiding our work. The Just Transition principles below are an attempt to consolidate and synthesize various Just Transition principles from among CJA members and allies, built off the deep work and discussions amongst ourselves. Understanding that Just Transition will look different in different places, we believe a core set of shared principles can strengthen our collective work.

A Just Transition moves us toward Buen Vivir

Buen Vivir means that we can *live well* without *living better* at the expense of others. Workers, community residents, women and Indigenous Peoples around the world have a fundamental human right to clean, healthy and adequate air, water, land, food, education and shelter. We must have just relationships with each other and with the natural world, of which we are a part. The rights of peoples, communities and nature must supercede the rights of the individual.

A Just Transition creates Meaningful Work

A Just Transition centers on the development of human potential, creating opportunities for people to learn, grow, and develop to their full capacities and interests. We are all born leaders, and a regenerative economy supports and nurtures that leadership. In the process, we are transforming ourselves, each other, our communities, and our society as a whole. Meaningful work is life-affirming.

A Just Transition upholds Self Determination

All peoples have the right to participate in decisions that impact their lives. This requires democratic governance in our communities, including our workplaces. Communities must have the power to shape their economies, as producers, as consumers, and in our relationships with each other. Not only do we have the right to self determination, but self determination is one of our greatest tools to realize the world we need. The people who are most affected by the extractive economy — the frontline workers and the fenceline communities — have the resilience and expertise to be in the leadership of crafting solutions.



A Just Transition equitably redistributes Resources and Power

We must work to build new systems that are good for all people, and not just a few. Just Transition must actively work against and transform current and historic social inequities based on race, class, gender, immigrant status and other forms of oppression. Just Transition fights to reclaim capital and resources for the regeneration of geographies and sectors of the economy where these inequities are most pervasive.

A Just Transition requires Regenerative Ecological Economics

Just Transition must advance ecological resilience, reduce resource consumption, restore biodiversity and traditional ways of life, and undermine extractive economies, including capitalism, that erode the ecological basis of our collective well-being. This requires a re-localization and democratization of primary production and consumption by building up local food systems, local clean energy, and small-scale production that are sustainable economically and ecologically. This also means producing to *live well* without *living better* at the expense of others.

A Just Transition retains Culture and Tradition

Capitalism has forced many communities to sacrifice culture and tradition for economic survival. It has also defaced and destroyed land held as sacred. Just Transition must create inclusionary spaces for all traditions and cultures, recognizing them as integral to a healthy and vibrant economy. It should also make reparations for land that has been stolen and/or destroyed by capitalism, colonialism, patriarchy, genocide and slavery.

A Just Transition embodies Local, Regional, National and International Solidarity

A Just Transition must be liberatory and transformative. The impacts of the extractive economy knows no borders. We recognize the interconnectedness of our communities as well as our issues. Therefore, our solutions call for local, regional, national and global solidarity that confronts imperialism and militarism.

A Just Transition builds What We Need Now

We must build the world we need now. This may begin at a local small scale, and must expand to begin to displace extractive practices. We must build and flex the muscles needed to meet our communities' needs.



What Just Transition is NOT: Avoiding False Solutions

We understand that as frontline communities, we are often faced with navigating many contradictions. We have seen that the fight against climate change has now become a big business opportunity. In this context, it is important to recognize approaches that will only worsen our ecological and economic crises. We call these ‘false solutions.’ The following definitions of false solutions offer a political compass for our movements, knowing that we will engage more deeply in the nuances of various solutions in front of us in our regional and organizational contexts.



False Solutions extract & further concentrate wealth and political power

Carbon trading and other market-based incentives are presented as “economically and politically viable” strategies to address the climate crisis. Unfortunately, this makes the false and dangerous assumption that the laws of nature are subordinate to the laws of capitalism. These undemocratic mechanisms prioritize maximizing profit for those at the top at the expense of the earth and people. These do not move us toward a just transition.

False Solutions continue to poison, displace, and imprison communities

Nuclear, fracking, “clean coal”, incineration and even prisons are offered as economic transition solutions to the climate crisis, but only continue to harm the health of people and the planet. The path of extracting, transporting, processing, and consuming these technologies is paved with communities riddled with cancer, reproductive and respiratory disease, among other devastating health impacts. These false solutions turn low-income communities, communities of color and indigenous communities into sacrifice zones. These do not move us toward a just transition.

False Solutions reduce the climate crisis to a crisis of carbon

The climate ‘crisis’ is a symptom of a deeper crisis: resource intensive industrial production of the dominant dig, burn, dump economy. Addressing only carbon emissions without challenging the growth-at-all-costs economy doesn’t resolve the real crisis. This is not to say that carbon doesn’t matter, but it is not the only thing that matters. Techno-fixes like titanium oxide cloud seeding or injecting carbon into the sea bottom are solutions for making money off of the climate crisis more than they are solutions to the climate crisis. It is unclear that these technologies will even work. It is highly likely that they’ll have unintended consequences. These efforts avoid the real solutions of reducing pollution at the source. These do not move us toward a just transition.



Solving the Climate Crisis: It is possible. It is necessary. There are no shortcuts.

There's no silver bullet. As we know, it will look different in different places. And let's remember: Transition is inevitable. Justice is not. Let's get to work.

Endnotes

1. The drafting process involved consolidating various principles developed by CJA member organizations -- Just Transition Alliance, Kentuckians for the Commonwealth, and Movement Generation -- and discussions by CJA pilot site anchor organizations. CJA staff developed a first draft and got feedback from CJA member organizations at the Growing Our Power national convening in St. Louis and through online comments. A drafting team made up of CJA members and staff, with additional input from the Steering Committee and Pilot Site reps, finalized this working draft.
2. By extractive economy, we mean an economy that relies on the extraction of labor, of natural resources, of culture and of community.
3. Robert D. Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality* (Westview Press, 2000).
4. By whole communities, we mean to include workplaces, homes, schools, implying that we are workers, we are community members, we are whole people.



CLIMATE JUSTICE ALLIANCE

www.ourpowercampaign.org



Acknowledgements

CJA would like to acknowledge and show appreciation for the work and leadership of the Just Transition Alliance, the CJA Steering Committee, the CJA Pilot Site organizations, and of the drafting team: brandon king of Cooperation Jackson, Sara Pennington of Kentuckians for the Commonwealth, Mateo Nube of Movement Generation and Hannah Jones of the Center for Story-based Strategy.



CONSENT CALENDAR
December 14th, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin

Subject: Reaffirming the City Council's Endorsement of a Carbon Fee and Dividend

RECOMMENDATION

Readopt Resolution No. 67,595–N.S urging the United States Congress to enact a national revenue-neutral carbon tax and send a copy of the resolution to Representative Barbara Lee, Senator Dianne Feinstein and Senator Alex Padilla urging them to take action.

BACKGROUND AND RATIONALE FOR RECOMMENDATION

In June of 2016, the City Council adopted a resolution calling on the United States Congress to enact a revenue-neutral tax on carbon-based fossil fuels.¹ This year, the Democratic Party took control of both chambers of Congress for the first time since 2011, making the passage of legislation on carbon fees and dividends possible for the first time since the City Council passed its resolution more than five years ago.

As proposed by the Citizens' Climate Lobby, carbon fees are "fees collected for the cost of burning fossil fuels; the dividends are the fees collected (minus administrative costs) and returned to Americans to spend as they see fit."² Under the status quo, the financial costs incurred for burning fossil fuels is incredibly low compared to the costs climate change will incur on the entire world. This policy is a financial mechanism to make it so that the economic costs of burning fossil fuels more closely reflect the true cost of each metric ton of carbon emissions for our planet and species. While not a fix-all for climate change, a carbon fee and dividend would function as one mechanism among the many that must be pursued to bring fossil fuel emissions to zero as soon as possible.

With President Biden in the White House and slim Democratic majorities in the House and Senate, the window for ambitious climate legislation may be closing after the 2022 midterms. While not impossible, Democrats in Congress cannot rely on retaining both chambers through President Biden's term and must pass climate change legislation like a carbon fee and dividend as soon as possible.

¹https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Energy/EC%202016-05-25_Item%209b_Carbon%20Tax%20Reso.pdf

² <https://citizensclimatelobby.org/basics-carbon-fee-dividend/>

ENVIRONMENTAL SUSTAINABILITY

The goals of a national carbon tax is to accelerate the reduction of carbon emissions and transition to a green economy are consistent with the goals of Berkeley's Climate Action Plan.

FISCAL IMPACTS

None.

CONTACT

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

ATTACHMENTS

1. Resolution No. 67,595–N.S

RESOLUTION NO. 67,595-N.S.

RESOLUTION URGING THE UNITED STATES CONGRESS TO ENACT A REVENUE
NEUTRAL CARBON TAX

WHEREAS, the average surface temperature on Earth has been increasing steadily, with the ten warmest years ever recorded all occurring since 1998; and

WHEREAS, climate scientists overwhelmingly agree that an increase in greenhouse gases in the atmosphere—carbon dioxide (CO₂) in particular—is causing the increase in global temperature; and

WHEREAS, humans burning carbon-based fossil fuels— coal, oil, and natural gas—is the primary cause of the substantial and continuing increase of CO₂ in the atmosphere; and

WHEREAS, in May, 2013, the global atmospheric concentration of CO₂ reached 400 parts per million—the highest level in the last 800,000 years; and

WHEREAS, it's predicted that by 2100 average global temperature will be 2°F to 11.5°F higher than now depending on the level of future greenhouse gas emissions; and

WHEREAS, climate change caused by global warming-related greenhouse gas emissions including CO₂ already is leading to large-scale problems including ocean acidification and rising sea levels; more frequent, extreme, and damaging weather events such as heat waves, storms, heavy rainfall and flooding, and droughts; more frequent and intense wildfires; disrupted ecosystems affecting biodiversity and food production; and an increase in heat-related deaths; and

WHEREAS, we are approaching a dangerous threshold whereby, if it is crossed, humans will no longer be able to influence the course of future global warming, as tropical forests, peat bogs, permafrost and the oceans switch from absorbing carbon to releasing it; and

WHEREAS, the relentless increase in global atmospheric CO₂ concentration shows that broader, more powerful policies are needed to supplement local and regional efforts to reduce emissions; and

WHEREAS, burning fossil fuels also has embedded human health costs from releasing pollutants that cause lung disease, respiratory illnesses, and cancer; and

WHEREAS, presently the environmental, health, and social costs of CO₂ emissions are not included in prices paid for fossil fuels, but rather these externalized costs are borne directly and indirectly by all Americans and global citizens; and

WHEREAS, to begin to correct this market failure, the United States Congress can enact a national carbon tax on fossil fuels, based on the amount of CO₂ the fuel will emit when burned; and

WHEREAS, for efficient administration, fossil fuels can be taxed once, as far upstream in the economy as practical, or at the port of entry into the United States; and

WHEREAS, a national carbon tax starting at a relatively low rate and increasing steadily over future years is a market-based solution that designed to minimally disrupt the economy while sending a clear and predictable price signal to businesses to develop and use non-carbon-based energy resources; and

WHEREAS, a national carbon tax would incentivize manufacturers, businesses, and consumers throughout the economy to produce and use less fossil fuel, and would spur investment in and deployment of clean energy resources and energy efficient processes, without favoring any particular technology, and would thereby reduce CO₂ emissions to the atmosphere; and

WHEREAS, job creation from development of clean energy and energy efficiency businesses would expected to exceed job creation from further development of fossil fuel businesses; and

WHEREAS, according to Citizen's Climate Lobby if 100% of carbon tax revenue is returned to households in equal shares, approximately two-thirds of Americans will break even or come out ahead, as their dividends match or exceed direct and indirect price increases due to the tax, protecting lower and middle income households; and

WHEREAS, border adjustments—carbon content-based tariffs on products imported from countries without comparable carbon pricing, and refunds to our exporters of carbon taxes paid—should maintain the competitiveness of U.S. businesses in global markets; and

WHEREAS, a national carbon tax may be implemented quickly and efficiently, and respond to the urgency of the climate crisis, because the federal government already has in place mechanisms, such as the Internal Revenue Service, needed to implement and enforce the tax, and already collects taxes from fossil fuel producers and importers; and

WHEREAS, a national carbon tax could make the United States a leader in mitigating climate change and in the clean energy technologies of the 21st Century, and would incentivize other countries to enact similar carbon taxes, reducing global CO₂ emissions without the need for complex international agreements; and

WHEREAS, the goals of a national carbon tax to reduce CO₂ emissions and transition to a green economy are consistent with state and local programs designed to mitigate climate change, such as California's AB32 and Berkeley's Climate Action Plan and

WHEREAS, the market incentive provided by a steadily rising national carbon tax implemented in 2015 may result in significant and increasing near-term reductions in overall U.S. CO2 emissions, and thereby helping Berkeley to meet or exceed its own goals; and

WHEREAS, continued widespread use of fossil fuels and global climate change pose a present and growing risk to the health and welfare of Berkeley residents and to its economy, and a U.S. national, revenue-neutral carbon tax will significantly mitigate those risks and promote health and prosperity in our City, our region, and the world.

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council urges the United States Congress to enact without delay a revenue-neutral tax on carbon-based fossil fuels.

BE IT FURTHER RESOLVED that the tax should be collected once, as far upstream in the economy as practical, or at the port of entry into the United States; and, be it

BE IT FURTHER RESOLVED that the tax rate should start low and increase steadily and predictably, to achieve the goal of reducing U.S. CO2 emissions to 10% of 1990 levels by 2050; and, be it

BE IT FURTHER RESOLVED, that all tax revenue should be returned to households to protect low and middle income Americans from the impact of rising prices due to the tax; and, be it

BE IT FURTHER RESOLVED, that the international competitiveness of U.S. businesses should be protected by using border tariffs and tax refunds.

**BEN BARTLETT**

CITY COUNCILMEMBER, DISTRICT 3

CONSENT CALENDAR

December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett
 Subject: Health Care Facility Oversight

RECOMMENDATION

Refer to the City Manager and the Community Health Commission an assessment of the breadth of regulatory control the City of Berkeley can exert on skilled nursing facilities, and create a process of accountability if complaints are found to be substantiated that threaten, or could potentially escalate to the point of threatening, the wellbeing of patients and/or violate federal, state, or local law; the business license of the offending facility will be suspended until the skilled nursing facility submits a report demonstrating rectification of the situation.

BACKGROUND

The California Department of Public Health (CDPH) mandates that skilled nursing facilities provide 3.5 hours of patient care to each patient per day.¹ For instance, some care facilities in Berkeley are reported to have as few as 6 staffers serving 66 patients, meaning that even if the staff worked around the clock, at most they would be able to offer 2.1 staff hours per patient per day. In 2021 alone, the facility has received 12 complaints, but not a single one has been followed up by an enforcement action². This is just a single example in an egregious pattern of lack of care met with lack of enforcement. In 2019, for example, skilled nursing facilities were found to violate an average of 23 federal and state laws per facility. Yet, in the 77 skilled nursing facilities across California, not a single regulation was enforced. As a result, there has been a history of negligence, mistreatment, and patient abuse within Californian care facilities.³

CURRENT SITUATION

The City has received numerous grievances from concerned community members over the quality of care in certain skilled nursing facilities in Berkeley. Community members complain of neglect, indifference, and harmful, negligent behavior with sometimes tragic consequences.

The City must address these hazards by creating internal procedures and policies designed to prevent further harmful acts. Precedence for license revocation policies can be found in other municipalities. For example, Chapter 6 Section 1.80 of Superior, Colorado Municipal Code states that business licenses can be suspended “when any activity conducted by the licensee, his or her employee or agent violates any federal, state or local rule, regulation or law.”⁴ The City

¹<https://canhrnews.com/guidelines-for-3-5-direct-care-service-hours-per-patient-day-dhppd-staffing-audits/>

² <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx>

³ <https://calmatters.org/health/2021/10/nursing-homes-oversight-california-hearing/>

⁴ https://library.municode.com/co/superior/codes/municipal_code?nodeId=CH6BULIRE

of Berkeley could adopt such an ordinance to shutter inept care facilities and deter improper conduct and mismanagement.

Furthermore, to ensure enforcement, the City could mandate that all complaints be forwarded to the Environmental Health Division to be reviewed in a timely manner. This would prevent a backlog of complaints and strengthen City follow-through.

The City of Berkeley needs to enforce strict regulations over the performance and conditions of skilled nursing care facilities to ensure that patients are not stripped of their right to quality care. As stated above, a particularly skilled nursing care facility received 12 complaints in 2021, but there was zero enforcement action taken against them. With this recommendation, there will be a strict standard that skilled nursing care facilities must meet to guarantee that issues are adequately addressed by the City of Berkeley. Furthermore, it provides safeguards to ensure that patients are not neglected by those assigned to look after them.

FINANCIAL IMPLICATIONS

Determine as part of City Manager and Commission response.

Suppose the City can regulate skilled nursing facilities (generally not a City role). In that case, there could be significant financial implications because there is currently no staff assigned to this work in the City.

COMMUNITY CONSULTATIONS

This item was informed by consultations with and complaints raised by community members.

CONTACT PERSONS

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Sophie Hahn
Councilmember District 5

CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Sophie Hahn (Author), Councilmember Harrison (Co-Sponsor), Councilmember Taplin (Co-Sponsor), and Councilmember Robinson (Co-Sponsor)

Subject: Consideration of Expansion of Paid Parking to Support the Parking Meter Fund and Improved Pedestrian and Bicycle Facilities

RECOMMENDATION

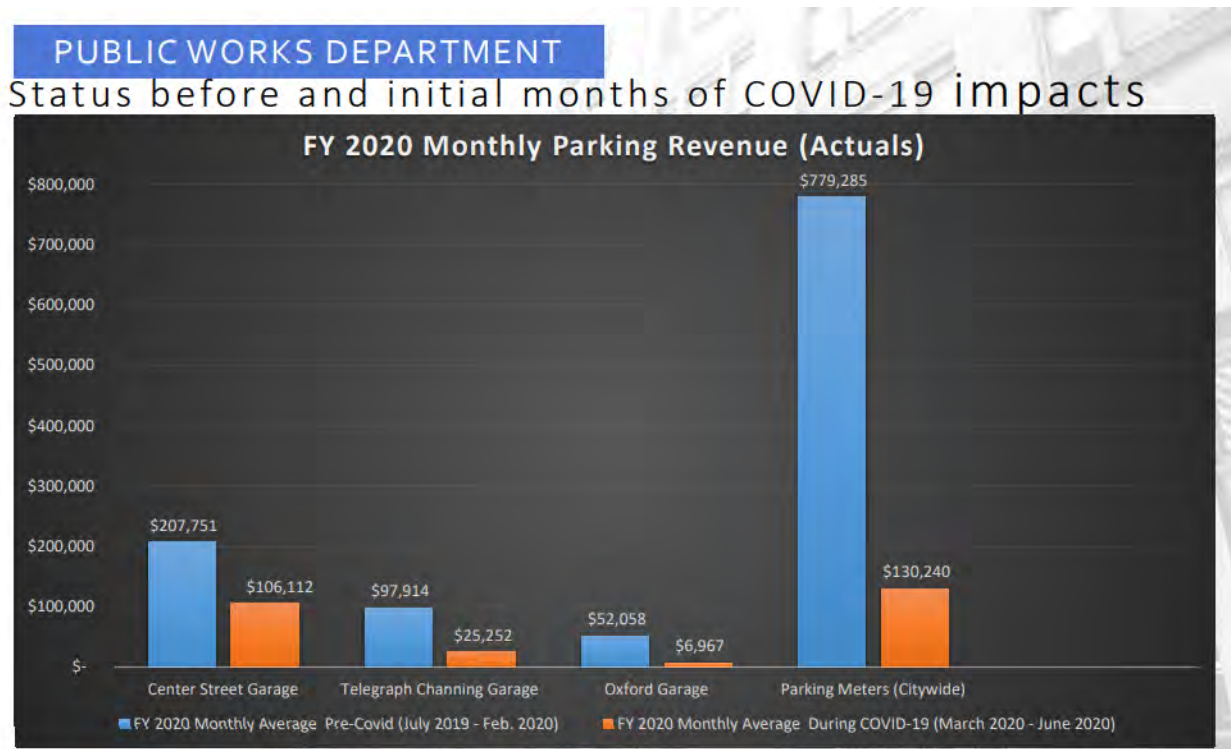
1. Refer to the City Manager and the Transportation Commission to consider the extension of paid metered parking to include all days of the week, paralleling the calendar for off-street parking garages.
2. Consider a pilot, phasing-in, and/or exempting certain areas, and conduct broad outreach to merchants, faith-based and other institutions and organizations, neighborhood groups, and others potentially supported or impacted by change.
3. Consider allocation of potential additional revenues to help offset losses to the Parking Meter Fund incurred during COVID. Once the Fund has recovered, consider allocations to support pedestrian and bicycle facilities to help achieve Berkeley's Climate Action and Vision Zero goals on an accelerated basis.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's Parking Meter Fund until FY 2020 was maintaining a healthy fund balance, averaging over \$10M in income annually (2016-2019). Unfortunately, with the March 2020 shelter-in-place order to limit the spread of COVID-19, the fund experienced a significant shortfall, with decreased driving and parking and the temporary suspension of metered parking and enforcement. FY 2020 experienced a 30% decrease in revenue compared to FY 2019, and FY 2021 an approximately 70% decrease as compared to FY 2019. In FY 2021, the City Council authorized a \$3.2M one-time General Fund allocation to address the impact of the pandemic to the fund. However, the Parking Meter Fund is projected to end FY 2022 with a negative fund balance that will be carried forward for a number of years, exacerbated by anticipated Capital expenditures in FY2023.

FORECAST OF PARKING METER FUND

Description/Account	FY 2019 Actual	FY 2020 Actual	FY 2021 Adopted	FY 2021 Revised	FY 2021 Projected	FY 2022 Proposed	FY 2023 Projected	FY 2024 Projected
Beginning Fund Balance	\$3,270,420	\$4,990,946	\$3,208,091	\$3,208,091	\$3,208,091	\$2,957,810	(\$2,414,340)	(\$9,704,703)
Revenues	\$10,381,386	\$7,350,026	\$11,061,390	\$11,061,390	\$3,229,346	\$4,634,259	\$8,575,838	\$9,630,038
Parking Metered	\$9,987,286	\$7,016,029	\$10,636,205	\$10,636,205	\$2,928,336	\$4,289,268	\$8,222,602	\$9,227,586
Point-to-Point Vehicle Share	\$393,672	\$307,505	\$425,168	\$425,168	\$296,310	\$344,991	\$348,441	\$397,609
All Other	\$428	\$26,492	\$17	\$17	\$4,700	\$-	\$4,795	\$4,843
Expenditures	\$8,660,860	\$9,132,881	\$9,640,151	\$10,254,513	\$3,479,627	\$10,006,409	\$15,866,201	\$10,162,967
Personnel	\$4,655,664	\$5,019,203	\$5,143,905	\$5,179,017	\$2,509,644	\$5,450,176	\$5,330,803	\$5,544,035
Non-Personnel	\$4,005,196	\$4,113,678	\$4,496,246	\$5,075,496	\$969,983	\$4,556,233	\$4,535,398	\$4,618,932
Capital Projects	\$-	\$-	\$-	\$-	\$-	\$-	\$6,000,000	\$-
Annual Surplus/Shortfall	\$1,720,526	(\$1,782,855)	\$1,421,239	\$806,877	(\$250,281)	(\$5,372,150)	(\$7,290,363)	(\$532,929)
Ending Balance	\$4,990,946	\$3,208,091	\$4,629,330	\$4,014,968	\$2,957,810	(\$2,414,340)	(\$9,704,703)	(\$10,237,632)



Source: Public Works Parking Enterprise Funds Balancing Report¹

Currently, on-street and surface-lot metered parking is in force Monday through Saturday,² while off-street parking garages operate seven days a week.³ Extending metered parking from six to seven days a week might result in an estimated \$1M to \$1.5M in additional revenues for the City, helping to alleviate current Fund deficits. In the long run, pursuant to BMC Sections 14.52.110 C, D and/or H, added revenues could be allocated to other priorities. Improvement of bicycle and pedestrian facilities would be

¹ <https://www.cityofberkeley.info/uploadedFiles/Clerk/2020-11-12%20Budget%20Item%20f%20Parking.pdf>

² https://www.cityofberkeley.info/parking-meters/#_onstreet

³ [https://www.cityofberkeley.info/Public_Works/Transportation/Off_Street_Parking_\(Garages_and_Lots\).aspx#CSG](https://www.cityofberkeley.info/Public_Works/Transportation/Off_Street_Parking_(Garages_and_Lots).aspx#CSG)

an ideal use, with vehicle parking subsidizing mode shift and safety for more sustainable transportation options, consistent with the City's Climate Action and Vision Zero goals.

Extending metered parking to a full seven days/week would be a change for commercial districts and for institutions and organizations, in particular faith-based organizations, that have traditionally not been impacted by metered parking on Sundays. For this reason, exploring a pilot program, phasing-in, and/or exempting certain areas, and conducting broad outreach to merchants, faith-based and other institutions and organizations, neighborhood groups, and others potentially supported or impacted by change is of key importance.

BACKGROUND

City of Berkeley Parking meters (including pay-and-display stations) are "typically used to improve access, promote commercial activity, and discourage long-term car storage. The City may adjust a meter's hourly rate and/or limit the amount of time one may park in a metered parking space to encourage turnover and increase parking availability for short-term visitors and customers."⁴

Despite the known benefits of metered parking in commercial districts, Berkeley has maintained free street- and surface-lot parking on Sundays, with minimal to no parking enforcement or collections. Off-street garages, by contrast, operate a full seven days per week.

Section 14.52.030 of the Berkeley Municipal Code regulates the "time of operation of parking meters and pay-and-display stations" and provides that "the operation of parking meters and pay-and-display stations shall be effective between the hours of nine a.m. and six p.m. every day except Sundays." Allowing metered parking on Sundays would require amending Section 14.52.030.

Monies derived from parking meters may be used in the following manners, pursuant to Section 14.52.110, regulating the "Use of money deposited in parking meters and pay-and-display stations:"

"Except as permitted under subdivision G below, all moneys collected from parking meters and pay-and-display stations in the City shall be placed in a special fund, which fund shall be used for the following purposes:

- A. For the purchasing, leasing, installing, repairing, maintaining, operating, removing, regulating and policing of parking meters and pay-

⁴ <https://www.cityofberkeley.info/parking-meters>

and-display stations in the City and for the payment of any and all expenses relating or incidental thereto.

B. For the purchasing, leasing, acquiring, improving, operating and maintaining of off-street parking facilities in the City.

C. For the installation and maintenance of traffic control devices and signals.

D. For the painting and marking of streets and curbs required for the direction of traffic and the parking of motor vehicles.

E. For the proper regulation, control and inspection of parking and traffic upon the public streets.

F. To be pledged as security for the payment of principal of and interest on off-street parking revenue bonds issued by the City.

G. Additional Revenue deemed to be generated by the goBerkeley Pilot Program will be used to fund goBerkeley efforts, pursuant to Section 1012(b) of Intermodal Surface Transportation Efficiency Act of 1991, as amended, as agreed in the 2012 Cooperative Agreement between the City of Berkeley, the California Department of Transportation and the Federal Highway Administration.

H. Surplus money not utilized under subdivision A through F above may be transferred to the general fund. The City Manager or their designee may make an annual determination as to what is surplus based on the needs and obligations of the special fund and transfer such surplus to the general fund. (Ord. 7498-NS § 2, 2016; Ord. 7305-NS (part), 2013)”

Use of monies from the Parking Meter Fund for improved pedestrian and bike facilities is likely allowed pursuant to Subsections C and D above, which allow funds to be used for traffic control devices, signals, and street painting. Alternatively, Subsection H would allow funds to be transferred to the General Fund for these uses.

The City of Berkeley’s Climate Action Plan’s second goal is that “[p]ublic transit, walking, cycling, and other sustainable mobility modes are the primary means of transportation for Berkeley residents and visitors.” Staff’s [July 2020 update on the Climate Action Plan](#) emphasizes that in Berkeley’s quest to continue reducing its GHG Emissions, the City’s “biggest opportunity sector” is to advance opportunities “for people to safely walk, bike, take public transit, and electrify mobility options.” “Transportation accounts for 59% of Berkeley’s total 2018 GHG inventory. This is the largest sector of

GHG emissions and the most challenging to tackle. The City continues to work to get people out of cars by prioritizing walking and biking, and into less polluting modes of transportation.”⁵

Berkeley has also adopted a [Vision Zero Program](#) to end traffic fatalities and severe injuries, most of which involve pedestrians and bicyclists. One of Vision Zero’s seven goals is to “create safer transportation options for people who walk, bike, and take transit.” Allocating additional Parking Meter Fund monies to support improved bike and pedestrian facilities would thus support both the City’s Climate Action and Vision Zero goals.

This proposal is referred to both the City Manager and Transportation Commission (or its successor) to ensure opportunities for robust community input, including outreach to merchants, faith-based and other institutions and organizations, neighborhood groups, and others potentially supported or impacted by proposed change. A pilot, phasing-in, and/or exempting certain areas should also be considered.

ENVIRONMENTAL IMPACTS

Unlikely to have substantive impacts on greenhouse gas emissions, though some studies have demonstrated metered parking reduces time spent idling and searching for parking spots, which can have minor reductions to tailpipe emissions. Possible future investments in bicycle and pedestrian infrastructure funded from these new revenues would help us reach our Climate Action Goals sooner.

FINANCIAL IMPLICATIONS

[Metered parking](#) (on-street and in surface lots), currently in force from Monday through Saturday ([except listed holidays](#)), generates approximately \$10M/year for the City of Berkeley (pre-COVID). Including Sundays in paid parking could increase revenues an estimated \$1M - \$1.5M per year. Parking enforcement would need to be extended to Sundays, offsetting some portion of income, but likely no more than for days when metered parking is already in force.

CONTACT PERSON

Councilmember Sophie Hahn Council District 5 510-981-7150

ATTACHMENTS

⁵ [https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Presentations_Item_5_\(6pm\)_Pres_CMO_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Presentations_Item_5_(6pm)_Pres_CMO_pdf.aspx)

1. Parking Enterprise Funds: Balancing Proposal
<https://www.cityofberkeley.info/uploadedFiles/Clerk/2020-11-12%20Budget%20Item%20f%20Parking.pdf>
2. Sitaline study on parking meters improving business:
<https://www.sightline.org/2012/03/28/is-metered-parking-boosting-business/>

Date: November 12, 2020
To: Budget & Finance Policy Committee
From: Liam Garland, Public Works Director
Submitted By: Sean O’Shea, Public Works Administrative & Fiscal Services Manager
Subject: Parking Funds – Public Works Balancing Proposal

Summary

The COVID-19 pandemic has had a significant impact on the financial health of both the City’s On-Street and Off-Street Parking Funds. Initial projections of impacts into FY 2021 were presented to Council as part of the budget gap discussions with departments throughout June. On October 8, 2020, staff presented status updates to the Budget & Finance Policy Committee on both parking funds, including revised projections that show both funds are generating significant deficits. This report presents a department proposal for balancing the parking program funds for FY 2021 and future years, and highlights additional balancing considerations.

Background

Before the Shelter-In-Place Order was issued on March 16, 2020, and normal parking operations halted, both the On-Street and Off-Street Parking Funds were on pace for healthy revenues in excess of expenditures. The status of both funds has changed dramatically post-COVID as both funds were impacted equally hard by cratering demand due to the shelter-in-place orders, subsequent business restrictions and changing parking customer behaviors. City garages have closed or severely reduced capacity due to demand and to save costs. Parking Meters were turned off through June, and are still below pre-COVID rates and demand. The falling revenue required significant use of fund balances and a commitment from the General Fund to cover the Center Street Garage Bond Debt Service payment for FY 2021. The staff report and presentation to the Budget and Finance Policy Committee on October 8, 2020 detailed the revenue and budget impacts.¹

Public Works Balancing Proposal

The Public Works balancing proposal assumes a projected program deficit of (\$7,752,445) for FY 2021. This includes the FY 2020 year end fund balance for the Off-Street (Garage) Parking Fund, which ended up negative at (\$1,244,453) due to dramatically decreased revenue at city garages after the shelter-in-place order in March. The second component is a combined On-Street and Off-Street Parking Fund projected (\$6,507,992) operating loss for FY 2021, based on updated expected revenues and planned expenditures.

While the bulk of this balancing proposal highlights recommended strategies to address fund deficits, this report will also present further capital needs that have additional impacts into FY 2022 and FY 2023. The deep revenue losses in FY 2020 and 2021 will cause the funds to significantly exhaust fund balance.

¹https://www.cityofberkeley.info/uploadedFiles/Clerk/Report_Status%20of%20parking%20enterprise%20funds.pdf

For the Off-Street Parking Fund, a pre-COVID FY 2020 projected year end fund balance of \$0.76M was totally depleted and ran negative (\$1.24M) by the end of FY 2020. For the On-Street Parking Fund, the pre-COVID FY 2020 projected year end fund balance was \$5.52M, but after the COVID-19 related revenue impacts, the actual fund balance was \$3.21M. The consideration of fund balance is critical when looking beyond simply balancing the funds for FY 2021, as the fund balance for the On-Street Parking Fund contains \$3.0M in funds reserved towards a \$6.0M systemwide meter upgrade and replacement program. Use of existing reserves to balance current year budget will further deplete the funds available to upgrade the City's parking meters. Based on projected revenues for the rest of FY 2021 and into FY 2022/23, which assume there will not be a significant recurrence of COVID that shuts parking operations down again, the parking funds will begin to have net operating surpluses that will allow meet the garage to cover expenses and debt service but not enough to make up for the fund balance that was deployed to address deficits. This will either delay the meter replacement project several years until sufficient fund balance is attained within the parking funds, or could require General Fund budget supplementation beyond FY 2021 to allow the project to begin on schedule.

Revenue/Budget Augmentation and Use of Reserves

To try to solve the FY 2020-2021 deficit \$7,752,445, Public Works looked at ways to responsibly increase revenue and supplement the adopted baseline FY 2021 parking budget. After review and analysis of the parking program, Public Works is proposing three solutions for a total of \$3,615,067.50 in increased revenue along with appropriations of reserve and fund balance.

- 1) *Use of the Rate Stabilization Fund:* In setting up the Center Street Garage Bond, part of the terms included a requirement to create a reserve fund, to be used in case revenues dipped below the debt covenant ratio of 1.25. At bond issuance, a combined total \$1,915,050 was transferred to this fund from the two parking funds. After consultation with the Finance Director and City Bond Counsel, city staff received assurance that these funds could be transferred back into the parking funds to augment operational budgets. Staff proposed transferring the full amount of \$1,915,050 back into the parking funds for use in the FY2021 budget.
- 2) *On-Street Parking Fund Balance:* While the Off-Street Parking Fund ended FY 2020 with a negative fund balance, the On-Street Parking Fund ended FY 2020 with a \$3,208,035 fund balance. This was significantly lower than the pre-COVID projected year end fund balance of \$5.5M. This balance included \$3.0M in resources that were planned to be used for the scheduled citywide Parking Meter Upgrade Project in FY 2023, which is currently estimated to cost \$6.0M. The Public Works department has been setting aside \$1.0M annually in operating surplus, part of the fund balance, towards this planned expenditure. To help balance the deficit, while also reserving some level of fund balance towards future obligations, Public Works proposes to appropriate half of the fund balance, \$1,604,017.50, to address deficits.
- 3) *Increase Hourly Parking Rates by \$0.50/hour:* After analysis of on-street parking usage in the downtown, beginning on November 1, Public Works has implemented a meter increase of \$0.50/hour, for a new peak hourly rate of \$3.00. This will result in an increase in projected revenue for the months of November and December of approximately \$48,000/month, for a total revenue increase of \$96,000. In January 2021, the rate increase would align with the Public

Works Department's previous assumptions for parking meter revenue, so no additional revenue beyond \$96,000 can be projected at this time.

Expenditure Reductions

In addition to generating new revenue and using reserves, the Public Works Department reviewed its expenditure budget for opportunities to save costs within the two parking funds. After consideration, the proposed solutions propositions include \$964,354.52 in reductions due to salary savings from vacancies, cost shifting salaries to other funds sources, and deferring a capital project. The most significant proposal for expenditure reductions, is a proposed cost-shift of Parking Enforcement Program support from the On-Street Parking Fund to the General Fund for FY 2021 in the amount of \$3,240,688. The total expenditure savings to the parking funds would be \$4,205,042.62.

- 1) *Cost Shift 0.77 FTE to other Public Works Funds:* Staff reviewed all Public Works positions funded by the Parking Funds for potential reallocation to other Public Works managed funds. Most positions are in direct support of the parking program, including parking maintenance, meter repair, meter collection, and parking program management and could not be appropriately cost shifted. Staff did identify a few administrative positions of which a portion of their salary and benefits are funded by the Parking Funds. The Parking Fund FTE allocation for all of these positions totals up to 0.77 FTE, and \$81,298 in savings for the remainder of FY 2021, if the cost shift is implemented by December 2020.
- 2) *Vacancy Savings:* Public Works has had two recent vacancies at positions that are funded at least in part by Parking Funds, an Associate Management Analyst and Parking Meter Mechanic. The analyst position has been filled, but 4 months of savings were realized. The Parking Meter Mechanic position is projected to remain vacant for the remainder of FY 2021. The projected savings from those two positions in FY 2021 totals \$173,056.62.
- 3) *Defer Construction of Telegraph-Channing Mall Elevator Construction:* The Telegraph – Channing Mall Garage Elevator replacement project is in the department capital plan for FY 2021. Staff proposes to defer the construction of this project to future years, but will keep a small portion for project design and a refined project cost estimate. The projected deferral of the construction cost is an estimated \$710,000.
- 4) *Cost Shift FY 2021 Parking Enforcement Program to the General Fund:* Public Works analyzed all costs for staffing and non-personnel under its control, but a large part of the On-Street Parking Fund expenditure budget is not in Public Works, but with the Police Department's Parking Enforcement Program. The On-Street Parking Fund directly pays for 19.0 FTE in Parking Enforcement, in the amount of \$2,527,215. The fund also pays for \$703,473 in Parking Enforcement non-personnel costs, including a share of the annual lease payment for their leased facility, for a total of \$3,240,688 in On-Street Parking Fund support for Parking Enforcement. Revenue from Parking Enforcement citations does not stay in the On-Street Parking Fund but is received into the city's General Fund. The proposal for FY 2021 is to allocate the total costs of the Parking Enforcement program, \$3,240,688, to the General Fund. Assigning the costs of the Parking Enforcement program to the General Fund, rather than a transfer from

the General Fund to the On-Street Parking Fund, is beneficial in that will help with the Parking Funds bolster its debt service coverage ratio, by eliminating expenses from the calculation.

Alternatives Considered

Staff considered several other alternatives on both the revenue and expenditure side but is not recommending implementation at this time, either due to adverse budget impacts or very insignificant benefits.

- 1) *Telegraph-Channing Garage Closure:* Staff calculated the net savings of shutting down the Telegraph-Channing Garage for parking. Based on current parking revenue at the garage, the net monthly savings from reducing the Parking Management Fee for garage operations would be \$29,151/month. This would be offset however, by greater costs from city staff at approximately \$33,143/month, who would have to replace the parking management operator in servicing the facility. Services would be needed to remain open for the retail tenants in the mall, including opening and closing the facility, janitorial, security, and trash coordination.
- 2) *Center Street Garage Increase Monthly Parking:* Currently the garage has 90 'public' monthly parkers at \$250/month, generating \$22,500/month in revenue. Staff is not confident that given the parking environment, the current rate of \$250/month would entice much new monthly parking. If the rate was decreased to incentivize garage parking, from \$250/month to \$150/month, this would result in a loss of revenue estimated at \$9,000/month just from the current monthly parkers. In order to break even, the garage would need to add 54 new monthly parkers. This would have to be marketed to the Community and city staff, and it is unclear to Public Works how many new monthly parkers would be added. Even if that break-even demand was met, it would need to be exceeded greatly in order to generate greater revenue than the status quo. Any significant amount of new monthly parkers would require the garage to increase its current capacity limits. This would trigger additional costs from our Parking Management contract, which have been able to reduce due to limiting the capacity of the garage. These increased expenses would negate the revenue increases and potentially create a net operating loss.
- 3) *Elmwood Lot Monthly Parking:* Staff evaluated both closing the lot to save costs and offering limited monthly parking to boost revenue. Closing the lot entirely is not an option, it has to remain open for commercial trash access and there are 3 reserved spaces for businesses. Offering some monthly parking, potentially to merchants for employee parking, would ultimately make very little impact to the greater fund deficit. There are 39 available spaces, so if 20 were made available for monthly parking, at \$100/month, for December through June 2021, it would generate only \$14,000 in new revenue.
- 4) *Bond Insurance Payout:* Staff consulted with its Bond Counsel over possible use of insurance that was taken out for the Center Street Garage Bond. The only use of the coverage is to pay debt service if no other funding was available to do so. This payment of \$1,910,050 was made in FY 2020 by the Parking Funds, and has been budgeted for payment out of the General Fund in FY 2021. Bond counsel informed the City that there are possible repercussions to future bond issuances if the city defaults on the bond and draws on the insurance. At this time, staff plans to

make the bond payment with General Fund in FY 2021 but will consider use of insurance in future fiscal years if deficits threaten the Parking Funds ability to make the bond payment or operational needs continue.

Future Capital Needs

The balancing proposal presented in this memorandum restores the Off-Street Parking Fund balance to \$0, balances both Parking Funds operational shortfall for FY 2021 and retains a \$1.6M year end fund balance in the On-Street Parking Fund. Looking ahead to FY 2022 and FY 2023, if revenue begins to return to pre-COVID levels, the two Parking funds will get to operational break-even. While this means that no General Fund assistance would be required to make the Center Street Garage Bond debt service payment or cover the cost of Parking Enforcement in those years, the parking funds will not earn revenue sufficient enough to fund its major capital replacement needs currently scheduled in FY 2021 and FY 2023. The fund balances used in FY 2020 and FY 2021 to cover operation costs will not be made up for several years.

The Telegraph Channing Garage Elevator Replacement project construction funding was scheduled to begin in FY 2021. It has been deferred in this budget balancing proposal to a future fiscal year. There is risk in deferring this project too long. The elevator is aging, requires frequent repairs, and is the only ADA access to the mall and garage beyond the first floor. The construction cost (currently estimated at \$710,000) will have to get added to a future fiscal year budget, potentially as a General Fund budget request.

The Citywide Parking Meter Upgrade/Replacement project is estimated to cost \$6.0M and is scheduled for FY 2023. Public Works has long planned an annual contribution to the On-Street Parking Fund balance at a rate of \$1.0M/year through FY 2023 to fund the project. By FY 2023, those fund balances will have been completely depleted to cover parking program operations. In order to complete the meter upgrade/replacement on time, a General Fund budget request would be necessary. The critical issue for the meter upgrade is that when the cell network carriers upgrade their technology, our existing meters would go offline, and not be able to collect credit card revenue. This would hurt the program's revenue collecting ability, which is already under stress. The best estimate when network carriers will upgrade their technology is in 2023.

Combining those two major projects, there is an unfunded need in the Parking capital replacement program of approximately \$6.71M, programmed for implementation by FY 2023. Beyond the \$3.24M proposed for the General Fund in FY 2021 to cover the Parking Enforcement Program, Public Works is submitting for future consideration potential General Fund assistance to cover these major capital needs, until the Parking Funds are able to restore revenues.

PARKING ENTERPRISE FUNDS

BALANCING PROPOSALS

PUBLIC WORKS DEPARTMENT

PUBLIC WORKS DEPARTMENT

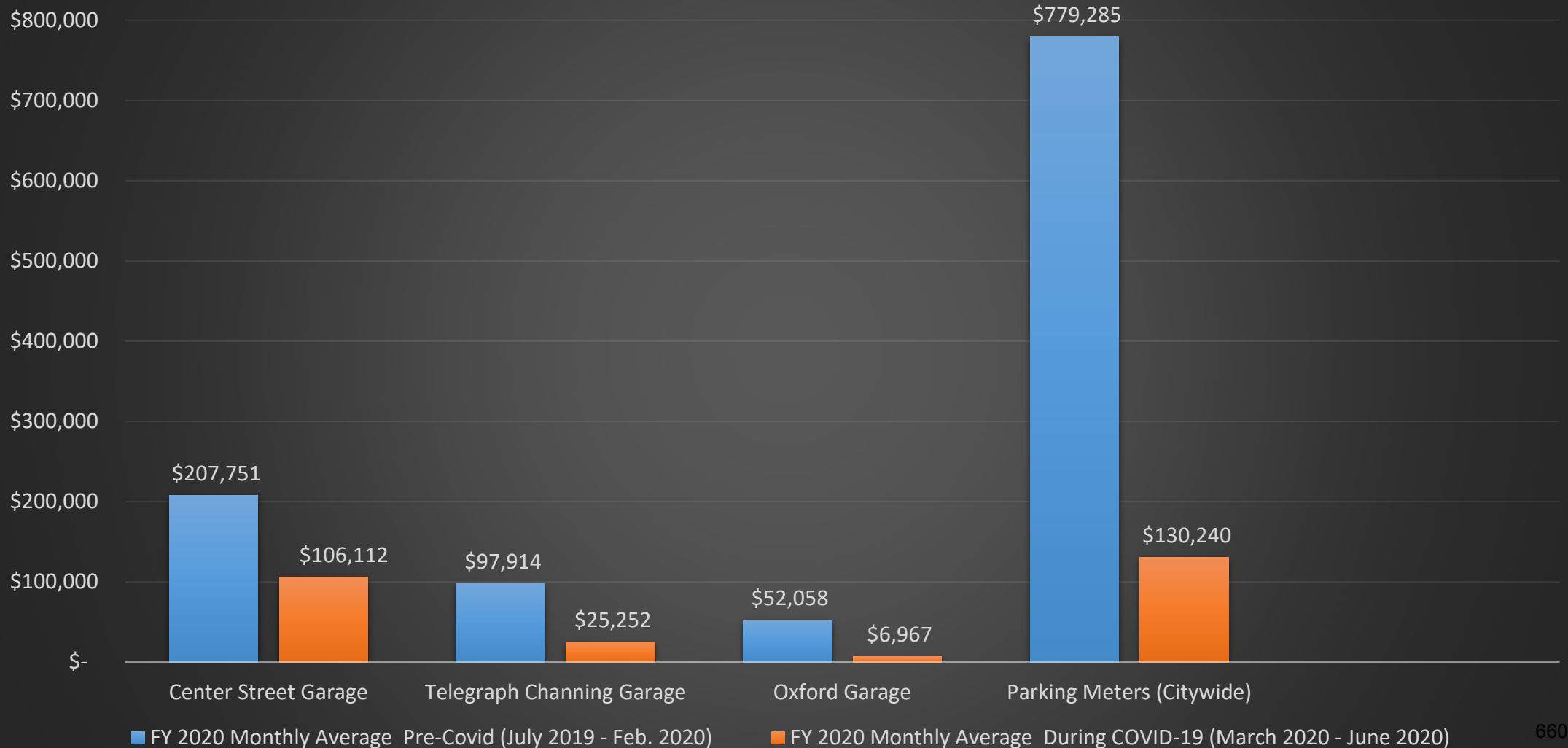
OVERVIEW

- Review of Revenue Impacts and the Current and Projected Status of the Parking Enterprise Funds
- Revenue/Budget Augmentation/Use of Reserves Proposals
- Expenditure/Cost Saving Proposals
- Summary of FY 2021 Balancing Proposals
- Future Fiscal Year Program Shortfall

PUBLIC WORKS DEPARTMENT

Status before and initial months of COVID-19 impacts

FY 2020 Monthly Parking Revenue (Actuals)



PUBLIC WORKS DEPARTMENT

Current Revenue Status (FY 2020 Ending)

	FY 2020 Projected (pre-COVID-19)	FY 2020 Actuals (COVID-19 Impacts)	FY 2020 Revenue Loss
Center Street Garage	\$ 2,493,011	\$ 2,086,456	\$ (406,555)
Telegraph Channing Garage	\$ 1,175,417	\$ 884,619	\$ (290,798)
Oxford Garage	\$ 624,699	\$ 444,335	\$ (180,364)
Parking Meters (Citywide)	\$ 9,351,419	\$ 6,755,240	\$ (2,596,179)
Total	\$ 13,644,546	\$ 10,170,650	\$ (3,473,896)

PUBLIC WORKS DEPARTMENT

FY 2021 Projected Revenue (Assumes COVID-19 Impacts through June 2021)

	FY 2021 Projected (if no COVID-19 impacts and using Pre-COVID-19 average)	FY 2021 Projected (Assumes Covid- 19 Impacts thru June 2021)	FY 2021 Potential Revenue Loss (due to COVID- 19)
Center Street Garage	\$ 2,493,011	\$ 1,325,969	\$ (1,167,042)
Telegraph Channing Garage	\$ 1,175,417	\$ 584,307	\$ (591,110)
Oxford Garage	\$ 624,699	\$ 238,644	\$ (386,055)
Parking Meters (various locations)	\$ 9,351,419	\$ 4,326,460	\$ (5,024,959)
Total	\$ 13,644,546	\$ 6,475,380	\$ (7,169,166)

PUBLIC WORKS DEPARTMENT

BALANCING PROPOSALS REVENUE AUGMENTATION/USE OF RESERVES

- Use of Rate Stabilization Fund:
\$1,915,050
- Fund Balance (On Street Parking Fund):
\$1,604,018
- Increase Hourly Parking Rates \$0.50/hr:
\$96,000

PUBLIC WORKS DEPARTMENT

BALANCING PROPOSALS EXPENDITURE REDUCTIONS

- Cost Shift 0.77 FTE of PW administrative staff to other Funds: **(\$96,000)**
- Vacancy Savings 2 FTE - Associate Management Analyst and Parking Meter Mechanic: **(\$173,057)**
- Defer Construction of Telegraph-Channing Garage Replacement: **(\$710,000)**
- Cost Shift FY 2021 Parking Enforcement Program Costs to General Fund: **(\$3,240,688)**

PUBLIC WORKS DEPARTMENT

FY 2021 Balancing Summary

FY 2021 Off-Street Parking Fund Beginning Balance	\$ (1,244,453.00)
FY 2021 Projected Combined ANNUAL SURPLUS/SHORTFALL (Rev - Exp)	\$ (6,507,992.00)
Total Resources Needed to Address Deficit and Negative Cash Balance	\$ (7,752,445.00)
Proposed Revenue Augmentation/Use of Reserves	Amount
Use of 50% of Parking Meter Fund FY 2021 Beginning Available Cash Balance	\$ 1,604,017.50
Increase Hourly Parking Meter Rates by \$0.50/hour	\$ 96,000.00
Use of Rate Stabilization Fund	\$ 1,915,050.00
FY 2021 Projected Total Revenue	\$ 3,615,067.50
Proposed Expenditure Reduction (Cost Savings Strategies)	Amount
Cost shift 0.77 FTE equivalent to other PW funds	\$ 81,298.00
Salary Savings due to vacancies (Assoc. Management Analyst and Parking Meter Mechanic)	\$ 173,056.62
Delay Construction of Telegraph Channing Garage Elevator project to FY 2022	\$ 710,000.00
Cost Shift the FY 2021 Parking Enforcement Program cost to the General Fund	\$ 3,240,688.00
Total	\$ 4,205,042.62
Total Resources Needed to Address Deficit and Negative Cash Balance	\$ (7,752,445.00)
	Proposed Revenue Augmentation \$ 3,615,067.50
	Proposed Expenditure Reduction (Cost Savings Strategies) \$ 4,205,042.62
Total Proposed Balancing Measures	\$ 7,820,110.12
Projected Balance after Proposals	\$ 67,665.12
Total General Fund Allocation Needed to Address Deficit	\$ 3,240,688.00

PUBLIC WORKS DEPARTMENT

Future Fiscal Year Shortfall/ General Fund Request Summary

General Fund Balancing Support*	FY 2021	FY 2022	FY 2023
Parking Enforcement Program	\$3,240,688		
Telegraph - Channing Garage Elevator		\$710,000	
Parking Meter Upgrade/Replacement			\$6,000,000
New Proposal Summary	\$3,240,688	\$710,000	\$6,000,000
General Fund Total FY 2021-2023	\$9,950,688		
Possible General Fund Allocation FY 2021-2023	\$3,240,688	\$3,355,000	\$3,355,000

**excludes Debt Service Coverage of \$1,910,050 already budgeted in
FY 2021*



ARE PARKING METERS BOOSTING BUSINESS?

More evidence that business receipts rise with parking costs.



Author: **Eric de Place**

(@Eric_deP) on March 28, 2012 at 8:30 am

Over the weekend, Seattle's restaurant association [took to the op-ed pages](#) to complain about the City's parking policies downtown. As they tell it, changes in parking policy "hits them where it hurts our businesses the most: their wallets."

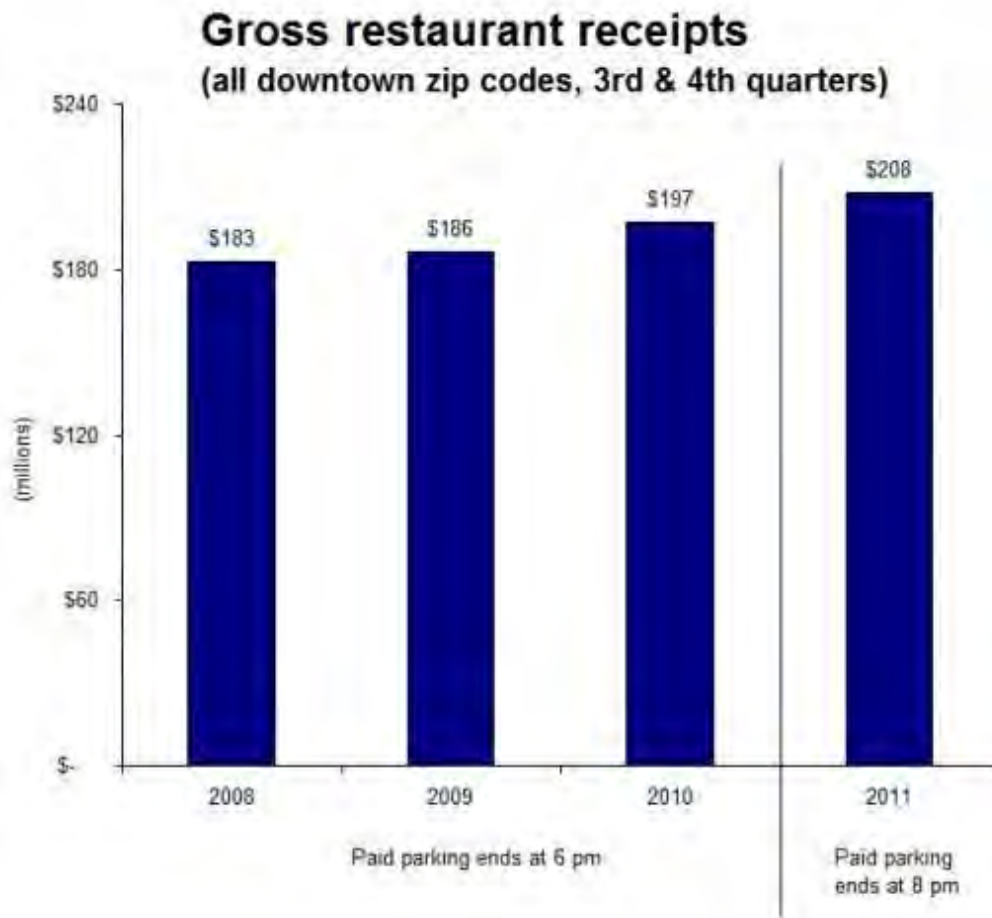
Yet as with so many discussions of parking, the restaurateurs' argument is long on conjecture but extremely short on hard data. A look at gross receipts figures for downtown restaurants shows precisely the opposite of what the business group alleges. Their wallets appear to be doing just fine:

FALL FUND DRIVE



Give today to upgrade our democracy, advance housing affordability, and fight fossil fuels.

DONATE TODAY



After paid parking hours were extended in mid-2011 **gross receipts for downtown restaurants climbed by 5.4 percent.**

The extension of metered parking from 6 to 8 pm went into effect in the middle of 2011, so by comparing the 3rd and 4th quarters of 2011 to the 3rd and 4th quarters of previous years we get a year-over-year comparison. To be sure, we should treat this analysis as preliminary, but the data we have so far suggest that in the era of higher parking costs business is practically booming.

On the one hand, it's easy to understand why restaurant owners worry. A lot of these businesses skate by on thin margins, and proprietors may feel that parking changes could put their livelihood at stake. But on the other hand, it's important to cross-check our beliefs with the data. And the data show that higher parking costs downtown have most definitely *not* led to a decline in overall sales.

... ..

FALL FUND DRIVE

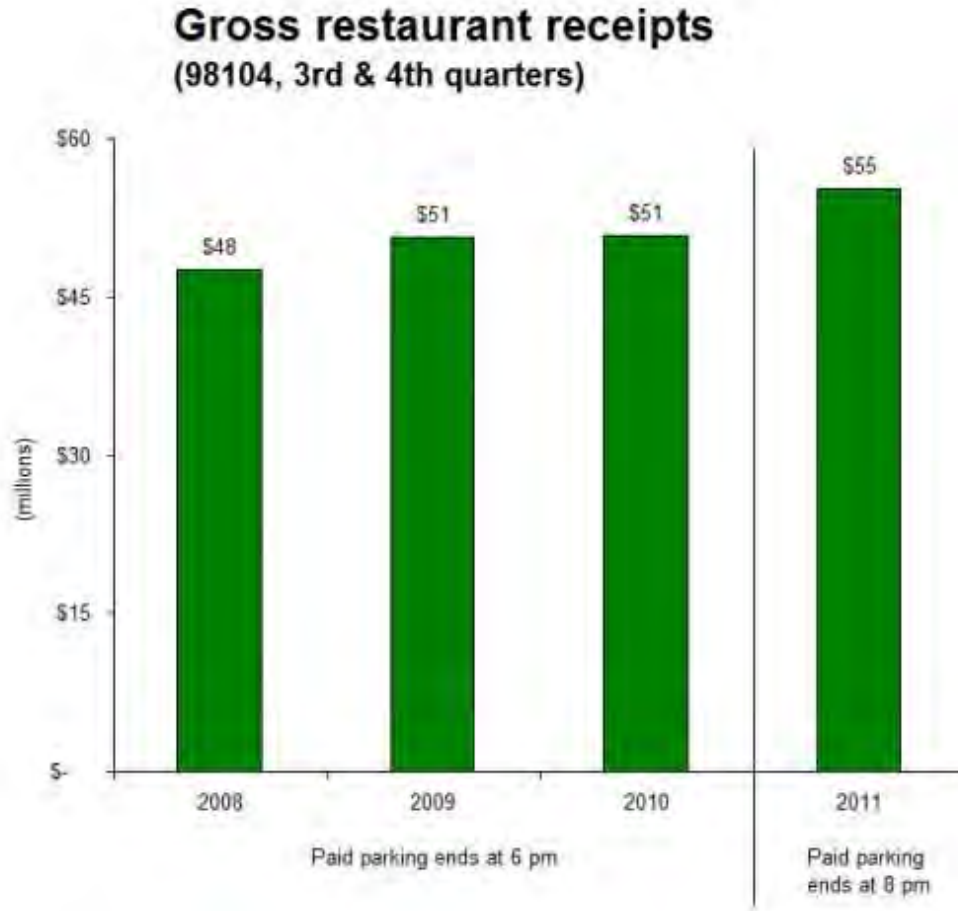


Give today to upgrade our democracy, advance housing affordability, and fight fossil fuels.

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the car curbside until 8?) In fact, boosting business is exactly what Seattle set out to do when officials adjusted meter rates and extended paid hours downtown.

Given the numbers so far, it looks like the City got it right. Receipts notched up in each of the three downtown zip codes. Sales rose by 2.2 percent in 98101 and by 8.7 percent in 98121. In the 98104 zip code, which encompasses the Chinatown/International District that has been the subject of *so much hand-wringing* over parking policy changes, business is stronger yet:



In the 98104 zip code, **gross receipts spiked by nearly 9 percent** after the parking changes went into effect. So, contrary to all the hullabaloo (and *criticism* of my earlier post on the subject), there's little verifiable evidence that parking meters are driving business out of the southern part of downtown that includes Chinatown. If anything, the *parking changes would seem to be increasing business.*

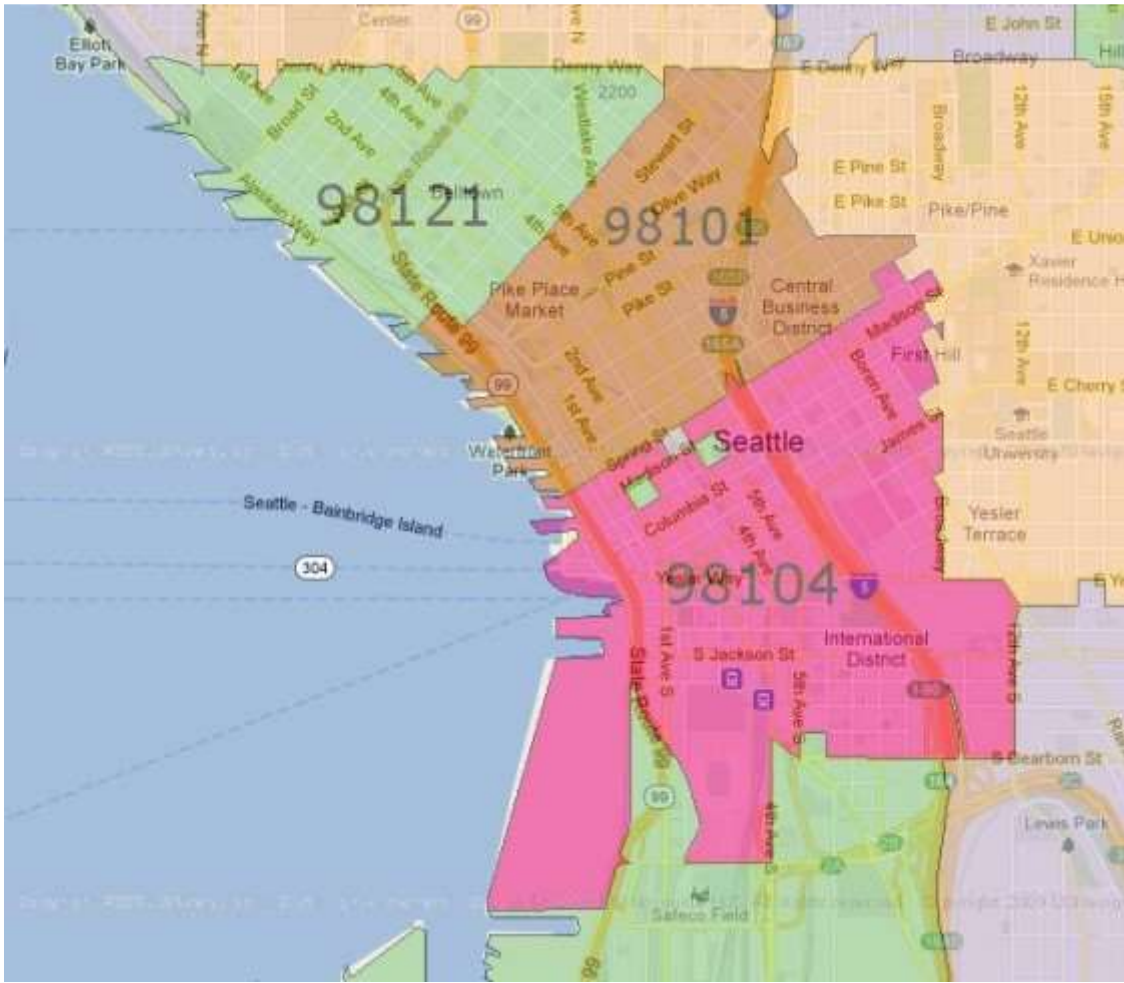
Personally, I'm getting sick and tired of what seems like endless complaints about parking that are

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When you've got enough data on your hands, it's usually possible to squint at it long enough to gin up some counter-story or oddity. But in this case, the receipts figures for downtown restaurants are reasonably clear: since paid parking hours were extended, business has increased, at least in aggregate. Plus, the aggregate data I'm reporting here is corroborated by the **two other sources** I've explored, sample data from the City for 14 establishments in Chinatown/International District and state Revenue Department data for the city as a whole.

In the future, I hope we can root our discussions in the actual numbers, and fewer data-free reactions from the restaurant association and *Seattle Times*. And if our debates about parking policy should ever graduate to the level of using actual numbers, then maybe we can start exploring more advanced topics like correlation and causation.

Notes: The data I use in the post refer to NAICS codes 722, 7221, 72211, 722110, 7222, 72221, 722211, and

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parking rates also went up from \$2.50 to \$4.00 per hour and the changes took effect in April and May 2011. In Belltown, roughly consistent with 98121, parking rates declined from \$2.50 to \$2.00 per hour and the changes took effect in June and July 2011. In Chinatown/International District, a subset of 98104, parking rates did not change, but parking hours were extended starting in August 2011.



Eric de Place

Eric de Place, director of Thin Green Line, spearheads Sightline’s work on energy policy. Known as a leading expert on coal, oil, and gas export plans in the Pacific Northwest, he is considered an authority on a range of issues connected to fossil fuel transport, including carbon emissions, local pollution, transportation system impacts, rail policy, and economics. He has researched and published more than four hundred articles, reports, and analyses on these proposals, and his work on fossil fuel transport has been cited by regional and national news media outlets more than a thousand times. His expertise makes him a highly sought-after expert in the field providing him with the opportunity to support allied groups, as well as educate media, elected officials, and the broader public on critical issues affecting our region. Eric is a talented speaker, presenter, and media spokesperson. In his increasingly scarce free time, he enjoys climbing the Northwest’s peaks, tidepooling beaches with his kid, and solving the rest of the world’s problems over a pint. Before coming to Sightline, he worked with the [Northwest Area Foundation](#), developing strategies to alleviate poverty in rural communities. He has a master’s degree in philosophy from the University of Notre Dame. Find his latest research [here](#), email him at [eric \[at\] sightline \[dot\] org](mailto:eric@sightline.org).

For press inquiries and interview requests, please contact [Steph Routh](#)

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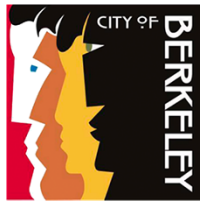
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CITY COUNCILMEMBER
RIGEL ROBINSON
 DISTRICT 7

CONSENT CALENDAR
 December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (Author) and Councilmember Hahn (Co-Sponsor)

Subject: Letter to UC President Michael Drake in Support of Student Researchers United-UAW

RECOMMENDATION

Send a letter to UC President Drake and Provost Michael Brown in support of the full recognition of the Student Researchers United-UAW labor union.

BACKGROUND

In 2017, California passed SB 201, which grants students researchers full employment rights. During the pandemic, student researchers on UC campuses began to organize around common issues. On May 24th, 2021, Student Researchers United-UAW submitted cards representing a supermajority of student researchers seeking union representation. The California Public Employment Relations Board (PERB) verified that they achieved majority support. The UC was expected, therefore, to grant recognition to the new union. However, the UC has attempted to subvert PERB regulations and has refused full recognition, instead offering to only partially “recognize” SRU-UAW.

The UC has argued that Student Researchers paid with training grants and fellowships are not workers and do not have the right to unionize, and that only Student Researchers directly funded by the UC should be recognized. This spurious distinction, however, ignores the fact that Student Researchers report and take instructions from the same supervisors and perform the same duties regardless of their funding sources. The attempt to divide Student Researchers by funding is a ploy to undermine the union's strength and subvert state law that was passed with the clear intention of granting the specific workers in question the right to collective representation.

It is crucial that the UC immediately grant full recognition to SRU-UAW. Student Researchers have raised issues of insufficient compensation, discrimination, harassment, and excessive workloads that urgently need to be addressed. The UC's union busting ploy in attempting to divide Student Researchers is a distraction from these urgent matters and an insult to the hardworking people who perform the essential function that makes the UC a network of premier research institutions.

The Council would join more than 50 members of the State Legislature and 30 members of the California Congressional delegation in calling for full recognition of SRU-UAW.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, Council District 7, (510) 981-7170
Christine Youn, Intern

Attachments:

1: Letter

2: Other Letters from Legislators in Support of SRU-UHW

(<https://studentresearchersunited.org/legislative-support-for-sru-uaw>)

December 12th, 2021

Michael Drake, President
University of California
1111 Franklin St., 12th Floor
Oakland, CA 94607

RE: Student Researchers United-UAW Recognition

Dear President Drake,

We are writing to strongly urge that you recognize and begin bargaining with Student Researchers United-UAW. Research is integral to the UC mission — that was reflected last year in the 3.7 billion dollars that the University of California received in federal research contracts and grant revenue. Student Researchers are leading the central work of the university in advancing knowledge while they are given insufficient financial compensation, working unreasonable hours, experiencing harassment, facing discrimination, and expected to pay increasingly unaffordable rents. Unions are needed to address these issues so that research can be carried out in the most efficient and equitable environment.

The UC should not deny Student Researchers the right to unionize. In 2017, California passed SB 201, which grants student researchers full employment rights. This includes the right to unionize. Refusing to recognize Student Researchers United-UAW as a formal labor union is refusing to acknowledge the Higher Education Employer-Employee Relations Act and exploiting Student Researchers' labor.

It is our understanding that the UC has disputed the composition of the bargaining unit, arguing that workers in certain job titles are merely students and not workers with the same arguments the UC made against SB 201. We urge you to swiftly drop this dispute and recognize Student Researchers United-UAW as the union for Student Researchers in all the titles in which they work.

We are in full support of Student Researchers United-UAW in their fight recognition and better pay and working conditions from the UC and hope to see the UC finally putting to practice what the California legislature has already mandated as Student Researchers deserve a better working environment.

Sincerely,
The Berkeley City Council

CC: Michael Brown, Provost & Executive Vice President



CONSENT CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Rigel Robinson (Author) and Councilmember Hahn (Co-Sponsor)

Subject: Support for H.R. 4194: The People's Response Act

RECOMMENDATION

Adopt a Resolution supporting H.R. 4194, the People's Response Act, which would create a Division of Community Safety and provide grants to local governments, state governments, and community-based organizations to support non-carceral approaches to public safety. Furthermore, send a letter of support to Representative Cori Bush, Representative Barbara Lee, Senator Alex Padilla, and Senator Dianne Feinstein.

BACKGROUND

H.R. 4194, the People's Response Act, would create a Division of Community Safety within the Department of Health and Human Services that funds and coordinates research, provides grants for developing and implementing approaches to community safety, and facilitates inter-agency collaboration on the federal level.

This bill intends to "transform public safety into a system of care rather than criminalization," doing so by simultaneously mobilizing federal resources and expanding resources available to local and state governments and community-based organizations interested in advancing alternative models of public safety. Grant funding can be used for a wide range of programs, including unarmed first responder agencies, violence prevention programs, infrastructure investments, health services, and other programs that address the root causes of poverty, mental illness, homelessness, and substance use. Specifically, the People's Response Act would provide:

- \$7.5 billion in grant funding to state and local governments to fully fund public safety and improve crisis response.
- \$2.5 billion to the First Responder Hiring Grant, enabling the hiring of social workers and peer support specialists.

Additionally, the People's Response Act lays out mechanisms for supporting the most impacted communities, such as giving funding priority to cities with disproportionate rates of poverty and incarceration; organizations that employ those directly impacted by the immigration and criminal justice systems; and organizations that have proven ties to the communities they serve.

This bill is of critical importance to the City of Berkeley and other municipalities dedicated to exploring alternatives to policing. As the City's Reimagining Public Safety Taskforce and Specialized Care Unit Taskforce work wraps up over the next year, we will be looking at both the City's available funds and additional grant programs to secure funding for implementation. Federal resources are crucial for continuing this work in cities across the country, as well as supporting community-based organizations who are key partners in supporting and implementing these alternative approaches.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No impact.

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170
Cyn Gómez, Intern

Attachments:

- 1: Letter of support
- 2: Resolution
- 2: Bill text <https://www.congress.gov/bill/117th-congress/house-bill/4194/text?r=8&s=1>

December 14, 2021

The Honorable Cori Bush
563 Cannon House Office Building
Washington, DC 20515

RE: City of Berkeley's Support for The People's Response Act

Dear Representative Cori Bush,

The Berkeley City Council would like to convey our full support for H.R. 4194, The People's Response Act — an important bill that would improve community safety, reduce reliance on the criminal justice system, and support the parallel efforts of local governments, state governments, and grassroots organizers.

The City of Berkeley, like many other municipalities across the country, is taking the necessary steps to reimagine public safety. We are heartened to see decisive action being pursued on the federal level that would not only funnel federal resources into a Division of Community Safety, but additionally provide much-needed funding to cities and community-based organizations to implement non-carceral programs on the local level. The resources provided by this bill would help develop and fund concrete implementation plans in Berkeley and across the country for critical programs such as mental health response, violence intervention and prevention, and unarmed first responders.

The People's Response Act responds to the calls for change in our country on a scale that is appropriate and needed. This progressive bill is one part of the solution to our broken, punitive system of public safety. We stand firmly in support of H.R. 4194 and thank you for this important piece of legislation.

Sincerely,

The Berkeley City Council

CC: Senator Dianne Feinstein
Senator Alex Padilla
Representative Barbara Lee

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

RESOLUTION IN SUPPORT OF H.R. 4194, THE PEOPLE'S RESPONSE ACT

WHEREAS, The People's Response Act aims to improve crisis response and public safety by encouraging and funding alternative models that address the root causes of crime, rather than relying on punitive enforcement; and

WHEREAS, the status quo has resulted in a system in which Black people make up 6% of the State of California's residents but 28% of the State's prison population, while Latinx people make up 38% of the State's residents but 41% of the prison population; and

WHEREAS, this bill responds to the reckoning that this country is facing for its inhumane immigration and carceral systems, police violence and bias, and lack of structural community supports, all of which disproportionately impact Black and brown communities; and

WHEREAS, The People's Response Act will establish a Division of Community Safety and award grants to local governments, state governments, and community-based organizations in order to develop and implement qualified approaches to community safety; and

WHEREAS, as a city dedicated to transforming its approach to public safety, the City of Berkeley supports much-needed increases to federal support that would empower cities to improve mental health and homelessness response, create supportive programs designed to lift people up from poverty, and implement alternatives to policing.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley supports H.R. 4194, The People's Response Act.



Office of the City Manager

PUBLIC HEARING
December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Abe Roman, Fire Chief, Department of Fire and Emergency Services

Subject: Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph 'NN' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code") to Restore Language Which Existed Prior to October 26, 2021.

RECOMMENDATION

Conduct a public hearing and upon conclusion adopt the second reading of Ordinance No. 7,791-N.S. which rescinds Ordinance 7,788-N.S. and modifies the language of Paragraph 'NN.' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and restores language which existed prior to October 26, 2021.

FISCAL IMPACTS OF RECOMMENDATION

None. Restores local statutes to conditions which existed prior to the adoption of Ordinance 7,788-N.S. and maintains the status quo of existing fee-for-service revenues and expenditures.

CURRENT SITUATION AND ITS EFFECTS

On October 26, 2021 the Berkeley City Council passed Ordinance 7,788-N.S. which expanded existing provisions contained in Paragraph 'NN' of Berkeley Municipal Code section 19.48.020 ("Amendments to the California Fire Code") and revised the language of that paragraph. Since the adoption of Ordinance 7,788-N.S. City staff have been presented with additional information from community stakeholders regarding subjects such as the permit threshold trigger dollar valuation, implementation details and opportunities to promote health, safety and environmental initiatives within the community.

While Ordinance 7,788-N.S. was passed by City Council on October 26, 2021, per the language of the ordinance, its effective date is delayed 90-days after its adoption, for an effective date of January 24, 2022. Prompt action to rescind ordinance 7,788-N.S. is required to prevent the current language from taking effect as scheduled. It is also necessary to restore the original Paragraph 'NN' language which existed prior to the adoption of Ordinance 7,788-N.S. to ensure that long-standing fire protection measures in

the “Environmental Safety- Residential” zoning district remain intact while staff evaluates and makes recommendations on a replacement amendment for Paragraph ‘NN’.

Ordinance 7,788-N.S. expanded and modified the language of Paragraph ‘NN’ of Berkeley Municipal Code (B.M.C) Section 19.48.020 (“Amendments to the California Fire Code”) to expand the scope and applicability of fire sprinkler provisions, which previously existed in the “Environmental Safety- Residential” zoning district. That ordinance also focused the fire sprinkler requirements on residential structures built on properties zoned for single- and duplex-dwelling construction, established three triggering conditions which would require sprinkler installation and / or retrofit (including a construction permit valuation threshold), and established a number of exemptions that would not trigger such installations.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This change would restore local statutes to conditions which existed prior to the adoption of Ordinance 7,788-N.S. and maintain the status quo of existing fire code provisions; the impact on environmental sustainability and climate impacts is neutral.

RATIONALE FOR RECOMMENDATION

Staff believes that in light of additional information presented to City staff by community stakeholders that rescission of the modifications will provide an opportunity for staff to further evaluate and make recommendations regarding the permit valuation threshold and other concerns regarding implementation.

In addition to achieving the fire protection and life safety goals outlined in the staff report submitted with Ordinance 7,788-N.S., further evaluation and analysis and resulting staff recommendations in amending this paragraph will allow us to avoid unintended disincentives to, and ultimately promote other significant health, safety and environmental initiatives within the community.

ALTERNATIVE ACTIONS CONSIDERED

Without prompt action the approved fire code language of Paragraph ‘NN’ language of Ordinance 7,788-N.S. will take effect on January 24, 2022. Based on the need for further stakeholder input, staff analysis and the drafting of recommendations and given the time constraints to act on this issue, other alternative actions such as direct amendment of the Ordinance 7,788-N.S. language have been ruled out as viable alternative actions.

CONTACT PERSON

Steven Riggs, Fire Marshal, Department of Fire and Emergency Services, (510) 981-3473

Attachments:

- 1: Ordinance No. 7,791-N.S.: “RESCINDING ORDINANCE 7,788-N.S. AND RESTORING THE PREVIOUS LANGUAGE OF PARAGRAPH ‘NN’ OF BERKELEY MUNICIPAL CODE (B.M.C.) SECTION 19.48.020”

ORDINANCE NO. 7,791-N.S.

RESCINDING ORDINANCE 7,788-N.S. AND RESTORING THE PREVIOUS LANGUAGE OF PARAGRAPH 'NN' OF BERKELEY MUNICIPAL CODE (B.M.C.) SECTION 19.48.020

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

Section 1. That Ordinance 7,788-N.S. which amended Paragraph 'NN' of Section 19.48.020 of the Berkeley Municipal Code (B.M.C.) is hereby rescinded.

Section 2. That Paragraph NN. of Section 19.48.020 of the Berkeley Municipal Code ("Amendments to the California Fire Code") is amended to read as follows:

NN. Section 903.2.23 Environmental Safety--Residential District~~Fire Zones 2 and 3 [Additional subsection]~~ Any new construction requiring a permit determined to be \$100,000 or more in construction costs or new additions to existing structures shall be required to install automatic fire sprinklers throughout the structure. For the purpose of this subsection "Environmental Safety--Residential District" shall mean those areas designated as such on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time. On any parcel zoned to allow single-family or duplex dwelling residential use, any of the following conditions shall trigger the installation of fire sprinklers throughout any new and existing primary and related accessory structures containing habitable space:

~~A. The construction of a new structure containing habitable space, or~~

~~B. The conversion of existing structures or portions of existing structures to habitable space when such structures did not previously contain formally approved habitable space, or~~

~~C. Any alterations or additions requiring permit(s) determined to be \$100,000 or more in aggregate construction costs over a 36-month period from the date of permit issuance~~

~~For the purpose of this subsection Fire Zones 2 and 3 shall mean those areas designated as such in the Berkeley Fire Code, as it may be amended from time to time.~~

~~Exceptions: 1. Detached accessory structures of Group 'U' Occupancy with a floor area not greater than 120 square feet.~~

~~2. Construction or portions of construction defined as repairs for maintenance purposes or construction alterations intended to bring a structure into compliance with ignition resistant construction standards for wildfire exposure of the structure as set forth in the Berkeley Building Code.~~

~~3. Additions of new space that total not more than 250 square feet in area and which are used solely for mechanical or utility service of a building.~~

~~4. Where multiple, primary, free-standing dwellings exist on a given property the fire sprinkler installation requirements of this section shall be applicable to an individual primary structure and any qualified accessory structures on the property associated with the affected primary dwelling structure. Other free-standing dwelling structures on the property and their accessory structures need not retrofit fire sprinklers at that time.~~

Section 3. This amendment shall become effective 30 days after adoption of this ordinance.

Section 4. 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 November 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.

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**RESCINDING ORDINANCE 7,788-N.S. AND RESTORING THE
PREVIOUS LANGUAGE OF PARAGRAPH ‘NN’ OF BERKELEY
MUNICIPAL CODE (B.M.C.) SECTION 19.48.020**

The Department of Fire and Emergency Services is proposing ...

Conduct a public hearing and, upon conclusion, adopt an Ordinance (Attachment 1) which rescinds Ordinance 7,788-N.S. and modifies the language of Paragraph ‘NN.’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and restores language which existed prior to October 26, 2021.

The hearing will be held on, DECEMBER 14, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **December 2, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Fire Marshal Steven Riggs at (510) 981-3473.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@cityofberkeley.info for further information.

Published: December 3 & 10, 2021 – The Berkeley Voice
In accordance with California Government Code, Section 50022.3



I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on December 2, 2021.

A handwritten signature in black ink, appearing to read "Mark Numainville", written in a cursive style.

Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Public Works
 Subject: Public Hearing: Implement Residential Preferential Parking (RPP) Program on the 1600 Block of Lincoln Street

RECOMMENDATION

Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25E by adding a subsection to implement Residential Preferential Parking (RPP) on both sides of the 1600 block of Lincoln Street in Area E.

FISCAL IMPACTS OF RECOMMENDATION

Funding of \$2,297.60 for RPP street signage installation is available in the FY 2022 budget in the General Fund (011-54-622-664-0000-000-431-513110- and 011-54-622-664-0000-000-431-642990-).

CURRENT SITUATION AND ITS EFFECTS

Residents on the 1600 block of Lincoln Street, which is in an RPP eligible area, have submitted a petition to join the RPP Program. The area that would join the Program is shown in Attachment 3:

1. In Area E: Both sides of the 1600 block of Lincoln Street between California Street and McGee Avenue.

In accordance with Berkeley Municipal Code (BMC) Section 14.72.050(A)(1), staff verified that residents submitted signatures on a qualifying petition representing a numerical majority of dwellings wishing to “opt-in” to the RPP Program for the street section listed in the attached Resolution. Staff verified that at least 75% of the curb parking spaces were occupied during mid-morning and mid-afternoon observation periods at the location.

The addition of both sides of one block in Area E should have a minimal impact on enforcement capabilities, as RPP restrictions are already in place on surrounding blocks. Each new addition to the RPP Program, however, tends to result in slightly diminished enforcement for all other existing permit areas, due to parking enforcement officers having slightly larger areas to patrol.

BACKGROUND

The RPP Program was instituted in 1980 (1) to protect Berkeley residential neighborhoods from an influx of non-resident vehicles and related traffic; (2) to assure continued quality of life for residents; and (3) to provide neighborhood parking for residents. The Program limits parking for vehicles not displaying an RPP permit in most RPP areas to two hours, and reserves available daytime parking for residents, between 8:00 a.m. and 7:00 p.m. Monday through Friday, and on some blocks Saturday.

The RPP Program currently allows residents within RPP program boundaries to petition the City to “opt-in” or “opt-out” of the Program. The process to install RPP controls requires submittal of a petition signed by residents (including tenants of rental properties) of at least 51% of dwellings sited along the affected block, and a parking survey of those blocks that shows at least 75% of available on-street parking spaces are occupied during the mid-morning and mid-afternoon time periods.

The RPP Program is a Strategic Plan Priority Project, advancing our goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Expansion of the RPP Program to include additional blocks may have a minor beneficial environmental effect. Incremental expansion of the RPP Program may make alternative transportation options more attractive. A modal shift by commuters to walking, bicycling, public transportation, or carpooling may also lead to a decrease in greenhouse gasses.

RATIONALE FOR RECOMMENDATION

Because the required number of households on the subject blocks have signed a petition, and as parking surveys show more than 75% occupancy of curbside parking, these blocks meet the requirements set forth by the BMC for inclusion into the RPP Program.

ALTERNATIVE ACTIONS CONSIDERED

Council may allow unrestricted parking to remain on these streets. However, Council has previously approved the “opting in” of blocks where the requisite number of households signed a petition requesting RPP control, and where the parking utilization exceeds 75%.

CONTACT PERSON

Farid Javandel, Deputy Director, Public Works (510) 981-7010
Matthew Cotterill, Assistant Planner, Public Works (510) 981-6433

Implement Residential Preferential Parking (RPP) Program on the
1600 Block of Lincoln Street

PUBLIC HEARING
December 14, 2021

Attachments:

1. Resolution
2. Public Hearing Notice
3. Map of Street Section Opting into Program

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

IMPLEMENT RESIDENTIAL PREFERENTIAL PARKING (RPP) PROGRAM ON 1600
BLOCK OF LINCOLN

WHEREAS, Berkeley Municipal Code Section 14.72.050.A.1, Designation of a Residential Preferential Parking (RPP)Area, allows residents to petition the City to "opt-in" or "opt-out" of the program and requires submittal of a petition containing signatures of residents of at least 51% of dwellings on the affected block; and

WHEREAS, residents of at least 51% of the dwellings on the following blocks have petitioned to "opt-in" to Residential Preferential Parking:

1. Both sides of the 1600 block of Lincoln Street between California Street and McGee Avenue;

WHEREAS, staff has conducted field observations and determined at least 75% of available on-street parking spaces are occupied during the mid-morning and mid-afternoon time periods; and

WHEREAS, the designation of these blocks as a residential permit parking area will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the area designated; and

WHEREAS, the \$2,297.60 implementation cost is available in the FY 2022 budget in the General Fund 011 for Transportation Traffic Maintenance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following subsection of Section 25 of Resolution No. 56,508-N.S. are hereby added to read as follows:

Section 25E LINCOLN STREET, both sides between California Street and McGee Avenue

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

**EXTEND RESIDENTIAL PREFERENTIAL PARKING PROGRAM TO
1600 BLOCK OF LINCOLN STREET**

The Department of Public Works is proposing to conduct a public hearing and, if recommendations are approved, adopt a Resolution amending Section 25E of Resolution No. 56,508-N.S. by adding a subsection to extend residential preferential parking on both sides of the 1600 block of Lincoln Street between California Street and McGee Avenue.

The Residential Preferential Parking (RPP) Program allows for residents to petition the City to "opt-in" or "opt-out" of the Program. Complying with program requirements, residents of the block under consideration for opting into the RPP Program have submitted the qualifying signatures on a petition and also have at least 75% of the curb spaces occupied during the morning and mid-afternoon observation periods. Adding a block within the existing residential study area boundaries through evaluations by an EIR study certified on September 27, 1988, and in accordance with California Environment Quality Act (CEQA) guidelines, are categorically exempt as defined by Section 15.162(c).

The hearing will be held on, DECEMBER 14, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **December 2, 2021** Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.

For further information, please contact Matthew Cotterill, Assistant Planner at (510) 981-6433.


Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

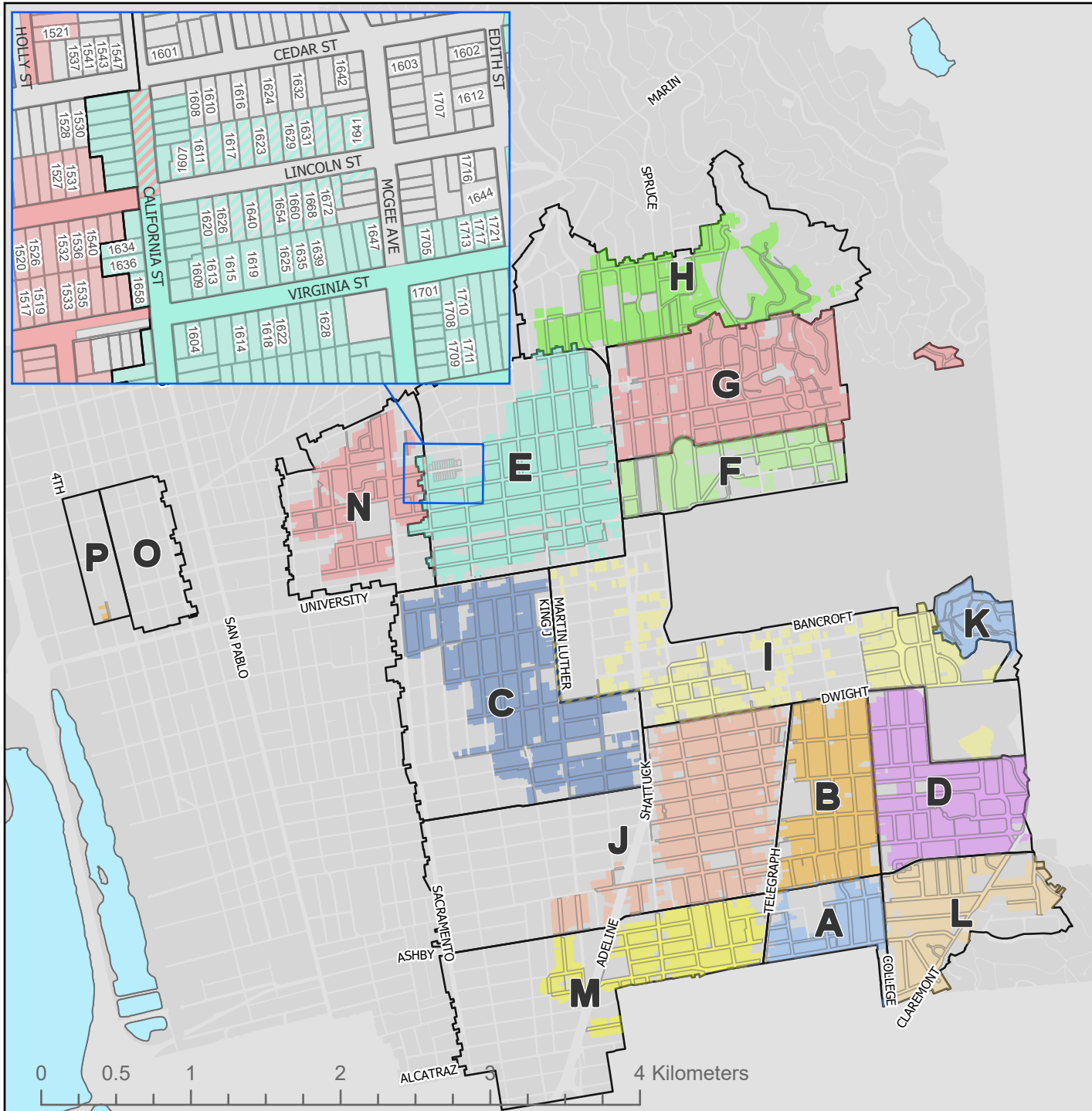
include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@cityofberkeley.info for further information.


Published: December 3, 2021 – The Berkeley Voice

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on December 2, 2021.

  
\_\_\_\_\_  
Mark Numainville, City Clerk

# ATTACHMENT 3



 PARCELS OPTING INTO AREA E

CURRENTLY ELIGIBLE PARCELS

-  A
-  B
-  C
-  D
-  E
-  F
-  G
-  H
-  I
-  J
-  K
-  L
-  M
-  N
-  P

This map is for reference purposes only.

Care was taken in the creation of this map, but it is provided "AS IS". Please contact the City of Berkeley to verify map information or to report any errors.  
September 17, 2021



**CITY OF BERKELEY**  
 Transportation Division  
 1947 Center Street  
 Berkeley CA 94704





Office of the City Manager

PUBLIC HEARING  
December 14, 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: Fees: Vital Records

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution establishing a new fee schedule for Vital Records effective January 1, 2022 and rescinding Resolution No. 70,116-N.S.

This fee adjustment is to become effective January 1, 2022 pursuant to Assembly Bill (AB) 128 (Chapter 21, Statutes of 2021), and Health & Safety (H&S) Codes, § 103627, 100425, 100430, and 100435.

FISCAL IMPACTS OF RECOMMENDATION

Based on the last four years' average number of vital records issued, the recommended changes to fees are projected to generate an additional amount of \$39,546 per year. Fee revenue, including the anticipated increase, is not all retained by the City of Berkeley. Of this projected revenue of \$39,546, \$23,772 will be retained by the City of Berkeley and the remaining amount will be allocated to different county, state, and federal programs and activities according to state law. Funds will be deposited into revenue codes: 011-51-501-503-2076-000-451- and 119-51-506-560-2059-000-451- .

| <b>Certificate</b>              | <b>Current Fee</b> | <b>Proposed Fee</b> |
|---------------------------------|--------------------|---------------------|
| Birth Certificate Public        | \$27.00            | <b>\$31.00</b>      |
| Birth Certificate County        | \$21.00            | <b>\$24.00</b>      |
| Death Certificate Public/County | \$23.00            | <b>\$26.00</b>      |
| Fetal Death Certificate         | \$20.00            | <b>\$23.00</b>      |
| Still Birth Certificate         | \$20.00            | <b>\$23.00</b>      |
| Disposition Permit              | \$12.00            | \$12.00             |
| Declaration of Paternity        | \$10.00            | \$10.00             |
| Transit Letter                  | \$4.00             | \$4.00              |

CURRENT SITUATION AND ITS EFFECTS

Vital Statistics fees are being increased pursuant to AB 128 (Chapter 21, Statutes of 2021). Certificate fees are primarily comprised of California Health & Safety Code

mandated fees. The City of Berkeley retains a portion of the fees while the remainder goes to the State and Alameda County programs. See Exhibit A for a detailed breakdown. As a local health jurisdiction, Berkeley is required by the State to provide this service and to remit fees. The State of California unexpectedly amended their Vital Records Fee Schedule on November 23, 2021, increasing the fees that they had proposed earlier this year and confirmed on October 28, 2021. This latest change in the City of Berkeley's Vital Records fees is in response to this notice, so that the City can remain aligned with the State and avoid loss of City general fund.

The City of Berkeley Vital Statistics program is part of the Public Health Officer Unit in the Health, Housing and Community Services Department. Providing birth, death, and other vital records is a Strategic Plan Priority Project; advancing our goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### BACKGROUND

City of Berkeley Vital Statistics Program maintains birth and death statistics for City of Berkeley residents and is responsible for filing, preserving, protecting and issuing birth, death, fetal death, and stillbirth certificates; as well as issuing permits and transport letters for the disposition of human remains for the deaths and births that occur in the city limits of Berkeley.

Under the supervision of the City of Berkeley Health Officer, the mandate of Vital Statistics mandate is to:

- Establish permanent records legally recognized as prima facie evidence of fact in courts;
- Reduce fraud by reporting information on births and deaths to other governmental agencies;
- Promote the health of our citizens by studying statistical data for health evaluation and planning.

Certificates are available from the City of Berkeley for up to two years after the date of an event. After two years, vital records can be ordered from Alameda County. Certificates can be ordered in person, online via VitalChek.com, or by mail.

Vital Statistics provides free certificates to individuals who can verify homeless status (H&S Code Section 103577) and to youth in foster care who can verify foster status (H&S Code Section 103578).

Since 2005, certain fees have also included a \$2 fee to support domestic violence programs. After this requirement was established by the State in Health and Safety Code § 103627.5, Berkeley City Council adopted Resolution No. 63,165-N.S. which approved the fee increase and established Fund 231 for this revenue.



Pursuant to H&S Code Section 103625 (a) and (b), the City of Berkeley Vital Statistics fees are used to offset the cost of record generation and maintenance including staff, facility, equipment, and general office costs. Fees of certificates and permits are mandated to be distributed to the following funds (Exhibit A):

- County Children's Trust Fund
- Umbilical Cord Blood Collection Program
- Domestic Violence Prevention
- Peace officers' training fund
- County treasury for indigent burials
- Department of Justice Missing Persons DNA Data Base Fund

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### RATIONALE FOR RECOMMENDATION

The services performed and the fees collected are mandated by the California Health and Safety Code. Approving the increase in the fee per certificate will enable the City to continue providing this important service locally and paying the fees due the State.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered as staff have not identified another source of funds that could cover the fee increases mandated by AB128.

#### CONTACT PERSON

Alexandra Deitch, Sr. Health Services Program Specialist, HHCS (510) 981-5379

#### Attachments:

1: Resolution

Exhibit A: City of Berkeley Vital Records Fee Schedule and Allocation of Vital Records

2: Public Hearing Notice

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

ESTABLISHING AND INCREASING CURRENT VITAL RECORDS FEES EFFECTIVE  
JANUARY 1, 2022 AND RESCINDING RESOLUTION 70,116-N.S

WHEREAS, City of Berkeley Vital Statistics Program handles vital records for birth and death events that occur within the City limits;

WHEREAS, effective January 1, 2022 vital records fees will increase pursuant to Assembly Bill (AB) 128 (Chapter 21, Statutes of 2021); and

WHEREAS, vital records fees collected by City of Berkeley Vital Statistics Program are set by statute, and must be updated; and

WHEREAS, the proposed changes in fees will allow the City of Berkeley Vital Statistics Program to continue to meet all Federal, State, and County health, safety, and regulatory requirements, while providing continued community access to birth and death certificates and permits and transport letters for the disposition of human remains.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the proposed Published Charges, detailed in Exhibit A, are hereby established, effective January 1, 2022 for vital records offered by Vital Statistics Program of the City's Health, Housing and Community Services department.

Exhibit A: City of Berkeley Vital Records Fee Schedule and Allocation of Vital Records

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**VITAL RECORDS: ESTABLISH FEE SCHEDULE AND CURRENT FEE  
INCREASE**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said City Council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Health, Housing and Community Services is proposing to increase the fees for the issuance of each birth, death, and fetal death certificates, effective January 1, 2022, pursuant to Assembly Bill (AB) 128 (Chapter 21, Statutes of 2021) and Health and Safety Codes 103627, 100425, 100430 and 100435.

| <b>Certificate</b>              | <b>Current Fee</b> | <b>Proposed Fee</b><br>(Effective January 1, 2022) |
|---------------------------------|--------------------|----------------------------------------------------|
| Birth Certificate Public        | \$27.00            | <b>\$31.00</b>                                     |
| Birth Certificate County        | \$21.00            | <b>\$24.00</b>                                     |
| Death Certificate Public/County | \$23.00            | <b>\$26.00</b>                                     |
| Fetal Death Certificate         | \$20.00            | <b>\$23.00</b>                                     |
| Still Birth Certificate         | \$20.00            | <b>\$23.00</b>                                     |
| Disposition Permit              | \$12.00            | \$12.00                                            |
| Declaration of Paternity        | \$10.00            | \$10.00                                            |
| Transit Letter                  | \$4.00             | \$4.00                                             |

The hearing will be held on December 14<sup>th</sup> at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

For further information, please contact **Alexandra Deitch** at **510-981-5379**.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of December 2, 2021. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

**Published:** December 3, 2021 – The Berkeley Voice  
December 10, 2021 – The Berkeley Voice

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on December 2, 2021.



Mark Numainville, City Clerk

Exhibit A

**CITY OF BERKELEY VITAL RECORDS FEE SCHEDULE AND ALLOCATION OF
VITAL RECORDS
Effective January 1, 2022**

I. CERTIFIED COPIES, SEARCHES, AND CERTIFICATION OF NO PUBLIC RECORD

(Search/No Record fees are the same as copy fees -- Health and Safety (H&S) Code, Section 103650)

Birth - General Public	Fee	Allocation
H&S Code, § 103625(b)(f), 100425, 103525.5, and Welfare & Institutions (W&I) Code, § 18966	\$ 17.95	Retained by City of Berkeley
	\$ 5.45	To State Registrar, monthly
W&I Code, § 18966 and H&S Code, § 103625(b)	\$ 3.60	To County Children's Trust Fund
		To Umbilical Cord Blood Collection Program
H&S Code, § 103625(b)	\$ 2.00	
H&S Code, § 103627	\$ 2.00	To Domestic Violence Prevention
Fee Total	\$ 31.00	
Birth - Government Agency	Fee	Allocation
H&S Code, § 103625(b)(f), 100425, and 103525.5	\$ 16.70	Retained by City of Berkeley
	\$ 5.30	To State Registrar, monthly
H&S Code, § 103627	\$ 2.00	To Domestic Violence Prevention
Fee Total	\$ 24.00	
Death - Gov. Agency & Gen. Public	Fee	Allocation
H&S Code, § 103625(a)(f), 100425, 103525.5, and Penal Code, § 14251	\$ 16.80	Retained by City of Berkeley
	\$ 5.30	To State Registrar, monthly
		To Dept of Justice Missing Persons DNA Data Base Fund
Surcharge: Penal Code, § 14251	\$ 1.90	
H&S Code, § 103627	\$ 2.00	To Domestic Violence Prevention
Fee Total	\$ 26.00	
Fetal Death - Gov. Agency & Gen. Public	Fee	Allocation
	\$ 16.35	Retained by City of Berkeley
H&S Code, § 103625(a)(f), and 100425	\$ 4.65	To State Registrar, monthly
H&S Code, § 103627	\$ 2.00	To Domestic Violence Prevention
Fee Total	\$ 23.00	

Exhibit A (Cont.)

**CITY OF BERKELEY VITAL RECORDS FEE ALLOCATION OF VITAL RECORDS
Effective January 1, 2022**

Stillbirth	Fee	Allocation
H&S Code, § 103040.1(f)	\$ 21.00	Retained by City of Berkeley
H&S Code, § 103627	\$ 2.00	To Domestic Violence Prevention
Fee Total	\$ 23.00	

II. PERMIT FOR DISPOSITION OF HUMAN REMAINS

Regular Permit	Fee	Allocation
H&S Code, § 103675	\$ 2.50	Retained by City of Berkeley
H&S Code, § 100430 and 103692	\$ 6.50	To State Registrar, quarterly
Surcharge: H&S Code, § 103680	\$ 1.00	To Peace Officers Training Fund
Surcharge: H&S Code, § 103680	\$ 2.00	Retained by COB for deposit into county treasury for indigent burials
Fee Total	\$ 12.00	



Office of the City Manager

ACTION CALENDAR

December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Rama Murty, Senior Management Analyst

Subject: FY 2021 Year-End Results and FY 2022 First Quarter Budget Update

RECOMMENDATION

Discuss and determine funding allocations for FY 2022 based on the FY 2021 General Fund Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) City Manager Budget Recommendations and 3) the Council's Budget Referrals approved during FY 2022 to be considered in November 2021.

INTRODUCTION

This budget update presents the FY 2021 Year-End (Year-End) results as well as reports on the FY 2022 First Quarter. The FY 2021 Year-End budget summary covers the period starting July 1, 2020, through June 30, 2021 (FY 2021). This report also provides preliminary revenue information for the first quarter of the current fiscal year, 2022. The FY 2022 First Quarter Budget Update covers the period July 1, 2021, through September 30, 2021. The FY 2021 General Fund Year-End balance was \$37.3 million. Amounts restricted, committed, and assigned totaled \$26.5 million. Allocations to the General Fund reserves totaled \$4.87 million¹. The amount of Unassigned Excess Equity totaled \$5.87 million.

The information in this report should be reviewed in conjunction with the Amendment to the FY 2022 Annual Appropriations Ordinance (AAO) also on tonight's agenda. The AAO#1 establishes the expenditure limits by fund for FY 2022. The adopted budget is amended annually to reflect the re-appropriation of prior year funds for contractual commitments (i.e. encumbrances) as well as unencumbered carryover of unexpended funds previously authorized for one-time, non-recurring purposes. These budget modifications are presented to the Council twice a year in the form of an AAO. The first AAO is on tonight's agenda. The second and final AAO will go to Council in May 2022.

¹ Starting in FY 2018, to achieve the City's intermediate and long-term Reserves goals, 50% of Excess Equity above the first \$1M is allocated to Reserves. The General Fund Reserve consists of the total of the Stability Reserve and the Catastrophic Reserve.

Included on tonight's agenda is the First Amendment to the FY 2022 Annual Appropriations Ordinance report (AAO#1). The information included in this Year-End report is supplemented by the detailed information included in the AAO#1.

Recommendations in the AAO#1 augments the adopted General Fund budget by \$ 23.8 million. The \$23.8 million includes encumbrances of \$8.5 million, unencumbered carry-over requests of \$4.4 million, and adjustments of \$10.9 million.

CURRENT SITUATION AND ITS EFFECTS

FY 2021 Year-End Summary

General Fund

On June 30, 2020, the City Council adopted the FY 2021 budget (Adopted Budget).² The FY 2021 adopted General Fund revenues were \$195.8 million. The actual FY 2021 year-end General Fund revenues were \$232.0 million.

Included in the FY 2021 Adopted Budget were General Fund expenditures of \$194.7 million. During the fiscal year, there were two Adjustments to the Appropriation Ordinance totaling \$42.4 million, thus the total FY 2021 General Fund adjusted expenditure budget was \$237.2 million³. At the end of FY 2021, \$8.5 million was encumbered and rolled into FY 2022 resulting in an FY 2021 year-end adjusted expenditure budget of \$228.4. Not all of the budgeted funds were expended in FY 2021, so the FY 2021 year-end actual General Fund expenditures were \$226.9 million.

Revenues

At FY 2021 year-end, actual General Fund revenues were \$232.0 million. This was \$36.2 million above the adopted budget of \$195.8 million. The largest contributors to the revenue increase were the following items:

- Real Property Tax revenues, which exceeded the budgeted amount by \$7.0 million
- Measure P – Transfer Tax⁴, which exceeded the budgeted amount by \$6.2 million
- Property Transfer Tax revenue, which exceeded the budgeted amount by \$5 million⁵

² https://www.cityofberkeley.info/Clerk/City_Council/2020/06_June/Documents/2020-06-30_Item_40_FY_2021_Mid-Biennial_Budget_pdf.aspx (Items #40 & #41)

³ https://www.cityofberkeley.info/Clerk/City_Council/2021/05_May/Documents/2021-05-11_Item_02_Amendment_FY_2021_Annual.aspx

⁴ https://www.cityofberkeley.info/Clerk/Elections/Ballot_Measure_Archive_Page.aspx

⁵ This amount will be reduced to \$4.5 million for the payment to the Workers Compensation Fund for the purchase of the University Avenue property

- Business License Tax, which exceeded the budgeted amount by \$4.7 million
- Other revenues, which exceeded the budgeted amount by \$4.1 million

Together, these three revenue streams generated \$27.6 million above FY 2021 adopted revenues for the General Fund.

Details on the FY 2021 General Fund revenues can be found in Attachment 1.

Expenditures

Actual FY 2021 General Fund expenditures were \$226.9 million. This was \$32.2 million above the initial adopted budget of \$194.7 million and \$1.5 million below the adjusted budget of \$228.4 million.

The FY 2021 General Fund budget contained \$26.5 million in budget deferrals that were built into the budget to help balance the \$39.1 million deficit the City faced due to the pandemic.

Of the \$26.5 million in budget deferrals, almost \$16 million were personnel deferrals. During the year, departments were allowed to hire General Fund vacancies on a case by case basis after a detailed review by the City Manager.

While these vacancies generated salary savings during the year, the saving was not enough to offset the total personnel deferrals and possible payroll coding errors that occurred in the transition to payroll moving to the new system. In the end, the General Fund personnel budget finished over budget by \$10.5 million.

The overage in General Fund personnel was offset by non-personnel savings of \$12 million in departments. Some of the non-personnel saving was due to departments not fully spending their non-personnel budgets while the rest was for projects that were not completed in FY 2021. Funding allocations for ongoing projects are being carried over to FY 2022.

Details of the variances are included in Attachment 2 of this report.

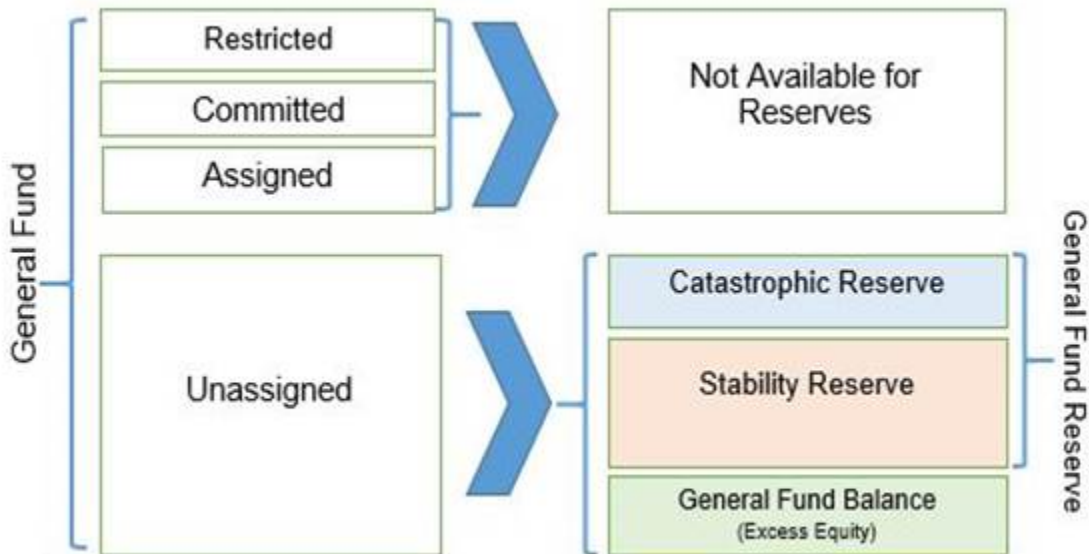
Details of the carryover requests are included in the AAO#1 on tonight's agenda.

Excess Equity

Starting in FY 2018 to achieve the City's intermediate and long-term General Fund Reserves goals, 50% of Excess Equity above the first \$1 million is allocated to General Fund Reserves. The chart below illustrates the FY 2021, \$4.87 million reserve calculation as well as the \$5.87 million calculation for the unassigned excess equity.

GENERAL FUND EXCESS EQUITY CALCULATION			
FY 2021 Beginning Balance		\$	40,594,945
FY 2021 Revenues (Includes \$11.4 million from Reserve Funds)		\$	232,028,202
FY 2021 Expenditures			(226,901,811)
G. F. Encumbrances Restricted (AAO #1)		\$	(8,451,781)
Available Balance		\$	37,269,555
Less:			
Measure U1 Ending Fund Balance		\$	(973,695)
Measure P Ending Fund Balance		\$	(17,032,253)
FY 2022 General Fund COLAs		\$	(3,775,783)
FY 2022 PEPRA Ramp Down		\$	(339,008)
G.F. Carryover (AAO #1)		\$	(4,405,774)
Total Restricted & Carryovers		\$	(26,526,513)
FY 2022 Available Excess Equity*		\$	10,743,042
Allocation to Reserves		\$	4,871,521
Excess Equity Balance		\$	5,871,521
<i>*Includes excess FY 2021 Excess Property Transfer Tax revenue of \$4,969,955. \$406,952 to repay loan to the Workers Compensation fund for the purchase of Premier Cru will be included in AAO#1.</i>			

Excess equity is and the calculation for excess equity is documented in the graphic below.



The graphic above shows the relation between excess equity as well as other restricted, committed, and assigned General Fund monies.

- The restricted fund balance category includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation.
- The committed fund balance classification includes amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority.
- Amounts in the assigned fund balance classification are intended to be used by the government for specific purposes but do not meet the criteria to be classified as restricted or committed.
- Unassigned fund balance is the residual classification for the government's general fund and includes all spendable amounts not contained in the other classifications

General Fund Reserve

The General Fund Reserve is distinctly separate from the General Fund Balance (Excess Equity). On January 24, 2017, the City Council established [Resolution No. 67,821](#) – N.S., a policy for the General Fund Reserves.⁶ The General Fund reserves are comprised of two elements: a Stability Reserve and a Catastrophic Reserve.

The Stability Reserve was established to mitigate the loss of service delivery and financial risks associated with unexpected revenue shortfalls during a single fiscal year or during a prolonged recessionary period. The purpose of the Stability Reserve is to provide fiscal stability in response to unexpected downturns or revenue shortfalls. Fifty-five percent of the General Fund Reserve is allocated to the Stability Reserve.

The Catastrophic Reserve was established to sustain the General Fund operations in the case of a public emergency such as a natural disaster or other catastrophic event. The Catastrophic Reserve may be used to respond to extreme onetime events, such as earthquakes, fires, floods, civil unrest, and terrorist attacks. The policy was revised to include public health emergencies and pandemics⁷. Forty-five percent of the General Fund Reserve is allocated to the Catastrophic Reserve.

When the Council adopted the General Fund Reserve Policy the target level established for the Reserve was a minimum of 13.8% of Adopted General Fund Revenues with an Intermediate Goal of a minimum of 16.7% by the end of Fiscal Year 2020, if financially feasible. In addition, the Council adopted a Long-Term Goal of 30% of General Fund revenues, to be achieved within no more than 10 years. The Council demonstrated their

⁶ <https://www.cityofberkeley.info/recordsonline/export/17153922.pdf>

⁷ [https://www.cityofberkeley.info/Clerk/City_Council/2020/06_June/Documents/2020-06-16_\(Special_230pm\)_2020-06-16_Special_Item_03_Amendments_to_the_General_Fund_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/06_June/Documents/2020-06-16_(Special_230pm)_2020-06-16_Special_Item_03_Amendments_to_the_General_Fund_pdf.aspx)

commitment to these goals in the policy by assigning 50% of the General Fund Excess Equity above the first \$1 million to be allocated to the Stability and Catastrophic Reserves (Reserves). Additional Excess Equity may be allocated to Reserves by a majority vote of the Council.

As part of the FY 2021 Mid-Biennial Budget Adoption, the Council approved the use of approximately \$11.4 million to help balance the General Fund deficit. During FY 2021, the Council approved an allocation of \$1.8 million in FY 2020 excess property transfer tax revenues to help repay the loan to the General Fund.

The chart directly below illustrates the use of these reserves and the FY 2021 allocation of the \$4.87 million distributed to the General Fund Reserves, resulting in an actual Reserves level of 14.29%⁸.

General Fund Reserves	Stability Reserve	Catastrophic Reserve	Reserve %
Beginning Cash Balance -	\$ 15.81	\$ 10.60	
FY 2021 Allocation to Reserves	\$ 2.68	\$ 2.19	
% Allocation	55%	45%	
Reserve Balance	\$ 18.49	\$ 12.79	
Reserved for Camps Fund - Tuolumne Camp		\$ (3.30)	
Ending Cash Balance - Reserves	\$ 18.49	\$ 9.49	14.29%

The allocations to the General Fund reserves are not included in AAO#1.

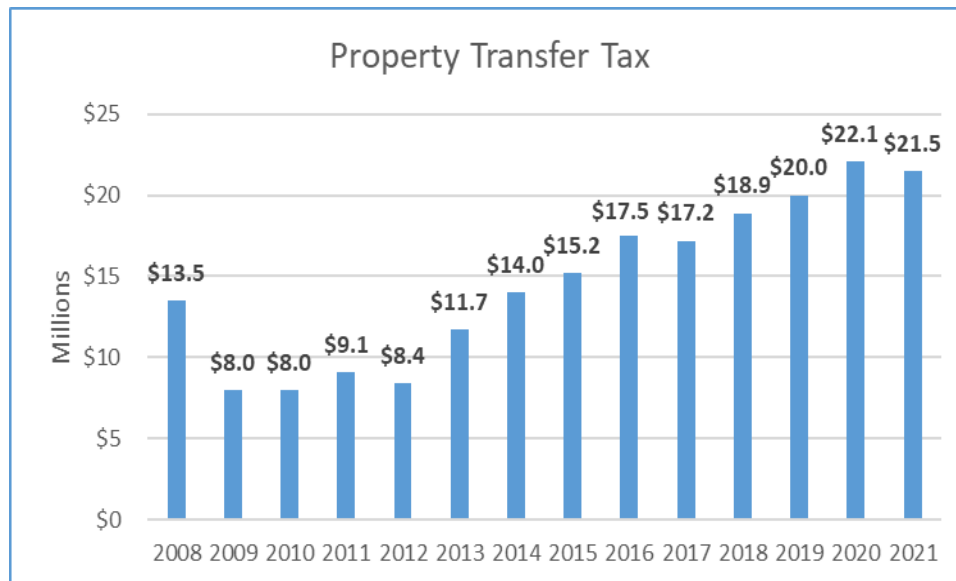
Funding for Capital Improvements

Property Transfer Tax

One of Council’s fiscal policies stipulates that the Property Transfer Tax in excess of the \$12.5 million operating baseline will be treated as one-time revenue to be used for the City’s capital infrastructure needs.

The chart below documents the historical trend of the City’s Property Transfer Tax from FY 2008 through FY 2021.

⁸ Based on the FY 2021 Adopted General Fund Revenues of \$195.8 million.



In FY 2021 the Property Transfer Tax included in the Adopted Budget was increased to \$16.5 million. By year-end, the actual Property Transfer Tax was \$21.5 million. This is \$5.0 million over the \$16.5 million operating baseline threshold established by Council.

Of the \$5.0 million in excess Property Transfer Tax, \$406,952 is being allocated for a transfer to the Workers' Compensation Fund to repay the loan for purchase of Premier Cru. The balance of \$5.0 million can be transferred to the Capital Improvement Fund or Council can suspend the policy to use these funds for FY 2022 funding priorities. Funding that has been transferred to the Capital Improvement Fund has been allocated to infrastructure needs such as sidewalk repairs, street maintenance, transportation, and other types of capital projects.

Measure U1 and Measure P

In November 2018 voters approved the passage of Measure P and in November 2016 the voters approved the passage of Measure U1. Measure P increased funding for general municipal purposes such as navigation centers, mental health support, rehousing and other services for the homeless, including homeless seniors and youth. Measure U1 also makes available funding to support affordable housing. Although these are general fund revenues, the City tracks these revenue streams separately as Council has assigned these funds to homeless services and affordable housing. In FY 2021, a separate Measure U1 fund was established for expenditures of these funds and gets its revenues through a transfer of the U1 revenues from the General Fund.

The charts below summarize FY 2021 Measure U1 and Measure P revenues and expenditures.

Measure P	
FY 2021 Beginning Measure P Balance	\$ 9,859,779
FY 2021 Measure P Revenues	\$ 10,919,576
FY 2021 Measure P Expenditures	\$ (3,747,102)
FY 2021 Ending Measure P Balance	\$ 17,032,253
Measure U1	
FY 2021 Beginning U1 Balance	\$ -
FY 2021 Measure U1 Revenues	\$ 4,818,740
FY 2021 Measure U1 Expenditure Transfer	\$ (3,845,045)
FY 2021 Ending Measure U1 Balance	\$ 973,695

Below are the FY 2022 preliminary calculations for the Measure U1 Fund and Measure P.

Measure U1	
FY 2022 Beginning Measure U1 Balance	\$ 11,189,667
FY 2022 U1 Revenues	\$ 5,120,350
FY 2022 U1 Appropriated & Planned Expenditures	\$ 10,338,046
FY 2022 Projected Ending U1 Fund Balance	\$ 5,971,971
Measure P	
FY 2022 Beginning Measure P Balance	\$ 17,032,254
FY 2022 Measure P Revenues	\$ 8,500,000
FY 2022 Measure P Appropriated & Planned Expenditures	\$ 15,688,170
FY 2022 Ending Measure P Balance	\$ 9,844,084

Workers' Compensation Repayment for Purchase of University Avenue Property
The City appropriated \$6.7 million from the Workers' Compensation Fund for the [Acquisition of Real Property at 1001 University Avenue, 1007 University Avenue, 1011 University Avenue, and 1925 Ninth Street](#) (formerly Premier Cru) with the purpose of redeveloping the majority of the site for below market-rate housing. In addition, a portion of the property was identified for use as an interim City Council Chamber with a seating

capacity of 150-200 persons. Meetings of the City Council, the Rent Board, and the Zoning Adjustments Board would utilize the interim Council Chamber.⁹

Proposed repayment to the Worker's Compensation fund was to be made with revenue generated from a combination of the Business License Tax of five or more units (U1) and excess Property Transfer Tax. The repayment schedule is illustrated below.

Summary of Funds for Repayment

Total Purchase Price: \$6,650,000

Repayment Source	Principal Repayment Amount	Percent of Purchase Price
General Fund Excess Property Transfer Tax	\$ 2,000,000	30%
Measure U1 Business Tax Revenue	\$ 4,650,000	70%

Annual Repayment Amounts by Source (with interest)

Total Repayment Amount: \$6,765,575

Repayment Source	General Fund Excess Property Transfer Tax*	Measure U1 Business Tax Revenue**
FY 2017-18	406,952	946,163
FY 2018-19	406,952	946,163
FY 2019-20	406,952	946,163
FY 2020-21	406,952	946,163
FY 2021-22	406,952	946,163
Total	\$2,034,760	\$4,730,815

* Total General Fund excess Property Transfer Tax has averaged \$7.3 million over the last two years.

** Total Measure U1 Business Tax revenue is estimated at \$3 million annually.

Included in the AAO#1 on tonight's agenda is a \$406,952 General Fund allocation to repay the Workers' Compensation Fund for the portion of the property that will be used for the Council Chambers. The FY 2022 U1 funds for the \$946,163 payment are being appropriated in the FY 2022 AAO #1 report

Unfunded Liabilities

On April 4, 2017, there was a Council Worksession in which the City's outside actuary presented the [Projections of Future Liabilities - Options to Address Unfunded Liabilities Tied to Employee Benefits](#). The actuary provided several options for Council's consideration that would reduce the City's unfunded liabilities tied to post-employee benefits. Included in the recommendations were the following:

⁹ https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/City_Council_03-28-2017_-_Regular_Meeting_Agenda.aspx (Item #32)

- Investing for the long-term to generate more earning to meet long-term funding targets,
- Increase annual contribution by approximately \$4.5 million per year and fully pre-fund the plans, and
- Establish an irrevocable supplemental trust for CalPERS to stabilize the increasing employer contribution rates.

On June 26, 2018, Council authorized the City Manager to establish an IRS Section 115 Pension Trust Fund (Trust) to be used to help pre-fund pension obligations¹⁰. On May 14, 2019, Council authorized the City Manager to execute a contract with Keenan Financial Services to establish, maintain, and invest the pension Section 115 Trust¹¹. The Section 115 Trust currently has a balance of \$12,494,756.87.

On February 27, 2020 the Budget & Finance Policy Committee discussed ongoing funding into the 115 Pension Trust. The following was recommended:

1. Raise the Property Transfer Tax baseline from \$12.5M to \$15M. The additional \$2.5M will be allocated to the Trust
2. Property Transfer Tax in excess of \$15M would be used to fund the City's capital infrastructure need. However, revenue generated from Measure P is excluded from this transfer.
3. Savings generate by prefunding CalPERS will be contributed to the 115 Pension Trust. On an annual basis, staff will analyze the impact of prefunding CalPERS. If the analysis determines that pre-funding CalPERS will result in budgetary savings, the net savings will be contributed to the Trust.

Staff requested Council to delay adopting these policies because the City was facing the financial fallout of the pandemic.

No additional funding of the Trust is included in the AAO#1 on tonight's agenda. However, Council may vote to allocate additional Excess Equity to fund the Trust.

Council Budget Pre-Funded Items for AAO #1 and Council Budget Referrals

On June 29, 2021, Council referred the following items for Pre-Funding consideration in the November 2021 AAO #1 Report.

¹⁰ https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/Documents/2018-06-26_Item_19_Authorization_to_Establish_IRS.aspx

¹¹ https://www.cityofberkeley.info/Clerk/City_Council/2019/05_May/City_Council_05-14-2019_-_Regular_Meeting_Agenda.aspx (Item #5)

June 2021 Budget Items Approved for Pre-Funding in November 2021 AAO #1		
Department	Item	Amount
City Manager	Community Survey	85,000
Information Technology	IT Move to 1947 Center Street	770,000
Information Technology	IT 2180 Milvia/4th Floor Rent	106,017
Parks, Recreation & Waterfront	West Campus Pool Filters/Plaster	510,000
Police	Police Overtime	1,000,000
Police	Portable Radio Replacement	600,000
Public Works	Ped Xing Signal @ intersection of Shattuck &	100,000
Public Works	Traffic Calming at MLK and Stuart Street	100,000
Public Works	George Florence Park/10th Street Traffic Calming	220,000
Total		3,491,017

In addition, between September 14 and November 30, 2021, there were 21 Council referrals are listed in Attachment 5 and total up to about \$8 million.

November General Fund Budget Recommendations

As was noted earlier in the report, the FY 2021 Excess Equity Amount was \$5.9 million. With Pre-Funded AAO #1 items at \$3.5 million, Council budget referrals at \$7.5 million, and department operational requests at close to \$9.9 million, it was clear that not everything could be funded with the remaining funds.

Staff carefully reviewed all the requests and items and prioritized all the items into three tiers for funding as shown in Attachment 6.

The criteria used to group items into the tiers was as follows:

- Tier 1: Council Approved Items, Critical Operational Needs, Public Safety Items, or Legislative Mandates
- Tier 2: Non-Critical Operational Needs that maybe on hold or have existing funding
- Tier 3: Non-Urgent Operational Needs Recommend FY 2023 & FY 2024 Budget Consideration

Items recommended for Pre-Funding in AAO #1 have been highlighted so it is clear where these items were placed.

Of the items for Pre-Funding in AAO #1 listed above, the only item being recommended for immediate funding in the AAO #1 report is the West Campus Pool Filters/Plaster. This work cannot be delayed at this point otherwise it may impact summer programming or result in the pool being closed for an indefinite period of time.

Included in the Tier 1 list were several important Council budget referrals.

The total amount for Tier 1 items is at \$5.5 million and this leaves \$397,193 that has not been allocated to any items.

All Funds

On an All Funds basis, the City finished FY 2021, \$110 million (16%) under the adjusted budget. These fund balances are largely dedicated to projects, capital improvements that have not yet been completed, and personnel cost savings. For example, \$51 million is in the Department of Public Works. A sampling of the \$51 million underspending includes the following:

- Capital Improvement Fund (+\$7.1 million): \$0.7 million in salary savings and \$5.1 million in project fund carryover for transportation, street, facilities project funds to FY 2022 due to project timing, including ADA Transition Plan Update, EV Charging Station Infrastructure, FY 21 Street Rehabilitation, and Sidewalk Repair projects.
- Zero Waste (+\$6.8 million) \$0.9 million in salary savings and \$5.9 million in carried over projects into FY 2022, including the Transfer Station Replacement project environmental review and permitting.
- Sewer Fund (+\$6.0 million): \$1.8 million in personnel savings due to vacancies, \$4.0 million in continuing and deferred sewer projects scheduled for completion in FY 2022.
- Measure T1 (+\$4.6 million) \$4.6 million in carryover for various Measure T1 projects with work continuing into FY 2022.

In addition, the Department of Health Housing and Community Services had \$31 million in underspending. The vast majority of Health, Housing & Community Services' year-end fund balance consists of funds allocated to projects and programs not fully expended by the end of the fiscal year which will be carried forward to FY 2022, new positions being filled after the start of the fiscal year and vacancies throughout the department.

Of the \$31 million, half (\$15.4M) are funds designated for affordable housing. More than \$8.8 million is already allocated for housing development contracts to be encumbered in FY 2022 and approximately \$6.6 million are in the Housing Trust Fund to be disbursed for various affordable housing developments at a later date. Also, in the Housing and Community Services Division, over \$2 million in ESG-CARES Acts funds were committed to specific homeless-serving programs and were included in the carryforward request for FY 2022.

Information Technology had \$5.1 million in underspending due to FUND\$ Replacement Funds and IT Cost Allocation Funds not being fully spent in FY 2021. Only funds for active projects will be carried over to FY 2022.

Parks Recreation and Waterfront had \$9.7 million in underspending due to personnel savings and unexpended project funds in the Playground Camp Fund, Parks Tax Fund, Capital Improvement Fund, and Measure T1 Fund. Only certain unspent project funds will be carried over to FY 2022.

Finally, the Library Fund had underspending of \$4.7 million due in large part to aggregated savings from miscellaneous department budget savings, staffing vacancies, deferment of Central Library stucco restoration and window resealing work to FY 2022, as well as the Central Library’s replacement of rooftop air conditioning HVAC units, and the postponement of replacement of information system network switches.

Attachment 1 provides information on the FY 2021 Year-End General Fund Revenues and includes a variance analysis.

Attachment 2 provides information on unspent FY 2021 Year-End Expenditures.

Additional detailed information on unspent funds can be found in the AAO#1 on tonight’s agenda.

FY 2022 First Quarter Summary

General Fund Revenues

The first quarter review generally focuses primarily on the major revenue fluctuation and changes that have occurred that might result in significant changes in future projections. Typically, Staff waits until the mid-year to identify General Fund revenue projections that should be revised. Staff will monitor these revenues for one more quarter and make the determination of revising the projections at the half year point.

During the first quarter of FY 2022, General Fund revenue and transfers increased by \$15,445,993 or 52.3%, from \$29,529,079 in the first quarter of FY 2021, to \$44,975,072 in the first quarter of FY 2022, due primarily to the following increases:

- Property Transfer Taxes \$ 7,552,196
- Measure P 2,921,408
- Sales Taxes 1,069,319
- Transient Occupancy Taxes (TOT) 667,247
- Parking Fines 748,312
- Transfers In 2,406,090

The increases in revenues is in a number of categories and can be seen in more detail in Attachment 3

General Fund Expenditures

General Fund expenditures are currently tracking close to within budget as departments tend to encumber funds purchase orders for the entire year in the first few months of the year. Staff will continue to monitor the budget and report back at mid-year on the impacts of the key challenges discussed earlier in this report.

Attachment 4 provides additional information on the FY 2022 First Quarter Expenditures by department and includes a variance analysis.

American Rescue Plan

The City is receiving \$66.6 million in American Rescue Plan Act (“ARPA”) Funds. Through the use of ARPA Funds to cover General Fund revenue losses suffered in FY 2020 and FY 2021, the City was able to balance the FY 2022 General Fund budget.

The following chart provides an overview of the ARPA Funds and how they will be spent in FY 2022 and FY 2023:

	FY 2021	FY 2022	FY 2023
Beginning Fund Balance	0	\$33,323,145	\$20,345,935
Projected Revenues	\$33,323,145	\$33,323,145	0
Projected Expenditures	0	\$46,300,355	\$4,050,000
Ending Fund Balance	\$33,323,145	\$20,345,935	\$16,295,935

The FY 2022 Budget also uses American Rescue Plan Funds to address significant revenue losses to the Marina Fund, both the On-Street and Off-Street Parking Funds, Camps Fund, and the Gilman Sports Field Fund. The chart below demonstrates the ARPA Fund allocations for the provision of government services:

FUND	FY 2022	FY 2023
General Fund	\$22,969,355	TBD
Marina Fund	\$1,400,000	\$1,150,000
Parking Meter Fund	\$4,340,000	\$2,700,000
Off-Street Parking Fund	\$3,940,000	\$200,000

Camps Fund	\$1,000,000	0
Sports Field Fund	\$196,000	0
Total	\$33,880,355	\$4,050,000

Through September 2021, the City has transferred \$8,470,089 in ARPA funds to the funds listed above.

The ARPA Funds are also being used to support economic recovery and the COVID-19 response as shown in the following chart:

Program	FY 2022 Allocation
Emergency Operations Center	\$1,500,000
Programs Addressing Community Safety and Crisis Response (Specialized Care Unit)	\$8,000,000
Program to Support Arts in their Re-Opening	\$2,000,000
Visit Berkeley	\$500,000
Business Retention Program / Small Business Technical Assistance	\$100,000
#DiscoveredinBerkeley Campaign	\$50,000
"Berkeley Ventures Berkeley Values" Initiative	\$20,000
Funding for Health Equity & Innovation District Consultant	\$250,000

With the exception of the Emergency Operations Center program that spent \$1,583 in the first three months of FY 2022, none of the other projects have incurred any expenditures yet. The program to support the arts has just begun the application process and several others are beginning to start work.

An update on the American Rescue Plan programs and expenditures will be provided in the FY 2022 Mid-Year Report.

Next Steps

Staff will present second-quarter revenue and expenditure projections at the FY 2022 Mid-Year Update in February/March 2022. We are also beginning the development of the FY 2023 & FY 2024 Biennial Budget.

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.

CONTACT PERSON

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Henry Oyekanmi, Finance Director, Department of Finance, 981-7300

Attachments:

1. FY 2021 Year End General Fund Revenues
2. FY 2021 Year End General Fund and All Funds Expenditures
3. FY 2022 1st Quarter General Fund Revenues
4. FY 2022 1st Quarter General Fund and All Funds Expenditures
5. Summary of Council Referrals to the Budget Process
6. November 2021 General Fund Budget Recommendations

General Fund Revenue and Transfer in FY2021 VS FY 2020 Comparison

Revenue Categories	FY 2021				FY 2020				Comparison FY21 vs FY 20	
	Adopted	Actual	Variance	% Received	Adopted	Actual	Variance	% Received	Amount	%
	(a)	(b)	c = (b) - (a)	(d) = (b)/(a)	(e)	(f)	g = (f) - (e)	(h) = (f)/(g)	(i) = (b) - (f)	(j) = (i)/(f)
Secured Property	\$61,165,454	\$68,166,155	\$7,000,701	111.45%	\$63,199,622	\$63,192,678	(\$6,944)	99.99%	4,973,477	7.87%
Redemptions - Regular	534,512	757,854	223,342	141.78%	668,140	580,941	(\$87,199)	86.95%	176,913	30.45%
Supplemental Taxes	1,260,000	2,249,517	989,517	178.53%	1,400,000	2,334,597	\$934,597	166.76%	(85,080)	-3.64%
Unsecured Property Taxes	2,250,000	3,448,412	1,198,412	153.26%	2,500,000	3,164,168	\$664,168	126.57%	284,244	8.98%
Property Transfer Tax	16,500,000	21,469,955	4,969,955	130.12%	12,500,000	22,095,507	\$9,595,507	176.76%	(625,552)	-2.83%
Property Transfer Tax-Measure P (New December 21, 2018)	4,747,414	10,919,576	6,172,162	230.01%	1,509,218	9,512,603	\$8,003,385	630.30%	1,406,973	14.79%
Sales Taxes	15,786,200	15,792,305	6,105	100.04%	18,238,000	17,557,539	(\$680,461)	96.27%	(1,765,234)	-10.05%
Soda Taxes	970,794	953,069	(17,725)	98.17%	1,459,057	1,331,313	(\$127,744)	91.24%	(378,244)	-28.41%
Utility Users Taxes	12,750,000	13,892,200	1,142,200	108.96%	15,000,000	13,475,915	(\$1,524,085)	89.84%	416,285	3.09%
Transient Occupancy Taxes	5,070,000	2,292,480	(2,777,520)	45.22%	7,800,000	6,387,495	(\$1,412,505)	81.89%	(4,095,015)	-64.11%
Short-term Rentals	676,260	694,197	17,937	102.65%	1,020,000	1,280,267	\$260,267	125.56%	(586,070)	-45.78%
Business License Tax	12,984,192	17,809,332	4,825,140	137.16%	19,584,000	21,009,453	\$1,425,453	107.28%	(3,200,121)	-15.23%
Recreational Cannabis	1,300,000	1,712,641	412,641	131.74%	510,000	1,300,887	\$790,887	255.08%	411,754	31.65%
U1 Revenues	2,700,000	4,818,740	2,118,740	178.47%	1,000,000	5,597,359	\$4,597,359	559.74%	(778,619)	-13.91%
Other Taxes	922,048	1,362,227	440,179	147.74%	1,116,860	1,536,731	\$419,871	137.59%	(174,504)	-11.36%
Vehicle In-Lieu Taxes	12,421,597	14,380,453	1,958,856	115.77%	13,333,826	13,356,044	\$22,218	100.17%	1,024,409	7.67%
Parking Fines-Regular Collections	5,049,000	3,571,391	(1,477,609)	70.73%	6,600,000	3,892,325	(\$2,707,675)	58.97%	(320,934)	-8.25%
Parking Fines-Booting Collections			0		200,000	8,685	(\$191,315)	4.34%	(8,685)	-100.00%
Moving Violations	190,000	131,756	(58,244)	69.35%	190,000	209,894	\$19,894	110.47%	(78,138)	-37.23%
Ambulance Fees	5,103,208	3,081,204	(2,022,004)	60.38%	4,200,000	4,996,193	\$796,193	118.96%	(1,914,989)	-38.33%
Interest Income	2,851,200	5,917,722	3,066,522	207.55%	3,564,000	7,942,187	\$4,378,187	222.84%	(2,024,465)	-25.49%
Franchise Fees	1,551,696	1,726,470	174,774	111.26%	2,068,928	1,839,102	(\$229,826)	88.89%	(112,632)	-6.12%
Other Revenue	6,246,348	10,354,768	4,108,420	165.77%	7,980,544	8,031,805	\$51,261	100.64%	2,322,963	28.92%
IDC Reimbursement	5,490,000	5,345,014	(144,986)	97.36%	6,100,000	5,489,783	(\$610,217)	90.00%	(144,769)	-2.64%
Transfers	17,274,293	21,180,762	3,906,469	122.61%	5,386,188	7,564,173	\$2,177,985	140.44%	13,616,589	180.01%
Total Revenue:	\$195,794,216	\$232,028,200	\$36,233,984	118.51%	\$197,128,383	\$223,687,644	\$26,559,261	113.47%	\$8,340,556	3.73%

Notes: (1) This statement is presented on a budgetary basis (i.e., cash).

(2) Current vendor no longer breaks out Regular and Booting Parking Fines Collections.

During FY 2021, General Fund revenue and transfers increased from FY 2020 by \$8,340,556 or 3.73%, from \$223,687,644 to \$232,028,200. That increase was due primarily to Transfers of \$11.4 million from the City's reserve funds (\$6.9 million from the Stabilization Reserve Fund and \$4.5 million from the Catastrophic Reserve Fund) to mitigate the negative impacts of the COVID-19 pandemic.

In addition, Other Revenues Income for FY 2021 totaled \$10,354,768 which is \$2,322,963 or 28.9% more than the \$8,031,805 received for the first quarter of FY 2020. The increase was primarily due to \$1.5 million received in FY 2021 for the COVID Relief Program and \$.9 million received for the Berkeley Relief Fund.

However, that's only part of the FY 2021 story:

At mid-year, FY 2021 General Fund year-over-year revenue growth was approximately 15%, compared to the actual revenue growth of 3.73% for the entire year. This indicates that the first half economic performance was solid and helped to absorb the impacts of the negative impacts of the second half.

Another part of the FY 2021 story is that business-related revenues were hit hard by the continuing impact of the COVID-19 pandemic, as follows:

- Sales Tax revenue totaled \$15,792,305, which was \$1,765,234 or 10.1% less than the \$17,557,539 received in FY 2020.
- Transient Occupancy Tax (TOT) revenue totaled \$2,292,480 which was \$4,095,015 or 64.1% less than the \$6,387,495 received in FY 2020.
- Business License Tax revenue totaled \$17,809,332, which was \$3,200,121 or 15.2% less than the \$21,009,453 received in FY 2020.
- U1 Business License Tax revenue totaled \$4,818,740 which was \$778,619 less than the \$5,597,359 received in FY 2020.

- Interest Income totaled \$5,917,722, which was \$2,024,465 or 25.5% less than the \$7,942,187 received in FY 2020.
- Ambulance Fee revenue totaled \$3,081,204, which was \$1,914,989 or 38.3% less than the \$4,996,193 received in FY 2020.

On the other hand, property-related revenues were strong during the COVID-19 pandemic, as follows:

- Secured Property Tax revenues totaled \$68,166,155, which was \$4,973,477 or 7.87% more than the \$63,192,678 received in FY 2020.
- Property Transfer Tax revenue totaled \$21,469,955, which was a decrease of \$625,552 or 2.8% from the \$22,095,507 received in FY 2020. The amount of \$21,469,955 received in FY 2021 was \$4,969,955 more than the adopted budget amount of \$16,500,000. The primary reason for the \$625,552 decrease in Property Transfer Tax was that the May 2021 payment of \$3,384,375 from the County was not received until July 12, 2021 (FY 2022).
- Unsecured Property Tax totaled \$3,448,412, which was an increase of \$284,244 or 9.0% from the \$3,164,168 received in FY 2020.
- Vehicle In-Lieu Tax revenue totaled \$14,380,453, which was \$1,024,409 or 7.7% more than the \$13,356,044 received in FY 2020.

Secured Property Tax (+\$4,973,477 more than FY 2020 Actual)

During FY 2021, Secured Property Tax revenues totaled \$68,166,155, which was \$4,973,477 or 7.8% more than the \$63,192,678 received in FY 2020, and was consistent with the 7.7% increase in assessed value reflected in the County's Certification of Assessed Valuation. The FY 2021 total of \$68,166,155 was \$7,000,701 more than the adopted budget amount of \$61,165,454.

Unsecured Property Tax (+\$284,244 more than FY 2020 Actual)

During FY 2021, Unsecured Property Tax revenues totaled \$3,448,412, which was \$284,244 or 9.0% more than the \$3,164,168 received in FY 2020, and was more than the 7.1% increase in assessed value reflected in the County's Certification of Assessed Valuation. The FY 2021 total of \$3,448,412 was \$1,198,412 more than the adopted budget amount of \$2,250,000.

Property Transfer Tax (-\$625,552 less than FY 2020 Actual)

During, FY 2021, Property Transfer Tax revenue totaled \$21,469,955, which was a decrease of \$625,552 or 2.8% from the \$22,095,507 received in FY 2020. The amount of \$21,469,955 received in FY 2021 was \$4,969,955 more than the adopted budget amount of \$16,500,000. The primary reason for the \$625,552 decrease in Property Transfer Tax was that the May 2021 payment of \$3,384,375 from the County was not received until July 12, 2021 (FY 2022).

This revenue source is typically budgeted at \$12.5 million as any excess above that amount is transferred to the reserve fund and the Capital Improvement Fund the following fiscal year. However, Council suspended the policy in FY 2021 in order to approve a one-time increase of \$4 million in the baseline to \$16.5 million, to help deal with the impact of the COVID-19 pandemic.

In addition, \$10,919,576 in Measure P taxes (taxes effective December 21, 2018) was collected during FY 2021 compared to \$9,512,603 collected during FY 2020. The primary reason for the increase was there were more multi-million transactions during FY 2021 than there were in FY 2020.

Sales Tax (-\$1,765,234 less than FY 2020 Actual)

During FY 2021, Sales Tax revenue totaled \$15,792,305, which was \$1,765,234 or 10.1% less than the \$17,557,539 received in FY 2020. The amount of \$15,792,305 received in FY 2021 was \$6,105 more than the adopted budget amount of \$15,786,200. The decline in FY 2021 was primarily due to the impact COVID-19 had on retail businesses.

Utility Users Taxes (+\$416,285 more than FY 2020 Actual)

UUT revenue in FY 2021 increased by \$416,285 or 3.1%, to \$13,892,200 from \$13,475,915 received in FY 2020. The \$13,892,200 collected in FY 2021 was \$1,142,200 or 9.0% more than the adopted budget amount of \$12,750,000.

The increase in FY 2021 was primarily attributable to decreases in Telephone (-\$68,183), Cellular (-\$160,037) and Cable (-\$136,800), which were more than offset by increases in Gas (+\$164,499) and Electric (+\$616,825).

Transient Occupancy Tax (-\$4,095,015 less than FY 2020 Actual)

Transient Occupancy Tax (TOT) revenue for FY 2021 totaled \$2,292,480 which was \$4,095,015 or 64.1% less than the \$6,387,495 received in FY 2020. The FY 2021 decline in revenue was attributable to a substantial decline in room occupancy, due to the impact of the COVID-19 pandemic. More specifically, the pandemic resulted in a decline of \$3,296,482 or 22.6% in TOT revenue at the City's five largest hotels during FY 2021, versus a 22.6% decrease during FY 2020, with a range of 34.5% to 83.5%.

Business License Taxes (-\$3,200,121 less than FY 2020 Actual)

During FY 2021, BLT revenue totaled \$17,809,332, which was \$3,200,121 or 15.2% less than the \$21,009,453 received in FY 2020. The \$17,809,332 collected in FY 2021 was \$4,825,140 or 37.2% more than the adopted budget amount of \$12,984,192. The decline in FY 2021 was due primarily to the impact of COVID-19. Specifically, FY 2020 BLT is based on businesses 2019 gross receipts, and FY 2021 BLT is based on their 2020 gross receipts. In March 2020, the COVID-19 pandemic required many businesses to temporarily close for safety reasons. The unexpected temporary closures created a very negative impact on many businesses (especially retail and hotels) and forced some to permanently close.

In addition, during FY 2021, U1 Business License Tax revenue totaled \$4,818,740 which was \$778,619 less than the \$5,597,359 received in FY 2020. The \$4,818,740 collected in FY 2021 was \$2,118,740 more than the adopted budget amount of \$2,700,000.

Vehicle In Lieu Taxes (+\$1,024,409 more than FY 2020 Actual)

For FY 2020, VLF revenue totaled \$14,380,453, which was \$1,024,409 or 7.7% more than the \$13,356,044 received in FY 2020, and was consistent with the 7.7% increase in assessed value for FY 2021. The amount of \$14,380,453 received in FY 2021 was \$1,958,856 more than the adopted budget amount of \$12,421,597.

Parking Fines (-\$320,934 less than FY 2020 Actual)

During FY 2021, Parking Fines revenue decreased by \$320,934 or 8.3% to \$3,571,391, from \$3,892,325 in FY 2020, despite an increase in ticket writing, from 100,219 to 113,648 or 13.4%. The number of tickets written (and their collectability) were negatively impacted by the Governor's shelter in place orders related to the COVID-19 pandemic.

Interest Income (-\$2,024,465 less than FY 2020 Actual)

During FY 2021, Interest Income totaled \$5,917,722, which was \$2,024,465 or 25.5% less than the \$7,942,187 received in FY 2020. It was also \$3,066,252 more than the adopted budget amount of \$2,851,200. The decline in interest income in FY 2021 primarily resulted from the following, which was triggered by the Federal Reserve Board voting on March 15, 2020 to cut short-term interest rates back to zero, in order to mitigate the negative impact of the COVID-19 pandemic on the US economy: (1) The average book value of long-term investments were lower in FY 2021 until June 2021; (2) the average balance of investments in lower-yielding short-term investments were higher in FY 2021; and (3) the weighted-average interest rates were lower in FY 2021.

Ambulance Fees (-\$1,914,989 less than FY 2020 Actual)

For FY 2021, Ambulance Fee revenue totaled \$3,081,204, which was \$1,914,989 or 38.3% less than the \$4,996,193 received in FY 2020. This decrease was primarily due to the impact of the COVID-19 pandemic, which resulted in substantially less transports in FY 2021 than there were in FY 2020. The total of \$3,081,204 collected was \$2,022,004 less than the FY 2021 adopted budget amount of \$5,103,208.

Other Revenues (+\$2,322,963 more than FY 2020 Actual)

Other Revenues consists of licenses and permits; grants; preferential parking fees; general government charges for services; public safety charges for services; health charges for services; culture and recreation charges for services; rents and royalties; and other miscellaneous revenues that are not considered major.

Other Revenues Income for FY 2021 totaled \$10,354,768 which was \$2,322,963 or 28.9% more than the \$8,031,805 received in FY 2020. The increase was primarily due to \$1.5 million received in FY 2021 for the COVID Relief Program and \$.9 million received for the Berkeley Relief Fund.

Indirect Cost Reimbursements (-\$144,769 less than FY 2020 Actual)

During FY 2021, IDC Reimbursement \$5,345,014 which was \$144,769 or 2.6% less than the \$5,489,783 received in FY 2020. This was primarily attributable to a slight decrease in the indirect cost allocation base (i.e., total direct salaries and wages) in FY 2021. IDC Reimbursement decreases result from decreases in the indirect cost allocation base (i.e., total direct salaries and wages in the fund), a decrease in the indirect cost rate or both.

Transfers (+\$13,616,589 more than FY 2020 Actual)

During FY 2021, Transfers totaled \$21,180,762 which was \$13,616,589 or 180.0% more than the \$7,564,173 received in FY 2020. The increase was primarily due to the transfers of \$11.4 million from the reserve funds (\$6.9 million from the Stabilization Reserve Fund and \$4.5 million from the Catastrophic Reserve Fund) to mitigate the negative impacts of the COVID-19 pandemic, and \$.9 million from the IT Allocation Fund.

FY 2021 Year End Expenditures

General Fund

Department	FY 2021 Adopted	FY 2021 Adjusted	Year-End Actuals	Balance	Percent Expended
Mayor & Council	2,559,046	2,855,642	2,701,344	154,298	95%
Auditor	2,657,863	2,632,945	2,467,028	165,917	94%
Police Accountability	0	0	3,251	(3,251)	
City Manager	10,450,066	12,023,118	11,102,637	920,481	92%
City Attorney	2,587,273	2,726,031	2,760,048	(34,017)	101%
City Clerk	2,338,047	3,208,207	2,832,552	375,655	88%
Finance	5,978,002	6,292,789	6,682,935	(390,146)	106%
Human Resources	2,280,207	2,946,350	2,318,028	628,322	79%
Information Technology	580,710	1,386,095	1,330,730	55,364	96%
Health, Housing & Community Services	14,850,382	28,483,857	25,566,360	2,917,497	90%
Parks, Recreation and Waterfront	6,831,086	7,667,457	7,304,226	363,231	95%
Planning	2,178,037	2,951,159	2,567,473	383,686	87%
Public Works	4,408,589	6,975,406	5,499,277	1,476,129	79%
Police	65,460,524	71,162,137	77,270,053	(6,107,916)	109%
Fire	32,272,610	35,499,205	38,988,843	(3,489,638)	110%
Non-Departmental	39,286,268	41,576,258	37,507,026	4,069,232	90%
Total	194,718,710	228,386,655	226,901,811	1,484,844	99%

All Funds (including General Fund)

Department	FY 2021 Adopted	FY 2021 Adjusted	Year-End Actuals	Balance	Percent Expended
Mayor & Council	2,559,046	2,870,642	2,708,844	161,798	94%
Auditor	2,786,499	2,761,581	2,526,081	235,500	91%
Rent Board	6,646,209	6,095,798	5,517,190	578,609	91%
Police Accountability	0	0	3,251	(3,251)	
City Manager	13,515,943	17,246,137	14,156,797	3,089,340	82%
Library	21,846,159	24,947,180	20,255,244	4,691,936	81%
City Attorney	4,509,824	6,823,739	6,214,367	609,372	91%
City Clerk	2,839,880	3,710,040	3,194,204	515,836	86%
Finance	8,555,177	8,855,951	8,146,012	709,939	92%
Human Resources	4,072,239	4,884,263	4,078,091	806,172	83%
Information Technology	20,647,410	22,502,561	16,552,330	5,950,231	74%
Health, Housing & Community Services	53,834,105	112,751,842	81,811,330	30,940,512	73%
Parks, Recreation and Waterfront	32,561,123	70,480,018	60,795,051	9,684,967	86%
Planning	25,022,338	26,402,993	21,687,691	4,715,302	82%
Public Works	138,631,154	177,491,018	126,068,016	51,423,002	71%
Police	70,325,114	78,028,747	79,395,632	(1,366,885)	102%
Fire	41,254,373	46,138,940	49,891,701	(3,752,761)	108%
Non-Departmental	83,711,926	88,360,420	87,491,152	869,268	99%
Total	533,318,519	700,351,870	590,492,983	109,858,887	84%

FY 2021 Year-End Expenditures Variance Analysis

Significant General Fund Variances

- City Manager's Office (+\$920,481) was due to unexpending of non-personnel funds FY 2021.
- City Clerk (+\$375,655) was due to funds for regular elections and software maintenance not being fully spent in FY 2021.
- Human Resources (+\$628,322) was due to salary savings from vacant positions and funds for labor negotiations and a compensation and classification studies not being fully spent in FY 2021. The funds for labor negotiations and the compensation and classification study will be carried over to FY 2022 to deal with the issues tied to the new labor contracts approved by Council.
- Health, Housing and Community Services (+\$2,917,497) balance was non-personnel funds with \$2.2 million for a contract with the Pathways STAIR project that will be executed in FY 2022. Approximately \$380,000 in general fund has been requested in the carryforward this fiscal year.
- Parks, Recreation & Waterfront (+\$363,231) was due to not fully spending non-personnel funds in FY 2021. Most of this was an allocation of \$250,000 for the African American Holistic Resource Center project. These funds are being carried over to FY 2022.
- Planning (+\$383,686) was due to salary savings and non-personnel savings in FY 2021. A portion of the non-personnel funds was \$125,000 for the Zoning Ordinance Revision Project - Objective Standards for Density / State Housing Law Compliance. These funds are being carried over to FY 2022. Also in the unspent non-personnel funds and being carried over to FY 2022 was \$25,000 for a Planning Department Equity Consultant.
- Public Works (+\$1,476,129) was primarily due to non-personnel and capital project funds not being completely spent in FY 2021. A significant amount of these funds will be carried over to FY 2022 for the following projects:
 - Old City Hall & Veterans Building Leak Repair (+\$95,594)
 - Underground Utility District #48 Grizzly Peak (+\$385,069)
 - Public Safety Building Cooling Redundancy (+\$429,550)
 - Citywide Undergrounding (+\$162,973)
 - Clean Cities/Illegal Dumping for the Clean and Livable Commons Initiative (+\$679,813)
- Police (-\$6,107,917) began FY 2021 with uniformed staffing at approximately 173 filled positions and the funding to support approximately 154 positions. The General Fund salary savings deferral target of \$8,286,289 was deducted at the beginning of the fiscal year to help balance the FY 2021 General Fund budget. During the fiscal year, the department was given the authorization to increase hiring and provided with an overtime allocation of \$3.5 million plus an additional \$1 million dollar reserve

held outside the Police budget of which \$180,000 was used to augment overtime for the bike patrol unit (\$820,000 of the \$1 million for potential unanticipated overtime costs remained outside the Police budget in reserve and was not used). The increase in staffing which was designed to help keep public safety a priority, resulted in the salary and benefits savings for the year being limited to \$3.5 million. The additional funds added for overtime helped to generate savings in sworn overtime. These savings were offset as non-sworn overtime was over budget by a net total of \$540,000 due to vacancies in Dispatch and the Jail Unit.

In total, the Police General Fund personnel budget was over budget by \$5.4 million in FY 2021 because the deferral reduction of \$8,286,289 could not be met. The non-personnel budget deferral savings of \$500,000 was met; however, Internal Services charges (charges by other city departments for their services) were over budget by \$770,982 for vehicle maintenance and vehicle replacement.

- Fire (-\$3,489,683) was primarily the result of the personnel savings expected to be generated from the FY 2021 deferral of \$3.5 million being lifted for the department so that they could hire up to the maximum staffing capacity in FY 2021 to help keep the overtime expenses down and to deal with wildfire threats. The department managed to keep expenditures at budget outside of this target.
- Non-Departmental (+\$4,069,232) was due to not fully spending funds for the following items:
 - FLSA Labor Settlement Funds (+\$684,306)
 - Homeless Response Team (+\$746,312) as the program start up was slower than expected
 - Measure P Funds (\$315,094)
 - Police Overtime Funds (\$820,000) were held in reserve in case needed but not transferred to the Police Department budget.
 - Emergency Operations Center COVID-19 response Funds (+\$425,680)

Significant All Funds Variances

- Information Technology (+\$5,950,231) was due to FUND\$ Replacement Funds and the IT Cost Allocation Fund not being fully spent in FY 2021.
- Health, Housing & Community Services (+\$30,940,512): The vast majority of Health, Housing & Community Services' year-end fund balance consists of funds allocated to projects and programs not fully expended by the end of the fiscal year which will be carried forward to FY 2022, new positions being filled after the start of the fiscal year and vacancies throughout the department.

Of the \$31 million, half (\$15.4M) are funds designated for affordable housing. More than \$8.8 million is already allocated for housing development contracts to be encumbered in FY 2022 and approximately \$6.6 million are in the Housing Trust Fund to be disbursed for various affordable housing developments at a later date. Also, in the Housing and Community Services Division, over \$2 million in ESG-CARES Acts funds were committed to specific homeless-serving programs and were included in the carryforward request for FY 2022.

The next largest segment is about \$7.2 million from state taxes (Mental Health Service Act, Mental Health Realignment and Public Health Realignment). In addition to \$1.2 million in Medi-Cal funds, these funds were unspent due to vacancies throughout the Mental Health and Public Health Divisions (including long-term vacant, difficult-to-fill positions), new positions budgeted for the full year but not filled until later in the fiscal year, and delays in implementation of new programs. These funds were included in the added to the FY 2022 budget through the AAO #1 process.

Another \$2.2 million are related to other grant balances, including \$1 million in COVID allocations that will carry over into FY 2022 for the continuing pandemic response.

- Public Works (+\$51,423,002) were largely due to the following:
 - Sewer Fund (+\$6.0 million): \$1.8 million in personnel savings due to vacancies, \$4.0 million in continuing and deferred sewer projects scheduled for completion in FY 2022.
 - State Transportation Tax (+\$3.3 million) \$0.6 million in salary savings and \$2.5 million in project funding for various street and storm drain program projects continued for completion in FY 2022.
 - Capital Improvement Fund (+\$7.1 million): \$0.7 million in salary savings and \$5.1 million in project fund carryover for transportation, street, facilities project funds to FY 2022 due to project timing, including ADA Transition Plan Update, EV Charging Station Infrastructure, FY 21 Street Rehabilitation, and Sidewalk Repair projects.
 - Measure B (+\$1.1 million) \$0.3 million in carried over equipment purchases and \$0.8 million in street improvement projects project budget to carried over into FY 2022 for construction completion.
 - Measure BB (+3.1 million) \$0.7 million in salary savings and \$2.9 million in sidewalk and street improvement projects project budget to be carried over into FY 2022 for completion.
 - Off Street Parking (+1.7 million) \$0.5M Off -Street Parking Fund savings due to equipment budget carryover to FY 2022, \$0.7 million in Parking Management savings.
 - Parking Meter (+1.1 million): \$ \$0.7 million in Parking Management savings.
 - Caltrans Grant (+\$0.5 million) \$0.5 million in project carryover into FY 2022 for transportation projects.
 - T1 (+\$4.6 million) \$4.6 million in carryover for various T1 projects with work continuing into FY 2022.
 - Streetlight Assessment (+\$1.0 million) \$0.6 million in salary savings, and \$0.4 million in capital project carryover into FY 2022.
 - Clean Storm (+\$3.4 million) \$1.0 million in salary savings, \$1.7 million in capital project carryover into FY 2022.
 - Equipment Replacement (+\$1.4 million) \$1.4 million for replacement purchases initially scheduled for FY 2021 but to be completed in FY 2022.
 - Zero Waste (+\$6.8 million) \$0.9 million in salary savings and \$5.9 million in carried over projects into FY 2022, including the Transfer Station Replacement project environmental review and permitting.

- Parks Recreation and Waterfront (+9,684,967) had unspent funds due to personnel savings and unexpended project funds in the Playground Camp Fund, Parks Tax Fund, Capital Improvement Fund, and Measure T1 Fund. The Marina Fund also had savings of \$3.3 million most of which was due to unspent capital expenditures. Only certain unspent project funds will be carried over to FY 2021
- Library (+\$4,691,936) ended with a favorable variance from aggregated savings from miscellaneous department budget savings, staffing vacancies, deferment of Central Library stucco restoration and window resealing work to FY 2022, as well as the Central Library's replacement of rooftop air conditioning HVAC units, and the postponement of replacement of information system network switches.

General Fund Revenue and Transfer In FY 2022 1st Quarter vs FY 2021 1st Quarter Comparison

Revenue Categories	FY 2022				FY 2021				Comparison FY22 vs FY 21	
	Adopted	Actual	Variance	% Received	Adopted	Actual	Variance	% Received	Amount	%
	(a)	(b)	c = (b) - (a)	(d) = (b)/(a)	(e)	(f)	g = (f) - (e)	(h) = (f)/(g)	(i) = (b) - (f)	(j) = (i)/(f)
Secured Property	\$71,382,000	\$3,272,735	(\$68,109,265)	4.58%	\$61,165,454	\$3,298,714	(\$57,866,740)	5.39%	(25,979)	-0.79%
Redemptions - Regular	831,441	84,930	(746,511)	10.21%	534,512	123,151	-411,361	23.04%	(38,221)	-31.04%
Supplemental Taxes	2,000,000	222,865	(1,777,135)	11.14%	1,260,000	313,161	-946,839	24.85%	(90,296)	-28.83%
Unsecured Property Taxes	2,625,000	39,971	(2,585,029)	1.52%	2,250,000	(2,404)	-2,252,404	-0.11%	42,375	-1762.69%
Property Transfer Tax	21,000,000	12,299,015	(8,700,985)	58.57%	16,500,000	4,746,819	-11,753,181	28.77%	7,552,196	159.10%
Property Transfer Tax-Measure P (New December 21, 2018)	8,500,000	3,924,007	(4,575,993)	46.16%	4,747,414	1,002,599	-3,744,815	21.12%	2,921,408	291.38%
Sales Taxes	18,287,215	4,896,380	(13,390,835)	26.77%	15,786,200	3,827,061	-11,959,139	24.24%	1,069,319	27.94%
Soda Taxes	990,210	237,577	(752,633)	23.99%	970,794	260,569	-710,225	26.84%	(22,992)	-8.82%
Utility Users Taxes	13,000,000	3,311,793	(9,688,207)	25.48%	12,750,000	3,078,308	-9,671,692	24.14%	233,485	7.58%
Transient Occupancy Taxes	2,173,000	1,206,282	(966,718)	55.51%	5,070,000	539,035	-4,530,965	10.63%	667,247	123.79%
Short-term Rentals	630,000	289,862	(340,138)	46.01%	676,260	62,436	-613,824	676,260	227,426	364.25%
Business License Tax	18,498,146	494,990	(18,003,156)	2.68%	12,984,192	186,479	-12,797,713	1.44%	308,511	165.44%
Recreational Cannabis	1,643,739	532,085	(1,111,654)	32.37%	1,300,000	44,883	-1,255,117	3.45%	487,202	1085.49%
U1 Revenues	5,120,350	71,648	(5,048,702)	1.40%	2,700,000	34,236	-2,665,764	1.27%	37,412	109.28%
Other Taxes	1,761,714	361,941	(1,399,773)	20.54%	922,048	267,921	-654,127	29.06%	94,020	35.09%
Vehicle In-Lieu Taxes	14,959,837	-	(14,959,837)	0.00%	12,421,597	-	-12,421,597	0.00%	-	-
Parking Fines-Regular Collections	3,726,450	1,347,952	(2,378,498)	36.17%	5,049,000	599,640	-4,449,360	11.88%	748,312	124.79%
Parking Fines-Booting Collections										
Moving Violations	132,600	51,839	(80,761)	39.09%	190,000	15,789	-174,211	8.31%	36,050	228.32%
Ambulance Fees	3,154,002	746,006	(2,407,996)	23.65%	5,103,208	630,108	-4,473,100	12.33%	115,898	18.39%
Interest Income	4,462,320	1,369,448	(3,092,872)	30.69%	2,851,200	1,217,126	-1,634,074	42.69%	152,322	12.51%
Franchise Fees	1,613,283	177,082	(1,436,201)	10.98%	1,551,696	189,820	-1,361,876	12.23%	(12,738)	-6.71%
Other Revenue	6,729,977	2,086,510	(4,643,467)	31.00%	6,246,348	3,439,931	-2,806,417	55.07%	(1,353,421)	-39.34%
IDC Reimbursement	5,490,000	1,111,423	(4,378,577)	20.24%	5,490,000	1,221,056	-4,268,944	22.24%	(109,633)	-8.98%
Transfers	27,354,923	6,838,731	(20,516,192)	25.00%	17,274,293	4,432,641	-12,841,652	25.66%	2,406,090	54.28%
			-				0		-	
Total Revenue:	\$236,066,207	\$44,975,072	-\$191,091,135	19.05%	\$195,794,216	\$29,529,079	-\$166,265,137	15.08%	\$15,445,993	52.31%

Notes: (1) This statement is presented on a budgetary basis (i.e., cash).

(2) Current vendor no longer breaks out Regular and Booting Parking Fines Collections

The first quarter review generally focuses primarily on the major revenue fluctuation and changes that have occurred that might result in significant changes in future projections. Typically, Staff waits until the mid-year to identify General Fund revenue projections that should be revised. Staff will monitor these revenues for one more quarter and make the determination of revising the projections at the half year point.

During the first quarter of FY 2022, General Fund revenue and transfers increased by \$15,445,993 or 52.3%, from \$29,529,079 in the first quarter of FY 2021, to \$44,975,072 in the first quarter of FY 2022, due primarily to the following increases:

- Property Transfer Taxes \$ 7,552,196
- Measure P 2,921,408
- Sales Taxes 1,069,319
- Transient Occupancy Taxes (TOT) 667,247
- Parking Fines 748,312
- Transfers In 2,406,090

Secured Property Tax (-\$25,979 less than FY 2021 Actual)

During the first quarter of FY 2022, Secured Property Tax revenues totaled \$3,272,735, which was \$25,979 or .8% less than the \$3,298,714 received for the same period in FY 2021. This first quarter revenue reflects a relatively small amount received from the previous year's levy that was unpaid during that fiscal year. The amount received was typical of what is historically received in the first quarter. The FY 2022 Adopted Budget assumes a 4.72% increase for the year, while the County's Certification of Assessed Valuation reflects growth of 4.48%.

Unsecured Property Tax (+\$42,375 more than FY 2021 Actual)

During the first quarter of FY 2022, Unsecured Property Tax revenues totaled \$39,971, which was \$42,375 or 1,762.7% more than the net refund of (\$2,404) in the same period in FY 2021. The FY 2022

Adopted Budget reflected a decline of 31.4%, while the County's Certification of Assessed Valuation growth reflected growth of 1.96% for FY 2022. Staff will be increasing the FY 2022 Unsecured Property Tax revenue projection to \$3,516,000.

Property Transfer Tax (+\$7,552,196 more than FY 2021 Actual)

During the first quarter of FY 2022, Property Transfer Tax totaled \$12,299,015, which was \$7,552,196 or 159.1% more than the \$4,746,819 received for the first quarter of FY 2021. However, \$3,384,375 of that increase resulted from the late payment by the County of the May 2021 Property Transfer Taxes, which should have been received in FY 2021. As a result, the FY 2022 Property Transfer tax revenue projection was increased by \$3,384,375.

The primary reasons for the remaining \$4,167,821 increase in Property Transfer Tax were (1) The dollar value of property sales increased by 36.1% during the first quarter of FY 2022, as illustrated in the table below; and (2) The number of property sales transactions increased by 67 or 32.7% during the first quarter of FY 2022, as illustrated in the table below. Staff will closely monitor this revenue for another quarter before proposing a change in the FY 2021 projection for Property Transfer Taxes and/or Measure P taxes.

Property Sales Under \$1.5 million				
	July	August	September	Total
FY 2022	\$179,675,533	\$115,008,000	\$107,276,800	\$401,960,333
FY 2021	74,018,291	115,007,000	106,351,773	295,377,064
Change	105,657,242	1,000	925,027	106,583,269
% Change	142.7%	0.0%	0.9%	36.1%

Transactions				
	July	August	September	Total
FY 2022	114	84	74	272
FY 2021	50	82	73	205
Change	64	2	1	67
% Change	128.0%	2.4%	1.4%	32.7%

Measure P-Property Transfer Tax (+\$2,921,408 more than FY 2021 Actual)

In addition, \$3,924,007 in Measure P taxes (a tax which took effect on December 21, 2018) was collected during the first quarter of FY 2022, which was \$2,921,408 or 291.4% more compared to \$1,002,599 collected during the first quarter of FY 2021. The increase was a result of (1) The September 2020 collection of \$678,093 being recorded in October 2020; and (2) significant increases in property sales amount in FY 2022 versus those for the same period in FY 2021.

Property Sales \$1.5 million+				
	July	August	September	Total
FY 2022	\$117,712,500	\$126,787,000	\$147,899,400	\$392,398,400
FY 2021	39,265,000	60,994,900		100,259,900
Change	78,447,500	65,793,000		292,138,500
% Change	199.8%	107.9%		291.4%

Sales Tax (+\$1,069,319 more than FY 2021 Actual)

For the first quarter of FY 2022, Sales Tax revenue totaled \$4,896,380, which was \$1,069,319 or 27.9% more than the \$3,827,061 received for the first quarter of FY 2021. The increase was consistent with the following projection made by the City's Sales Tax Consultant:

Sales Tax Category	Revenue Projection
General Retail	\$ 3,582,787
Food Products	5,573,760
Transportation	2,482,737
Construction	1,227,280
Business-to-business	1,782,010
Miscellaneous	786,424
Subtotal	15,434,998
County pool	3,956,336
State pool	9,966
County sharing	(970,065) ¹
CDTFA admin.	(144,019) ²
Total	\$18,287,216

Utility Users Taxes (+\$233,485 more than FY 2021 Actual)

Utility Users Tax revenue for the first quarter of FY 2022 totaled \$3,311,793, which was \$233,485 or 7.6% more than the \$3,078,308 received for the same period in FY 2021. This increase of \$233,485 resulted from the following:

FY 2022 Actual First Quarter Revenues and FY 2021 Actual First Quarter Revenues				
	FY2022	FY 2021	\$ Change	% Change
Telephone	\$ 305,385	\$ 310,767	\$ -5,382	-1.73%
Cable	252,245	258,207	- 5,962	-2.31%
Cellular	432,303	371,264	61,039	16.44%
Electric	1,858,586	1,710,948	147,638	8.63%
Gas	463,274	427,122	36,152	8.46%
Total	\$3,311,793	\$3,078,308	\$233,485	7.58%

Transient Occupancy Tax (+\$667,247 more than FY 2021 Actual)

Transient Occupancy Tax (TOT) revenue for the first quarter of FY 2022 totaled \$1,206,282, which was \$667,247 or 123.8% more than the \$539,035 received for the first quarter of FY 2021. The increase in FY 2022 was primarily attributable to an increase of 155.8% occupancy at the five largest hotels in Berkeley during the quarter.

Short-Term Rentals (+\$227,426 more than FY 2021 Actual)

Short-Term Rentals revenue for the first quarter of FY 2022 totaled \$289,862, which was \$227,426 or 364.3% more than the \$62,436 received for the first quarter of FY 2021.

¹ The cities in Alameda County share 5% of their Bradley Burns sales taxes with the County; and,

² The CDTFA administrative fees are a percentage of taxes CDTFA charges to administer the sales tax program

Business License Taxes +(\$308,511 more than FY 2021 Actual)

Business license Taxes (BLT) revenue for the first quarter of FY 2022 totaled \$494,990, which was \$308,511 or 165.4% more than the \$186,479 received for the first quarter of FY 2021. BLT are not due yet, so it is too soon to determine what the FY 2022 trends are.

Recreational Cannabis (+\$487,202 more than FY 2021 Actual)

Recreational Cannabis revenue for the first quarter of FY 2022 totaled \$532,085, which was \$487,202 or 1,085.5% more than the \$44,883 received in the first quarter of FY 2021. This increase was primarily attributable to \$240,260 in Recreational Cannabis receipts during the first quarter of FY 2021 that did not get recorded in the General Ledger before the close of the first quarter. Recreational Cannabis taxes are not due yet, so it is too soon to determine what the FY 2022 revenue trends are.

U1 Revenues (+\$37,412 more than FY 2021 Actual)

U1 revenues for the first quarter of FY 2022 totaled \$71,648, which was \$37,412 or 109.3% more than the \$34,236 received in the first quarter of FY 2021. U1 revenues are not due yet, so it is too soon to determine what the FY 2022 U1 revenues trends are.

Vehicle In Lieu Taxes (\$0 more than FY 2021 Actual)

There was no Vehicle in Lieu Taxes (VLF) received during the first quarter of FY 2022 and FY 2021, since they are not yet due. However, the County's Certification of Assessed Valuation reflects growth of 4.48%. Changes in VLF revenues are based on the growth in assessed values.

Parking Fines (+\$748,312 more than FY 2021 Actual)

Parking Fines revenue for the first quarter of FY 2022 totaled \$1,347,952, which was \$748,312 or 124.8% more than the \$599,640 received for the first quarter of FY 2021. The primary reason for the increase was a significant increase in ticket writing. From March 2020 to June 2020, Parking Enforcement was limited in the violations they were able to write due to COVID-19. Between July 2020-August 2020, meter enforcement began again and Residential Preferential Parking renewal occurred, which allowed Parking Enforcement to begin residential parking enforcement in October 2020.

During the quarter, ticket writing increased from 23,645 or 31.1% in the first quarter of FY 2021 to 31,006 in the first quarter of FY 2022, as follows:

	July	August	Sept.	Total
FY 2022	9,548	9,674	11,784	31,006
FY 2021	6,810	7,744	9,091	23,645
Difference	+2,738	+1,930	+2,693	+7,361
% Difference	+40.2%	+24.9%	+29.6%	+31.1%

Ambulance Fees (+\$115,898 more than FY 2021 Actual)

Ambulance Fees revenue for FY 2022 totaled \$746,006, which was \$115,898 or 18.4% more than the \$630,108 received for the same period during FY 2021. This increase was primarily due to an increase in the number of transports.

Interest Income (+\$152,322 more than FY 2021 Actual)

For the first quarter of FY 2022, interest income totaled \$1,369,448, which was \$152,322 or 12.5% more than the total of \$1,217,126 received for the same period in FY 2021. This increase was primarily attributable to a significant increase in the proportion of the portfolio that was invested in long-term (i.e., one year or more) securities than in short-term securities (i.e., less than one year, which paid rates ranging from .01%-.25%), despite the decline in average interest rates.

Primarily as a result of the Fed's actions, the net interest rate earned by the City dropped from a range of 1.13%-1.17% during the first quarter of FY 2021, to a range of .912%-1.057% during the first quarter of FY 2022, as follows:

Monthly Net Interest Rate Earned			
FY	July	August	September
2022	.912%	1.028%	1.057%
2021	1.17%	1.13%	1.14%

Franchise Fees (-\$12,738 less than FY 2021 Actual)

Franchise Fees for the first quarter of FY 2022 totaled \$177,082, which was \$12,738 or 6.7% less than the \$189,820 received for the same period in FY 2021.

Transfers (+\$2,406,090 more than FY 2021 Actual)

Transfers from other funds for the first quarter of FY 2022 totaled \$6,838,731 which was \$2,406,090 or 54.3% more than the \$4,432,641 received for the same period in FY 2021. This was primarily attributable to the Transfer of \$5,742,339 from the American Rescue Plan Fund in the first quarter of FY 2022 to recover from the impact of the COVID-19 pandemic, compared to the Transfer of \$1,725,000 from the Stabilization Reserve Fund and the \$1,125,000 from the Catastrophic Reserve Fund during the FY 2021 first quarter, to mitigate the negative impact of COVID-19.

Other Revenues (-\$1,353,421 less than FY 2021 Actual)

Other Revenues consists of licenses and permits; grants; preferential parking fees; general government charges for services; public safety charges for services; health charges for services; culture and recreation charges for services; rents and royalties; and other miscellaneous revenues that are not considered major.

Other Revenues for the first quarter of FY 2022 totaled \$2,086,510 which was \$1,353,421 or 39.3% less than the \$3,439,931 received for the first quarter of FY 2021. This decrease resulted primarily from the receipt in the first quarter of FY 2021 of \$704,000 from East Bay Community Foundation for the Berkeley Relief Fund, to finance grant payments to assist businesses and nonprofit organizations impacted by the COVID-19 pandemic.

FY 2022 First Quarter Expenditures (7/1/21 – 9/30/21)

General Fund

Department	FY 2022		Year-To-Date		Percent Expended
	Adopted	Adjusted*	Actuals + Encumbrances	Balance	
Mayor & Council	3,096,559	3,111,734	812,095	2,299,639	26%
Auditor	2,705,379	2,712,758	558,180	2,154,578	21%
Office of the Director of Police Accountability	1,114,235	1,149,235	160,385	988,850	14%
City Manager	10,912,354	12,202,891	3,412,357	8,790,534	28%
City Attorney	3,434,164	3,461,854	569,862	2,891,992	16%
City Clerk	2,396,737	2,631,912	961,082	1,670,830	37%
Finance	7,041,962	8,339,474	2,700,952	5,638,522	32%
Human Resources	2,407,724	2,494,692	561,239	1,933,453	22%
Information Technology	1,526,760	2,349,381	1,592,826	756,555	68%
Health, Housing & Community Services	23,455,690	32,131,556	14,166,063	17,965,493	44%
Parks, Recreation and Waterfront	7,675,564	9,549,050	2,865,280	6,683,770	30%
Planning	2,325,367	2,757,119	614,148	2,142,971	22%
Public Works	4,742,625	8,570,415	2,281,494	6,288,921	27%
Police	73,228,172	73,712,007	17,684,603	56,027,404	24%
Fire	37,021,939	42,214,805	15,599,001	26,615,804	37%
Non-Departmental	51,669,260	38,522,652	16,406,419	22,116,233	43%
Total	234,754,491	245,911,535	80,945,985	164,965,550	33%

*FY 2022 Adjusted includes FY 2021 Encumbrance Rollover

All Funds (including General Fund)

Department	FY 2022		Year-To-Date		Percent Expended
	Adopted	Adjusted*	Actuals + Encumbrances	Balance	
Mayor & Council	3,096,559	3,119,234	812,095	2,307,139	26%
Auditor	2,805,883	2,813,262	558,180	2,255,082	20%
Rent Board	6,825,535	7,502,298	2,599,431	4,902,867	35%
Office of the Director of Police Accountability	1,114,235	1,149,235	160,385	988,850	14%
City Manager	13,852,717	15,801,843	5,041,711	10,760,132	32%
Library	25,566,341	25,680,866	6,962,853	18,718,014	27%
City Attorney	7,278,096	7,674,642	1,388,829	6,285,813	18%
City Clerk	2,901,739	3,136,914	980,902	2,156,012	31%
Finance	9,431,102	10,750,526	3,185,115	7,565,411	30%
Human Resources	4,438,053	4,551,435	924,370	3,627,065	20%
Information Technology	20,423,888	25,628,383	8,941,363	16,687,020	35%
Health, Housing & Community Services	84,514,926	125,768,762	53,014,525	72,754,237	42%
Parks, Recreation and Waterfront	52,979,556	88,305,141	33,115,957	55,189,184	38%
Planning	25,252,729	27,080,210	6,022,876	21,057,334	22%
Public Works	147,438,656	215,253,373	79,790,287	135,463,086	37%
Police	77,807,443	78,485,969	19,032,338	59,453,631	24%
Fire	60,351,430	65,815,460	18,419,306	47,396,154	28%
Non-Departmental	127,522,399	115,187,973	39,225,954	75,962,019	34%
Total	673,601,287	823,705,526	280,176,476	543,529,050	34%

*FY 2022 Adjusted includes FY 2021 Encumbrance Rollover

FY 2022 First Quarter Expenditures Variance Analysis

First Quarter Assumptions

- Personnel year-to-date actuals are through 09/30/21 and represent 21.90% expended. All departments are tracking at or below 21.90% in personnel expenditures. General Fund personnel costs represent almost 63% of the total City's General Fund budget and are tracked on a monthly basis. As in prior years, Police overtime is being carefully monitored by staff.

Generally, on a general fund and on an all funds basis, expenditures over 21.90% are related to non-personnel costs, such as encumbrances for contracts, supplies, and materials.

First Quarter Variances

General Fund

- Finance: Banking Services contracts and other professional services contracts were encumbered in the 1st Quarter.
- Information Technology: Funds encumbered for projects started in FY 2021 were rolled over to FY 2022 in the 1st Quarter along with funds for software maintenance and the City's contract with Berkeley Community Media being encumbered as well.
- Health, Housing & Community Services: Community Agency contract funds were moved from Non-Departmental so that contracts purchase orders could be created.
- Parks Recreation & Waterfront: Funds for summer youth recreation programs were expended in the first quarter.
- Public Works: Funds were encumbered for gas and electricity payments.
- Non-Departmental: Funds for the City's Outside Auditors, Legislative and Professional Services, Insurance were encumbered or paid in the first three months of FY 2022.

All Funds

- Public Works & Parks, Recreation & Waterfront: Funds were encumbered for capital improvement projects early in the fiscal year.
- Non-Departmental: Debt service and insurance payments were made in August.



**Summary of Council Referrals to the Budget Process
For the Period July 1, 2021 to June 30, 2022**

Item#	Title	Council Date	Amount	Funding Allocation	Referred By
1	Supply Bank	9/14/2021	\$ 25,000		Mayor Arreguin
2	Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas	10/12/2021	\$ 1,330,000		Taplin and Kesarwani
3	Infrastructure and Affordable Housing Finance Plan for Adeline Corridor	10/12/2021	\$ 200,000		Bartlett
4	Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley	10/12/2021	\$ 500,000		Harrison
5	Durant Parklet and Telegraph Plaza Improvements	10/26/2021	\$ 60,000		Robinson
6	Public Bank East Bay	10/26/2021	\$ 50,000		Robinson
7	Sidewalk Repair on Arterial Streets	10/26/2021	\$ 600,000		Taplin
8	Reckless Driving and Sideshow Deterrence Improvements	10/26/2021	unknown		Taplin
9	Telegraph Public Realm Plan Implementation	10/26/2021	\$ 500,000		Robinson, Mayor Arreguin, and Hahn
10	Strawberry Creek Lodge Food Program	11/9/2021	\$ 100,000		Taplin
11	Resolution Recognizing Housing as Human Right; Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley	11/9/2021	\$ 300,000		Taplin, Mayor Arreguin, Harrison, and Hahn
12	Berkeley Ceasefire	11/9/2021	\$ 200,000		Taplin, Bartlett, Mayor Arreguin, and Wengraf
13	West Berkeley Residential Preferential Parking (RPP)	11/9/2021	\$ 1,590,151		Taplin
14	Solano-Peralta Park restoration and improvements	11/9/2021	\$ 80,000		Hahn
15	Homeless Outreach Coordinator for South Shattuck Avenue and Adeline Street	11/9/2021	\$ 200,000		Bartlett
16	Curtis Street Traffic Diverters	11/16/2021	\$ 100,000		Taplin
17	Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings	11/30/2021	\$ 1,500,000		Harrison and Bartlett
18	Commitment to Habitat Recovery	11/30/2021	\$ 100,000		Bartlett and Mayor Arreguin
19	Berkeley Age-Friendly Continuum	11/30/2021	\$ 20,000		Mayor Arreguin
20	Automated license plate readers for community safety improvement	11/30/2021	unknown		Taplin, Droste, and Wengraf
21	Budget Referral to the City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided	11/30/2021	\$ 100,000		Wengraf
22	Pedestrian Crossing Improvements at Ashby and Acton	12/14/2021	\$ 100,000		Taplin

23	Russell Street Bicycle and Pedestrian Improvements	12/14/2021	\$ 360,000	Taplin
		Total	<u>\$ 8,015,151</u>	

November 2021 General Fund Budget Recommendations

Tier 1 Funding Requests (Council Approved Items, Critical Operational Needs, Public Safety Items, or Legislative Mandates)

Department Items

Department	Item	Amount	Comments
City Clerk	Konica Minolta Business Systems/OnBase Version Upgrade and Training	50,000	For agenda review and packet creation software; Project to start in February 2022
City Manager	City Manager Salary Increase	52,958	Council Approval on 11/16/21
City Manager	Salary Adjustments for Department Head	127,430	Council Approval on 11/16/21
City Manager	Data Entry to input pages into Website project	70,000	Funds needed to complete website project in January 2022
Finance	Deputy Director of Finance	268,812	Position is essential to managing the operations of the Finance Department and provide support to the Director of Finance
Fire Department	Priority Dispatching	83,000	Funding needed for the development of a Priority Dispatching program in Fire
Fire	FY 2015 Ground Emergency Medical Transport Overpayment	150,660	City was overpaid by the State in FY 2015 for Ground Emergency Medical Transport program and must now return those funds to the State.
Fire	Gurneys	39,714	Funds needed to maintain the City's lease contract for ambulance gurneys
Health, Housing & Community Svcs.	African American Holistic Resource Center	52,037	Funds needed for development of the African American Holistic Resource Center
Health, Housing & Community Svcs.	COLA/CalPERS PEPPRA coverage	179,551	Allocation for COLA's, CalPERS, and bonuses for HHCS that cannot be absorbed by grant funds in FY 2022 for labor contracts approved by Council.
Mayor & Council	Legislative Assistants Salary & Fringe Benefit Increase	709,695	Approved by Council on 6/15/21 with adoption of inclusion of Legislative Assistants into SEIU Community Services and Part-Time Recreation Leaders Association
Mayor & Council	Mayor and Council Annual Salary per Measure JJ	30,121	Charter Amendment approved by voters in November 2020
Non-Departmental	Transfer to Workers' Compensation Fund for Premier Cru loan repayment	406,952	Loan from Workers' Compensation Fund and repayment plan approved by Council on 3/28/17
Parks, Recreation & Waterfront	R2 Shift Training; R2 Shift Cancellation	214,000	Approved by Council on 7/29/21 with adoption of new labor contract with 1021 Community Services and Part-Time Recreation Leaders Association
Parks, Recreation & Waterfront	West Campus Pool Filters/Plaster	510,000	Approved for Pre-Funding in AAO #1 in June 2021. Work can not be delayed, otherwise we may impact summer programming or may be subject to an indefinite closure at West Campus pool.
Planning	Deputy Director of Planning	32,163	Restoring the Deputy Director position in the Planning Department is necessary to improve operations, customer service and succession planning.

Public Works	Dwight-California Intersection Improvements	323,807	Appropriate balance of Mayor/Council Budget referral from FY 2019 AAO#1 process so that project can continue. Project was put on hold.
Public Works	BerkDOT	100,000	To continue the study of potential BerkDOT or alternate organizational structure (Council referral)
Public Works	Public Restroom People's Park	83,428	Appropriate funds received from Enclave Partners for a public restroom at People's Park
Total Department Requests		3,484,328	

Council Referrals

Referred By	Item	Amount	Comment
Taplin and Kesarwani	Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas	1,330,000	
Taplin, Mayor Arreguin, Harrison, and Hahn	Resolution Recognizing Housing as Human Right; Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley	300,000	
Bartlett	Homeless Outreach Coordinator for South Shattuck Avenue and Adeline Street	100,000	
Robinson and Mayor Arreguin	Durant Parklet and Telegraph Plaza Improvements	60,000	
Taplin, Bartlett, Mayor Arreguin, and Wengraf	Berkeley Ceasefire	200,000	
Total Council Referrals		1,990,000	
Total Tier 1 Funding Requests		5,474,328	
Unspent Excess Equity Funds		397,193	

Tier 2 (Non-Critical Operational Needs that maybe on hold or have existing funding)

Department	Item	Amount	Comments
Finance	Tax Assessment System Replacement	300,000	Project on hold till FY 2023
Information Technology	IT Move to 1947 Center Street	770,000	Adjustment to FY 2022 General Fund Baseline recommended for Pre-Funding in AAO #1. Move is currently on hold
Information Technology	IT 2180 Milvia/4th Floor Rent	106,017	Adjustment to FY 2022 General Fund Baseline recommended for Pre-Funding in AAO #1. Could possibly fund from existing budget
Information Technology	Cybersecurity for Telecommuting Needs	819,000	2nd Half of \$1.638 million allocation; Initial funds still have not been fully spent yet in FY 2022
Information Technology	Enterprise Zoom License	68,832	Funds for Enterprise for Zoom Government License pilot program
Police	Police Overtime	1,000,000	Adjustment to FY 2022 General Fund Baseline recommended for Pre-Funding in AAO #1. Baseline funding for overtime may be sufficient for overtime costs in FY 2022
Police	School Crossing Guards	77,156	Hire 4 School Crossing Guard positions to fully cover all 18 Crossing Guard posts
Public Works	Ped Xing Signal @ intersection of Shattuck & Prince	100,000	Adjustment to FY 2022 General Fund Baseline recommended for Pre-Funding in AAO #1.

Public Works	Traffic Calming at MLK and Stuart Street	100,000	Adjustment to FY 2022 General Fund Baseline recommended for Pre-Funding in AAO #1.
Public Works	George Florence Park/10th Street Traffic Calming	220,000	Approved for Pre-Funding in AAO #1 in June 2021.
Total Tier 2 Items		3,561,005	

Tier 3 (Non-Urgent Operational Needs Recommend FY 2023 & FY 2024 Budget Consideration)

Department	Item	Amount	Comments
City Manager	Community Survey	85,000	Approved for Pre-Funding in AAO #1 in June 2021. Funds not needed as funds for community survey were approved with allocation for Vision 2050 plan
City Manager	Communications Specialist	116,854	Department request to add additional staff person to meet a baseline need for community engagement, daily and emergency PIO response, as well as multi-department and multi-agency coordination.
City Manager	Office of Diversity & Equity: Assistant to the City Manager	268,812	Funding to address Council referral
Fire	Medical Supplies for Life Assist	90,200	Funds for additional medical supplies for ambulances
Finance	Grant Writer	TBD	Funding to address Council referral
Police	Portable Radio Replacement	600,000	Approved for Pre-Funding in AAO #1 in June 2021. Funds not needed till FY 2023 when first payment occurs.
Public Works	Restore Deferral	1,283,765	FY 2021 General Fund Budget Deferral. Could be funded through ARPA Funds as deferral was due to General Fund budget deficit caused by COVID-19
Public Works	Citation Appeals Assistance	109,861	Funding to add an Office Specialist II position to support the Citation Appeals process
Total Tier 3 Items		2,554,492	

Measure P

Department	Item	Amount	Comments
City Manager's Office	Homeless Response Team Vehicle	33,120	Vehicle purchase was included in FY 2021 Measure P allocations. Purchase not made till FY 2022.
City Manager's Office	Off-street safe parking program for Recreational Vehicles at 742 Grayson Street and other shelter operational costs	439,420	Funding approved by Council on 10/26/21
Total Measure P Adjustments		472,540	

Measure U1

Department	Item	Amount	Comments
Non-Departmental	Transfer to U1 Fund	973,695	
Total Measure U1 Adjustments		973,695	



Office of the City Manager

ACTION CALENDAR
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Rama Murty, Senior Management Analyst
 Subject: Amendment: FY 2022 Annual Appropriations Ordinance

RECOMMENDATION

Adopt first reading of an Ordinance amending the FY 2022 Annual Appropriations Ordinance No. 7,779–N.S. for fiscal year 2022 based upon recommended re-appropriation of committed FY 2021 funding and other adjustments authorized since July 1, 2021, in the amount of \$177,309,914 (gross) and \$163,076,585 (net).

FISCAL IMPACTS OF RECOMMENDATION

On June 29, 2021 the City Council adopted the FY 2022 Budget, authorizing gross appropriations of \$673,601,287 and net appropriations of \$552,265,708 (net of dual appropriations).

This first amendment to the Annual Appropriations Ordinance totals \$177,309,914 (gross) and \$163,076,585 (net), increasing the gross appropriations to \$850,911,201 and net appropriations to \$715,342,293 and represents the re-authorization of funding previously committed in FY 2021 and some new expenditures including new grant fund appropriations. The recommendations in this report also include funding for a number of capital projects. Funding is recommended for the following:

1. Encumbered contract obligations from FY 2021 totaling \$101,434,451;
2. Re-appropriating committed, unencumbered FY 2021 funding for all funds in the amount of \$35,389,100; and
3. Changes to fund appropriations primarily due to receipt of new grants and use of available fund balances adjustments in the amount of \$40,486,363.

The changes to the General Fund total \$23,804,096 which includes encumbrances of \$8,451,781, unencumbered carryover requests of \$4,405,774, and adjustments of \$10,946,542. The Capital Improvement Fund increases by \$9,106,933 and includes encumbrances of \$3,392,733, unencumbered carryover requests of \$5,660,850, and adjustments of \$53,350.

BACKGROUND

The Annual Appropriations Ordinance (AAO) establishes the expenditure limits by fund for FY 2022. Throughout the year, the City takes actions that amend the adopted budget. These may include, but are not limited to, the acceptance of new grants, revisions to existing grants, adjustments to adopted expenditure authority due to emergency needs, and transfers in accordance with Council's fiscal policies.

The adopted budget is also amended annually to reflect the re-appropriation of prior year funds for contractual commitments (i.e. encumbrances) as well as unencumbered carryover of unexpended funds previously authorized for continuation of capital projects, and for one-time, non-recurring purposes. These budget modifications are periodically presented to the Council in the form of an Ordinance amending the Annual Appropriations Ordinance, which formally requires a two-thirds vote of the City Council.

When Council adopts an appropriations ordinance (budget), it is based on projected revenues and expenditures. If fund balances do not support the requested level of expenditures, no carryover is recommended.

The proposed changes, presented in their entirety in Exhibit A, are summarized as follows:

	Encumbered Recommended	Unencumbered Recommended	Other Adjustments	Total
General Fund (011)	\$ 8,451,781	\$ 4,405,774	\$ 10,946,542	\$ 23,804,096
Capital Improvement Fund (501)	\$ 3,392,733	\$ 5,660,850	\$ 53,350	\$ 9,106,933
All Other Funds	\$ 89,589,937	\$ 25,322,477	\$ 29,486,471	\$ 144,398,885
Total	\$ 101,434,451	\$ 35,389,100	\$ 40,486,363	\$ 177,309,914

Carryover Process

Departments were asked to submit information regarding the reasons for the unencumbered carryover requests to assist staff in determining which funds should be carried into FY 2022. In prior years, funds have been approved for carryover from one year to the next based on funding availability.

This report recommends approximately \$35.3 million in unencumbered carryover for Council review and approval, representing funding for priority projects and programs.

Types of Carryover

FY 2021 Encumbrance Rollovers, totaling \$101,434,451 reflect contractual obligations entered into in fiscal year 2021 which had not been paid as of June 30, 2021. Funding for these "encumbered" commitments is brought forward into the current fiscal year to provide for payment of these obligations. The General Fund represents around 8% of the total encumbered rollovers. The FY 2022 Adjusted Budget currently includes the carry forward of FY 2021 encumbrances, since the City is obligated to pay for these commitments.

FY 2021 Unencumbered Carryover totals \$35,389,100 and reflects the carryover of funding appropriated by the City Council for specific purposes that had not been encumbered by year-end. The carryover for the General Fund represents around 12% of the total recommended unencumbered carryover amount and is for priority projects. Capital Improvement Fund carryovers are for continuing projects and makes up 16% of the unencumbered carryover. The remaining 72% represents carryover items in non-discretionary funds.

FY 2022 Other Adjustments total \$40,486,363 and reflect actions taken by the City Council with the adoption of the FY 2022 budget as well as adjustments required or approved since the budget adoption. Many of these adjustments are within non-discretionary funds and reflect the appropriation of grant funding and the use of available fund balance.

Below is a summary of the FY 2021 Unencumbered Carryover and the FY 2022 Adjustments for the City's General Fund and Other Funds.

General Fund

The General Fund includes \$4,405,774 of recommended unencumbered carryover and \$10,946,542 of recommended other adjustments including the following allocations:

Carryover

- ❑ \$50,000 in the City Clerk's Office for for review of FLSA payments
- ❑ \$80,386 in the City Clerk's Office for the ongoing Strategic Plan project of redistricting
- ❑ \$165,149 in the City Manager's Office carryover includes some of the following items:
 - \$10,263 for the repair of the walk-in cooler at the Animal Shelter
 - \$154,886 for the continuation of several Office of Economic Developments programs such as Civic Arts Grant, Arts Festival, and the Visit Berkeley contract
- ❑ \$431,051 in Health, Housing & Community Services carryover items include funds for the North Berkeley Senior Center Renovation (\$72,730), Aquatic Park Water Quality Testing (\$96,744), Public Health Disparities (\$33,697), support the Youth Works program (\$24,646), Dorothy Day House – 742 Grayson Shelter (\$68,158), Fair Chance Ordinance (\$35,000), and the Housing Assistance program (\$67,425)
- ❑ \$463,000 in the Human Resources Department for contracts needed for labor negotiations, classification and compensation studies, and actuarial services
- ❑ \$303,679 in the Department of Information Technology for Cyber Leadership and Strategy Solution contracts and for IT rent in 1947 Center Street
- ❑ \$68,751 for Council carryover amount approved through Resolution No. 65,540-N.S.
- ❑ \$107,392 in Non-Departmental to pay for EOC COVID-19 expenses and for FLSA payments

- \$358,401 in Parks, Recreation & Waterfront to fund the design of the African American Holistic Resource Center, Homeless Cleanup program, and Official payments and Credit Card fees for the Recreation programs
- \$286,671 in Planning for the Objective Standards for Density / State Housing Law Compliance (\$125,000), Green Building Program Manager position (\$136,671), and a Planning Department Equity consultant (\$25,000)
- \$2,091,294 in Public Works include some of the following items:
 - Old City Hall & Veterans Building Leak repair (\$95,594)
 - Public Safety Building Cooling Redundancy project (\$427,956))
 - Underground Utility District #48 Grizzly Peak (\$385,069)
 - Citywide Undergrounding project (\$162,973)
 - Fire Safety and Prevention (\$99,897)
 - NBSC Seismic Retrofit project (\$94,543)
 - University Ave. Bus Boulevard project (\$100,000)
 - Measure P funds for the Clean Cities/Illegal Dumping program for the Clean and Livable Commons Initiative (\$679,813).

Other Adjustments

- \$50,000 in the City Clerk for the agenda review packet creation creation upgrade and training
- \$595,498 in the City Manager's Office for the City Manager salary adjustment (\$52,958), Measure P funds for a Homeless Response Team vehicle (\$33,120), Measure P funds for off-street safe parking program for recreational vehicles at 742 Grayson and other operational cost (\$439,420), and for data entry for the Website project (\$70,000)
- \$180,000 in the Finance Department for a Deputy Director of Finance
- \$273,374 in the Fire Department for the following items:
 - \$83,000 for the Priority Dispatch Program
 - \$150,660 to pay for GMT FY 2015 Audit Overpayment
 - \$39,714 for the gurney lease
- \$231,588 in Health, Housing, & Community Services for the African American Holistic Resource Center (\$52,037) and for COLAs and other personnel cost increases that resulted from the FY 2022 labor negotiations that cannot be absorbed by grants (\$179,551)
- \$2,729,816 for the Mayor and Council which includes some budget referral items:
 - \$709,695 for One-time accretion recognition payment and salary and benefit increases for the Legislative Assistants
 - \$30,121 for Mayor and Council Annual Salary per Measure JJ
 - \$1,330,000 for a Council Budget Referral for security cameras in the Public Right of Way
 - \$300,000 for a Council Budget Referral for a resolution recognizing housing as a human right
 - \$100,000 for a Council Budget Referral for a Homeless Outreach Coordinator for South Shattuck Avenue and Adeline Street

- \$60,000 for a Council Budget Referral for a Durant Avenue Parklet and Telegraph Avenue improvements
- \$200,000 for a Council Budget Referral for the Berkeley Ceasefire program
- \$3,775,783 for a Council authorized General Fund increase due to new labor MOUs effective FY 2022
- \$339,008 for the FY 2022 PEPRA ramp down
- \$127,430 for the salary adjustments for Department Heads
- \$973,695 transfer to the U1 Fund the remaining FY 2021 Measure U1 revenues
- \$406,925 transfer of FY 2020 Excess Property Transfer Tax Revenue transferred to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center)
- \$724,000 in Parks, Recreation, and Waterfront for the West Campus Pool project (\$510,000) and for MOU related increased cost for SEIU 1021-CSU/PTRLA Unit (\$214,000)
- \$32,163 in Planning for a new Deputy Director of Planning partially funded by the General Fund
- \$507,235 in Public Works for the following items:
 - \$83,428 for a Public Restroom
 - \$323,807 for the Dwight/California Intersection Improvement project
 - \$100,000 for the continuation of Berkeley Department of Transportation (BerkDOT) development study

Other Funds

Other City funds totals (including capital improvement project funds) \$35,281,313 of recommended unencumbered carryover and \$36,386,363 of recommended other adjustments. Most of the recommendations consist of funding for capital projects and programming of new grants. Some of the carryover and adjustments in other City funds are:

Carryover

- \$1,752,661 in Playground Camp Fund for the Berkeley Tuolumne Camp project and the Cazadero Camp project
- \$1,359,461 in State Transportation Tax Fund for Public Works street and sidewalk projects
- \$339,986 in Measure B – Local Streets and Roads Fund to finish the FY 2021 Street Rehabilitation project
- \$28,423 in Measure B – Bike and Pedestrian Fund for the Transportation Impact Studies
- \$186,490 in Measure F – Alameda County VRF Streets and Road Fund for Public Works Sidewalk and Transportation projects
- \$1,492,470 in Measure BB – Local Streets & Roads Funds for Public Works street, sidewalk, and transportation projects
- \$190,540 in Measure BB – Bike and Pedestrian Fund for Public Works Transportation projects

- ❑ \$2,171,817 in Parks Tax Fund for various Parks, Recreation & Waterfront Department capital projects currently under way
- ❑ \$252,991 in Street Light Assessment Fund for the Street Light Program
- ❑ \$121,164 in UC Settlement Fund for the Southside Complete Streets project
- ❑ \$822,479 in Cultural Trust Fund for public art projects
- ❑ \$150,000 in Private Party Sidewalks Fund for the Sidewalk Repair program
- ❑ \$228,905 in Operating Grants – State Fund for Permanent Local Housing Allocation program
- ❑ \$947,225 in Capital Grants – Federal Fund for continuation of the Southside Complete Streets project
- ❑ \$2,189,577 in Capital Grants – State Fund for Public Works Transportation projects
- ❑ \$2,112,000 in Emergency Solutions Grant (ESG) Fund for housing services
- ❑ \$161,181 in CSBG Fund for various Health, Housing, and Community Services programs
- ❑ \$1,497,894 in One Time Grant: No Capital Expenditure Fund for grants in City Manager’s Office, Health, Housing & Community Services, Mayor and Council, Parks, Recreation & Waterfront, Police, and Public Works
- ❑ \$490,789 in CALTRANS Grant Fund for the North Berkeley BART/Sacramento Street Complete Streets project
- ❑ \$114,621 in Bio-Terrorism Grant Fund for COVID-19 Preparedness Public Health Response
- ❑ \$5,660,850 in Capital Improvement Program Fund for Parks, Recreation & Waterfront and Public Works projects
- ❑ \$2,534,975 in Measure T1 Funds for City Manager’s Office, Parks, Recreation & Waterfront Department, and Public Works Department projects currently under way
- ❑ \$303,545 in Measure O Affordable Housing Fund for the Berkeley Way Observer project
- ❑ \$2,416,629 in Marina Operations Fund for various Parks, Recreation, and Waterfront capital and maintenance projects
- ❑ \$333,713 in Sanitary Sewer Fund for Public Works sewer projects
- ❑ \$903,907 in Clean Storm Water Fund for Public Works storm drain projects
- ❑ \$186,671 in Permit Service Center Fund for a Green Building Program Manager in Planning and Pavement Engineering support in Public Works
- ❑ \$120,300 in Off-Street Parking Fund for Telegraph/Channing Garage Elevator Upgrade
- ❑ \$341,236 in Parking Meter Fund for the 125-127 University Ave Parking Lot project and for the goBerkeley SmartSpace pilot project
- ❑ \$1,194,186 in Equipment Replacement Fund for continued purchase of essential vehicles
- ❑ \$297,750 in IT Cost Allocation Plan funds for Information Technology projects and operating cost currently under way

Other Adjustments

- ❑ \$1,146,163 in Measure U1-Housing Fund for Bay Area Community Land Trust, Landlord Incentives for Section 8, and to repay loan for purchase of Premier Cru (University Avenue Center)
- ❑ \$150,000 in Asset Forfeiture Fund for additional Police training needs
- ❑ \$300,000 in Gilman Sports Field Fund for Sports Field user fees and landscape gardener
- ❑ \$2,287,295 in Playground Camps Fund for the Berkeley Tuolumne Camp project, Cazadero Camp project, Echo Lake Camp ADA project, and Camp programs credit card processing fees
- ❑ \$500,000 in State Prop 172 Fund for Police operations to pay for contracts and related expenses
- ❑ \$67,502 in State Transportation Tax Fund for the Shattuck Reconfiguration (Complete Streets) project
- ❑ \$134,674 in Measure B – Local Streets and Roads Fund for the 9th Street Pathway Phase II project
- ❑ \$70,200 in Measure F – Alameda County VRF Streets and Road Fund for the Sidewalk Repair program
- ❑ \$1,756,350 in Measure BB – Local Streets and Road Fund for various Public Works capital and maintenance projects
- ❑ \$622,655 in Measure BB - Bike and Pedestrian Fund for various Public Works Transportation projects
- ❑ \$38,535 in Parks Tax Fund for James Kenney Play Area and John Hinkel Area projects
- ❑ \$295,320 in Measure GG – Fire Preparation Tax East Bay Regional Communications Authority Radio Operating and Service payments
- ❑ \$520,000 in Business Economic Development Fund for Office of Economic Development Loan programs
- ❑ \$792,942 in UC Settlement Fund for the Southside Complete Streets project
- ❑ \$4,100,000 in UC Settlement Fund for the UC/COB LRDP Settlement Agreement
- ❑ \$100,000 in Private Party Sidewalks Fund for the Sidewalk Repair program
- ❑ \$52,709 in Public Art Fund for various public arts projects
- ❑ \$200,000 in City Operational Public Safety Fund for Police operations to pay for contracts and related expenses
- ❑ \$170,953 in Shelter Operations Fund for Off-Street safe parking program for recreational vehicles at 742 Grayson
- ❑ \$6,115,293 in Capital Grants – Federal Fund for the Southside Complete Streets project
- ❑ \$130,000 in Capital Grants – State funds for the MLK Jr Way Vision Zero Quick Build project
- ❑ \$180,000 in OTS DUI Enforcement Education Program Fund to appropriate grant for Police Department
- ❑ \$1,940,897 in Health (General) Fund for several rounds of the Immunization COVID-19 grant program and Public Health State Lead program

- ❑ \$686,718 in Mental Health Services Act Fund to pay for various Mental Health programs
- ❑ \$56,040 in Health (Short Doyle) Fund for rent and related expenses at Mental Health clinics
- ❑ \$72,440 in Alcoholic Beverage Control Grant Fund for Police operations
- ❑ \$114,914 in C.F.P. Title X Fund for Title X Family Planning services
- ❑ \$68,620 in CSBG Fund for CSBG funded programs in Health, Housing, and Community Services
- ❑ \$2,555,820 in One Time Grant: No Capital Expenditure Fund for grants in City Manager's Office, Health, Housing & Community Services, Information Technology, Parks, Recreation & Waterfront, Planning, Police, and Public Works
- ❑ \$229,931 in Bio-Terrorism Grant Fund for Public Health Preparedness Workforce Development
- ❑ \$53,350 in Capital Improvement Program Fund Center Street Garage Public Art
- ❑ \$1,341,410 in Measure T1 – Infrastructure & Facilities Fund for Parks, Recreation, and Waterfront and Public Works projects currently underway
- ❑ \$280,466 in Zero Waste Fund for the Zero Waste Division for two Field Representatives and one Accounting Office Specialist Supervisor
- ❑ \$364,010 in Permit Service Center Fund for Accela and to pay for back rent at 1947 Center Street
- ❑ \$855,706 in Equipment Replacement Fund for Fire Truck Lease payments
- ❑ \$744,981 in various Berkeley Business Improvement Districts (BID) Funds to continue supporting BIDs.

This report has been discussed with the Budget & Finance Policy Committee at their December 9, 2021 and December 13, 2021 meeting.

Any changes made by the Council as part of the adoption of the FY 2021 Year-End/FY 2022 1st Quarter Report will need to be incorporated into the numbers presented in this report to reflect these additional appropriations.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the act of adopting the budget/appropriations ordinance/amendments. 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 amend the FY 2022 Adopted Budget, re-appropriating funds from FY 2021 to FY 2022 for contractual commitments that need to be paid and revising the budget to reflect approved carryover requests in both discretionary and non-discretionary funds.

The recommendations in this report deal with the unencumbered carryover in the funds listed above and the other adjustments in all funds. Staff has conducted a detailed analysis of the individual carryover requests submitted by departments and is

presenting carryover recommendations for projects that are either currently under contract, represent council priorities, and/or are considered critical.

CONTACT PERSON

Rama Murty, Senior Management Analyst, City Manager's Office, 981-7000

Maricar Dupaya, Senior Management Analyst, City Manager's Office, 981-7000

Attachments:

1: Ordinance

Exhibit A: Annual Appropriation Ordinance Summary of Appropriations by Fund

2: FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

ORDINANCE NO. -N.S.

AMENDING THE ANNUAL APPROPRIATIONS ORDINANCE NO. 7,779–N.S. FOR FISCAL YEAR 2022

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2022 submitted by the City Manager and passed by the City Council be amended as follows and as summarized in Exhibit A:

A. General Fund (Funds 001-099)	267,647,676
B. Special Funds (Funds 100-199)	164,350,818
C. Grant Funds (Funds 300-399)	107,330,975
D. Capital Projects Funds (Funds 500-550)	66,241,615
E. Debt Service Fund (Funds 551-599)	9,804,404
F. Enterprise Funds (Funds 600-669)	159,825,171
G. Internal Service Funds (Funds 146, 670-699)	60,393,936
H. Successor Agency (Funds 760-769)	57,120
I. Agency Funds (Funds 771-799)	8,396,768
J. Other Funds (Funds 800-899)	6,862,718
<u>K. Total</u>	
Total General Fund	267,647,676
Add: Total Other Than General Fund	583,263,525
Gross Revenue Appropriated	850,911,201
Less: Dual Appropriations	-75,174,972
Less: Revolving/Internal Service Funds	-60,393,936
Net Revenue Appropriated	715,342,293

Section 2. The City Manager is hereby permitted, without further authority from the City Council, to make the following transfers by giving written notice to the Director of Finance:

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Paramedic Tax Fund; Health State Aid Realignment; Fair Election Fund; Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.
- b. To the General Fund from the General Fund – Stability Reserves Fund; Catastrophic Reserves Fund; Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); IT Cost Allocation Fund; and Health State Aid Realignment Fund.
- c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- d. From Gilman Sports Field Fund to Gilman Field Reserve Fund
- e. From Measure FF Fund to Paramedic Tax Fund.
- f. From the American Rescue Plan Fund to the General Fund; Sports Field Fund; Playground Camp Fund; Marina Fund; Off-Street Parking Fund; and Parking Meter Fund.
- g. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; and 2010 COP (Animal Shelter) Fund.
- h. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- i. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.
- j. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.
- k. To Catastrophic Loss Fund from Permit Service Center Fund.
- l. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.
- m. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.

- n. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- o. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- p. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- q. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- r. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.
- s. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental

Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- t. To the Sick Leave and Vacation Leave Accrual Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina

Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- u. To the Payroll Deduction Trust Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers' Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

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 Council Chambers, 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.

Attachment for Annual Appropriations Ordinance - Fiscal Year 2022**REVOLVING FUNDS/INTERNAL SERVICE FUNDS**

Appropriations are identified with revolving and internal service funds. Such funds derive revenue by virtue of payment from other fund sources as benefits are received by such funds, and the total is reflected in the "Less Revolving Funds and Internal Service Funds" in item I. The funds are:

Revolving/Internal Service Funds

Employee Training Fund	961,840
Equipment Replacement Fund	16,510,385
Equipment Maintenance Fund	9,990,781
Building Maintenance Fund	4,686,074
Central Services Fund	388,107
Workers' Compensation Fund	6,706,769
Public Liability Fund	4,212,789
Information Technology Fund	16,937,191
Subtotal Revolving/Internal Service Funds	\$ 60,393,936

DUAL APPROPRIATIONS - WORKING BUDGET

Dual appropriations are identified with revenues generated by one fund and transferred to another fund. Both funds are credited with the applicable revenue, and the total is reflected in the "Less Dual Appropriations" in item I. The dual appropriations are:

Dual Appropriations

Transfers to the General Fund

Indirect Cost Reimbursement

CDBG Fund	138,719
One-Time Grant: No Cap Exp	225,000
Street Light Assessment District Fund	96,775
Zero Waste Fund	2,001,399
Marina Enterprise Fund	411,719
Sanitary Sewer Fund	992,964
Clean Storm Water Fund	205,400
Permit Service Center Fund	1,615,758
Unified Program (CUPA) Fund	72,517
Subtotal Transfers to General Fund:	\$ 5,760,251

Transfer to Safety Members Pension Fund from General Fund	551,804
Transfer to Measure U1 Fund from General Fund	5,120,350
Transfer to Stability Reserve Fund from General Fund	1,375,000
Transfer to Catastrophic Reserve Fund from General Fund	1,125,000
Transfer to PERS Savings Fund from General Fund	2,000,000
Transfer to Health State Aid Realignment from General Fund	1,953,018
Transfer to Fair Election Fund from General Fund	505,002
Transfer to Capital Improvement Fund (CIP) from General Fund	4,950,905
Transfer to Phone System Replacement - VOIP from General Fund	449,408
Transfer to Equipment Replacement Fund from General Fund	1,081,699
Transfer to Public Liability Fund from General Fund	3,895,888
Transfer to Catastrophic Loss Fund from General Fund	3,129,119
Transfer to IT Cost Allocation Fund from General Fund	145,640
Transfer to Police Employee Retiree Health Assistance Plan from General Fund	400,136
Transfer to Sick Leave Entitlement Fund from General Fund	201,501
Transfer to Gilman Field Reserve Fund from Sports Field Fund	150,000
Transfer to General Fund from Health State Aid Realignment Fund	2,643,280
Transfer to Paramedic Tax Fund from Measure FF - Public Safety Fund	757,925
Transfer to General Fund from American Rescue Plan Fund	22,969,355
Transfer to Sports Field Fund from American Rescue Plan Fund	196,000
Transfer to Playground Camp Fund from American Rescue Plan Fund	1,035,000
Transfer to Marina Fund from American Rescue Plan Fund	1,400,000
Transfer to Off-Street Parking Fund from American Rescue Plan Fund	3,940,000
Transfer to Parking Meter Fund from American Rescue Plan Fund	4,340,000
Transfer from CIP Fund to PERS Savings Fund	151,632
Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund	499,802
Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund	402,613
Transfer to Private Sewer Lateral Fund from Sewer Fund	90,501
Transfer to Catastrophic Loss Fund from Permit Service Center Fund	50,555
Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund	5,082
Transfer to General Fund from Parking Meter Fund	1,742,288
Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire Protect Bond (Measure Q)	2,048,940
Transfer to First Source Fund from Parks Tax Fund	14,093
Transfer to First Source Fund from Capital Improvement Fund	26,943
Transfer to First Source Fund from Marina Fund	1,875
Transfer to Public Art Fund from Parks Tax Fund	21,140
Transfer to Public Art Fund from Capital Improvement Fund	40,414
Transfer to Public Art Fund from Marina Fund	2,813
Subtotal Transfers to Other Funds:	<u>69,414,721</u>
Sub-Total Dual Appropriations	<u>\$ 75,174,972</u>
Grand Total Dual Appropriations	\$ 135,568,908

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund # Fund	FY 2022 Adopted	1st AAO				FY 2021 Revised #1
		Encumbered Rollovers	Unencum. Carryovers	Other Adjustments	Total Amend.	
11 General Fund Discretionary	234,754,491	8,451,781	4,405,774	10,946,542	23,804,096	258,558,587
16 Measure U1 - Housing	6,446,014	1,496,912	-	1,146,163	2,643,075	9,089,089
101 Library - Tax	25,037,858	114,282	-	-	114,282	25,152,140
103 Library - Grants	64,889	-	-	-	-	64,889
104 Library - Friends & Gift	150,000	197	-	-	197	150,197
105 Library - Foundation	350,000	46	-	-	46	350,046
106 Asset Forfeiture	201,000	13,165	-	150,000	163,165	364,165
107 Special Tax Measure E	1,451,853	-	-	-	-	1,451,853
108 First Source Fund	46,675	-	-	-	-	46,675
110 Sec 108 Loan Gty Asst.	553,108	-	-	-	-	553,108
111 Fund Raising Activities	53,875	-	-	21,000	21,000	74,875
113 Sports Field (Vendor Oper)	258,234	67,547	-	300,000	367,547	625,781
114 Gilman Fields Reserve	-	2,694	-	-	2,694	2,694
115 Animal Shelter	52,480	5,440	-	-	5,440	57,920
116 Paramedic Tax	4,916,665	-	-	-	-	4,916,665
117 CA Energy Commission	-	44,249	-	-	44,249	44,249
119 Domestic Violence Prev - Vit Stat	22,587	-	-	-	-	22,587
120 Affordable Housing Mitigation	2,716,178	2,657,746	-	-	2,657,746	5,373,924
121 Affordable Child Care	13,275	-	-	-	-	13,275
122 Inclusionary Housing Program	550,501	-	-	-	-	550,501
123 Condo Conversion	109,617	997,980	-	-	997,980	1,107,597
124 Parking In-Lieu Fee	-	82,010	-	-	82,010	82,010
125 Playground Camp	13,850,034	11,933,425	1,752,661	2,287,295	15,973,381	29,823,415
126 State-Prop 172 Pub.Safety	426,693	16,187	-	500,000	516,187	942,880
127 State Transportation Tax	6,009,197	1,764,873	1,359,461	67,502	3,191,836	9,201,033
128 CDBG	4,576,057	278,782	-	-	278,782	4,854,839
129 Rental Housing Safety Program	2,230,164	1,689	-	-	1,689	2,231,853
130 Measure B - Local St & Road	3,536,592	1,621,635	339,986	134,674	2,096,295	5,632,887
131 Measure B - Bike and Pedestrian	234,330	54,788	28,423	-	83,211	317,541
132 Measure B - Paratransit	525,433	17,606	-	-	17,606	543,039
133 Measure F Alameda County VRF St & Rd	519,245	180,621	186,490	70,200	437,311	956,556
134 Measure BB - Local St & Road	4,314,642	3,309,843	1,492,470	1,756,350	6,558,663	10,873,305
135 Measure BB - Bike & Pedestrian	124,414	316,130	190,540	622,655	1,129,325	1,253,739
136 Measure BB - Paratransit	447,741	28,420	-	-	28,420	476,161
137 One Time Funding	-	19,080	-	-	19,080	19,080
138 Parks Tax	14,402,630	2,166,244	2,171,817	38,535	4,376,596	18,779,226
139 Street and Open Space Improvement	-	1,702	-	-	1,702	1,702
140 Measure GG - Fire Prep Tax	4,897,270	215,209	-	295,320	510,529	5,407,799
142 Streetlight Assesment District	2,671,488	271,489	252,991	-	524,480	3,195,968
143 Berkeley Bus Ec Dev	156,387	4,550	-	520,000	524,550	680,937
145 Bayer (Miles Lab)	8,500	9	943	-	952	9,452
146 Employee Training	807,304	154,536	-	-	154,536	961,840
147 UC Settlement	21,219	8,960	121,164	4,892,942	5,023,066	5,044,285
148 Private Percent - Art Fund	20,646	7,493	822,479	-	829,972	850,618
149 Private Party Sidewalks	100,000	-	150,000	100,000	250,000	350,000
150 Public Art Fund	64,367	8,000	30,085	52,709	90,794	155,161
152 Vital & Health Statistics Trust Fund	29,813	-	-	-	-	29,813
156 Hlth State Aid Realign Trust	3,806,205	-	-	-	-	3,806,205
157 Tobacco Cont.Trust	352,325	45,692	-	-	45,692	398,017
158 Mental Health State Aid Realign	3,182,564	269,404	-	-	269,404	3,451,968
159 Citizens Option Public Safety Trust	258,724	72,912	-	200,000	272,912	531,636
161 Alameda Cty Abandoned Vehicle Abatement	96,449	4,148	-	-	4,148	100,597
162 Shelter Operations	-	-	-	170,953	170,953	170,953
164 Measure FF	12,750,000	-	-	-	-	12,750,000
165 Fair Elections	505,002	-	-	-	-	505,002
302 Operating Grants - State	63,276	-	228,905	-	228,905	292,181
305 Capital Grants - Federal	-	-	947,225	6,115,293	7,062,518	7,062,518
306 Capital Grants - State	-	516,627	2,189,577	130,000	2,836,204	2,836,204
307 Capital Grants - Local	-	639,254	-	-	639,254	639,254
309 OTS DUI Enforcement Education Prg.	129,500	1,745	-	180,000	181,745	311,245
310 HUD/Home	803,968	31,250	-	-	31,250	835,218
311 ESGP	576,637	1,428,661	2,112,000	-	3,540,661	4,117,298
312 Health (General)	2,054,767	5,440	-	1,940,897	1,946,337	4,001,104
313 Target Case Management Linkages	827,961	91,055	-	-	91,055	919,016
314 Alameda County Tay Tip	35,812	-	-	-	-	35,812
315 Mental Health Service Act	10,030,261	1,357,923	-	686,718	2,044,641	12,074,902
316 Health (Short/Doyle)	4,725,112	262,739	-	56,040	318,779	5,043,891
317 EPSDT Expansion Proposal	389,139	-	-	-	-	389,139
318 Alcoholic Bev Ctr OTS/UC	52,804	-	-	72,440	72,440	125,244
319 Youth Lunch	101,900	252,636	-	-	252,636	354,536
320 Sr. Nutrition Title III	107,003	-	-	-	-	107,003
321 CFP Title X	65,086	790	-	114,914	115,704	180,790

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund # Fund	FY 2022 Adopted	1st AAO			FY 2021 Revised #1	
		Encumbered Rollovers	Unencum. Carryovers	Other Adjustments		Total Amend.
324 BUSD Grant	362,343	-	-	-	-	362,343
325 Vector Control	339,173	9,572	-	-	9,572	348,745
326 Alameda County Grants	624,203	4,231	-	2,884	7,115	631,318
327 Senior Supportive Social Services	64,339	-	-	-	-	64,339
328 Family Care Support Program	75,212	-	-	-	-	75,212
329 CA Integrated Waste Management	5,244	1,703	-	13,693	15,396	20,640
331 Housing Mitigation	1,126,763	-	-	-	-	1,126,763
333 CALHOME	363,100	-	-	-	-	363,100
334 Community Action	298,878	5,043	161,181	68,620	234,844	533,722
336 One-Time Grant: No Cap Exp	3,043,587	785,965	1,497,894	2,555,820	4,839,679	7,883,266
338 Bay Area Air Quality Management	60,000	-	-	-	-	60,000
339 MTC	125,000	388,470	2,665	24,000	415,134	540,134
340 FEMA	790,560	14,137	-	-	14,137	804,697
341 Alameda Cty Waste Mgt.	285,000	-	-	-	-	285,000
343 State Dept Conserv/Recylg	28,000	-	-	-	-	28,000
344 Caltrans Grant	-	254,064	490,789	7,759	752,612	752,612
345 Meas WW - Park Bond - Grant	-	1,220	-	-	1,220	1,220
346 Caltrans Safe Routes 2 Schools	-	9,757	-	-	9,757	9,757
347 Shelter+Care HUD	6,240,760	-	-	30,723	30,723	6,271,483
348 Shelter+Care County	855,792	-	-	-	-	855,792
349 JAG Grant	52,500	-	-	-	-	52,500
350 Bioterrorism Grant	240,124	14,244	114,621	229,931	358,796	598,920
351 UASI Regional Fund	-	26,510	-	9,193	35,703	35,703
354 ARPA - Local Fiscal Recovery Fund	46,300,355	-	-	-	-	46,300,355
501 Capital Improvement Fund	8,393,901	3,392,733	5,660,850	53,350	9,106,933	17,500,834
502 Phone System Replacement	449,408	3,508	-	-	3,508	452,916
503 FUND\$ Replacement	3,571,725	2,036,745	-	-	2,036,745	5,608,470
504 PEG-Public, Education & Government	100,000	-	-	-	-	100,000
506 Meas M - Street and Watershed Imprv	-	18,119	12,216	-	30,335	30,335
511 Measure T1 - Infra & Facil.	12,816,854	3,740,710	2,534,975	1,341,410	7,617,096	20,433,950
512 Measure O	6,445,567	15,365,998	303,545	-	15,669,543	22,115,110
552 09 Measure FF Debt Service	1,343,638	-	-	-	-	1,343,638
553 2015 GORBS	2,051,966	-	-	-	-	2,051,966
554 2012 Lease Revenue Bonds BJPFA	502,238	-	-	-	-	502,238
555 2015 GORBS - 2002 G.O. Refunding Bonds	379,561	-	-	-	-	379,561
556 2015 GORBS (2007, Series A)	142,865	-	-	-	-	142,865
557 2015 GORBS (2008 Measure I)	481,286	-	-	-	-	481,286
558 2010 COP (Animal Shelter)	406,991	-	-	-	-	406,991
559 Measure M GO Street & Water Imps	740,738	-	-	-	-	740,738
560 Infrastructure & Facilities Measure T1	1,731,181	-	-	-	-	1,731,181
561 Measure O - Housing Bonds	2,023,940	-	-	-	-	2,023,940
601 Zero Waste	48,199,561	2,891,371	-	280,466	3,171,837	51,371,398
606 Mar -Coastal Conservancy	-	7,868	-	-	7,868	7,868
607 Mar - Dept of Boating & Waterway	-	60,480	32,980	-	93,460	93,460
608 Marina Operation	7,308,402	2,084,891	2,416,629	341,113	4,842,633	12,151,035
611 Sewer	30,227,353	14,289,703	333,713	39,493	14,662,909	44,890,262
612 Private Sewer Lateral FD	193,658	-	-	-	-	193,658
616 Clean Storm Water	4,899,517	91,904	903,907	-	995,811	5,895,328
621 Permit Service Center	20,692,553	1,718,551	186,671	364,010	2,269,232	22,961,785
622 Unified Program (CUPA)	821,845	2,359	-	4,565	6,924	828,769
627 Off Street Parking	6,551,006	627,366	120,300	6,000	753,666	7,304,672
631 Parking Meter	10,006,409	297,567	341,236	-	638,803	10,645,212
636 Building Purchases and Management	3,434,440	47,284	-	-	47,284	3,481,724
671 Equipment Replacement	5,906,134	8,554,359	1,194,186	855,706	10,604,251	16,510,385
672 Equipment Maintenance	9,812,320	138,968	-	39,493	178,461	9,990,781
673 Building Maintenance Fund	4,463,546	222,528	-	-	222,528	4,686,074
674 Central Services	385,483	2,624	-	-	2,624	388,107
676 Workers Compensation	6,593,924	112,845	-	-	112,845	6,706,769
678 Public Liability	3,843,932	368,857	-	-	368,857	4,212,789
680 Information Technology	14,673,515	1,965,926	297,750	-	2,263,676	16,937,191
762 Successor Agency - Savo DSF	57,120	-	-	-	-	57,120
776 Thousand Oaks Underground	98,448	-	-	-	-	98,448
777 Measure H - School Tax	500,000	2	-	-	2	500,002
778 Measure Q - CFD#1 Dis. Fire Protect Bond	2,048,940	29,445	-	-	29,445	2,078,385
779 Spl Tax Bds. CFD#1 ML-ROOS	2,823,820	-	-	-	-	2,823,820
781 Berkeley Tourism BID	181,125	(35,954)	-	63,600	27,646	208,771
782 Elmwood Business Improvement District	30,000	1	-	32,388	32,389	62,389
783 Solano Ave BID	25,000	-	-	7,809	7,809	32,809
784 Telegraph Avenue Bus. Imp. District	523,371	-	-	238,437	238,437	761,808
785 North Shattuck BID	210,363	-	-	110,972	110,972	321,335
786 Downtown Berkeley Prop & Improv. District	1,313,214	-	-	195,787	195,787	1,509,001
801 Rent Board	6,275,535	587,183	-	-	587,183	6,862,718

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund #	Fund	FY 2022 Adopted	1st AAO			FY 2021 Revised #1	
			Encumbered Rollovers	Unencum. Carryovers	Other Adjustments		Total Amend.
	GROSS EXPENDITURE:	673,601,287	101,434,451	35,389,100	40,486,363	177,309,914	850,911,201
	Dual Appropriations	(74,849,421)	-	-	(325,551)	(325,551)	(75,174,972)
	Revolving & Internal Service Funds	(46,486,158)	(11,520,643)	(1,491,936)	(895,198)	(13,907,778)	(60,393,936)
	NET EXPENDITURE:	552,265,708	89,913,808	33,897,164	39,265,614	163,076,585	715,342,293

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

Attachment 2

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
1	011	General Fund	City Auditor	\$30,000			Contract to retain an FLSA attorney to review FLSA payments.			X	Carryover funds for Contract to retain an FLSA attorney to review FLSA payments.
2	011	General Fund	City Auditor	\$20,000			Contract to retain an FLSA attorney to review FLSA payments.			X	Carryover funds for Contract to retain an FLSA attorney to review FLSA payments.
3	011	General Fund	City Clerk	\$80,386			Redistricting			X	Carryover funds for the ongoing Strategic Plan project
4	011	General Fund	City Clerk		\$50,000		KMBS/OnBase Version Upgrade and Training		X		Appropriate fund for the agenda review packet creation software.
5	011	General Fund	City Manager		\$52,958		Salary Adjustment for City Manager		X		Appropriate funding for City Manager salary increase approved by Council,
6	011	General Fund	City Manager	\$10,263						X	Carryover of fund for the repair of the walk-in cooler in the Animal Shelter.
7	011	General Fund	City Manager		\$33,120		Homeless Response Team Vehicle			X	Appropriate Measure P fund for the purchase of a vehicle for the Homeless Response Team.
8	011	General Fund	City Manager		\$439,420		Off-street safe parking program for Recreational Vehicles at 742 Grayson Street and other shelter operational costs		X		Appropriate Measure P funding for the contract amendment with Dorothy Day House to include the operation of homeless shelter for people living in vehicles in an off-street safe parking program for Recreational Vehicles at 742 Grayson Street. Approved by Council on 10/26/2021 through Resolution No. xx.xxx-N.S.
9	011	General Fund	City Manager	\$8,011			Civic Arts Grant			X	Carryover of fund for grant panelist fees.
10	011	General Fund	City Manager	\$39,088			Arts Festival		X		Carryover of fund - Mayor's allocation for Special Events.
11	011	General Fund	City Manager	\$107,787			Visit Berkeley Contract Payments			X	Carryover funds for revenues received in FY 2021 that need to pay Visit Berkeley per contract approved by Council
12	011	General Fund	City Manager		\$70,000		Website Project			X	Appropriate funding for data entry to input pages into the Website project
13	011	General Fund	Finance		\$180,000		Deputy Director of Finance			X	Appropriate funding for a new position in Finance - Deputy Director of Finance
14	011	General Fund	Fire		\$83,000		Priority Dispatching			X	Appropriate funds for the Priority Dispatching Program
15	011	General Fund	Fire		\$150,660		FY15 GEMT Overpayment			X	Appropriate funds to pay for GMT FY15 Audit Overpayment
16	011	General Fund	Fire		\$39,714		Gurneys			X	Appropriate fund for gurney lease.
17	011	General Fund	Health, Housing & Community Svcs.	\$72,730		HHAGFR2201	NBSC Renovations			X	Carryover of funds for the North Berkeley Senior Center Renovation project
18	011	General Fund	Health, Housing & Community Svcs.	\$32,650		HHAGRE2201	Aging Services - Rental Maintenance Fees			X	Carryover of funds for Aging Services to cover maintenance related expenses

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

Attachment 2

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
19	011	General Fund	Health, Housing & Community Svcs.	\$96,744		HHEGFF2201	Aquatic Park Water Quality Testing			X	Carryover of funds for Environmental Health to perform water quality investigative work at Aquatic Park
20	011	General Fund	Health, Housing & Community Svcs.	\$68,158			Dorothy Day House - 742 Grayson Shelter			X	Carryover of funding for Dorothy Day House Contract #32100161. Approved by Council on 04/27/2021 through Resolution No. 69,808-N.S.
21	011	General Fund	Health, Housing & Community Svcs.	\$35,000			Fair Chance Ordinance			X	Carryover funds from FY 2021 to fund a contract for the Fair Chance Ordinance
22	011	General Fund	Health, Housing & Community Svcs.	\$67,425			Square One, Shelter Plus Care, Housing Assistance			X	Carryover of FY 2021 funds to support operating expenses related to the Housing Assistance Program
23	011	General Fund	Health, Housing & Community Svcs.		\$52,037	HHOGFH2201	American African Holistic Resource Center			X	Appropriate funds for the African American Holistic Resource Center
24	011	General Fund	Health, Housing & Community Svcs.	\$2,775		HHPGDP2201	Public Health Disparities			X	Carryover of FY 2021 funds to purchase supplies for additional activities to offset FY21 program deficiencies
25	011	General Fund	Health, Housing & Community Svcs.	\$30,923		HHPGDP2201	Public Health Disparities			X	Carryover of funds to purchase computer equipment to support the Public Health Disparities program
26	011	General Fund	Health, Housing & Community Svcs.	\$10,391		HHPYTH2201	Youth Works			X	Carryover of FY 2021 funds to cover contract related expenses
27	011	General Fund	Health, Housing & Community Svcs.	\$10,210		HHPYTH2201	Youth Works			X	Carryover of FY 2021 funds to purchase computer equipment to support the Youth Works program
28	011	General Fund	Health, Housing & Community Svcs.	\$4,045		HHPYTH2201	Youth Works			X	Carryover of FY 2021 funds to cover relocation costs of the Youth Works program
29	011	General Fund	Health, Housing & Community Svcs.		\$179,551		COLA/CalPERS PEPR coverage		X		Allocation for COLA's, CalPERS, and bonuses for HHCS that cannot be absorbed by grant funds in FY 2022 for labor contracts approved by Council.
30	011	General Fund	Human Resources	\$100,000			Renne Public Law Group Contract			X	Police Accountability & labor negotiations money to FY 2022 to pay for contract amendment in the amount approved Council Resolution No. 69,924-N.S. for contract NTE \$150,000
31	011	General Fund	Human Resources	\$215,000			Sloan, Sakai, LLP Contract			X	Labor Negotiations for SEIU MC, CSU, Leg Aides money to FY 2022 to pay for contract amendment in the amount approved Council Resolution No. 69,926-N.S. for contract NTE \$665,000
32	011	General Fund	Human Resources	\$53,000			Bryce Consulting Contract			X	Class & Comp Studies for Labor Negotiations move money to FY 2022 to pay for contract amendment in the amount approved Council Resolution 69,925-N.S. for contract NTE \$270,000
33	011	General Fund	Human Resources	\$95,000			Bartell Associates LLC Contract			X	Actuarial Services for City's PERS pension plans; move money to FY 2022 to pay for contract amendment in the amount approved Council Resolution No. 69,978-N.S. for contract NTE \$270,000

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

Attachment 2

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
34	011	General Fund	Information Technology	\$40,000			Cyber Leadership and Strategy Solutions			X	Carryover of fund for Cyber Leadership and Strategy Solutions Contracts. Approved by Council on 04/27/2021 per Resolution No. 69,813.
35	011	General Fund	Information Technology	\$263,679			1947 Rent			X	Carryover of fund for IT rent in 1947 Center
36	011	General Fund	Mayor & Council	\$68,751			FY21 Council Carryover		X		FY21 Council Carryover Amount. Approved by Council through Resolution No. 65,540-N.S.
37	011	General Fund	Mayor & Council		\$709,695		Legislative Assistants Salary & Fringe Benefit Increase and One-Time Accretion Payment		X		Appropriate fund for the One-Time Accretion recognition payment for Legislative Assistants related to inclusion of the Legislative Assistant position to SEIU 1021 - CSU/PTRLA Unit. Approved by Council on 06/15/2021 through Resolution 69,928-N.S. Appropriate fund to augment Council Office Salaries budget to fund for one Legislative Assistant position at the top step of the salary range with benefits. Approved by Council on 10/12/2021 through Resolution xx,xxx-N.S.
38	011	General Fund	Mayor & Council		\$30,121		Mayor and Council Annual Salary per Measure JJ		X		Appropriate FY 2022 funds for Measure JJ for the Mayor and Councilmember Salaries and Benefit increases approved by voters on November 3, 2020.
39	011	General Fund	Mayor & Council		\$1,330,000		Security Cameras in the Public Right of way		X		Appropriate funding for a Council Budget Referral by Council member Taplin and Kesarwani. Security Cameras in the Public Right of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas
40	011	General Fund	Mayor & Council		\$300,000		Resolution Recognizing Housing as Human Right		X		Appropriate funding for a Council Budget Referral by Mayor Arreguin, Councilmember Taplin, Harrison, and Hahn. Resolution Recognizing Housing as Human Right, Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley
41	011	General Fund	Mayor & Council		\$100,000		Homeless Outreach Coordinator		X		Appropriate funding for a Council Budget Referral by Councilmember Bartlett for a Homeless Outreach Coordinator for South Shattuck Avenue and Adeline St.
42	011	General Fund	Mayor & Council		\$60,000		Durant Parklet and Telegraph Plaza Improvements		X		Appropriate funding for a Council Budget Referral by Mayor Arreguin and Councilmember Robinson for Durant Parklet and Telegraph Plaza Improvements
43	011	General Fund	Mayor & Council		\$200,000		Berkeley Ceasefire		X		Appropriate funding for a Council Budget Referral by Mayor Arreguin and Councilmember Wengraf, Bartlett, and Taplin for the Berkeley Ceasefire program

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

Attachment 2

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
44	011	General Fund	Non-Departmental	\$91,128			EOC COVID-19			X	Carryover funds from FY 2021 for Pod Storage Containers for Outdoor Recreation Programs and for Portable Toilets
45	011	General Fund	Non-Departmental	\$16,264			FLSA Payment			X	Carryover funds from FY 2021 for FLSA payments settlement
46	011	General Fund	Non-Departmental		\$406,952		Transfer to Workers' Compensation Fund			X	Transfer of Excess Property Transfer Tax Revenue to Capital Improvement Fund and then transferred to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center).
47	011	General Fund	Non-Departmental		\$973,695		Transfer to U1 Fund			X	Transfer of remaining FY 2021 Measure U1 revenues to Measure U1 Fund
48	011	General Fund	Non-Departmental		\$127,430		Salary Adjustment for Department Heads		X		Appropriate funding for salary adjustments for various Department Heads approved by Council,
49	011	General Fund	Non-Departmental		\$3,775,783		FY 2022 General Fund COLAs		X		Appropriate funding for a Council authorized General Fund COLA increases due to new labor MOUs.
50	011	General Fund	Non-Departmental		\$339,008		FY 2022 General Fund PEPRA Ramp Down		X		Appropriate funding for a Council authorized General Fund increases due to PEPRA Ramp Down negotiated in the new labor MOUs.
51	011	General Fund	Parks, Recreation and Waterfront		\$510,000	PRWPK22005	West Campus Pool Filters/Plaster		X		Appropriate funding for the West Campus Filters/Plasters. Approved by Council on 06/29/2021 as part of Mayor's Budget Recommendation per Resolution No. 69,949-N.S.
52	011	General Fund	Parks, Recreation and Waterfront	\$250,000		PRWT122002	African American Holistic Resource			X	Carryover of FY21 project budget fund for the design of the American Holistic Resource Center
53	011	General Fund	Parks, Recreation and Waterfront	\$38,401			Measure P - Homeless Cleanup			X	Carryover funds from FY21 for Measure P related costs - Homeless Cleanup program
54	011	General Fund	Parks, Recreation and Waterfront		\$214,000	PRWRC22001; PRWRC22002	R2 Shift Training; R2 Shift Cancellation		X		Appropriate funds for MOU related increased costs (lump sum payment, shift cancellation, training). SEIU 1021 - CSU/PTRLA Unit. Approved by Council on 07/29/2021 through Resolution 69,990--N.S and Resolution 69,991--N.S.
55	011	General Fund	Parks, Recreation and Waterfront	\$70,000			Official Payments/Credit Card fees			X	Carryover FY21 funds from official payments and credit card fees
56	011	General Fund	Planning	\$136,671			Green Building Program Manager			X	Carryover of FY 2021 funds o cover 50% of cost for a new 2 year FTE, Green Building Program Manager, responsible for developing and facilitating the implementation of local green building codes.

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

Attachment 2

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
57	011	General Fund	Planning	\$125,000			ZORP - Objective Standards for Density / State Housing Law Compliance			X	Carryover of fund for 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.
58	011	General Fund	Planning	\$25,000			Planning Department Equity Consultant			X	Carryover of FY 2021 funds for consultant services to assist with the development of a racial equity analysis toolkit specific to Planning Department services and projects
59	011	General Fund	Planning		\$32,163		Deputy Director of Planning			X	Appropriate funding for a new position in Planning - Deputy Director of Planning
60	011	General Fund	Public Works	\$95,594		PWENBM2104	Old City Hall & Veterans Building Leak Repair			X	Carryover funds from FY 2021 for the Old City Hall and Veterans Building Leak Repair project.
61	011	General Fund	Public Works	\$15,000		PWENCB1907	125-127 UNIV PARKING LOT			X	Carryover FY 2021 funding for continuation of the 125/127 University Ave Parking Lot project (for Parking Enforcement program/staff).
62	011	General Fund	Public Works	\$427,956		PWENCB2102	PSB Cooling Redundancy			X	Carryover funding to continue the project, currently in the design phase.
63	011	General Fund	Public Works	\$5,830		PWENSR1542	Sewer Laterals & CCTV			X	On-going rehabilitation of city-owned sewer laterals
64	011	General Fund	Public Works	\$385,069		PWENUD0906	Underground Utility District #48 Grizzly Peak			X	For on-going utility undergrounding planning for Grizzly Peak.
65	011	General Fund	Public Works	\$162,973		PWENUD1602	Citywide Undergrounding				To continue the Citywide Undergrounding project
66	011	General Fund	Public Works	\$94,543		PWT1CB1901	NBSC SEISMIC RETROFIT T1			X	Carryover FY 2021 funding for continuation of the NBSC Seismic Retrofit project.
67	011	General Fund	Public Works	\$99,897		PWSUCW1901	Fire Safety and Prevention			X	On-going fire safety and prevention, clearing pathways
68	011	General Fund	Public Works	\$679,813			Clean Cities/Illegal Dumping for the Clean and Livable Commons Initiative		X		Carryover GF (and Measure P) funding for continuation of the Clean Cities/Illegal Dumping enhancement for the Clean and Livable Commons Initiative.
69	011	General Fund	Public Works	\$100,000		PWTRCS2003	University Ave Bus Blvd		X		To continue bus stop improvements at University - widen and add seating at Sacramento and Grant, with RRFB at Grant (Council referral 11/27/18)
70	011	General Fund	Public Works	\$4,614		PWTRPL2101	BerkDOT		X		To continue the study of potential BerkDOT or alternate organizational structure (Council referral)
71	011	General Fund	Public Works		\$100,000	PWTRPL2101	BerkDOT		X		To continue the study of potential BerkDOT or alternate organizational structure (Council referral)
72	011	General Fund	Public Works		\$323,807	PWTRTC1902	DWIGHT/CALIFORNIA INTERSECT IMPRV			X	Appropriate balance of Mayor/Council Budget referral from FY 2019 AAO#1 process so that project can continue. Project was put on hold.

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
73	011	General Fund	Public Works	\$20,005		PWTRPL2001	Hopkins Corridor Study			X	Carryover FY 2021 funding for continuation of the Hopkins Corridor Study. Council Budget Referral on 11/27/2018 (FY 2019)
74	011	General Fund	Public Works		\$83,428		Public Restroom			X	Appropriate funds received from Enclave Partners for a public restroom
	011 Total			\$4,405,774	\$10,946,542						
75	016	U1 - Housing	Health, Housing & Community Svcs.		\$100,000		Bay Area Community Land Trust		X		Appropriate funding for BACLT - organizational capacity building. Approved by Council on 06/29/2021 per Resolution No. 69,949-N.S.
76	016	U1 - Housing	Non-Departmental		\$100,000		Landlord Incentives for Section 8 program		X		Appropriate funding for the Landlords Incentives for Section 8 Program Approved by Council on 06/29/2021 per Resolution No. 69,949-N.S.
77	016	U1 - Housing	Non-Departmental		\$946,163		Transfer of Measure U1 Funds to Workers' Compensation Fund		X		Transfer of Measure U1 Revenues to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center).
	016 Total			\$0	\$1,146,163						
78	106	Asset Forfeiture	Police		\$150,000					X	Appropriate funding for additional training needs and travel
	106 Total			\$0	\$150,000						
79	111	Fund Raising Activities	Undefined		\$13,000	HHADMO2201	Meals on Wheels			X	Appropriate funds from Meals on Wheels donations for equipment and operational needs at Senior Centers
80	111	Fund Raising Activities	Undefined		\$5,000	HHADNB2201	North Berkeley Senior Center Donations			X	Appropriate funds from NBSC donations for kitchen equipment
81	111	Fund Raising Activities	Undefined		\$3,000	HHADSB2201	South Berkeley Senior Center Donations			X	Appropriate funds from SBSC donations for kitchen equipment
	111 Total			\$0	\$21,000						
82	113	Gilman Sports Field	Parks, Recreation and Waterfront		\$150,000		Gilman Reserve			X	Appropriate Gilman Sport Field fund for the sports field user fees.
83	113	Gilman Sports Field	Parks, Recreation and Waterfront		\$150,000		Landscape Gardener			X	Appropriate Gilman Sport Field fund for the sports field landscape gardener.
	113 Total			\$0	\$300,000						
84	125	Playground Camp	Parks, Recreation and Waterfront	\$2,910		PRWCP08001	Tuolumne Master Plan			X	Carryover of Playground Camp Fund to complete the construction of Berkeley Tuolumne Camp Project

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
85	125	Playground Camp	Parks, Recreation and Waterfront	\$195,946		PRWCP18001	BTC Detailed Design			X	Carryover of Playground Camp Fund to complete the construction of Berkeley Tuolumne Camp Project
86	125	Playground Camp	Parks, Recreation and Waterfront	\$1,160,051		PRWCP19001	BTC Construction Management			X	Carryover of Playground Camp Fund to complete the construction of Berkeley Tuolumne Camp Project
87	125	Playground Camp	Parks, Recreation and Waterfront		\$536,146	PRWCP19001	BTC Construction Management			X	New appropriation request for Robert E. Boyer Construction at the Berkeley Tuolumne Camp
88	125	Playground Camp	Parks, Recreation and Waterfront		\$2,500	PRWEM160004	Cazadero Camp Landslide			X	Appropriate funding to pay for travel reimbursement for the Cazadero Jensen dorm reconstruction
89	125	Playground Camp	Parks, Recreation and Waterfront	\$393,754		PRWEM160004	Cazadero Camp Landslide			X	Carryover of funds for the Cazadero Dorm rebuild.
90	125	Playground Camp	Parks, Recreation and Waterfront		\$993,166	PRWEM160004	Cazadero Camp Landslide			X	Appropriate Camps funds for the Cazadero Camp Rebuild Project.
91	125	Playground Camp	Parks, Recreation and Waterfront		\$483	PRWEM160004	Cazadero Camp Landslide			X	Appropriate Camps funds to increase the permit fee budget for the Cazadero Camp Rebuild Project.
92	125	Playground Camp	Parks, Recreation and Waterfront		\$705,000	PRWRC18002	Echo Lake Camp ADA Improvements			X	Appropriate funding to pay for work done on the Echo Lake Camp ADA Improvement project
93	125	Playground Camp	Parks, Recreation and Waterfront		\$50,000		Camps Program credit card fees			X	Appropriate Camps fund to pay for the Camps program's credit card processing fees.
	125 Total			\$1,752,661	\$2,287,295						
94	126	State Prop 172	Police		\$500,000					X	Appropriate fund to pay for contracts and related expenses
	126 Total			\$0	\$500,000						
95	127	State Transportation Tax	Public Works		\$39,493		AOS Supervisor (1)			X	Add Accounting Office Specialist Supervisor position to Admin & Fiscal Services division to coordinate payroll issues, lead training, provide payroll entry backup, lead ERMA self entry implementation.
96	127	State Transportation Tax	Public Works	\$609	\$28,009	PWENSD1819	Cordornices Creek @ Kains			X	Carryover State Transportation Tax project budget balance for the Cordornices Creek @ Kains project to work on the close-out phase of the project
97	127	State Transportation Tax	Public Works	\$131,120		PWENSG1801	Measure M LID FY 18 Woolsey			X	To continue the Measure M Low Impact Development Improvements

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
98	127	State Transportation Tax	Public Works	\$44,579		PWENST1902	Surface Seal FY 2019			X	Carryover funding to continue on-going Street Rehabilitation Program
99	127	State Transportation Tax	Public Works	\$659,548		PWENST2101	Street Rehab FY 2021			X	To complete the project, currently in the construction phase.
100	127	State Transportation Tax	Public Works	\$49,483		PWENST2201	Street Rehab FY 2022			X	Carryover of State Transportation Tax Fund for the Street Rehab Project - Design phase
101	127	State Transportation Tax	Public Works	\$100,000		PWENSW2001	FY20 Sidewalk Repair Program			X	Carryover State Transportation Tax project budget balance for the FY20 Sidewalk Repair Program to continue construction phase
102	127	State Transportation Tax	Public Works	\$268,710		PWENSW2002	Sidewalk Shaving FY 2020			X	To continue the sidewalk rehab program
103	127	State Transportation Tax	Public Works	\$105,412		PWTRCS1406	Shattuck Reconfiguration			X	On-going improvements on Shattuck Avenue
	127 Total			\$1,359,461	\$67,502						
104	130	Measure B - Local Streets & Road	Public Works	\$339,986		PWENST2101	Street Rehab FY 2021			X	To complete the project, currently in the construction phase.
105	130	Measure B - Local Streets & Road	Public Works		\$134,674	PWTRBP1707	9th Street Pathway Phase II			X	Appropriate funding to continue construction phase of capital project
	130 Total			\$339,986	\$134,674						
106	131	Measure B - Bike and Pedestrian	Public Works	\$28,423		PWTRCS2002	Transportation Impact Studies			X	Carryover of Measure BB fund for Transportation Impact Studies
	131 Total			\$28,423	\$0						
107	133	Meas F - ALA CT VRF ST AND RD	Public Works	\$150,000	\$70,200	PWENSW2001	FY20 Sidewalk Repair Program			X	Carryover Measure F VRF fund project budget balance and appropriate new funding for the FY20 Sidewalk Repair Program to continue construction phase
108	133	Meas F - ALA CT VRF ST AND RD	Public Works	\$29,800		PWENSW2002	Sidewalk Shaving FY 2020			X	To continue the sidewalk rehab program
109	133	Meas F - ALA CT VRF ST AND RD	Public Works	\$6,690		PWTRCT0918	Ashby/San Pablo Traffic Improvement			X	To continue to improve the Ashby/San Pablo westbound approach
	133 Total			\$186,490	\$70,200						

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
110	134	Measure BB - Local Streets and Road	Public Works		\$100,000	PWSUST2201	Bus Pad Maintenance and Repairs		X		Appropriate fund for Bus Pad Maintenance and Repairs Program as part of FY22 PW Proposed Capital Budget. Approved by Council on 06/29/2021 through Resolution No. 69,949-N.S.
111	134	Measure BB - Local Streets and Road	Public Works	\$50,000		PWTRBP1802	Milvia Bikeway Project			X	Grant match to continue the Milvia Bikeway project
112	134	Measure BB - Local Streets and Road	Public Works	\$28,423		PWTRCS2002	Transportation Impact Studies			X	Carryover of Measure B fund for Transportation Impact Studies
113	134	Measure BB - Local Streets and Road	Public Works	\$4,602		PWTRTC2101	Berkeley Healthy Streets			X	Continue to provide more space for walking and biking while social distancing per COVID protocols
114	134	Measure BB - Local Streets and Road	Public Works	\$9,937		PWENRW2001	Retaining Wall - 1322 Glendale Ave			X	Carryover of Measure BB funds for the retaining wall project at 1322 Glendale Ave
115	134	Measure BB - Local Streets and Road	Public Works	\$172,730		PWENST1902	Surface Seal FY 2019			X	Carryover funding to continue on-going Street Rehabilitation Program
116	134	Measure BB - Local Streets and Road	Public Works	\$443,778		PWENST2101	Street Rehab FY 2021			X	To complete the project, currently in the construction phase.
117	134	Measure BB - Local Streets and Road	Public Works	\$783,000	\$496,800	PWENSW2001	FY20 Sidewalk Repair Program			X	Carryover Measure BB - LS&R fund project budget balance and appropriate new funding for the FY20 Sidewalk Repair Program to continue construction phase
118	134	Measure BB - Local Streets and Road	Public Works		\$700,000		CAP - INFR - ROADWAY/STREETS - Ann St. Rehab			X	New Request to increase baseline
119	134	Measure BB - Local Streets and Road	Public Works		\$459,550	PWTRCS2001	Southside Complete Streets			X	Appropriate funding to continue the Southside Complete Streets project in FY 2022
	134 Total			\$1,492,470	\$1,756,350						
120	135	Meas BB - Bike and Pedestrian	Public Works		\$151,921	PWTRCT1803	NB BART/SACRAMENTO ST COMPLETE ST			X	To continue the project, currently in construction
121	135	Measure BB - Bike and Pedestrian	Public Works		\$370,734	PWTRBP1802	Milvia Bikeway Project			X	Appropriate funding for project budget to continue capital project construction phase.
122	135	Measure BB - Bike and Pedestrian	Public Works	\$144,564		PWTRBP2001	Addison Bike Blvd			X	Grant match to continue the Addison Bike Blvd. project

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
123	135	Measure BB - Bike and Pedestrian	Public Works		\$100,000	PWTRBP2201	MLK JR Way Vision Zero Quick Build		X		Appropriate fund for MLK Jr. way Vision Zero Phase I Quick Build. Approved by Council on 06/30/2022 through Resolution No. 69,473-N.S.
124	135	Measure BB - Bike and Pedestrian	Public Works	\$45,976		PWTRCT0918	Ashby/San Pablo Traffic Improvement			X	To continue to improve the Ashby/San Pablo westbound approach
	135 Total			\$190,540	\$622,655						
125	138	Parks Tax	Parks, Recreation and Waterfront	\$7,967		PRWPK14002	John Hinkel Park (Lower)			X	Carryover FY 2021 project budget balance for the John Hinkel Park project.
126	138	Parks Tax	Parks, Recreation and Waterfront	\$4,800		PRWPK15002	James Kenney Play Area			X	Carryover of FY 2021 project budget balance for the James Kenney Play Area project.
127	138	Parks Tax	Parks, Recreation and Waterfront		\$3,535	PRWPK15002	James Kenney Play Area			X	Appropriate new funding for inspection charges for the James Kenney Play Area project.
128	138	Parks Tax	Parks, Recreation and Waterfront	\$162,061		PRWPK19003	King School Park Reno			X	Carryover FY 2021 project budget balance to continue the King School Park Renovation project in FY 2022
129	138	Parks Tax	Parks, Recreation and Waterfront		\$35,000	PRWPK19004	John Hinkel Amphitheater Area			X	Appropriate new funding of Parks Tax Fund for the John Hinkel Amphitheater Area Project to close gap in project budget
130	138	Parks Tax	Parks, Recreation and Waterfront	\$770,127		PRWPK19004	John Hinkel Amphitheater Area			X	Carryover of Parks Tax Fund for the John Hinkel Amphitheater Area Project
131	138	Parks Tax	Parks, Recreation and Waterfront	\$487,900		PRWPK20003	Ohlone Park Improvements			X	Carryover of FY 2021 funding for the continued work on the Ohlone Park Improvements project
132	138	Parks Tax	Parks, Recreation and Waterfront	\$185,000		PRWPK21005	Skate Park			X	Carryover for Skate Park Fencing/Improvements.
133	138	Parks Tax	Parks, Recreation and Waterfront	\$85,000		PRWPP15002	Aquatic Park South Pathways/Parking Lot			X	Carryover of FY 2021 funding for the Aquatic Park Pathways/Parking Lot project (Aquatic Rowing Club parking lot)
134	138	Parks Tax	Parks, Recreation and Waterfront	\$129		PRWT119001	Aquatic Park Tide Tubes 1a			X	Carryover of FY 2021 funding for the continued work on the Aquatic Park Tide Tubes 1a project
135	138	Parks Tax	Parks, Recreation and Waterfront	\$13,841		PRWT119005	Live Oak Community Center			X	Carryover of FY 2021 project budget balance for the Live Oak Community Center project.

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
136	138	Parks Tax	Parks, Recreation and Waterfront	\$2,681		PRWT119009	San Pablo Park Renovation Projects			X	Carryover of Parks Tax Fund for the San Pablo Park Renovation Project
137	138	Parks Tax	Parks, Recreation and Waterfront	\$260,013		PRWT119009	San Pablo Park Renovation Projects			X	Carryover of Parks Tax Fund for the San Pablo Park Renovation Project
138	138	Parks Tax	Parks, Recreation and Waterfront	\$192,299		PRWT119012	Rose Garden			X	Carryover of Parks Tax Fund for the Rose Garden Project
	138 Total			\$2,171,817	\$38,535						
139	140	Measure GG - Fire Preparation Tax	Public Works		\$295,320		East Bay Regional Communications Authority Radio Operating			X	East Bay Regional Communications Authority Radio Operating and Service payments
	140 Total			\$0	\$295,320						
140	142	St Light Assmt	Public Works	\$12,460		PWENEL2101	Street Light Master Plan			X	Continue ongoing planning
141	142	St Light Assmt	Public Works	\$240,531		PWFME1604	Street Light Program			X	Ongoing maintenance and replacement of Streetlight program
	142 Total			\$252,991	\$0						
142	143	Business Economic Development	City Manager		\$495,000		Revolving Loan Fund and Resiliency Loan Program		X		appropriate fund for the Revolving Loan Fund and Resiliency Loan Program. Approved by Council on 10/27/2020 through Resolution No. 69,590-N.S.
143	143	Business Economic Development	City Manager		\$25,000		Resiliency Loan Program (RLP)		X		appropriate fund for the Resiliency Loan Program (RLP). Approved by Council on 10/27/2020 through Resolution No. 69,590-N.S.
	143 Total			\$0	\$520,000						
144	145	Bayer - Miles Lab	Parks, Recreation and Waterfront	\$943		PRWPP15002	Aquatic Park South Pathways/Parking Lot			X	Carryover of FY 2021 funding for the Aquatic Park Pathways/Parking Lot project
	145 Total			\$943	\$0						
145	147	UC Settlement	Public Works	\$121,164	\$792,942	PWTRCS2001	Southside Complete Streets			X	Appropriate funding to continue the Southside Complete Streets project in FY 2022
146	147	UC Settlement	Multiple Departments		\$4,100,000		UC-COB LRDP Settlement Agreement		X		Appropriate UC Settlement funding for Fire and Other City Services (section 3.4.1) and Capital projects and other services benefitting residents living within 1/2 mile of UC main campus boundaries and Clark Kerr. Including, but not limited to joint BPD-UCPD Telegraph Area Beat (section 3.4.2)

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
	147 Total			\$121,164	\$4,892,942						
147	148	Cultural Trust	City Manager	\$14,902			OED Program paid for by Cultural Trust Fund			X	Carryover funds from FY 2021 to pay for OED program invoices slated to be paid out of the Cultural Trust Fund.
148	148	Cultural Trust	City Manager	\$25,000			OED Program paid for by Cultural Trust Fund			X	Carryover funds from FY 2021 to fund a contract slated to be paid out of the Cultural Trust program
149	148	Cultural Trust	City Manager	\$50,000			OED BAWP Grant Program			X	Carryover of FY 2021 funds for continuance of the BAWP Grant Award Program
150	148	Cultural Trust	City Manager	\$732,577			Various Public Art Projects			X	These funds - generated from fees paid by private developers in lieu of compliance with the Public Art in Private Development policy - are used to finance public art projects and maintenance. There are a number of pending Public Art projects to utilize this funding. This funding should be carried over from year to year, similar to the historic practice with the Public Art Fund.
	148 Total			\$822,479	\$0						
151	149	Private Party Sidewalks	Public Works	\$150,000	\$100,000	PWENSW2001	FY20 Sidewalk Repair Program			X	Carryover Private Party Sidewalks fund project budget balance and appropriate new funding for the FY20 Sidewalk Repair Program to continue construction phase
	149 Total			\$150,000	\$100,000						
152	150	Public Art	City Manager	\$30,085	\$52,709		Various public art projects			X	There are a number of pending Public Art projects to utilize this funding. Historically this funding is carried over from year to year, in accordance with the City's Public Art policy.
	150 Total			\$30,085	\$52,709						
153	159	City Operational Public Safety	Police		\$200,000						Appropriate fund to pay for police contracts and expenses
	159 Total			\$0	\$200,000						
154	162	Shelter Operations	City Manager		\$20,953		Lighting Work at Grayson/Horizon		X		Appropriate Shelter Operations fund for the Lighting Work for Grayson/Horizon. Approved by Council to accept /donations for the Berkeley Homeless Fund on 10/17/2017.

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
155	162	Shelter Operations	City Manager		\$150,000		Off-street safe parking program for Recreational Vehicles at 742 Grayson Street		X		Appropriate donation from Berkeley Commons Owner LLC. for the contract amendment with Dorothy Day House to include the operation of homeless shelter for people living in vehicles in an off-street safe parking program for Recreational Vehicles at 742 Grayson Street. Approved by Council on 10/26/2021 through Resolution No. xx,xxx-N.S.
	162 Total			\$0	\$170,953						
156	302	Operating Grants - State	Health, Housing & Community Svcs.	\$228,905			Permanent Local Housing Allocation (PLHA)			X	Carryover of funds for Permanent Local Housing Allocation Program.
	302 Total			\$228,905	\$0						
157	305	Capital Grants - Federal	Public Works	\$947,225	\$6,115,293	PWTRCS2001	Southside Complete Streets			X	Appropriate funding to continue the Southside Complete Streets project in FY 2022
	305 Total			\$947,225	\$6,115,293						
158	306	Capital Grants - State	Public Works	\$1,983,091		PWTRBP1802	Milvia Bikeway Project			X	Carryover project budget balance from FY 2021 to continue capital project construction phase.
159	306	Capital Grants - State	Public Works		\$130,000	PWTRBP2201	MLK JR Way Vision Zero Quick Build		X		Appropriate fund for MLK JR Way Vision Zero Quick Build Project. Approved by Council on 06/30/2020 through Resolution No. 69,473-N.S.
160	306	Capital Grants - State	Public Works	\$206,486		PWTRBP2201	Addison Bike Blvd		X		Grant for the Addison Bike Blvd project
	306 Total			\$2,189,577	\$130,000						
161	309	Ots DUI Enfor'mt Educ Prg	Police		\$180,000				X		Appropriate fund from the Federal OTS grant. Approved by Council on 11/09/2021 through Resolution No. xx,xxx-N.S.
	309 Total			\$0	\$180,000						
162	311	ESG	Health, Housing & Community Svcs.	\$2,112,000			ESG-CV Alaco Safer Ground Ct		X		Appropriate fund from the Emergency Solutions Grant for housing services. Approved by Council on 9/15/2020 through Resolution No. 69,563-N.S.
	311 Total			\$2,112,000	\$0						
163	312	Health (General)	Health, Housing & Community Svcs.		\$25,255	HHPIZC2201	Immunization COVID-19 Grant (Round 2)		X		Appropriate additional Health (General) fund for Immunization COVID-19 Grant Program (Round 2). Approved by Council on 05/12/2020 through Resolution No. 69,383-N.S.

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
164	312	Health (General)	Health, Housing & Community Svcs.		\$953,730	HHPIZC2202	Immunization COVID-19 Grant (Round 3)		X		Appropriate additional Health (General) fund for Immunization COVID-19 Grant Program (Round 3). Approved by Council on 05/12/2020 through Resolution No. 69,383-N.S.
165	312	Health (General)	Health, Housing & Community Svcs.		\$953,730	HHPIZC2203	Immunization COVID-19 Grant (Round 4)		X		Appropriate additional Health (General) fund for Immunization COVID-19 Grant Program (Round 4). Approved by Council on 05/12/2020 through Resolution No. 69,383-N.S.
166	312	Health (General)	Health, Housing & Community Svcs.		\$8,182	HHPLED2201	Public Health State Lead Program		X		Appropriate fund for Public Health State Lead Program. Approved by Council on 11/19/2019 through Resolution No. 69,181-N.S.
	312 Total			\$0	\$1,940,897						
167	315	Mental Health Services Act	Health, Housing & Community Svcs.		\$150,000	HHMAAS2201	MHSA-PEI African American Success		X		Appropriate Mental Health Services Act fund for contract with Berkeley Unified School District (Mental Health Consolidated Contract). Approved by Council on 09/14/2021 through Resolution No. 70,001-N.S.
168	315	Mental Health Services Act	Health, Housing & Community Svcs.		\$33,708	HHMCSA2201	CSS Admin			X	Appropriate Mental Health Services Act fund to pay for rent related expenses at MH clinics on University Ave. and Adeline Ave.
169	315	Mental Health Services Act	Health, Housing & Community Svcs.		\$387,156	HHMPCE2201	MHSA-PEI Community ED & Support		X		Appropriate Mental Health Services Act fund for contract with Pacific Center for Human Growth. Approved by Council on 3/30/2021 through Resolution No. 69,769-N.S.
170	315	Mental Health Services Act	Health, Housing & Community Svcs.		\$95,000	HHMPDM2201	MHSA PEI-Dynamic Mindfulness		X		Appropriate Mental Health Services Act fund for contract with Berkeley Unified School District (Mental Health Consolidated Contract). Approved by Council on 09/14/2021 through Resolution No. 70,001-N.S.
171	315	Mental Health Services Act	Health, Housing & Community Svcs.		\$20,854	HHPMHS2201	AmeriCorps			X	Appropriate fund to establish AmeriCorps program budget
	315 Total			\$0	\$686,718						
172	316	Health (Short Doyle)	Health, Housing & Community Svcs.		\$56,040	HHMMCM2201	Medi-Cal Systemwide			X	Appropriate Mental Health Services Act fund to pay for rent related expenses at MH clinics on University Ave
	316 Total			\$0	\$56,040						
173	318	Alcoholic Beverage Control Grant	Police		\$72,440				X		Appropriate fund from the ABC grant. Approved by Council on 9/14/2021 through Resolution No. 70,002-N.S.
	318 Total			\$0	\$72,440						

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Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
174	321	C.F.P. Title X	Health, Housing & Community Svcs.		\$114,914	HHPTIX2201	2021-2022 Title X Family Planning Services		X		Appropriate grant funding for Title X Family Planning Services for the period April 1, 2021 to March 31, 2022. Approved by Council on 05/11/2021 through Resolution No. 69,842-N.S.
	321 Total			\$0	\$114,914						
175	326	Alameda County Grants	Health, Housing & Community Svcs.		\$2,884	HHPTOB2201	County Tobacco Program			X	Appropriate fund for the Tobacco Prevention Program
	326 Total			\$0	\$2,884						
176	329	CA Integrated Waste Management	Public Works		\$13,693		Used Oil Program			X	Appropriate Public Works portion of CA Integrated Waste Management Fund for the Used Oil Program
	329 Total			\$0	\$13,693						
177	334	CSBG	Health, Housing & Community Svcs.	\$161,181			CSBG - CARES			X	Carryover of CSBG funds for CARES grant
178	334	CSBG	Health, Housing & Community Svcs.		\$28,250		CSBG 2021 DISC		X		Appropriate fund for the Community Services Block Grant Fund Contract No. 21F-4403. Approved by Council on 06/15/2021 through Resolution No. 69,923-N.S.
179	334	CSBG	Health, Housing & Community Svcs.		\$40,370		CARES DISC		X		Appropriate fund for revenue contract amendment with State of CA Department of Community Services and Development. Approved by Council on 09/15/2020 through Resolution No. 69,550-N.S.
	334 Total			\$161,181	\$68,620						
180	336	One Time Grant: No Cap	City Manager		\$50,000		San Francisco Foundation support for affordable housing		X		Appropriate grant funding from the San Francisco Foundation support for 100% affordable housing at BART stations to pay for consultant
181	336	One Time Grant: No Cap	Health, Housing & Community Svcs.	\$209,254	\$821,233		ELC COVID-19 Grant		X		Carryover and new appropriation of the ELC COVID-19 grant to continue work in FY 2022
182	336	One Time Grant: No Cap	Health, Housing & Community Svcs.		\$116,640		CA Equitable Recovery Initiative		X		Appropriate fund from the CA Equitable Recovery Initiative Grant. Approved by Council on 11/09/2021 through Resolution No. xx,xxx-N.S.
183	336	One Time Grant: No Cap	Health, Housing & Community Svcs.	\$65,000			Prop 64 - Grant			X	Carryover of Grant funds for misc. - professional services
184	336	One Time Grant: No Cap	Health, Housing & Community Svcs.	\$68,975			Prop 64 - Grant			X	Carryover of Grant funds for youth salary costs
185	336	One Time Grant: No Cap	Health, Housing & Community Svcs.	\$42,446			Prop 64 - Grant			X	Carryover of Grant funds for salary costs

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186	336	One Time Grant: No Cap	Health, Housing & Community Svcs.	\$585,000			Prop 64 - Grant			X	Carryover of Grant funds for community agency contracts
187	336	One Time Grant: No Cap	Health, Housing & Community Svcs.	\$139			Prop 64 - Grant			X	Carryover of Grant funds for misc.
188	336	One Time Grant: No Cap	Information Technology		\$199,485		Administrative Assistant for COVID Support		X		Appropriate fund to hire temporary staff (Administrative Assistant) in IT Department to support COVID-19 Response program in partnership with HHCS/Public Health. Approved by Council on 09/22/2020 through Resolution No. 69,567-N.S.
189	336	One Time Grant: No Cap	Mayor & Council	\$7,500			Grant for Paid Internships		X		Carryover of fund or the Chancellor's Community Partnership Fund Grant for Paid Internships. Approved by Council on 09/15/2020 through Resolution No. 69,562-N.S.
190	336	One Time Grant: No Cap	Parks, Recreation and Waterfront	\$107,275		PRWPK20005	Urban Greening Grant			X	Carryover FY 2021 grant fund to continue the Urban Greening Grant project.
191	336	One Time Grant: No Cap	Parks, Recreation and Waterfront		\$229,294	PRWPK20005	Urban Greening Grant			X	Appropriate fund for the Urban Greening Tree Planting Program
192	336	One Time Grant: No Cap	Parks, Recreation and Waterfront	\$9,266		PRWT119007	Pier-Ferry Facility Study			X	Carryover of grant funds for continuation of the Pier - Ferry Facility Study
193	336	One Time Grant: No Cap	Planning		\$750,000					X	Appropriate grant funding for PDA Planning for San Pablo Ave Specific Plan . Approved by Council on 07/13/2021 through Resolution No. 69,953-N.S.
194	336	One Time Grant: No Cap	Planning		\$158,506					X	Appropriate HEAP grant funding for Housing Element. Approved by Council on 07/13/2021 through Resolution No. 69,953-N.S.
195	336	One Time Grant: No Cap	Police	\$312,284						X	Carryover of grant funds for the Sexual Assault Program
196	336	One Time Grant: No Cap	Police		\$135,462				X		Appropriate CHP Cannabis Tax Fund Law Enforcement Grant fund. Approved by Council on 07/13/2021 through Resolution No. 69,954-N.S.
197	336	One Time Grant: No Cap	Public Works	\$18,382	\$95,200	PWENSD1819	Cordornices Creek @ Kains			X	Carryover One-Time Grant fund project budget balance and appropriate additional funding for the Cordornices Creek @ Kains project to work on the close-out phase of the project
198	336	One Time Grant: No Cap	Public Works	\$72,373		PWSUCC2106	Illegal Dumping Mattress Grant			X	Carryover One-Time Grant fund project budget balance for the Illegal Dumping Mattress project
	336 Total			\$1,497,894	\$2,555,820						

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199	339	MTC	Parks, Recreation and Waterfront	\$2,665		PRWPP15001	Bay Trail Extension III			X	Carryover of MTC grant funds for continuation of the Bay Trail Extension III project
200	339	MTC	Public Works		\$24,000	PWTRPK1401/1706	Intern for goBerkeley SmartSpace			X	intern to support the grant-funded goBerkeley SmartSpace project starting this fall (grant fund 339 @ 80%)
	339 Total			\$2,665	\$24,000						
201	344	Caltrans Grant	Public Works		\$7,759	PWTRBP1707	9th Street Pathway Phase II			X	Appropriate funding to continue construction phase of capital project
202	344	Caltrans Grant	Public Works	\$490,789		PWTRCT1803	NB BART/SACRAMENTO ST COMPLETE ST			X	To continue the project, currently in construction
	344 Total			\$490,789	\$7,759						
203	347	Shelter + Care	Health, Housing & Community Svcs.		\$30,723	HHASPF2201	AG Shelter Plus			X	Appropriate funding to support small operational budget needs through the Shelter Plus Care grant
	347 Total			\$0	\$30,723						
204	350	Bio-Terrorism Grant	Health, Housing & Community Svcs.	\$114,621		HHPWFD2201	Covid-19 Response		X		Carryover of grant funds for Covid-19 Preparedness Public Health Response. Approved by Council on 05/12/2020 through Resolution No. 69,385-N.S.
205	350	Bio-Terrorism Grant	Health, Housing & Community Svcs.		\$229,931	HHPWFD2201	Public Health Workforce Development		X		Appropriate funding for the Public Health Preparedness Workforce Development grant for the period of 7/1/21-6/30/23. Approved by Council on xx/xx/xxxx through Resolution No. xx,xxx-N.S.
	350 Total			\$114,621	\$229,931						
206	351	UASI Regional Fund	Fire		\$9,193		UASI Grant			X	Carryover of UASI grant funds for fire operational needs
	351 Total			\$0	\$9,193						
207	501	Capital Improvement	City Manager		\$53,350		Center Street Garage Public Art			X	Appropriate fund for the Center Street Garage Public Art
208	501	Capital Improvement	Parks, Recreation and Waterfront	\$547,000		PRWWF20005	O & K Dock Electrical			X	Carryover of funds for the O & K Dock Electrical Project
209	501	Capital Improvement	Public Works	\$139,739		PWENBM2002	FS#3 Roof Upgrade			X	Repairs deferred due to other more pressing projects, will now continue in FY 2022
210	501	Capital Improvement	Public Works	\$17,327		PWENBM2003	FS#4 Roof Upgrade			X	Repairs deferred due to other more pressing projects, will now continue in FY 2022
211	501	Capital Improvement	Public Works	\$14,744		PWENBM2004	MHS Wall Repair			X	On-going maintenance and monitoring

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212	501	Capital Improvement	Public Works	\$9,879		PWENBM2005	CY Lift Pits - Bldg. G			X	Carryover of Capital Improvement fund for the CY Lift Pits Decommissioning Bldg. G-MTC Shop
213	501	Capital Improvement	Public Works	\$7,000		PWENBM2101	COVID-19 HVAC Assessment			X	To continue assessment of HVAC throughout City buildings
214	501	Capital Improvement	Public Works	\$27,236		PWENBM2103	FS#7 Fire Alarm CP Replacement			X	To continue project in FY 2022
215	501	Capital Improvement	Public Works	\$37,500		PWENCB1907	125-127 UNIV PARKING LOT			X	Carryover FY 2021 funding for continuation of the 125/127 University Ave Parking Lot project (for Parking Enforcement program/staff).
216	501	Capital Improvement	Public Works	\$35,460		PWENCB2103	Old City Hall & Veterans NLRHA			X	Carryover of Capital Improvement fund for the Architectural Seismic Services at Old City Hall & Veterans NLRHA
217	501	Capital Improvement	Public Works	\$405,144		PWENCB2105	STAIR Center ADA			X	To continue the STAIR Center ADA project
218	501	Capital Improvement	Public Works	\$388,633		PWENEN2001	EV Charging Station			X	To continue the EV Charging Station project
219	501	Capital Improvement	Public Works	\$368,103		PWENRW2001	Retaining Wall - 1322 Glendale Ave			X	Carryover of Measure BB funds for the retaining wall project at 1322 Glendale Ave
220	501	Capital Improvement	Public Works	\$123,765		PWENSG1801	Measure M LID FY 18 Woolsey			X	To continue the Measure M Low Impact Development Improvements
221	501	Capital Improvement	Public Works	\$120,625		PWENSR1542	Sewer Laterals & CCTV			X	On-going rehabilitation of city-owned sewer laterals
222	501	Capital Improvement	Public Works	\$50,000		PWENSW2002	Sidewalk Shaving FY 2020			X	To continue the sidewalk rehab program
223	501	Capital Improvement	Public Works	\$91,637		PWENUD0906	Underground Utility District #48 Grizzly Peak			X	Carryover of Capital Improvement fund for the design of the Underground Utility District (UUD) No. 48 at Grizzly Peak
224	501	Capital Improvement	Public Works	\$1,132,958			Fac CIP Baseline			X	Carryover of Fac CIP Baseline Budget to continue and complete on-going projects
225	501	Capital Improvement	Public Works	\$94,612		PWENST2001	Street Rehab FY 2020			X	Carryover Capital Improvement fund project budget balance for the Street Rehab FY 2020 project to continue construction phase
226	501	Capital Improvement	Public Works	\$532,933		PWENST2101	Street Rehab FY 2021			X	To complete the project, currently in the construction phase.
227	501	Capital Improvement	Public Works	\$971,078		PWENSW2001	FY20 Sidewalk Repair Program			X	Carryover Capital Improvement fund project budget balance for the FY20 Sidewalk Repair Program to continue construction phase
228	501	Capital Improvement	Public Works	\$480,587		PWTRCT0918	Ashby/San Pablo Traffic Improvement			X	To continue to improve the Ashby/San Pablo westbound approach
229	501	Capital Improvement	Public Works	\$27,171		PWTRTC2101	Berkeley Healthy Streets			X	Continue to provide more space for walking and biking while social distancing per COVID protocols
230	501	Capital Improvement	Public Works	\$37,719		PWTRTC1301	Traffic Calming Program			X	Carryover CIP funding for the Traffic Calming program

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	501 Total			\$5,660,850	\$53,350						
231	506	Meas M - St and Watershed Impr	Public Works	\$12,216		PWENSG1801	Measure M LID FY 18 Woolsey			X	To continue the Measure M Low Impact Development Improvements
	506 Total			\$12,216	\$0						
232	511	Measure T1	City Manager	\$3,940			T1 Public Art Projects			X	Carryover of fund for the identification signage for the Public Art projects at North Berkeley Senior Center and San Pablo park.
233	511	Measure T1	Parks, Recreation and Waterfront	\$31,820		PRWT119001	Aquatic Park Tide Tubes 1a			X	Carryover of FY 2021 T1 funding for the continued work on the Aquatic Park Tide Tubes 1a project
234	511	Measure T1	Parks, Recreation and Waterfront	\$211,156	\$600,000	PRWT119004	Grove Park Phase 2			X	Carryover and new appropriation of T1 funds to continue the Grove Park Phase 2 project
235	511	Measure T1	Parks, Recreation and Waterfront	\$17,907		PRWT119005	Live Oak Community Center			X	Carryover of FY 2021 project budget balance for the Live Oak Community Center project.
236	511	Measure T1	Parks, Recreation and Waterfront	\$2,998		PRWT119006	University Ave, Marina, Spinnaker St			X	Carryover of T1 funds to continue the University Ave, Marina, and Spinnaker Streets project
237	511	Measure T1	Parks, Recreation and Waterfront	\$4,992		PRWT119009	San Pablo Park Renovation Projects			X	Carryover of Parks Tax Fund for the San Pablo Park Renovation Project
238	511	Measure T1	Parks, Recreation and Waterfront	\$27,725		PRWT119010	Citywide Restroom Assessment			X	Carryover to complete Citywide Restroom Assessment project.
239	511	Measure T1	Parks, Recreation and Waterfront	\$225,000		PRWT119012	Rose Garden			X	Carryover of Parks Tax Fund for the Rose Garden Project
240	511	Measure T1	Public Works		\$300,000	PWENSD2103	Storm Drain: Marin, Virginia and Spruce			X	Appropriation of Measure T1 fund for Storm Drain Improvements: Marin, Virginia and Spruce
241	511	Measure T1	Public Works	\$15,580		PWT1CB1901	NBSC Seismic Retrofit - T1			X	Carryover of Measure T1 fund for North Berkeley Senior Center (NBSC) Legal fees.
242	511	Measure T1	Public Works	\$415,951		PWT1CB1901	NBSC Seismic Retrofit - T1			X	Carryover FY 2021 funding for continuation of the NBSC Seismic Retrofit project.
243	511	Measure T1	Public Works	\$100,000		PWT1CB2201	South Berkeley Senior Center			X	Unencumbered carryover from FY21 to FY22 to continue the SB Senior Center project
244	511	Measure T1	Public Works	\$200,000		PWT1CB2202	Restrooms in the ROW (2-3)			X	Unencumbered carryover from FY21 to FY22 to continue the Restrooms in the ROW (2-3) project
245	511	Measure T1	Public Works	\$300,000		PWT1CB2203	1947 Center St Improvements			X	Unencumbered carryover from FY21 to FY22 to continue the 1947 Center St Improvements project

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246	511	Measure T1	Public Works	\$200,000		PWT1CB2204	Fire Station #2 Improvements			X	Unencumbered carryover from FY21 to FY22 to continue the Fire Station #2 Improvements project
247	511	Measure T1	Public Works	\$200,000		PWT1CB2205	Fire Station #6 Improvements			X	Unencumbered carryover from FY21 to FY22 to continue the Fire Station #6 Improvements project
248	511	Measure T1	Public Works	\$400,000		PWT1CB2206	PW Corp Yard Improvements			X	Carryover FY 2021 funding for continuation of the PW Corporation Yard Improvements project.
249	511	Measure T1	Public Works	\$177,907		PWT1EL1910	Marina CY Electrical Upgrade			X	Carryover of Measure T1 fund for Marina Electrical CY Upgrade
250	511	Measure T1	Public Works		\$441,410	PWT1ST1908	T1 Streets: Monterey and Ward			X	Funds needed to continue the T1 Streets Project: Monterey & Ward
	511 Total			\$2,534,975	\$1,341,410						
251	512	Meas O Affordable Housing	Public Works	\$303,545		PWENBM2110	Berkeley Way Observer			X	To continue project. Project deferred in FY 2020
	512 Total			\$303,545	\$0						
252	601	Zero Waste	Public Works		\$39,493		AOS Supervisor (1)			X	Add Accounting Office Specialist Supervisor position to Admin & Fiscal Services division to coordinate payroll issues, lead training, provide payroll entry backup, lead ERMA self entry implementation.
253	601	Zero Waste	Public Works		\$240,973		Field Reps (2)			X	Establish 2 new field reps for outreach and coordination for SB 1383 implementation
	601 Total			\$0	\$280,466						
254	607	Marina - Dept. of Boating & Waterway	Parks, Recreation and Waterfront	\$32,980		PRWWF20006	DBW SAVE Program			X	Carryover of fund for the DBW SAVE Grant Program
	607 Total			\$32,980	\$0						
255	608	Marina Operations	Parks, Recreation and Waterfront	\$34,509		PRWPP15001	Bay Trail Extension III			X	Carryover of Marina funds for continuation of the Bay Trail Extension III project
256	608	Marina Operations	Parks, Recreation and Waterfront	\$1,440,627		PRWT119006	University Ave, Marina, Spinnaker St			X	Carryover of Marina funds to continue the University Ave, Marina, and Spinnaker Streets project
257	608	Marina Operations	Parks, Recreation and Waterfront	\$1,075		PRWT119007	Pier-Ferry Facility Study			X	Carryover of Marina funds for continuation of the Pier - Ferry Facility Study
258	608	Marina Operations	Parks, Recreation and Waterfront	\$48,812		PRWWF17003	S. Cove Accessible Ramp			X	Carryover of FY 2021 funding for the S. Cove Accessible Ramp

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259	608	Marina Operations	Parks, Recreation and Waterfront	\$929		PRWWF19001	Waterfront Master Plan			X	Carryover of Marina Operations fund for the Waterfront Master Plan
260	608	Marina Operations	Parks, Recreation and Waterfront		\$41,113	PRWWF19004	Hs Lordship Renovation and operations			X	Appropriate fund for FY22 operational expenses at 199 Seawall Drive (Hs Lordship)
261	608	Marina Operations	Parks, Recreation and Waterfront	\$50,000		PRWWF19004	Hs Lordship Renovation and operations			X	Carryover of Marina Operations funds for the Collier Contract; liquidated in an ERMA error in FY21
262	608	Marina Operations	Parks, Recreation and Waterfront	\$5,658		PRWWF19005	Small Dock Replacement			X	Carryover of FY21 funding for Small Dock Replacement project.
263	608	Marina Operations	Parks, Recreation and Waterfront	\$649,950		PRWWF20005	O & K Dock Electrical			X	Carryover of funds for the O & K Dock Electrical Project
264	608	Marina Operations	Parks, Recreation and Waterfront	\$4,132		PRWWF20012	Waterfront Bike Lockers			X	Carryover of Marina Operations Fund for Waterfront Bike Lockers
265	608	Marina Operations	Parks, Recreation and Waterfront	\$10,000		PRWWF21002	Marina Fund Minor Maintenance			X	Carryover of fund for the Bellingham (contingency) Contract
266	608	Marina Operations	Parks, Recreation and Waterfront	\$20,011		PRWWF21003	FY21 Finger dock Replacement			X	Carryover fund for continuation of the FY21 Finger dock Replacement project in FY 2022
267	608	Marina Operations	Parks, Recreation and Waterfront	\$24,236		PRWWF21005	Restroom Fencing			X	Carryover of FY21 funding for Restroom Fencing at the Marina
268	608	Marina Operations	Parks, Recreation and Waterfront	\$100,000		PRWWF21007	Waterfront Key FOB System			X	Carryover fund for continuation of the Waterfront Key FOB System project in FY 2022
269	608	Marina Operations	Parks, Recreation and Waterfront		\$300,000	PRWWF22002	Waterfront Dredging			X	Appropriate fund for the Waterfront Dredging Project
270	608	Marina Operations	Parks, Recreation and Waterfront	\$3,696		PRWWF20006	DBW SAVE Program			X	Carryover of fund for the DBW SAVE Grant Program
271	608	Marina Operations	Parks, Recreation and Waterfront	\$4,200		PRWWF21006	DBW 2020 SAVE Grant			X	Carryover of fund for the DBW 2020 SAVE Grant Program
272	608	Marina Operations	Parks, Recreation and Waterfront	\$18,794			Bailey Fence			X	Carryover of Marina Operations fund for Bailey Fence

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	608 Total			\$2,416,629	\$341,113						
273	611	Sanitary Sewer Operation	Public Works		\$39,493		AOS Supervisor (1)			X	Add Accounting Office Specialist Supervisor position to Admin & Fiscal Services division to coordinate payroll issues, lead training, provide payroll entry backup, lead ERMA self entry implementation.
274	611	Sanitary Sewer Operation	Public Works	\$50,572		PWENSR2004	SS Rehab W. Frontage Road			X	Carryover of funds for the Sanitary Sewer Rehab W. Frontage Road I-80 Crossing project
275	611	Sanitary Sewer Operation	Public Works	\$35,784		PWENSR2103	SS Rehab Walnut, Spruce, et al.			X	Carryover funds for payment of on-call land surveying services and on-call inspection services for SS Rehab Walnut, Spruce et al project.
276	611	Sanitary Sewer Operation	Public Works	\$247,357		PWENSR2203	SS Rehab Euclid Grizzly Peak			X	Carryover funds for the Euclid Avenue, Grizzly Peak Blvd, et al. Sewer Rehabilitation Project
	611 Total			\$333,713	\$39,493						
277	616	Clean Storm Water	Public Works	\$74,166		PWENSD2001	474 Boynton Storm Drain			X	To continue storm drain repair at 474 Boynton
278	616	Clean Storm Water	Public Works	\$829,741		PWENSD2103	Storm Drain Improvements FY 2021			X	Carryover FY 2021 funding for continuation of the Storm Drain Impartments FY 2021 project (Marin, Spruce & Virginia).
	616 Total			\$903,907	\$0						
279	621	Permit Service Center	Planning		\$42,917					X	Appropriate fund to support the Accela Contract amendment
280	621	Permit Service Center	Planning	\$136,671						X	Carryover of PSC funds to cover 50% of cost for a new 2 year FTE, Green Building Program Manager, responsible for developing and facilitating the implementation of local green building codes.
281	621	Permit Service Center	Planning		\$321,093					X	Appropriate fund to pay for back rent at 1947 Center, 5th floor
282	621	Permit Service Center	Public Works	\$50,000			Pavement Engineering Support			X	Carryover FY 2021 funding for consultant engineering support for the Pavement program
	621 Total			\$186,671	\$364,010						
283	622	United Program (CUPA)	Planning		\$4,565					X	Appropriate fund to support the Accela Contract amendment
	622 Total			\$0	\$4,565						
284	627	Off-Street Parking	Public Works	\$120,300		PWENCB2001	Telegraph/Channing Garage Elevator Upgrade			X	On-going project currently in design phase

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285	627	Off-Street Parking	Public Works		\$6,000	PWTRPK1401/1706	Intern for goBerkeley SmartSpace			X	Intern to support the grant-funded goBerkeley SmartSpace project starting this fall (fund 627 @ 20%)
	627 Total			\$120,300	\$6,000						
286	631	Parking Meter Fund	Public Works	\$116,236		PWENCB1907	125-127 UNIV PARKING LOT			X	Carryover FY 2021 funding for continuation of the 125/127 University Ave Parking Lot project (for Parking Enforcement program/staff).
287	631	Parking Meter Fund	Public Works	\$225,000			goBerkeley Smart			X	Parking pay stations and signage for the goBerkeley SmartSpace pilot project in March/April 2022
	631 Total			\$341,236	\$0						
288	671	Equipment Replacement	Public Works		\$855,706		Equipment/Fleet Program			X	To cover budget shortfall for FY22 Fire Truck Lease payments due and reimburse vehicle replacement
289	671	Equipment Replacement	Public Works	\$1,194,186			Equipment/Fleet Program			X	To cover the carryover of essential vehicle purchases
	671 Total			\$1,194,186	\$855,706						
290	672	Equipment Maintenance	Public Works		\$39,493		AOS Supervisor (1)			X	Add Accounting Office Specialist Supervisor position to Admin & Fiscal Services division to coordinate payroll issues, lead training, provide payroll entry backup, lead ERMA self entry implementation.
	672 Total			\$0	\$39,493						
291	680	IT Cost Allocation	Information Technology	\$50,000			eFax Solution			X	Carryover of IT Cost Allocation Fund to upgrade fax capabilities to align with VoIP upgrade. Fax machines still needed for HIPPA and ARRA Meaningful Use requirements.
292	680	IT Cost Allocation	Information Technology	\$130,000			Cyber Leadership and Strategy Solutions			X	Carryover of IT Cost Allocation Fund for Cyber Leadership and Strategy Solutions Contracts. Approved by Council on 04/27/2021 per Resolution No. 69,813.
293	680	IT Cost Allocation	Information Technology	\$117,750			Protiviti Government Services, Inc.			X	Carryover of IT Cost Allocation Fund for Protiviti Government Services, Inc. for Professional Services Purchase Orders
	680 Total			\$297,750	\$0						
294	781	Berkeley Tourism BID	City Manager		\$63,600		Berkeley Tourism BID			X	This funding belongs to the Berkeley Tourism BID and the City is obligated to disperse it.
	781 Total			\$0	\$63,600						
295	782	Elmwood BID	City Manager		\$32,388		Elmwood BID			X	This funding belongs to the Elmwood BID and the City is obligated to disperse it.

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

Attachment 2

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
	782 Total			\$0	\$32,388						
296	783	Solano Avenue BID	City Manager		\$7,809		Solano Avenue BID			X	This funding belongs to the Solano BID and the City is obligated to disperse it.
	783 Total			\$0	\$7,809						
297	784	Telegraph PBID	City Manager		\$238,437		Telegraph PBID			X	This funding belongs to the Telegraph PBID and the City is obligated to disperse it.
	784 Total			\$0	\$238,437						
298	785	No. Shattuck BID	City Manager		\$110,972		North Shattuck BID			X	This funding belongs to the North Shattuck PBID and the City is obligated to disperse it.
	785 Total			\$0	\$110,972						
299	786	Dwnt Berk Prop & Imp	City Manager		\$195,787		Downtown Berkeley PBID			X	This funding belongs to the Downtown Berkeley PBID and the City is obligated to disperse it.
	786 Total			\$0	\$195,787						
	Grand Total			\$35,389,100	\$40,486,363						



Office of the City Manager

PUBLIC HEARING
December 14, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Planning and Development Department
 Subject: Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23.306] and amendments to relevant Defined Terms [BMC Chapter 23.502.020] in the Zoning Ordinance.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

A local ADU Ordinance is a Strategic Plan Priority Project, advancing our goal to create affordable housing and housing support service for our most vulnerable community members. Over the past five years, Berkeley has adopted three comprehensive ADU Ordinance amendments in order to maintain compliance with changing State ADU law. The most recent round of State regulations, which came into effect on January 1, 2020, replaced Berkeley's ADU Ordinance and significantly reduced jurisdictions' abilities to regulate ADU development.

Jurisdictions are authorized to adopt local ordinances that are more expansive than State law. Over the past year, Planning Commission and City Council have been discussing options for a local ADU Ordinance. On October 26, 2021, City Council considered Planning Commission's recommendations (*see Attachment 2: Staff Report from October 26, 2021 City Council Meeting*) and requested modifications to the ADU Ordinance that allow greater flexibility across the city. At that same meeting, City Council directed the City Manager to develop a set of narrowly-focused public safety regulations that address public safety issues that arise from new development in fire-prone areas. Those regulations will be considered separate from the local ADU Ordinance presented in this report.

Below is a summary of the regulations found in the local ADU Ordinance. These regulations reflect City Council's direction from the October 26th meeting (see *Attachment 3: Annotated Agenda from October 26, 2021 City Council Meeting*):

1. New BMC Style, Formatting, and Numbering

On December 1, 2021 the newly formatted BMC (resulting from the Zoning Ordinance Revision Project) will take effect. The writing style, formatting and numbering of the local ADU Ordinance is consistent with the new BMC.

2. Applicability

City Council will be considering a second ordinance that address public safety issues in fire-prone areas. In the interim, the local ADU Ordinance allows ADUs and JADUs in the R-1H (Single-Family Residential—Hillside Overlay), R-2H (Restricted Two-Family Residential—Hillside Overlay), and R-2AH (Restricted Multiple-Family Residential—Hillside Overlay) Districts that comply with subdivision(e)(1) of Government Code Section 65852.2. Outside of the aforementioned districts, the local ADU Ordinance applies to lots with at least one existing or proposed Dwelling Unit in zoning districts where residential uses are allowed. ADUs are not allowed on lots with Dormitories, Fraternities or Sororities.

3. Number of ADUs Allowed on a Lot

Berkeley's local ADU Ordinance follows State law for the number of ADUs and JADUs allowed on a lot with one exception: lots with Group Living Accommodations (GLAs) are allowed one ADU. ADUs must be rented to a single household and may not be rented by the bed.

4. Maximum Size of ADUs

Berkeley's local ADU Ordinance follows State guidance for maximum ADU size based on bedroom count (850 square feet for studio and one-bedroom ADUs and 1,000 square feet for ADUs with more than two bedrooms). Berkeley's local ADU Ordinance is more expansive than State law, allowing ADUs created by conversions of legally non-conforming Accessory Buildings and Accessory Structures to expand to the maximum allowable size. Additions to existing building envelopes (i.e. walls and roof) must meet development standards of Chapter 23.306.

The maximum size of a JADU is 500 square feet.

5. Maximum Height

Berkeley's local ADU Ordinance is more expansive than State ADU law, allowing ADUs a maximum height of 20 feet.

6. Rear and Side Setbacks

Berkeley’s local ADU Ordinance follows State law, requiring 4-foot rear and side setbacks, but also allows projects to use a lesser side and rear setback if established by the underlying district.

7. Front Yard Setbacks

Berkeley’s local ADU Ordinance utilizes the front yard setback of the underlying zoning district.

8. Off-street Parking

Off-street parking is not required for ADUs or JADUs. If off-street parking for the Main Building is removed due to ADU or JADU construction, flexible replacement off-street parking will be accommodated.

9. Projections into Setbacks

Projections of up to two-feet are allowed in the rear and side setbacks for mechanical and other buildings features, such as heating or cooling equipment, eaves and awnings. Bay windows cannot project into setbacks.

10. Noticing of ADU Applications Submitted to Planning Department

State Law does not allow for public input on by-right ADU applications; however, Berkeley’s local ADU Ordinance adds an administrative process for notifying neighbors when an ADU application is submitted. Noticing will go out to owners and tenants of subject, adjacent and abutting properties.

BACKGROUND

In the past six years, Berkeley’s ADU Ordinance has been modified multiple times to conform to State law and to facilitate the construction of ADUs. State law that came into effect on January 1, 2020 requires increased flexibility and streamlines the ADU permitting process significantly. The number of building permits issued for ADUs in Berkeley has increased steadily over the past five years, as illustrated in Table 1.

Table 1. City of Berkeley ADU Building Permits Issued, 2016-2020

Year	2016	2017	2018	2019	2020
#	16	74	80	96	119

Local jurisdictions have the ability to adopt local regulations that go beyond State law to further facilitate ADU development. Planning Commission and City Council have been discussing a local ADU Ordinance since October 2020, when California Department of Housing and Community Development (HCD) released guidance on State ADU law.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

ADUs are generally low impact infill development that have the potential to decrease vehicles miles traveled and greenhouse gas emissions and increase availability of

housing near various community amenities, the university campus, transit services and employment opportunities.

RATIONALE FOR RECOMMENDATION

The local ADU Ordinance clarifies and expands on State ADU law to meet the needs of Berkeley residents.

ALTERNATIVE ACTIONS CONSIDERED

Council could take no action and continue to utilize State ADU regulations, with no local modifications.

CONTACT PERSON

Jordan Klein, Director, Planning and Development Department, (510) 981-7400
Steven Buckley, Land Use Planning Manager, Planning and Development Department, (510) 981-7411
Alene Pearson, Principal Planner, Planning and Development Department, (510) 981-7489

Attachments:

- 1: Ordinance
- 2: Staff Report from October 26, 2021 City Council Meeting
- 3: Annotated Agenda from October 26, 2021 City Council Meeting
- 4: Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDMENTS TO THE ACCESSORY DWELLING UNIT (ADU) ORDINANCE (BMC 23.306) AND DEFINED TERMS (BMC 23.502.020) RELATING TO ADUS

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

Section 1. That Berkeley Municipal Code 23.306 is amended to read as follows:

23.306 Accessory Dwelling Units

Sections:

23.102.010– Purposes

23.102.020– Applicability

23.102.030– Permit Procedures

23.306.040– Development Standards

23.306.050– Deed Restrictions

23.306.060– Neighborhood Noticing

23.102.010 – Purposes

The purposes of this Chapter are to:

- A. Implement California Government Code Section 65852.2 and 65852.22.
- B. Increase overall supply and range of housing options in Berkeley.
- C. Expedite small-scale infill development.
- D. Support Housing Element goals of facilitating construction of accessory dwelling units and increasing the number of housing units that are more affordable to Berkeley residents.
- E. Encourage development of accessory dwelling units in zoning districts with compatible land uses and infrastructure.
- E.F. Reduce potential impacts of new development in high fire severity areas and the Hillside Overlay District due to unique conditions and hazards within these areas that require additional restrictions on ADUs and JADUs because of impacts of traffic flow and public safety, consistent with Government Code 65852.2, subdivision (a)(1)(A), which allows local agencies to regulate ADUs based on "adequacy of water and sewer service, and the impacts of traffic flow and public safety."

23.102.020 – Applicability

A. The provisions of this chapter apply to zoning districts where residential uses are permitted, on lots that have at least one existing or proposed Dwelling Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.

1. Exceptions. The provisions of this chapter that permit ADUs and JADUs do not apply to lots in the R-1H (Single-Family Residential—Hillside Overlay), R-2H (Restricted Two-Family Residential—Hillside Overlay), or R-2AH (Restricted Multiple-Family Residential—Hillside Overlay) Districts. In such districts, ADUs and JADUs shall only be permitted to the extent required by subdivision (e)(1) of Government Code Section 65852.2.

B. Number of ADUs and JADUs Permitted Per Lot.

1. Lot with one Single Family Dwelling: One ADU and/or one JADU.
2. Lot with more than one Single Family Dwelling: One ADU.
3. Lot with a Duplex or Multi-Family Dwelling, either:
 - a. Up to two detached ADUs; or
 - b. At least one ADU converted from non-habitable portions of the existing Main Building (e.g. basement, attic, storage room). The maximum number of ADUs converted from non-habitable portions of the existing Main Building shall not exceed 25% of the total number of existing Dwelling Units on the lot.
4. Lot with a Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory: One ADU.

23.102.030 – Permit Procedures

A. Zoning Certificate. An application for an ADU or JADU shall be allowed with a Zoning Certificate. Review must be completed within 60 days of submission of a completed application. A completed application must include evidence of compliance with this Chapter, including Development Standards, Deed Restrictions, and Neighborhood Noticing.

1. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a Zoning Certificate for a Building Permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.
2. Issuance of a Zoning Certificate shall not be denied for the construction or conversion of an ADU or JADU that complies with the requirements of Government Code Section 65852.2(e)(1).

4.3. Issuance of a Zoning Certificate for the construction or conversion of an ADU or JADU shall not be denied based on the failure of an applicant to correct a nonconforming zoning condition.

23.306.040 Development Standards

A. Basic Standards. See Table 23.306-1: ADU and JADU Development Standards.

TABLE 23.306-1 ADU AND JADU DEVELOPMENT STANDARDS

	<u>ADU¹</u>	<u>JADU</u>
<u>Maximum Size²</u>		<u>500 sf</u>
<u>Studio or 1 bedroom</u>	<u>850 sf</u>	<u>N/A</u>
<u>2 + bedrooms</u>	<u>1000 sf</u>	
<u>Maximum Height</u>	<u>20 ft.</u>	
<u>Front Yard Setback</u>	<u>Same as underlying district</u>	
<u>Rear Setback</u>	<u>4 ft³</u>	
<u>Side Setback</u>	<u>4 ft³</u>	
<u>Required Off-Street Parking</u>	<u>None⁴</u>	
<p><u>[1] An ADU converted from an Accessory Building or Accessory Structure legally established prior to December 1, 2021 that does not comply with the Maximum Height, Size, and/or Rear and Side Setback requirements is allowed to maintain non-conformity to the same dimensions of the existing Accessory Building or Accessory Structure. Any physical additions to the existing Accessory Building or Accessory Structure shall comply with the development standards in this table.</u></p> <p><u>[2] An ADU created entirely through conversion, with no modifications to the existing building envelope that is non-compliant with the development standards in this table is allowed a physical addition of no more than 150 square feet that complies with Maximum Height and Setback requirements in this table.</u></p> <p><u>[3] If there is a lesser setback allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district, that setback shall apply.</u></p> <p><u>[4] Replacement of off-street parking for the Main Building is allowed and does not need to comply with Parking Maximums (BMC 23.322.070) nor Parking Layout and Design (BMC 23.322.080).</u></p>		

DB. Projections. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, Awnings) may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines. Bay windows may not project into a setback.

23.306.050 - Deed Restrictions

A. The property owner shall file a deed restriction with the Alameda County Recorder which states:

1. The JADU shall not be sold separately from the Main Building;
2. The ADU shall not be sold separately from the Main Building unless the conditions of BMC 23.306.050 B are met;
3. The ADU and/or JADU shall not be rented for a term that is shorter than 30 days; and
4. If the property includes a JADU, the JADU, or the Single Family Dwelling in which the JADU is located, shall be owner-occupied.

B. ADUs Developed by a Qualified Nonprofit Developer. An ADU built or developed by a “qualified nonprofit corporation” may be sold or conveyed separately from the Main Building to a “qualified buyer,” as such terms are defined in subdivision (b) of Section 65852.26 of the California Government Code. The ADU must be held pursuant to a recorded tenancy in common agreement recorded on or after December 31, 2021 that includes the following elements:

1. Delineation of all areas of the property that are for the exclusive use of a cotenant;
2. Delineation of each cotenant’s responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, and improvements associated with the property;
3. Procedures for dispute resolution among cotenants before resorting to legal action;
4. Allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies;
5. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the ADU or primary dwelling if the buyer desires to sell or convey the property;
6. A requirement that the qualified buyer occupy the ADU or primary dwelling as the buyer’s principal residence; and
7. Affordability restrictions on the sale and conveyance of the ADU or primary dwelling that ensure the ADU and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
8. If requested by a utility providing service to the primary residence, the ADU shall have a separate water, sewer, or electrical connection to that utility.

23.306.060 – Neighbor Noticing

A. Scope and Timing of Notice. Notice of an ADU application shall be mailed to owners and tenants of the subject, adjacent, confronting and abutting properties within ten working days of submission to the Planning Department.

B. Content of Notice. Notice shall provide the address of the project, allowable hours of construction, and a link to the City's ADU webpage.

C. Mailing Fees. The applicant shall be responsible for the cost of materials, postage and staff time necessary to process and mail notices.

Section 2. That the definition of Accessory Dwelling Unit in Berkeley Municipal Code Chapter 23.502.020.A.4 is amended to read as follows:

23.502.020.A.4

Accessory Dwelling Unit. A secondary dwelling unit that is located on a lot in a zoning district where residential uses are permitted with a proposed or existing Single Family Dwelling, Duplex, Multi-Family Dwelling Use or Group Living Accommodation. ~~which is occupied by one legally established single-family dwelling that conforms to the standards of Chapter 23.306.~~ An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements, except as expressly modified in Chapter 23.306, and provide the following features independent of the single-family primary dwelling unit: 1) exterior or independent access to Accessory dwelling unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes the following:

- a. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- b. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 3. That the definition of Primary Dwelling Unit in Berkeley Municipal Code Chapter 23.502.020.P.16 is rescinded.

23.502.020.P.16

~~**Primary Dwelling Unit:** A legally established Single Family Dwelling that is on a lot with an Accessory Dwelling Unit.~~

Section 4. That the definition of Efficiency Kitchen is adopted in Berkeley Municipal Code Chapter 23.502.020.E.1 as follows:

23.502.020.E.1

~~**Efficiency Kitchen:** A kitchen that includes a sink, a cooking facility with appliances (e.g. microwave, toaster, oven, hot plate), and food preparation counter space and cabinets.~~

Section 5. That the definition of Junior Accessory Dwelling Unit (JADU) is adopted in Berkeley Municipal Code Chapter 23.502.020.J.1 as follows:

23.502.020.J.1

1. **Junior Accessory Dwelling Unit (JADU):** A unit that is contained entirely within the walls of a Single Family Dwelling. A JADU must include a separate exterior entrance and an Efficiency Kitchen with a working refrigerator. A JADU may include separate sanitation facilities or may share sanitary facilities with a Single Family Dwelling. The property-owner must reside in either the Single Family Dwelling or the JADU.

Section 6. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Kate Harrison
Councilmember
District 4

SUPPLEMENTAL 3 AGENDA MATERIAL

Meeting Date: October 12, 2021

Item Number: 28

Item Description: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

Submitted by: Harrison

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

This supplemental makes only one clarifying edit to Subsection A of 23C.24.040 (Development Standards) regarding applicable state law.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)

A *minimum* of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.

ORDINANCE NO. -N.S.

ACCESSORY DWELLING UNIT ORDINANCE

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

Section 1. That Berkeley Municipal Code Chapter 23C.24 is amended to read as follows:

**Chapter 23C.24
Accessory Dwelling Units**

Sections:

- 23C.24.010 Applicability of Regulations
- 23C.24.020 Purposes
- 23C.24.030 Permit Procedures
- 23C.24.040 Development Standards
- 23C.24.050 Special Provisions

23C.24.010 Applicability of Regulations

- A. The provisions of this Chapter apply to all lots that have at least one existing or proposed Dwelling Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.
- B. ADUs and JADUs are allowed on lots as follows:
 - a. One ADU and/or one JADU is allowed on a lot with one Single Family Dwelling.
 - b. One ADU is allowed on a lot with multiple Single Family Dwellings.
 - c. For lots with a Duplex or Multiple Dwelling Uses, one of the following is allowed:
 - i. Up to two detached ADUs; or
 - ii. At least one ADU created from non-habitable portions of the existing dwelling structure (e.g. basement, attic, storage room). The maximum number of ADUs created from non-habitable portions of the existing dwelling structure shall not exceed 25% of the number of existing Dwelling Units on the lot.
 - d. One ADU is allowed on a lot with a Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.

23C.24.020 Purposes

The purposes of this Chapter are to:

- A. Implement California Government Code Section 65852.2 and 65852.22.
- B. Increase overall supply and range of housing options in Berkeley.
- C. Expedite small-scale infill development.
- D. Support Housing Element goals of facilitating construction of Accessory Dwelling Units and increasing the number of housing units that are more affordable to Berkeley residents.
- E. Encourage development of Accessory Dwelling Units in zoning districts with compatible land uses and infrastructure.
- F. Reduce potential impacts of new development in high fire hazard severity areas.

23C.24.030 Permit Procedures

- A. An application for an ADU or JADU is subject to ministerial review. Review must be completed within 60 days of submission of a complete application.
- B. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a building permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.

23C.24.040 Development Standards

- A. Development Standards in Paragraphs B through G, below, apply as follows:
 - 1. Nothing in this Chapter shall preclude the application of Objective Development Standards, once adopted, to ADU's that do not fall under Gov. Code § 65852.2(e).
 - 2. Detached New Construction. A detached, new construction ADU is subject to Development Standards for ADUs. A detached, new construction ADU is defined as having a 3-foot separation from a Main Building per Section 23E.04.030.
 - 3. Converted or Rebuilt Entirely from an Existing Building or Structure. An ADU converted or rebuilt entirely from an existing building or structure, in the same location with the same dimensions and roof height, is not subject to Development Standards for ADUs. These include:
 - a. An ADU created entirely within an existing Single Family Dwelling.
 - b. An ADU created entirely within the existing non-habitable space of a Duplex or Multiple Dwelling Use.
 - c. An ADU created entirely within an existing detached Accessory Building or Accessory Structure.
 - d. An ADU created entirely within an existing Accessory Building or

Accessory Structure that is demolished and rebuilt.

4. Addition to an Existing or Rebuilt Building or Structure. An ADU, fully or partially created by an addition of square footage to or changes in roof height is subject to Development Standards for ADUs. Paragraph B applies to the ADU's maximum size and Paragraphs C through G apply to the added square footage and roof design. These include:
 - a. An ADU created by an addition or roof change to an existing Single Family Dwelling.
 - b. An ADU created by an addition or roof change to an existing detached Accessory Building or Accessory Structure.
 - c. An ADU created by an addition or roof change to an existing Accessory Building or Accessory Structure that is demolished and rebuilt.
5. Notwithstanding any other provision of this Chapter, no ADU is permitted to be built in the Hillside Overlay or Environmental Safety Residential (ES-R) districts unless it complies with the requirements of Government Code section 65852.2(e)(1).
6. A JADU is subject to applicable Development Standards in Paragraphs B and G.

B. Maximum Size

1. A detached, new construction ADU or an ADU fully or partially created by addition to an existing or proposed Single Family Dwelling is subject to the following maximum size limits:
 - a. 850 square feet for a studio or one-bedroom ADU.
 - b. 1000 square feet for an ADU with two or more bedrooms.
2. An ADU created from an existing Accessory Building or Accessory Structure or a portion of the existing building that does not conform to the Development Standards in Paragraphs C and D may extend beyond the physical dimensions of the existing building or structure as long as the new construction is outside the four-foot setback and conforms to all other conditions herein. Additions shall conform with the Development Standards in this Chapter
3. An ADU created from an existing Accessory Building or Accessory Structure that conforms to the Development Standards in Paragraphs C and D must comply with one of the following:
 - a. May include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing building or structure; or
 - b. 850 square feet for a studio or one-bedroom ADU; or
 - c. 1000 square feet for an ADU with two or more bedrooms.
4. The maximum size of a JADU is 500 square feet.

Deleted: include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing building or structure

C. Maximum Height is applied to ADUs as follows. See Chapter 23F.04 for definition.

1. Maximum Height of a detached, new construction ADU is 18 feet.
2. Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is 18 feet.

D. Rear and Side Setbacks. The required rear and side setbacks for a detached, new construction ADU or addition to an existing building or structure are 4 feet,

unless a lesser setback is allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district.

E. Front Yard Setback. The required front yard setback is the same as is established in the underlying zoning district.

F. Parking

- 1. Off-street parking is not required.
- 2. Replacement parking is not required, but is allowed if in compliance with Chapter 23D.12 and/or Chapter 23E.28.

G. Nothing in this Chapter shall preclude the issuance of Zoning Certificate for the construction or conversion of an ADU or JADU that complies with the requirements of Government Code section 65852.2(e)(1). The City shall not apply the Development Standards in this Chapter to the extent they are inconsistent with the requirements of Government Code sections 65852.2 and 65852.22.

H. A Zoning Certificate for the construction of an ADU or JADU may not be denied based on the failure of the applicant to correct a nonconforming zoning condition.

23C.24.050 Special Provisions

A. A JADU must be owner-occupied. For purposes of this paragraph, "owner-occupied" means that a person with legal title to the property must reside in either the Single Family Dwelling or the JADU as their legal permanent residence.

B. The property owner shall file a deed restriction with the County Recorder providing that:

- 1. The ADU and/or JADU shall not be sold separately from the Dwelling Unit.
- 2. The ADU and/or JADU shall not be rented for a term that is shorter than 30 days.

Deleted: Projections. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, Awnings and Bay Window) may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines.

Deleted: A rooftop deck may be established provided that the entire roof, deck and railing comply with Development Standards for ADUs in Section 23C.24.040 Paragraphs C through G.

3. The JADU or the Single Family Dwelling in which the JADU is located shall be owner-occupied per the definition in Section 23F.04.010

Section 2. That the definition for Accessory Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is amended to read as follows:

Accessory Dwelling Unit (ADU): A secondary Dwelling Unit that is located on a lot with a proposed or existing Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation, ~~which is occupied by one legally established Single Family Dwelling that conforms to the standards of Section 23C.24.~~ An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements unless the City is prohibited from applying such requirements by Government Code Section 65852.2 or 65852.22 and provide the following features independent of the Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation: 1) exterior or independent access to Accessory Dwelling Unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes the following:

- A. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 3. That the definition for Primary Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is rescinded:

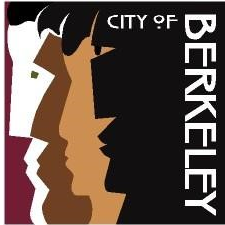
~~**Primary Dwelling Unit:** A legally established Single Family Dwelling that is on a lot with an Accessory Dwelling Unit.~~

Section 4. That the following two definitions are adopted into Berkeley Municipal Code Chapter 23F.04.010:

Efficiency Kitchen: A kitchen that includes a sink, a cooking facility with appliances (e.g. microwave, toaster, oven, hot plate), and food preparation counter space and cabinets.

Junior Accessory Dwelling Unit (JADU): A unit that is contained within the walls of a Single Family Dwelling and includes a separate exterior entrance. A JADU may not be located in an Accessory Building or an Accessory Structure. A JADU may include separate sanitation facilities, or may share sanitary facilities with a Single Family Dwelling. At a minimum, a JADU shall include an Efficiency Kitchen with a working refrigerator.

Section 5. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Kate Harrison
Councilmember District 4

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: September 28, 2021

Item Number: 29

Item Description: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

Submitted by: Councilmember Kate Harrison

The attached revised document contains four revisions to the item's attached revisions to BMC Chapter 23C.24:

1. Rewrites 23C.24.040 (Development Standards) subsection B. 2. to remove the 150-ft² limit on extensions to ADUs created from existing building or structures, provided that the extensions still conform to all other conditions, to strengthen the financial feasibility of potential ADUs.
2. Adds to 23C.24.040 (Development Standards) section A.1. to reaffirm that Objective Design Standards will guide ADU development.
3. Removes 23C.24.040 (Development Standards) subsection F, which allowed for some protrusions into the four-foot setback by right. Many of the items named for the intrusion into the setback would create noise or privacy concerns. Any protrusion into the four-foot setback would remain eligible for a case-by-case approval.
4. Removes 23C.24.050 (Special Provisions) subsection A, which allowed for rooftop decks by right. Rooftop decks are still possible with case-by-case approval but a by-right approval creates many concerns with fire safety, noise, and privacy.

ORDINANCE NO. -N.S.

ACCESSORY DWELLING UNIT ORDINANCE

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

Section 1. That Berkeley Municipal Code Chapter 23C.24 is amended to read as follows:

**Chapter 23C.24
Accessory Dwelling Units**

Sections:

- 23C.24.010 Applicability of Regulations
- 23C.24.020 Purposes
- 23C.24.030 Permit Procedures
- 23C.24.040 Development Standards
- 23C.24.050 Special Provisions

23C.24.010 Applicability of Regulations

- A. The provisions of this Chapter apply to all lots that have at least one existing or proposed Dwelling Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.
- B. ADUs and JADUs are allowed on lots as follows:
 - a. One ADU and/or one JADU is allowed on a lot with one Single Family Dwelling.
 - b. One ADU is allowed on a lot with multiple Single Family Dwellings.
 - c. For lots with a Duplex or Multiple Dwelling Uses, one of the following is allowed:
 - i. Up to two detached ADUs; or
 - ii. At least one ADU created from non-habitable portions of the existing dwelling structure (e.g. basement, attic, storage room). The maximum number of ADUs created from non-habitable portions of the existing dwelling structure shall not exceed 25% of the number of existing Dwelling Units on the lot.
 - d. One ADU is allowed on a lot with a Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.

23C.24.020 Purposes

The purposes of this Chapter are to:

- A. Implement California Government Code Section 65852.2 and 65852.22.
- B. Increase overall supply and range of housing options in Berkeley.
- C. Expedite small-scale infill development.
- D. Support Housing Element goals of facilitating construction of Accessory Dwelling Units and increasing the number of housing units that are more affordable to Berkeley residents.
- E. Encourage development of Accessory Dwelling Units in zoning districts with compatible land uses and infrastructure.
- F. Reduce potential impacts of new development in high fire hazard severity areas.

23C.24.030 Permit Procedures

- A. An application for an ADU or JADU is subject to ministerial review. Review must be completed within 60 days of submission of a complete application.
- B. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a building permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.

23C.24.040 Development Standards

- A. Development Standards in Paragraphs B through G, below, apply as follows:
 - 1. Nothing in this Chapter shall preclude the application of Objective Development Standards, once adopted, to ADU's.
 - 1.2. Detached New Construction. A detached, new construction ADU is subject to Development Standards for ADUs. A detached, new construction ADU is defined as having a 3-foot separation from a Main Building per Section 23E.04.030.
 - 2.3. Converted or Rebuilt Entirely from an Existing Building or Structure. An ADU converted or rebuilt entirely from an existing building or structure, in the same location with the same dimensions and roof height, is not subject to Development Standards for ADUs. These include:
 - a. An ADU created entirely within an existing Single Family Dwelling.
 - b. An ADU created entirely within the existing non-habitable space of a Duplex or Multiple Dwelling Use.
 - c. An ADU created entirely within an existing detached Accessory Building or Accessory Structure.
 - d. An ADU created entirely within an existing Accessory Building or

Accessory Structure that is demolished and rebuilt.

3.4. Addition to an Existing or Rebuilt Building or Structure. An ADU, fully or partially created by an addition of square footage to or changes in roof height is subject to Development Standards for ADUs. Paragraph B applies to the ADU's maximum size and Paragraphs C through G apply to the added square footage and roof design. These include:

- a. An ADU created by an addition or roof change to an existing Single Family Dwelling.
- b. An ADU created by an addition or roof change to an existing detached Accessory Building or Accessory Structure.
- c. An ADU created by an addition or roof change to an existing Accessory Building or Accessory Structure that is demolished and rebuilt.

4.5. Notwithstanding any other provision of this Chapter, no ADU is permitted to be built in the Hillside Overlay or Environmental Safety Residential (ES-R) districts unless it complies with the requirements of Government Code section 65852.2(e)(1).

5.6. A JADU is subject to applicable Development Standards in Paragraphs B and G.

B. Maximum Size

1. A detached, new construction ADU or an ADU fully or partially created by addition to an existing or proposed Single Family Dwelling is subject to the following maximum size limits:
 - a. 850 square feet for a studio or one-bedroom ADU.
 - b. 1000 square feet for an ADU with two or more bedrooms.
2. An ADU created from an existing Accessory Building or Accessory Structure or a portion of the existing building that does not conform to the Development Standards in Paragraphs C and D may ~~include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing building or structure~~ extend beyond the physical dimensions of the existing building or structure as long as the new construction is outside the four-foot setback and conforms to all other conditions herein. Additions shall conform with the Development Standards in this Chapter
3. An ADU created from an existing Accessory Building or Accessory Structure that conforms to the Development Standards in Paragraphs C and D must comply with one of the following:
 - a. May include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing building or structure; or
 - b. 850 square feet for a studio or one-bedroom ADU; or
 - c. 1000 square feet for an ADU with two or more bedrooms.
4. The maximum size of a JADU is 500 square feet.

C. Maximum Height is applied to ADUs as follows. See Chapter 23F.04 for definition.

1. Maximum Height of a detached, new construction ADU is 18 feet.
2. Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is 18 feet.

D. Rear and Side Setbacks. The required rear and side setbacks for a detached,

new construction ADU or addition to an existing building or structure are 4 feet, unless a lesser setback is allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district.

- E. Front Yard Setback. The required front yard setback is the same as is established in the underlying zoning district.

~~Projections. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, Awnings and Bay Window) may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines.~~

- F. Parking
 - 1. Off-street parking is not required.
 - 2. Replacement parking is not required, but is allowed if in compliance with Chapter 23D.12 and/or Chapter 23E.28.
- G. Nothing in this Chapter shall preclude the issuance of Zoning Certificate for the construction or conversion of an ADU or JADU that complies with the requirements of Government Code section 65852.2(e)(1). The City shall not apply the Development Standards in this Chapter to the extent they are inconsistent with the requirements of Government Code sections 65852.2 and 65852.22.
- H. A Zoning Certificate for the construction of an ADU or JADU may not be denied based on the failure of the applicant to correct a nonconforming zoning condition.

23C.24.050 Special Provisions

~~A. A rooftop deck may be established provided that the entire roof, deck and railing comply with Development Standards for ADUs in Section 23C.24.040 Paragraphs C through G.~~

~~B.A.~~ A JADU must be owner-occupied. For purposes of this paragraph, “owner-occupied” means that a person with legal title to the property must reside in either the Single Family Dwelling or the JADU as their legal permanent residence.

~~C.B.~~ The property owner shall file a deed restriction with the County Recorder providing that:

1. The ADU and/or JADU shall not be sold separately from the Dwelling Unit.
2. The ADU and/or JADU shall not be rented for a term that is shorter than 30 days.

3. The JADU or the Single Family Dwelling in which the JADU is located shall be owner-occupied per the definition in Section 23F.04.010

Section 2. That the definition for Accessory Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is amended to read as follows:

Accessory Dwelling Unit (ADU): A secondary Dwelling Unit that is located on a lot with a proposed or existing Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation, ~~which is occupied by one legally established Single Family Dwelling that conforms to the standards of Section 23C.24.~~ An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements unless the City is prohibited from applying such requirements by Government Code Section 65852.2 or 65852.22 and provide the following features independent of the Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation: 1) exterior or independent access to Accessory Dwelling Unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes the following:

- A. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 3. That the definition for Primary Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is rescinded:

~~**Primary Dwelling Unit:** A legally established Single Family Dwelling that is on a lot with an Accessory Dwelling Unit.~~

Section 4. That the following two definitions are adopted into Berkeley Municipal Code Chapter 23F.04.010:

Efficiency Kitchen: A kitchen that includes a sink, a cooking facility with appliances (e.g. microwave, toaster, oven, hot plate), and food preparation counter space and cabinets.

Junior Accessory Dwelling Unit (JADU): A unit that is contained within the walls of a Single Family Dwelling and includes a separate exterior entrance. A JADU may not be located in an Accessory Building or an Accessory Structure. A JADU may include separate sanitation facilities, or may share sanitary facilities with a Single Family Dwelling. At a minimum, a JADU shall include an Efficiency Kitchen with a working refrigerator.

Section 5. 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.



REVISED AGENDA MATERIAL

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Director, Planning and Development Department
Subject: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns

SUMMARY

At its April 7, 2021 meeting, Planning Commission recommended that the maximum height of ADUs be increased to 18 feet. The Zoning Ordinance amendment initially submitted with this staff report would limit the maximum height of an ADU located in the Hillside Overlay or the Environmental Safety (ES-R) zoning districts to 16 feet. The supplemental material updates the draft Zoning Ordinance amendment (Attachment), permitting a maximum height of 18 feet for all new ADUs city-wide, to more accurately reflect the Planning Commission's recommendation.

ORDINANCE NO. -N.S.

ACCESSORY DWELLING UNIT ORDINANCE

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

Section 1. That Berkeley Municipal Code Chapter 23C.24 is amended to read as follows:

Chapter 23C.24
Accessory Dwelling Units

Sections:

23C.24.010 Applicability of Regulations

23C.24.020 Purposes

23C.24.030 Permit Procedures

23C.24.040 Repealed by Ord. 7683-NS.

23C.24.050 Repealed by Ord. 7683-NS.

23C.24.060 Repealed by Ord. 7683-NS.

23C.24.070 Repealed by Ord. 7683-NS.

23C.24.010 Applicability of Regulations

The provisions of this Chapter apply to all lots that are zoned for residential use except 1) in the following zoning districts: Environmental Safety Residential (ES-R), Manufacturing (M), Mixed Manufacturing (MM), Mixed Use Light Industrial (MU-LI), and Unclassified (U); and 2) on a lot with frontage on a roadway with less than 26 feet in pavement width in the Hillside Overlay.

- A. The provisions of this Chapter apply to all lots that have at least one existing or proposed Dwelling Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.
B. ADUs and JADUs are allowed on lots as follows:
1. One ADU and/or one JADU is allowed on a lot with one Single Family Dwelling.
2. One ADU is allowed on a lot with multiple Single Family Dwellings.
3. For lots with a Duplex or Multiple Dwelling Uses, one of the following is allowed:
a. Up to two detached ADUs; or
b. At least one ADU created from non-habitable portions of the existing dwelling structure (e.g. basement, attic, storage room). The maximum number of ADUs created from non-habitable portions of the existing dwelling structure shall not exceed 25% of the number of existing Dwelling Units on the lot.
4. One ADU is allowed on a lot with a Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.

23C.24.020 Purposes

The purposes of this Chapter are to:

- A. Implement California Government Code Section [65852.2](#) and [65852.22](#).
- B. Increase overall supply and range of housing options in Berkeley.
- C. Expedite small-scale infill development.
- D. Support Housing Element goals of facilitating construction of Accessory Dwelling Units and increasing the number of housing units that are more affordable to Berkeley residents.
- E. Encourage development of Accessory Dwelling Units in zoning districts with compatible land uses and infrastructure.
- F. Reduce potential impacts of new development in high fire hazard severity areas.

23C.24.030 Permit Procedures

~~Zoning Certificates will be issued for Accessory Dwelling Units and Junior Accessory Dwelling Units per California Government Code Section [65852.2](#) and [65852.22](#).~~

- A. An application for an ADU or JADU is subject to ministerial review. Review must be completed within 60 days of submission of a complete application.
- B. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a building permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.

23C.24.040 Special Provisions Development Standards

~~Repealed by Ord. 7683-NS.~~

- A. Development Standards in Paragraphs B through G, below, apply as follows:
 - 1. Detached New Construction. A detached, new construction ADU is subject to Development Standards for ADUs. A detached, new construction ADU is defined as having a 3-foot separation from a Main Building per Section [23E.04.030](#).
 - 2. Converted or Rebuilt Entirely from an Existing Building or Structure. An ADU converted or rebuilt entirely from an existing building or structure, in the same location with the same dimensions and roof height, is not subject to Development Standards for ADUs. These include:
 - a. An ADU created entirely within an existing Single Family Dwelling.
 - b. An ADU created entirely within the existing non-habitable space of a Duplex or Multiple Dwelling Use.
 - c. An ADU created entirely within an existing detached Accessory Building or Accessory Structure.
 - d. An ADU created entirely within an existing Accessory Building or

Accessory Structure that is demolished and rebuilt.

3. Addition to an Existing or Rebuilt Building or Structure. An ADU, fully or partially created by an addition of square footage to or changes in roof height is subject to Development Standards for ADUs. Paragraph B applies to the ADU's maximum size and Paragraphs C through G apply to the added square footage and roof design. These include:
 - a. An ADU created by an addition or roof change to an existing Single Family Dwelling.
 - b. An ADU created by an addition or roof change to an existing detached Accessory Building or Accessory Structure.
 - c. And ADU created by an addition or roof change to an existing Accessory Building or Accessory Structure that is demolished and rebuilt.
4. Notwithstanding any other provision of this Chapter, no ADU is permitted to be built in the Hillside Overlay or Environmental Safety Residential (ES-R) districts unless it complies with the **maximum size and setback** requirements of Government Code section 65852.2(e)(1).
5. A JADU is subject to applicable Development Standards in Paragraphs B and G.

B. Maximum Size

1. A detached, new construction ADU or an ADU fully or partially created by addition to an existing or proposed Single Family Dwelling is subject to the following maximum size limits:
 - a. 850 square feet for a studio or one-bedroom ADU.
 - b. 1000 square feet for an ADU with two or more bedrooms.
2. An ADU created from an existing Accessory Building or Accessory Structure that does not conform to the Development Standards in Paragraphs C and D may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing building or structure. Additions shall conform with the Development Standards in this Chapter
3. An ADU created from an existing Accessory Building or Accessory Structure that conforms to the Development Standards in Paragraphs C and D must comply with one of the following:
 - a. May include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing building or structure; or
 - b. 850 square feet for a studio or one-bedroom ADU; or
 - c. 1000 square feet for an ADU with two or more bedrooms.
4. The maximum size of a JADU is 500 square feet.

C. Maximum Height is applied to ADUs as follows. See Chapter 23F.04 for definition.

1. Maximum Height of a detached, new construction ADU is 18 feet.
2. Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is 18 feet.

- D. Rear and Side Setbacks. The required rear and side setbacks for a detached, new construction ADU or addition to an existing building or structure are 4 feet, unless a lesser setback is allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district.
- E. Front Yard Setback. The required front yard setback is the same as is established in the underlying zoning district.
- F. Projections. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, Awnings and Bay Window) may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines.
- G. Parking
 - 1. Off-street parking is not required.
 - 2. Replacement parking is not required, but is allowed if in compliance with Chapter 23D.12 and/or Chapter 23E.28.
- H. Nothing in this Chapter shall preclude the issuance of Zoning Certificate for the construction or conversion of an ADU or JADU that complies with the requirements of Government Code section 65852.2(e)(1). The City shall not apply the Development Standards in this Chapter to the extent they are inconsistent with the requirements of Government Code sections 65852.2 and 65852.22.
- I. A Zoning Certificate for the construction of an ADU or JADU may not be denied based on the failure of the applicant to correct a nonconforming zoning condition.

23C.24.050 Development Standards Special Provisions

~~Repealed by Ord. 7683-NS.~~

- A. A rooftop deck may be established provided that the entire roof, deck and railing comply with Development Standards for ADUs in Section 23C.24.040 Paragraphs C through G.
- B. A JADU must be owner-occupied. For purposes of this paragraph, "owner-occupied" means that a person with legal title to the property must reside in either the Single Family Dwelling or the JADU as their legal permanent residence.
- C. The property owner shall file a deed restriction with the County Recorder providing that:
 - 1. The ADU and/or JADU shall not be sold separately from the Dwelling Unit.
 - 2. The ADU and/or JADU shall not be rented for a term that is shorter than 30 days.

3. The JADU or the Single Family Dwelling in which the JADU is located shall be owner-occupied per the definition in Section 23F.04.010

~~**23C.24.060 Modification of Development Standards with an Administrative Use Permit**~~

~~Repealed by Ord. 7683-NS.~~

~~**23C.24.070 Findings**~~

~~Repealed by Ord. 7683-NS.~~

Section 2. That the definition for Accessory Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is amended to read as follows:

Accessory Dwelling Unit (ADU): A secondary Dwelling Unit that is located on a lot with a proposed or existing Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation, which is occupied by one legally established Single Family Dwelling that conforms to the standards of Section 23C.24. An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements unless the City is prohibited from applying such requirements by Government Code Section 65852.2 or 65852.22 and provide the following features independent of the Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation: 1) exterior or independent access to Accessory Dwelling Unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes the following:

- A. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 3. That the definition for Primary Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is rescinded:

~~**Primary Dwelling Unit:** A legally established Single Family Dwelling that is on a lot with an Accessory Dwelling Unit.~~

Section 4. That the following two definitions are adopted into Berkeley Municipal Code Chapter 23F.04.010:

~~**Efficiency Kitchen:** A kitchen that includes a sink, a cooking facility with appliances (e.g. microwave, toaster, oven, hot plate), and food preparation counter space and cabinets.~~

~~**Junior Accessory Dwelling Unit (JADU):** A unit that is contained within the walls of a Single Family Dwelling and includes a separate exterior entrance. A JADU may not be located in an Accessory Building or an Accessory Structure. A JADU may include separate sanitation facilities, or may share sanitary facilities with a Single Family Dwelling. At a minimum, a JADU shall include an Efficiency Kitchen with a working refrigerator.~~

Section 5. 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.



Office of the City Manager

PUBLIC HEARING

October 26, 2021

(Continued from October 12, 2021)

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Director, Planning and Development Department
Subject: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23C.24] and amendments to relevant Definitions [BMC Chapter 23F.04] in the Zoning Ordinance.

SUMMARY

This report responds to a City Council referral from January 26, 2021, which requested a new local ADU Ordinance to provide public safety measures as allowed by State ADU law [Government Code Sections 65852.2 and 65852.22]. This report also provides background on State ADU regulations, explains where jurisdictions have flexibility to adopt local ordinances, and outlines the proposed Zoning Ordinance amendments recommended by Planning Commission for adoption by Council.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

A local ADU Ordinance is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city. Over the past five years, Berkeley has adopted three comprehensive ADU Ordinance amendments in order to maintain compliance with changing State ADU law. The most recent round of State regulations, which came into effect on January 1, 2020, replaced Berkeley's ADU Ordinance and significantly reduced jurisdictions' abilities to regulate ADU development.

State ADU Law

ADUs are recognized as low cost, low impact, infill development. As such, they provide much needed housing to the community. State law mandates a streamlined, ministerial permit process that removes barriers to ADU development. State law requires all

jurisdictions to issue ministerial or “by-right” building permits for ADUs in accordance with the regulations listed below. Jurisdictions can develop more lenient local ordinances to encourage ADU development but they cannot be more restrictive nor limit ADU development.

- Issue over-the-counter building permits for ADUs that comply with State regulations.
- Apply the following development standards:
 - Maximum size of no less than 800 to 1200 square feet (allowable scenarios are discussed below);
 - Maximum height of no less than 16 feet; and
 - Rear and side setbacks of no more than 4 feet.
- Allow at least one ADU on every lot that has an existing or proposed dwelling unit. More specifically, allow:
 - One ADU and one JADU on a lot with a Single Family Dwelling.
 - One ADU on a lot with multiple Single Family Dwellings.
 - At least two detached or at least one interior ADU on a lot with a Duplex or a Multifamily Dwelling or a mixed-use project.
- Allow ADUs created by conversions or re-construction of existing buildings or structures (such as garages and sheds) on a lot, even if existing structures don't conform to maximum size, maximum height and required setback (mentioned above) for ADUs.
- Require fire sprinklers only if the primary dwelling unit(s) has or requires fire sprinklers.
- Do not require off-street parking for the ADU if within a half-mile of public transit.
- Do not require off-street parking for the primary dwelling unit if the proposed ADU requires removal of existing off-street parking.
- Do not require owner occupancy of ADUs or associated primary dwelling units except in the case of a JADU, where an owner must live in either the primary unit or the JADU.
- Do not allow short term rentals of ADUs.

There are additional regulations in State law that dictate how ADUs can be created (e.g., by conversion, by new construction, by addition to existing structures), where they can be created (e.g., attached to primary dwelling units, within the walls of an existing structure, free-standing on a lot), and when and how fees can be assessed. In order to communicate the nuances of State ADU law, the Planning Department prepared a table of State ADU regulations (see Attachment 2). In the absence of a local ADU Ordinance, Berkeley has been and will continue to issue building permits for ADUs according to the State's regulations.

Public Safety

In previous versions of Berkeley's ADU Ordinance, the City took steps to ensure public safety in fire-prone areas such as the Environmental Safety Residential district (Berkeley's Fire Zone 3) and lots with frontage on narrow roads in the Hillside Overlay district (Berkeley's Fire Zone 2). See Attachment 3 for a map of Berkeley's Fire Zones.

In previous iterations of the ADU Ordinance, the City addressed safety concerns by requiring an Administrative Use Permit (AUP) in Fire Zones 2 and 3 with required findings for minimum fire safety requirements. An AUP is a discretionary permit that allows public review and evaluations by staff in the Planning Department. This involves consultation with other departments, including the Fire Department, to identify detrimental impacts of projects and require mitigation measures, such as requiring fire sprinklers, adjusting the location of the ADU on the lot, and/or requiring off-street parking.

New State ADU regulations require the City to issue over-the-counter building permits for ADUs, removing the City's authority to require discretionary permits, such as AUPs. Recognizing public safety issues in Berkeley's most severe fire hazard districts, the City prohibited ADUs in Fire Zones 2 and 3 via an Urgency Ordinance adopted in December 2019 and extended in January 2020. This prohibition was rescinded in September 2020, when the California Department of Housing and Community Development (HCD) published guidance on State ADU law (see Attachment 4) stating that geographic prohibitions for public safety reasons could not be exercised through land use regulation. Guidance from the State clarified that public safety measures are only available through local amendments to the Fire Code, which limits the range of measures that can be utilized, particularly regarding the location of the unit and the provision of off-street parking.

To address this, City Council referred to the City Manager amendments to the Zoning Ordinance and the Fire Code aimed at reducing impacts of additional density in Fire Zones 2 and 3. The Disaster and Fire Safety Commission (DFSC) made separate recommendations to City Council in a Memorandum submitted on March 24, 2021 that addresses emergency access and egress impacts of on-street parking and fire sprinkler requirement. The Planning Commission is recommending modifications to development standards to limit ADU size and ADU placement in these areas.

Options for a Local ADU Ordinance

State law establishes a maximum size for all ADUs at 1,200 square feet, which can be reduced in a local ordinance to 850 square feet if designed as a studio or one-bedroom and 1,000 square feet if designed with two or more bedrooms¹.

¹ ADUs created by conversion of an existing building or structure (e.g. conversion of an attic or basement, conversion of a detached garage) can exceed maximum size requirements per State law. ADUs created in this manner are allowed no more than a 150 square foot addition, intended for ingress and egress.

State law also provides that the local development standards of underlying zoning districts do not apply to ADUs unless explicitly codified in a local ADU ordinance, and only for particular elements such as usable open space, lot coverage, front yard setbacks and design criteria, as long as these standards do not make ADU development “infeasible.” In other words, local ordinances must allow for an ADU of 800 square feet, with a height of 16 feet and side and rear setbacks of 4 feet, on all lots zoned for residential use with at least one proposed or existing dwelling unit, even if the project does not comply with objective development standards in the local ADU ordinance.

Planning Commission Recommendation

On January 26, 2021 City Council referred to the City Manager development of Zoning Ordinance amendments and Fire Code amendments that address emergency access and egress challenges created by new State ADU laws (see Attachment 5). Requested amendments to the Zoning Ordinance involve limitations on the base maximum size of an ADU and required compliance with objective development standards such as front yard setbacks, open space and/or lot coverage.

On April 7, 2021, Planning Commission discussed amendments that responded to Council’s short-term referral. At that meeting, Planning Commission discussed State ADU regulations and focused on allowable modifications to ADU size and height limits. Planning Commission unanimously voted to recommend a set of Zoning Ordinance amendments that update BMC Chapter 23C.24 [Accessory Dwelling Units] and related definitions in BMC Chapter 23F.04 [Definitions] (see Attachment 1). The proposed Zoning Ordinance amendments provide a new ADU Ordinance that is intuitive and written with language that is clear and easy to understand. The bullets below provide rationale where elements of the proposed ordinance are more lenient than State ADU law or involve a level of complexity that benefits from explanation:

- ***The Maximum Size:*** The referral asks that Berkeley implement size restrictions on ADUs. With no local ordinance, ADUs with a maximum size of 1200 square feet are allowed by State law. **The proposed ADU Ordinance allows a maximum size of 850 square feet for studio and one-bedroom ADUs and 1000 square feet for ADUs with two or more bedrooms. Maximum size is further limited to 800 square feet if a project is located in Fire Zones 2 or 3 or if a project cannot meet front yard setbacks.**
- ***Maximum Height:*** State law allows a maximum height of 16 feet for ADUs. **The proposed ADU Ordinance allows an 18-foot maximum height** to allow flexibility in ADU design. An 18-foot structure can accommodate two stories, thereby resulting in a possible 50% reduction in building footprint. Planning Commission’s recommendation helps achieve the referral’s goals of preserving open space and minimizing lot coverage, and providing flexibility in design.

- ***Objective Development Standards:*** The referral asks that Berkeley introduce objective standards for open space and lot coverage to control the maximum size of ADUs. Size controls were requested to ensure lots with ADUs maintain space for emergency access and egress in the event of a disaster. Instead of using open space and lot coverage as metrics, **the proposed ADU Ordinance uses a limit in the number of bedrooms (as explained above) and the location of the lot in Fire Zones 2 and 3 to control ADU size.** The proposal to use the location of lots in State-designated fire-prone area as an objective standard is a simple and intuitive way to limit ADU size for public safety reasons. This eliminates the need to calculate open space and/or lot coverage for proposed projects and provides a direct connection between fire-safety concerns and infill development.
- ***Setbacks:*** The referral asks that Berkeley introduce objective standards to provide guidance on setbacks. State law explicitly states that side and rear setback requirements can be no more than 4 feet and is silent on front yard setbacks. **The proposed ADU Ordinance utilizes setbacks of the underlying zoning district as an objective standard.**
 - The proposed ADU Ordinance is more lenient than the State if the underlying zoning district has a rear or side setback of less than four feet, such as in some mixed-use districts, where comparable accessory buildings may have a reduced setback requirement.
 - Front yard setbacks are applied in the draft ordinance as they would be in the underlying zoning district. These standards will not limit the ability for a property owner to build an ADU; instead they require objective standards for placement of the ADU. If there is no other location suited to placement of the ADU, then the maximum ADU size will be limited to minimize the impacts to the front yard.
- ***ADUs on lots with Group Living Accommodations:*** **The draft Zoning Ordinance amendments allow one ADU on lots with GLAs.** The State is silent on whether or not ADU Law applies to GLAs. Over the past year, the Zoning Officer interpreted State ADU law to extend to GLAs (excluding Fraternity Houses, Sorority Houses or Dormitories) by allowing one ADU per lot with a GLA, similar to the regulations for multifamily properties. GLAs are a common residential use in Berkeley and this interpretation is consistent with the State's direction to encourage ADU development. ADUs on lots with GLAs must not be offered for rent as an extension of the GLA, but rented as an independent unit, per State ADU law.

In addition to the items listed above, the proposed amendments include modifications to the ADU and JADU definitions to comply with State law and maintain consistency with the BMC. BMC Chapter 23C.24 is re-written to reflect the requirements of Government

Code Section 65852.2 and 65852.22 in as clear and concise a manner as possible. The proposed ADU Ordinance has been developed with feedback from members of the public, the ADU Task Force, Berkeley Planning staff, and colleagues from other jurisdictions. If City Council adopts the new ADU Ordinance, Planning staff will publish updated documentation, such as FAQs, a flow chart and a table of regulations. These will explain in non-technical language the regulations in Berkeley’s local ADU Ordinance.

BACKGROUND

In the past six years, Berkeley’s ADU Ordinance has been modified multiple times to conform to State law and to facilitate the construction of ADUs. Prior to the latest revisions to the State’s ADU regulations, Planning Commission was considering other amendments to the local ADU Ordinance to facilitate the construction of ADUs. However, State law that came into effect on January 1, 2020 requires increased flexibility, has rescinded the AUP process for ADUs, and streamlined the ADU permitting process significantly. In addition, the number of building permits issued for ADUs in Berkeley has increased steadily over the past five years, as illustrated in Table 1. For these reasons, and because of the short-term nature of this referral, the focus of this referral response is narrow and the need for additional amendments will be assessed (and implemented) as part of the Housing Element update.

Table 1. City of Berkeley ADU Building Permits Issued, 2016-2020

Year	2016	2017	2018	2019	2020
#	16	74	80	96	119

ENVIRONMENTAL SUSTAINABILITY

ADUs are generally low impact infill development that have the potential to decrease vehicles miles traveled and greenhouse gas emissions and increase availability of housing near various community amenities, the university campus, transit services and employment opportunities.

RATIONALE FOR RECOMMENDATION

State ADU law restricts the City from utilizing discretionary processes that mitigate public safety concerns associated with infill development. Ordinance amendments reduce ADU footprints, which will increase the possibility of better ingress, egress and emergency access in the event of a disaster.

ALTERNATIVE ACTIONS CONSIDERED

Council could take no action and continue to utilize State ADU regulations, with no local modifications.

CONTACT PERSON

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Katrina Lapira, Assistant Planner, Planning & Development Department, (510) 981-7488

Attachments:

- 1: Ordinance
- 2: Table of State ADU Regulations
- 3: Map of Berkeley's Fire Zones
- 4: HCD's ADU Guidance Document
- 5: Council Referral from January 26, 2021
- 6: April 7, 2021 Planning Commission Meeting Final Minutes
- 7: Public Hearing Notice

ORDINANCE NO. -N.S.

ACCESSORY DWELLING UNIT ORDINANCE

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

Section 1. That Berkeley Municipal Code Chapter 23C.24 is amended to read as follows:

**Chapter 23C.24
Accessory Dwelling Units**

Sections:

[23C.24.010](#) Applicability of Regulations

[23C.24.020](#) Purposes

[23C.24.030](#) Permit Procedures

[23C.24.040](#) ~~Repealed by Ord. 7683-NS.~~

[23C.24.050](#) ~~Repealed by Ord. 7683-NS.~~

[23C.24.060](#) ~~Repealed by Ord. 7683-NS.~~

[23C.24.070](#) ~~Repealed by Ord. 7683-NS.~~

23C.24.010 Applicability of Regulations

~~The provisions of this Chapter apply to all lots that are zoned for residential use except 1) in the following zoning districts: Environmental Safety Residential (ES-R), Manufacturing (M), Mixed Manufacturing (MM), Mixed Use Light Industrial (MU-LI), and Unclassified (U); and 2) on a lot with frontage on a roadway with less than 26 feet in pavement width in the Hillside Overlay.~~

- A. ~~The provisions of this Chapter apply to all lots that have at least one existing or proposed Dwelling Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.~~
- B. ~~ADUs and JADUs are allowed on lots as follows:~~
 - 1. ~~One ADU and/or one JADU is allowed on a lot with one Single Family Dwelling.~~
 - 2. ~~One ADU is allowed on a lot with multiple Single Family Dwellings.~~
 - 3. ~~For lots with a Duplex or Multiple Dwelling Uses, one of the following is allowed:~~
 - a. ~~Up to two detached ADUs; or~~
 - b. ~~At least one ADU created from non-habitable portions of the existing dwelling structure (e.g. basement, attic, storage room). The maximum number of ADUs created from non-habitable portions of the existing dwelling structure shall not exceed 25% of the number of existing Dwelling Units on the lot.~~
 - 4. ~~One ADU is allowed on a lot with a Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.~~

23C.24.020 Purposes

The purposes of this Chapter are to:

- A. Implement California Government Code Section [65852.2](#) and [65852.22](#).
- B. Increase overall supply and range of housing options in Berkeley.
- C. Expedite small-scale infill development.
- D. Support Housing Element goals of facilitating construction of Accessory Dwelling Units and increasing the number of housing units that are more affordable to Berkeley residents.
- E. Encourage development of Accessory Dwelling Units in zoning districts with compatible land uses and infrastructure.
- F. Reduce potential impacts of new development in high fire hazard severity areas.

23C.24.030 Permit Procedures

~~Zoning Certificates will be issued for Accessory Dwelling Units and Junior Accessory Dwelling Units per California Government Code Section [65852.2](#) and [65852.22](#).~~

- A. An application for an ADU or JADU is subject to ministerial review. Review must be completed within 60 days of submission of a complete application.
- B. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a building permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.

23C.24.040 Special Provisions Development Standards

~~Repealed by Ord. 7683-NS.~~

- A. Development Standards in Paragraphs B through G, below, apply as follows:
 - 1. Detached New Construction. A detached, new construction ADU is subject to Development Standards for ADUs. A detached, new construction ADU is defined as having a 3-foot separation from a Main Building per Section [23E.04.030](#).
 - 2. Converted or Rebuilt Entirely from an Existing Building or Structure. An ADU converted or rebuilt entirely from an existing building or structure, in the same location with the same dimensions and roof height, is not subject to Development Standards for ADUs. These include:
 - a. An ADU created entirely within an existing Single Family Dwelling.
 - b. An ADU created entirely within the existing non-habitable space of a Duplex or Multiple Dwelling Use.
 - c. An ADU created entirely within an existing detached Accessory Building or Accessory Structure.
 - d. An ADU created entirely within an existing Accessory Building or

Accessory Structure that is demolished and rebuilt.

3. Addition to an Existing or Rebuilt Building or Structure. An ADU, fully or partially created by an addition of square footage to or changes in roof height is subject to Development Standards for ADUs. Paragraph B applies to the ADU's maximum size and Paragraphs C through G apply to the added square footage and roof design. These include:
 - a. An ADU created by an addition or roof change to an existing Single Family Dwelling.
 - b. An ADU created by an addition or roof change to an existing detached Accessory Building or Accessory Structure.
 - c. And ADU created by an addition or roof change to an existing Accessory Building or Accessory Structure that is demolished and rebuilt.
4. Notwithstanding any other provision of this Chapter, no ADU is permitted to be built in the Hillside Overlay or Environmental Safety Residential (ES-R) districts unless it complies with the requirements of Government Code section 65852.2(e)(1).
5. A JADU is subject to applicable Development Standards in Paragraphs B and G.

B. Maximum Size

1. A detached, new construction ADU or an ADU fully or partially created by addition to an existing or proposed Single Family Dwelling is subject to the following maximum size limits:
 - a. 850 square feet for a studio or one-bedroom ADU.
 - b. 1000 square feet for an ADU with two or more bedrooms.
2. An ADU created from an existing Accessory Building or Accessory Structure that does not conform to the Development Standards in Paragraphs C and D may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing building or structure. Additions shall conform with the Development Standards in this Chapter
3. An ADU created from an existing Accessory Building or Accessory Structure that conforms to the Development Standards in Paragraphs C and D must comply with one of the following:
 - a. May include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing building or structure; or
 - b. 850 square feet for a studio or one-bedroom ADU; or
 - c. 1000 square feet for an ADU with two or more bedrooms.
4. The maximum size of a JADU is 500 square feet.

C. Maximum Height is applied to ADUs as follows. See Chapter 23F.04 for definition.

1. Maximum Height of a detached, new construction ADU is 18 feet.
2. Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is 18 feet.

- D. Rear and Side Setbacks. The required rear and side setbacks for a detached, new construction ADU or addition to an existing building or structure are 4 feet, unless a lesser setback is allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district.
- E. Front Yard Setback. The required front yard setback is the same as is established in the underlying zoning district.
- F. Projections. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, Awnings and Bay Window) may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines.
- G. Parking
 - 1. Off-street parking is not required.
 - 2. Replacement parking is not required, but is allowed if in compliance with Chapter 23D.12 and/or Chapter 23E.28.
- H. Nothing in this Chapter shall preclude the issuance of Zoning Certificate for the construction or conversion of an ADU or JADU that complies with the requirements of Government Code section 65852.2(e)(1). The City shall not apply the Development Standards in this Chapter to the extent they are inconsistent with the requirements of Government Code sections 65852.2 and 65852.22.
- I. A Zoning Certificate for the construction of an ADU or JADU may not be denied based on the failure of the applicant to correct a nonconforming zoning condition.

23C.24.050 Development Standards Special Provisions

~~Repealed by Ord. 7683-NS.~~

- A. A rooftop deck may be established provided that the entire roof, deck and railing comply with Development Standards for ADUs in Section 23C.24.040 Paragraphs C through G.
- B. A JADU must be owner-occupied. For purposes of this paragraph, "owner-occupied" means that a person with legal title to the property must reside in either the Single Family Dwelling or the JADU as their legal permanent residence.
- C. The property owner shall file a deed restriction with the County Recorder providing that:
 - 1. The ADU and/or JADU shall not be sold separately from the Dwelling Unit.
 - 2. The ADU and/or JADU shall not be rented for a term that is shorter than 30 days.

3. The JADU or the Single Family Dwelling in which the JADU is located shall be owner-occupied per the definition in Section 23F.04.010

~~**23C.24.060 Modification of Development Standards with an Administrative Use Permit**~~

~~Repealed by Ord. 7683-NS.~~

~~**23C.24.070 Findings**~~

~~Repealed by Ord. 7683-NS.~~

Section 2. That the definition for Accessory Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is amended to read as follows:

Accessory Dwelling Unit (ADU): A secondary Dwelling Unit that is located on a lot with a proposed or existing Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation, which is occupied by one legally established Single Family Dwelling that conforms to the standards of Section 23C.24. An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements unless the City is prohibited from applying such requirements by Government Code Section 65852.2 or 65852.22 and provide the following features independent of the Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation: 1) exterior or independent access to Accessory Dwelling Unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes the following:

- A. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 3. That the definition for Primary Dwelling Unit in Berkeley Municipal Code Chapter 23F.04.010 is rescinded:

~~**Primary Dwelling Unit:** A legally established Single Family Dwelling that is on a lot with an Accessory Dwelling Unit.~~

Section 4. That the following two definitions are adopted into Berkeley Municipal Code Chapter 23F.04.010:

~~**Efficiency Kitchen:** A kitchen that includes a sink, a cooking facility with appliances (e.g. microwave, toaster, oven, hot plate), and food preparation counter space and cabinets.~~

~~**Junior Accessory Dwelling Unit (JADU):** A unit that is contained within the walls of a Single Family Dwelling and includes a separate exterior entrance. A JADU may not be located in an Accessory Building or an Accessory Structure. A JADU may include separate sanitation facilities, or may share sanitary facilities with a Single Family Dwelling. At a minimum, a JADU shall include an Efficiency Kitchen with a working refrigerator.~~

Section 5. 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.









ACCESSORY DWELLING UNIT ORDINANCE SUMMARY

Effective December 20, 2020

Processing + Land Use Development Standards

Ministerial land use approval for ADUs will be issued within **60-days** of receiving a **complete** building permit application.

	JADU ¹	ADU on LOT WITH SINGLE FAMILY DWELLING(S)			ADU on LOT WITH MULTI-FAMILY DWELLING(S)	
ADU Type	 Conversion JADU² <i>[interior conversion of some portion of a single-family dwelling]</i>	 Conversion ADU^{2&3} <i>[interior conversion of existing habitable or non-habitable area within a single-family dwelling, or conversion of a legally built detached accessory structure or accessory building]</i>	 Detached ADUs <i>[new construction]</i>	 Attached ADU <i>[addition/new construction]</i>	 Conversion ADU² <i>[interior conversion of existing non-habitable area of multifamily structures]</i>	 Detached ADUs <i>[new construction]</i>
Lot	A JADU may be established on a lot with one single family dwelling.	An ADU may be established on a lot that has an existing or proposed single-family or multi-family dwelling.				
Number of Accessory Units	1 ⁴	1 ⁵			Interior Conversion ADU: At least one and no more than 25% of the existing unit count in multifamily building. ⁶ OR Detached ADU: 2	
Maximum Size (Square Feet ²)	500	N/A	1,200	1,200	N/A	1,200
Maximum Height (Feet)	N/A	N/A	16		N/A	16
Side Setbacks (Feet)	N/A	N/A	4		N/A	4
Rear Setbacks (Feet)	N/A	N/A	4		N/A	4
Entrance(s)	Exterior entrance required.	Exterior entrance required.			Independent entrance required. ⁷	
Kitchen	Efficiency kitchen required. ⁸	Full kitchen required. ⁹				
Parking Requirements	JADUs created in the attached garage are not subject to the same parking protections as ADUs.	No parking required for ADUs. Replacement parking for existing dwelling unit(s) not required when a garage, carport, covered parking structure, or designated uncovered parking area is physically replaced by an accessory dwelling unit.				
Deed Restrictions	The owner of the property must record a deed restriction to include the requirements listed in Government Sections 65852.2 and 658582.22.	The owner of the property must record a deed restriction with Alameda County that restricts the sale of the ADU from the existing dwelling unit(s) and prohibits Short Term Rentals.				
Owner Occupancy	Required for either single-family dwelling or JADU.	Not required for ADUs permitted between January 1, 2020 and January 1, 2025.				
Natural Gas Prohibition	Does not Apply	May Apply ¹⁰	Applies	Does not Apply	Does not Apply	Applies
Short Term Rentals	Prohibited					
Impact Fees	None	ADUs Less than 750 SF- None ADUs Equal to or Greater than 750 SF- Impact fees collected must be proportional to square footage of existing dwelling unit(s).				
Utility Fees and Connections	No connection fee or capacity charge and no direct line required between ADU or JADU and utility unless in conjunction with a new single-family dwelling.	Connection fee or capacity charge "proportionate to the burden" of the ADU and may require new or separate utility connections.				

¹ A Junior ADU (JADU) is a small dwelling unit created from some portion of a single family dwelling. These units can have their own bathroom facilities or share with the single family dwelling.

² Conversions do not allow modifications to building footprint/ dimensions of legally built structures or buildings, except where sufficient egress and ingress requires modifications -- in which case, an expansion of up to 150 square feet is allowed for ADUs on lots with single family dwellings.

³ A Conversion ADU is permitted in an existing accessory structure on both single/multi-family lot.

⁴ Lots with multiple detached single-family dwellings may only have one ADU.

⁵ Both a JADU and an ADU may exist on a lot zoned with one single-family dwelling.

⁶ When calculating, round up to the nearest integer.

⁷ Exterior entrance not required, but independent entrance (e.g. off hallway, stairwell or other common space) is required.

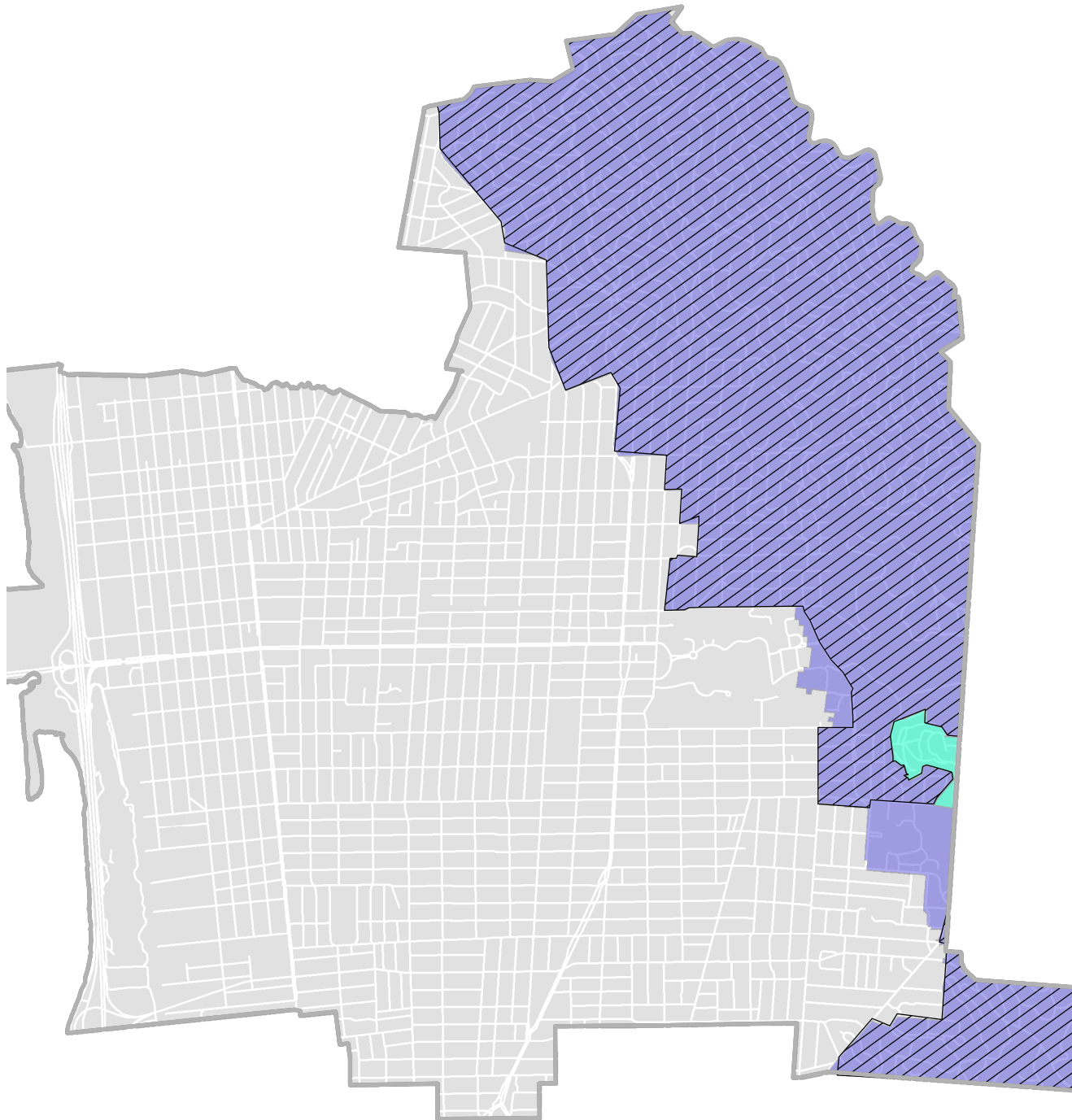
⁸ An efficiency kitchen includes 1) a sink; 2) a cooking facility with appliances; and 3) food preparation counter and storage cabinets.

⁹ A full kitchen requires habitable space used for preparation of food that contains at least a sink, a refrigerator of no less than 10 cubic feet, and either a cooktop and an oven, or a range.




¹⁰ Conversions of detached Accessory Buildings or Accessory Structures that involve Demolition are subject to the Natural Gas Prohibition.

N/A = not applicable SF = square feet

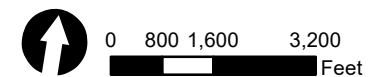
Hillside Overlay and Fire Zones 2 and 3




Legend

-  Hillside Overlay
-  Berkeley Fire Zone 2
-  Berkeley Fire Zone 3

Updated:
November 14, 2019



 **CITY OF BERKELEY**
Land Use Planning Division
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2120 Milvia Street, 2nd Floor
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California Department of Housing and
Community Development

Accessory Dwelling Unit Handbook



Where foundations begin

Updated December 2020



California Department of Housing and
Community Development

Accessory Dwelling Unit Handbook

December 2020



Where foundations begin

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Understanding Accessory Dwelling Units (ADUs) and Their Importance



California's housing production is not keeping pace with demand. In the last decade, less than half of the homes needed to keep up with the population growth were built. Additionally, new homes are often constructed away from job-rich areas. This lack of housing that meets people's needs is impacting affordability and causing average housing costs, particularly for renters in California, to rise significantly. As affordable housing becomes less accessible, people drive longer distances between housing they can afford and their workplace or pack themselves into smaller shared spaces, both of which reduce quality of life and produce negative environmental impacts.

Beyond traditional construction, widening the range of housing types can increase the housing supply and help more low-income Californians thrive. Examples of some of these housing types are Accessory Dwelling Units (ADUs - also referred to as second units, in-law units, casitas, or granny flats) and Junior Accessory Dwelling Units (JADUs).

What is an ADU?

An ADU is an accessory dwelling unit with complete independent living facilities for one or more persons and has a few variations:

- Detached: The unit is separated from the primary structure.
- Attached: The unit is attached to the primary structure.
- Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.
- Junior Accessory Dwelling Unit (JADU): A specific type of conversion of existing space that is contained entirely within an existing or proposed single-family residence.

ADUs tend to be significantly less expensive to build and offer benefits that address common development barriers such as affordability and environmental quality. Because ADUs must be built on lots with existing or proposed housing, they do not require paying for new land, dedicated parking or other costly infrastructure required to build a new single-family home. Because they are contained inside existing single-family homes, JADUs require relatively

modest renovations and are much more affordable to complete. ADUs are often built with cost-effective one or two-story wood frames, which are also cheaper than other new homes. Additionally, prefabricated ADUs can be directly purchased and save much of the time and money that comes with new construction. ADUs can provide as much living space as apartments and condominiums and work well for couples, small families, friends, young people, and seniors.

Much of California's housing crisis comes from job-rich, high-opportunity areas where the total housing stock is insufficient to meet demand and exclusionary practices have limited housing choice and inclusion. Professionals and students often prefer living closer to jobs and amenities rather than spending hours commuting. Parents often want better access to schools and do not necessarily require single-family homes to meet their needs. There is a shortage of affordable units, and the units that are available can be out of reach for many people. To address our state's needs, homeowners can construct an ADU on their lot or convert an underutilized part of their home into a JADU. This flexibility benefits both renters and homeowners who can receive extra monthly rent income.

ADUs also give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care, thus helping extended families stay together while maintaining privacy. The space can be used for a variety of reasons, including adult children who can pay off debt and save up for living on their own.

New policies are making ADUs even more affordable to build, in part by limiting the development impact fees and relaxing zoning requirements. A 2019 study from the Turner Center on Housing Innovation noted that one unit of affordable housing in the Bay Area costs about \$450,000. ADUs and JADUs can often be built at a fraction of that price and homeowners may use their existing lot to create additional housing, without being required to provide additional infrastructure. Often the rent generated from the ADU can pay for the entire project in a matter of years.

ADUs and JADUs are a flexible form of housing that can help Californians more easily access job-rich, high-opportunity areas. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education, and services for many Californians.

Summary of Recent Changes to Accessory Dwelling Unit Laws



In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in zones that allow single-family and multifamily uses provides additional rental housing, and is an essential component in addressing California's housing needs. Over the years, ADU law has been revised to improve its effectiveness at creating more housing units. Changes to ADU laws effective January 1, 2021, further reduce barriers, better streamline approval processes, and expand capacity to accommodate the development of ADUs and junior accessory dwelling units (JADUs).

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing

options for family members, friends, students, the elderly, in-home health care providers, people with disabilities, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the California Department of Housing and Community Development (HCD) has prepared this guidance to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. The following is a summary of recent legislation that amended ADU law: AB 3182 (2020) and SB 13, AB 68, AB 881, AB 587, AB 670, and AB 671 (2019). Please see Attachment 1 for the complete statutory changes for AB 3182 (2020) and SB 13, AB 68, AB 881, AB 587, AB 670, and AB 671 (2019).

AB 3182 (Ting)

Chapter 198, Statutes of 2020 (Assembly Bill 3182) builds upon recent changes to ADU law (Gov. Code, § 65852.2 and Civil Code Sections 4740 and 4741) to further address barriers to the development and use of ADUs and JADUs.

This recent legislation, among other changes, addresses the following:

- States that an application for the creation of an ADU or JADU shall be *deemed approved* (not just subject to ministerial approval) if the local agency has not acted on the completed application within 60 days.
- Requires ministerial approval of an application for a building permit within a residential or mixed-use zone to create one ADU *and* one JADU per lot (not one or the other), within the proposed or existing single-family dwelling, if certain conditions are met.
- Provides for the rental or leasing of a separate interest ADU or JADU in a common interest development, notwithstanding governing documents that otherwise appear to prohibit renting or leasing of a unit, *and* without regard to the date of the governing documents.

- Provides for not less than 25 percent of the separate interest units within a common interest development be allowed as rental or leasable units.

AB 68 (Ting), AB 881 (Bloom), and SB 13 (Wieckowski)

Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Gov. Code § 65852.2, 65852.22) and further address barriers to the development of ADUs and JADUs.

This legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size (Gov. Code, § 65852.2, subd. (a)(1)(B)(i)).
- Clarifies areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services as well as impacts on traffic flow and public safety (Gov. Code, § 65852.2, subd. (a)(1)(A)).
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020, and January 1, 2025 (Gov. Code, § 65852.2, subd. (a)(6)).
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet (Gov. Code, § 65852.2, subds. (c)(2)(B) & (C)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement of offstreet parking spaces cannot be required by the local agency (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi)).
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Gov. Code, § 65852.2, subd. (a)(3) and (b)).
- Clarifies that “public transit” includes various means of transportation that charge set fees, run on fixed routes and are available to the public (Gov. Code, § 65852.2, subd. (j)(10)).
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees (Gov. Code § 65852.2, subd. (f)(3)); ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Gov. Code, § 65852.2, subd. (f)(3)).
- Defines an “accessory structure” to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Gov. Code, § 65852.2, subd. (j)(2)).
- Authorizes HCD to notify the local agency if HCD finds that their ADU ordinance is not in compliance with state law (Gov. Code, § 65852.2, subd. (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy Regional Housing Needs Allocation (RHNA) housing needs (Gov. Code, §§ 65583.1, subd. (a), and 65852.2, subd. (m)).
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them (Gov. Code, § 65852.2, subds. (a)(3), (b), and (e)).

- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code § 65852.22, subd. (a)(4); former Gov. Code § 65852.22, subd. (a)(5)).
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five (5) years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency (Gov. Code, § 65852.2, subd. (n); Health & Safety Code, § 17980.12).

AB 587 (Friedman), AB 670 (Friedman), and AB 671 (Friedman)

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an impact on state ADU law, particularly through Health and Safety Code Section 17980.12. These pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households (Gov. Code, § 65852.26).
- AB 670 provides that covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civ. Code, § 4751).
- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code, § 65583; Health & Safety Code, § 50504.5).

Frequently Asked Questions: Accessory Dwelling Units¹

1. Legislative Intent

a. Should a local ordinance encourage the development of accessory dwelling units?

Yes. Pursuant to Government Code Section 65852.150, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities and others. Therefore, ADUs are an essential component of California's housing supply.

ADU law and recent changes intend to address barriers, streamline approval,

Government Code 65852.150:

(a) *The Legislature finds and declares all of the following:*

(1) *Accessory dwelling units are a valuable form of housing in California.*

(2) *Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.*

(3) *Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.*

(4) *Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.*

(5) *California faces a severe housing crisis.*

(6) *The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.*

(7) *Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.*

(8) *Accessory dwelling units are, therefore, an essential component of California's housing supply.*

(b) *It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.*

¹ Note: Unless otherwise noted, the Government Code section referenced is 65852.2.

and expand potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment, and implementation of local ADU ordinances must be carried out consistent with Government Code, Section 65852.150 and must not unduly constrain the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

In addition, ADU law is the statutory minimum requirement. Local governments may elect to go beyond this statutory minimum and further the creation of ADUs. Many local governments have embraced the importance of ADUs as an important part of their overall housing policies and have pursued innovative strategies. (Gov. Code, § 65852.2, subd. (g)).

2. Zoning, Development and Other Standards

A) Zoning and Development Standards

- **Are ADUs allowed jurisdiction wide?**

No. ADUs proposed pursuant to subdivision (e) must be considered in any residential or mixed-use zone. For other ADUs, local governments may, by ordinance, designate areas in zones where residential uses are permitted that will also permit ADUs. However, any limits on where ADUs are permitted may only be based on the adequacy of water and sewer service, and the impacts on traffic flow and public safety. Further, local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors.

Examples of public safety include severe fire hazard areas and inadequate water and sewer service and includes cease and desist orders. Impacts on traffic flow should consider factors like lesser car ownership rates for ADUs and the potential for ADUs to be proposed pursuant to Government Code section 65852.2, subdivision (e). Finally, local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns. (Gov. Code, § 65852.2, subd. (e))

Residential or mixed-use zone should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use.

- **Can a local government apply design and development standards?**

Yes. A local government may apply development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards shall be sufficiently objective to allow ministerial review of an ADU. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i))

ADUs created under subdivision (e) of Government Code 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision.

What does objective mean?

“objective zoning standards” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. Gov Code § 65913.4, subd. (a)(5)

ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process if the applicant chooses to do so. Some jurisdictions with compliant ADU ordinances apply additional processes to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. Importantly, these processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with ADU law. Examples of these processes include areas where additional health and safety concerns must be considered, such as fire risk.

- **Can ADUs exceed general plan and zoning densities?**

Yes. An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning that does not count toward the allowable density. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Further, local governments could elect to allow more than one ADU on a lot, and ADUs are automatically a residential use deemed consistent with the general plan and zoning. (Gov. Code, § 65852.2, subd. (a)(1)(C).)

- **Are ADUs permitted ministerially?**

Yes. ADUs must be considered, approved, and permitted ministerially, without discretionary action. Development and other decision-making standards must be sufficiently objective to allow for ministerial review. Examples include numeric and fixed standards such as heights or setbacks, or design standards such as colors or materials. Subjective standards require judgement and can be interpreted in multiple ways such as privacy, compatibility with neighboring properties or promoting harmony and balance in the community; subjective standards shall not be imposed for ADU development. Further, ADUs must not be subject to a hearing or any ordinance regulating the issuance of variances or special use permits and must be considered ministerially. (Gov. Code, § 65852.2, subd. (a)(3).)

- **Can I create an ADU if I have multiple detached dwellings on a lot?**

Yes. A lot where there are currently multiple detached single-family dwellings is eligible for creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure or a new construction detached ADU subject to certain development standards.

- **Can I build an ADU in a historic district, or if the primary residence is subject to historic preservation?**

Yes. ADUs are allowed within a historic district, and on lots where the primary residence is subject to historic preservation. State ADU law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards do not apply to ADUs proposed pursuant to Government Code section 65852.2, subdivision (e).

As with non-historic resources, a jurisdiction may impose objective and ministerial standards that are sufficiently objective to be reviewed ministerially and do not unduly burden the creation of ADUs. Jurisdictions are encouraged to incorporate these standards into their ordinance and submit these standards along with their ordinance to HCD. (Gov. Code, § 65852.2, subs. (a)(1)(B)(i) & (a)(5).)

B) Size Requirements

- **Is there a minimum lot size requirement?**

No. While local governments may impose standards on ADUs, these standards shall not include minimum lot size requirements. Further, lot coverage requirements cannot preclude the creation of a statewide exemption ADU (800 square feet ADU with a height limitation of 16 feet and 4 feet side and rear yard setbacks). If lot coverage requirements do not allow such an ADU, an automatic exception or waiver should be given to appropriate development standards such as lot coverage, floor area or open space requirements. Local governments may continue to enforce building and health and safety standards and may consider design, landscape, and other standards to facilitate compatibility.

What is a statewide exemption ADU?

A statewide exemption ADU is an ADU of up to 800 square feet, 16 feet in height, as potentially limited by a local agency, and with 4 feet side and rear yard setbacks. ADU law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a statewide exemption ADU. Further, ADU law allows the construction of a detached new construction statewide exemption ADU to be combined on the same lot with a JADU in a single-family residential zone. In addition, ADUs are allowed in any residential or mixed uses regardless of zoning and development standards imposed in an ordinance. See more discussion below.

- **Can minimum and maximum unit sizes be established for ADUs?**

Yes. A local government may, by ordinance, establish minimum and maximum unit size requirements for both attached and detached ADUs. However, maximum unit size requirements must be at least 850 square feet and 1,000 square feet for ADUs with more than one bedroom. For local agencies without an ordinance, maximum unit sizes are 1,200 square feet for a new detached ADU and up to 50 percent of the floor area of the existing primary dwelling for an attached ADU (at least 800 square feet). Finally, the local agency must not establish by ordinance a minimum square footage requirement that prohibits an efficiency unit, as defined in Health and Safety Code section 17958.1.

The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to size requirements. For example, an existing 3,000 square foot barn converted to an ADU would not be subject to the size requirements, regardless if a local government has an adopted ordinance. Should an applicant want to expand an accessory structure to create an ADU beyond 150 square feet, this ADU would be subject to the size maximums outlined in state ADU law, or the local agency's adopted ordinance.

- **Can a percentage of the primary dwelling be used for a maximum unit size?**

Yes. Local agencies may utilize a percentage (e.g., 50 percent) of the primary dwelling as a maximum unit size for attached or detached ADUs but only if it does not restrict an ADU's size to less than the standard of at least 850 square feet (or at least 1000 square feet for ADUs with more than one bedroom). Local agencies must not, by ordinance, establish any other minimum or maximum unit sizes, including based on

a percentage of the primary dwelling, that precludes a statewide exemption ADU. Local agencies utilizing percentages of the primary dwelling as maximum unit sizes could consider multi-pronged standards to help navigate these requirements (e.g., shall not exceed 50 percent of the dwelling or 1,000 square feet, whichever is greater).

- **Can maximum unit sizes exceed 1,200 square feet for ADUs?**

Yes. Maximum unit sizes, by ordinance, can exceed 1,200 square feet for ADUs. ADU law does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs (Gov. Code, § 65852.2, subd. (g)).

Larger unit sizes can be appropriate in a rural context or jurisdictions with larger lot sizes and is an important approach to creating a full spectrum of ADU housing choices.

C) Parking Requirements

- **Can parking requirements exceed one space per unit or bedroom?**

No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway. Guest parking spaces shall not be required for ADUs under any circumstances.

What is Tandem Parking?

Tandem parking means two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another. (Gov. Code, § 65852.2, subs. (a)(1)(D)(x)(l) and (j)(11).)

Local agencies may choose to eliminate or reduce parking requirements for ADUs such as requiring zero or half a parking space per each ADU.

- **Is flexibility for siting parking required?**

Yes. Local agencies should consider flexibility when siting parking for ADUs. Offstreet parking spaces for the ADU shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made. Specific findings must be based on specific site or regional topographical or fire and life safety conditions.

When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the local agency shall not require that those offstreet parking spaces for the primary unit be replaced. (Gov. Code, § 65852.2, subd. (a)(D)(xi).)

- **Can ADUs be exempt from parking?**

Yes. A local agency shall not impose ADU parking standards for any of the following, pursuant to Government Code section 65852.2, subdivisions (d)(1-5) and (j)(10).

(1) Accessory dwelling unit is located within one-half mile walking distance of public transit.

- (2) Accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) Accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

Note: For the purposes of state ADU law, a jurisdiction may use the designated areas where a car share vehicle may be accessed. Public transit is any location where an individual may access buses, trains, subways and other forms of transportation that charge set fares, run on fixed routes and are available to the general public. Walking distance is defined as the pedestrian shed to reach public transit. Additional parking requirements to avoid impacts to public access may be required in the coastal zone.

D) Setbacks

- **Can setbacks be required for ADUs?**

Yes. A local agency may impose development standards, such as setbacks, for the creation of ADUs. Setbacks may include front, corner, street, and alley setbacks. Additional setback requirements may be required in the coastal zone if required by a local coastal program. Setbacks may also account for utility easements or recorded setbacks. However, setbacks must not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to subdivision (e). Further, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii).)

A local agency may also allow the expansion of a detached structure being converted into an ADU when the existing structure does not have four-foot rear and side setbacks. A local agency may also allow the expansion area of a detached structure being converted into an ADU to have no setbacks, or setbacks of less than four feet, if the existing structure has no setbacks, or has setbacks of less than four feet. A local agency shall not require setbacks of more than four feet for the expanded area of a detached structure being converted into an ADU.

A local agency may still apply front yard setbacks for ADUs, but front yard setbacks cannot preclude a statewide exemption ADU and must not unduly constrain the creation of all types of ADUs. (Gov. Code, § 65852.2, subd. (c).)

E) Height Requirements

- **Is there a limit on the height of an ADU or number of stories?**

Not in state ADU law, but local agencies may impose height limits provided that the limit is no less than 16 feet. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i).)

F) Bedrooms

- **Is there a limit on the number of bedrooms?**

State ADU law does not allow for the limitation on the number of bedrooms of an ADU. A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs.

G) Impact Fees

- **Can impact fees be charged for an ADU less than 750 square feet?**

No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. Should an ADU be 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit.

What is "Proportionately"?

"Proportionately" is some amount that corresponds to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square foot primary dwelling with a proposed 1,000 square foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. In all cases, the impact fee for the ADU must be less than the primary dwelling. Otherwise, the fee is not calculated proportionately. When utilizing proportions, careful consideration should be given to the impacts on costs, feasibility, and ultimately, the creation of ADUs. In the case of the example above, anything greater than 50 percent of the primary dwelling could be considered a constraint on the development of ADUs.

For purposes of calculating the fees for an ADU on a lot with a multifamily dwelling, the proportionality shall be based on the average square footage of the units within that multifamily dwelling structure. For ADUs converting existing space with a 150 square foot expansion, a total ADU square footage over 750 square feet could trigger the proportionate fee requirement. (Gov. Code, § 65852.2, subd. (f)(3)(A).)

- **Can local agencies, special districts or water corporations waive impact fees?**

Yes. Agencies can waive impact and any other fees for ADUs. Also, local agencies may also use fee deferrals for applicants.

- **Can school districts charge impact fees?**

Yes. School districts are authorized but do not have to levy impact fees for ADUs greater than 500 square feet pursuant to Section 17620 of the Education Code. ADUs less than 500 square feet are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs, ensuring appropriate nexus studies and appropriate fees to facilitate construction or reconstruction of adequate school facilities.

- **What types of fees are considered impact fees?**

Impact fees charged for the construction of ADUs must be determined in accordance with the Mitigation Fee Act and generally include any monetary exaction that is charged by a local agency in connection with the approval of an ADU, including impact fees, for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU. A local agency, special district or water corporation shall not consider ADUs as a new residential use for the purposes of calculating connection fees or capacity charges for

utilities, including water and sewer services. However, these provisions do not apply to ADUs that are constructed concurrently with a new single-family home. (Gov. Code, §§ 65852.2, subd. (f), and 66000)

- **Can I still be charged water and sewer connection fees?**

ADUs converted from existing space and JADUs shall not be considered by a local agency, special district or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed with a new single-family dwelling. The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or plumbing fixtures as compared to the primary dwelling. State ADU law does not cover monthly charge fees. (Gov. Code, § 65852.2, subd. (f)(2)(A).)

H) Conversion of Existing Space in Single Family, Accessory and Multifamily Structures and Other Statewide Permissible ADUs (Subdivision (e))

- **Are local agencies required to comply with subdivision (e)?**

Yes. All local agencies must comply with subdivision (e). This subdivision requires the ministerial approval of ADUs within a residential or mixed-use zone. The subdivision creates four categories of ADUs that should not be subject to other specified areas of ADU law, most notably zoning and development standards. For example, ADUs under this subdivision should not have to comply with lot coverage, setbacks, heights, and unit sizes. However, ADUs under this subdivision must meet the building code and health and safety requirements. The four categories of ADUs under subdivision (e) are:

- b. One ADU and one JADU are permitted per lot within the existing or proposed space of a single-family dwelling, or a JADU within the walls of the single family residence, or an ADU within an existing accessory structure, that meets specified requirements such as exterior access and setbacks for fire and safety.**
- c. One detached new construction ADU that does not exceed four-foot side and rear yard setbacks. This ADU may be combined on the same lot with a JADU and may be required to meet a maximum unit size requirement of 800 square feet and a height limitation of 16 feet.**
- d. Multiple ADUs within the portions of multifamily structures that are not used as livable space. Local agencies must allow at least one of these types of ADUs and up to 25 percent of the existing multifamily structures.**
- e. Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and 4-foot rear and side yard setbacks.**

The above four categories are not required to be combined. For example, local governments are not required to allow (a) and (b) together or (c) and (d) together. However, local agencies may elect to allow these ADU types together.

Local agencies shall allow at least one ADU to be created within the non-livable space within multifamily dwelling structures, or up to 25 percent of the existing multifamily dwelling units within a structure and may also allow not more than two ADUs on the lot detached from the multifamily dwelling structure. New detached units are subject to height limits of 16 feet and shall not be required to have side and rear setbacks of more than four feet.

The most common ADU that can be created under subdivision (e) is a conversion of proposed or existing space of a single-family dwelling or accessory structure into an ADU, without any prescribed size limitations, height, setback, lot coverage, architectural review, landscape, or other development standards. This would enable the conversion of an accessory structure, such as a 2,000 square foot garage, to an ADU without any additional requirements other than compliance with building standards for dwellings. These types of ADUs are also eligible for a 150 square foot expansion (see discussion below).

ADUs created under subdivision (e) shall not be required to provide replacement or additional parking. Moreover, these units shall not, as a condition for ministerial approval, be required to correct any existing or created nonconformity. Subdivision (e) ADUs shall be required to be rented for terms longer than 30 days, and only require fire sprinklers if fire sprinklers are required for the primary residence. These ADUs shall not be counted as units when calculating density for the general plan and are not subject to owner-occupancy.

- **Can I convert my accessory structure into an ADU?**

Yes. The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through the state ADU law. These conversions of accessory structures are not subject to any additional development standard, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under building and safety codes. A local agency should not set limits on when the structure was created, and the structure must meet standards for health and safety. Finally, local governments may also consider the conversion of illegal existing space and could consider alternative building standards to facilitate the conversion of existing illegal space to minimum life and safety standards.

- **Can an ADU converting existing space be expanded?**

Yes. An ADU created within the existing or proposed space of a single-family dwelling or accessory structure can be expanded beyond the physical dimensions of the structure. In addition, an ADU created within an existing accessory structure may be expanded up to 150 square feet without application of local development standards, but this expansion shall be limited to accommodating ingress and egress. An example of where this expansion could be applicable is for the creation of a staircase to reach a second story ADU. These types of ADUs shall conform to setbacks sufficient for fire and safety.

A local agency may allow for an expansion beyond 150 square feet, though the ADU would have to comply with the size maximums as per state ADU law, or a local agency's adopted ordinance.

As a JADU is limited to being created within the walls of a primary residence, this expansion of up to 150 square feet does not pertain to JADUs.

I) Nonconforming Zoning Standards

- **Does the creation of an ADU require the applicant to carry out public improvements?**

No physical improvements shall be required for the creation or conversion of an ADU. Any requirement to carry out public improvements is beyond what is required for the creation of an ADU, as per state law. For example, an applicant shall not be required to improve sidewalks, carry out street improvements, or access improvements to create an ADU. Additionally, as a condition for ministerial approval of an ADU, an applicant shall not be required to correct nonconforming zoning conditions. (Gov. Code, § 65852.2, subd. (e)(2).)

J) Renter and Owner-occupancy

- **Are rental terms required?**

Yes. Local agencies may require that the property be used for rentals of terms longer than 30 days. ADUs permitted ministerially, under subdivision (e), shall be rented for terms longer than 30 days. (Gov. Code, § 65852.2, subs. (a)(6) & (e)(4).)

- **Are there any owner-occupancy requirements for ADUs?**

No. Prior to recent legislation, ADU laws allowed local agencies to elect whether the primary dwelling or ADU was required to be occupied by an owner. The updates to state ADU law removed the owner-occupancy allowance for newly created ADUs effective January 1, 2020. The new owner-occupancy exclusion is set to expire on December 31, 2024. Local agencies may not retroactively require owner occupancy for ADUs permitted between January 1, 2020, and December 31, 2024.

However, should a property have both an ADU and JADU, JADU law requires owner-occupancy of either the newly created JADU, or the single-family residence. Under this specific circumstance, a lot with an ADU would be subject to owner-occupancy requirements. (Gov. Code, § 65852.2, subd. (a)(2).)

K) Fire Sprinkler Requirements

- **Are fire sprinklers required for ADUs?**

No. Installation of fire sprinklers may not be required in an ADU if sprinklers are not required for the primary residence. For example, a residence built decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. Therefore, an ADU created on this lot cannot be required to install fire sprinklers. However, if the same primary dwelling recently undergoes significant remodeling and is now required to have fire sprinklers, any ADU created after that remodel must likewise install fire sprinklers. (Gov. Code, § 65852.2, subs. (a)(1)(D)(xii) and (e)(3).)

Please note, for ADUs created on lots with multifamily residential structures, the entire residential structure shall serve as the “primary residence” for the purposes of this analysis. Therefore, if the multifamily structure is served by fire sprinklers, the ADU can be required to install fire sprinklers.

L) Solar Panel Requirements

- **Are solar panels required for new construction ADUs?**

Yes, newly constructed ADUs are subject to the Energy Code requirement to provide solar panels if the unit(s) is a newly constructed, non-manufactured, detached ADU. Per the California Energy Commission (CEC), the panels can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar panels.

Please refer to the CEC on this matter. For more information, see the CEC’s website www.energy.ca.gov. You may email your questions to: title24@energy.ca.gov, or contact the Energy Standards Hotline at 800-772-3300. CEC memos can also be found on HCD’s website at <https://www.hcd.ca.gov/policy-research/AccessoryDwellingUnits.shtml>.

3. Junior Accessory Dwelling Units (JADUs) – Government Code Section 65852.22

- **Are two JADUs allowed on a lot?**

No. A JADU may be created on a lot zoned for single-family residences with one primary dwelling. The JADU may be created within the walls of the proposed or existing single-family residence, including attached garages, as attached garages are considered within the walls of the existing single-family residence. Please note that JADUs created in the attached garage are not subject to the same parking protections as ADUs and could be required by the local agency to provide replacement parking.

JADUs are limited to one per residential lot with a single-family residence. Lots with multiple detached single-family dwellings are not eligible to have JADUs. (Gov. Code, § 65852.22, subd. (a)(1).)

- **Are JADUs allowed in detached accessory structures?**

No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single-family residence. As noted above, attached garages are eligible for JADU creation. The maximum size for a JADU is 500 square feet. (Gov. Code, § 65852.22, subds. (a)(1), (a)(4), and (h)(1).)

- **Are JADUs allowed to be increased up to 150 square feet when created within an existing structure?**

No. Only ADUs are allowed to add up to 150 square feet “beyond the physical dimensions of the existing accessory structure” to provide for ingress. (Gov. Code, § 65852.2, subd. (e)(1)(A)(i).)

This provision extends only to ADUs and excludes JADUs. A JADU is required to be created within the single-family residence.

- **Are there any owner-occupancy requirements for JADUs?**

Yes. There are owner-occupancy requirements for JADUs. The owner must reside in either the remaining portion of the primary residence, or in the newly created JADU. (Gov. Code, § 65852.22, subd. (a)(2).)

4. Manufactured Homes and ADUs

- **Are manufactured homes considered to be an ADU?**

Yes. An ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes a manufactured home (Health & Saf. Code, § 18007).

Health and Safety Code section 18007, subdivision (a): **“Manufactured home,”** for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

5. ADUs and the Housing Element

- **Do ADUs and JADUs count toward a local agency’s Regional Housing Needs Allocation?**

Yes. Pursuant to Government Code section 65852.2 subdivision (m), and section 65583.1, ADUs and JADUs may be utilized towards the Regional Housing Need Allocation (RHNA) and Annual Progress Report (APR) pursuant to Government Code section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally, an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the census definition, and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey, can be credited toward the RHNA based on the appropriate income level. The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other applications.

- **Is analysis required to count ADUs toward the RHNA in the housing element?**

Yes. To calculate ADUs in the housing element, local agencies must generally use a three-part approach: (1) development trends, (2) anticipated affordability and (3) resources and incentives. Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR pursuant to Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures and affordability monitoring programs.

- **Are ADUs required to be addressed in the housing element?**

Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. In addition, housing elements must

include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code, § 65583 and Health & Saf. Code, § 50504.5.)

6. Homeowners Association

- **Can my local Homeowners Association (HOA) prohibit the construction of an ADU or JADU?**

No. Assembly Bill 670 (2019) and AB 3182 (2020) amended Section 4751, 4740, and 4741 of the Civil Code to preclude common interest developments from prohibiting or unreasonably restricting the construction or use, including the renting or leasing of, an ADU on a lot zoned for single-family residential use. Covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on such lots are void and unenforceable or may be liable for actual damages and payment of a civil penalty. Applicants who encounter issues with creating ADUs or JADUs within CC&Rs are encouraged to reach out to HCD for additional guidance.

7. Enforcement

- **Does HCD have enforcement authority over ADU ordinances?**

Yes. After adoption of the ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with state ADU law. If the local agency's ordinance does not comply, HCD must provide a reasonable time, no longer than 30 days, for the local agency to respond, and the local agency shall consider HCD's findings to amend the ordinance to become compliant. If a local agency does not make changes and implements an ordinance that is not compliant with state law, HCD may refer the matter to the Attorney General.

In addition, HCD may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify ADU law.

8. Other

- **Are ADU ordinances existing prior to new 2020 laws null and void?**

No. Ordinances existing prior to the new 2020 laws are only null and void to the extent that existing ADU ordinances conflict with state law. Subdivision (a)(4) of Government Code Section 65852.2 states an ordinance that fails to meet the requirements of subdivision (a) shall be null and void and shall apply the state standards (see Attachment 3) until a compliant ordinance is adopted. However, ordinances that substantially comply with ADU law may continue to enforce the existing ordinance to the extent it complies with state law. For example, local governments may continue the compliant provisions of an ordinance and apply the state standards where pertinent until the ordinance is amended or replaced to fully comply with ADU law. At the same time, ordinances that are fundamentally incapable of being enforced because key provisions are invalid -- meaning there is not a reasonable way to sever conflicting provisions and apply the remainder of an ordinance in a way that is consistent with state law -- would be fully null and void and must follow all state standards until a compliant ordinance is adopted.

- **Do local agencies have to adopt an ADU ordinance?**

No. Local governments may choose not to adopt an ADU ordinance. Should a local government choose to not adopt an ADU ordinance, any proposed ADU development would be only subject to standards set in state ADU law. If a local agency adopts an ADU ordinance, it may impose zoning, development, design, and other standards in compliance with state ADU law. (See Attachment 4 for a state standards checklist.)

- **Is a local government required to send an ADU ordinance to the California Department of Housing and Community Development (HCD)?**

Yes. A local government, upon adoption of an ADU ordinance, must submit a copy of the adopted ordinance to HCD within 60 days after adoption. After the adoption of an ordinance, the Department may review and submit written findings to the local agency as to whether the ordinance complies with this section. (Gov. Code, § 65852.2, subd. (h)(1).)

Local governments may also submit a draft ADU ordinance for preliminary review by HCD. This provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with the new state ADU law.

- **Are charter cities and counties subject to the new ADU laws?**

Yes. ADU law applies to a local agency which is defined as a city, county, or city and county, whether general law or chartered. (Gov. Code, § 65852.2, subd. (j)(5)).

Further, pursuant to Chapter 659, Statutes of 2019 (AB 881), the Legislature found and declared ADU law as “...a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution” and concluded that ADU law applies to all cities, including charter cities.

- **Do the new ADU laws apply to jurisdictions located in the Coastal Zone?**

Yes. ADU laws apply to jurisdictions in the Coastal Zone, but do not necessarily alter or lessen the effect or application of Coastal Act resource protection policies. (Gov. Code, § 65852.22, subd. (l)).

Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws. For more information, see the [California Coastal Commission 2020 Memo](#) and reach out to the locality’s local Coastal Commission district office.

- **What is considered a multifamily dwelling?**

For the purposes of state ADU law, a structure with two or more attached dwellings on a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of state ADU law.

Resources



Attachment 1: Statutory Changes (Strikeout/Italics and Underline)

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2

Combined changes from (AB 3182 Accessory Dwelling Units) and (AB 881, AB 68 and SB 13 Accessory Dwelling Units)

(Changes noted in ~~strikeout~~, underline/*italics*)

Effective January 1, 2021, Section 65852.2 of the Government Code is amended to read:

65852.2.

- (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
- (A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
- (B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.
- (ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
- (C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
- (D) Require the accessory dwelling units to comply with all of the following:
- (i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
- (ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
- (iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
- (iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
- (v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
- (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
- (viii) Local building code requirements that apply to detached dwellings, as appropriate.
- (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway. (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
- (III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
- (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
- (xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

- (i) 850 square feet.
- (ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile walking distance of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit ~~or~~ *and* one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

- (f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
- (2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.
- (3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
- (B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
- (4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.
- (5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
- (g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.
- (h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.
- (2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.
- (B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:
- (i) Amend the ordinance to comply with this section.
- (ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
- (3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
- (B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
- (i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
- (j) As used in this section, the following terms mean:
- (1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
- (A) An efficiency unit.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

- (2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
- (3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
- (4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
- (5) "Local agency" means a city, county, or city and county, whether general law or chartered.
- (6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
- (7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- (8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
- (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
- (m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
- (n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
 - (1) The accessory dwelling unit was built before January 1, 2020.
 - (2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
- (o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.
(Becomes operative on January 1, 2025)

Section 65852.2 of the Government Code is amended to read (changes from January 1, 2021 statute noted in underline/italic):

65852.2.

- (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:
 - (A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.
 - (B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.
 - (ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
 - (C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

- (i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.
 - (ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.
 - (iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
 - (iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.
 - (v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.
 - (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
 - (vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
 - (viii) Local building code requirements that apply to detached dwellings, as appropriate.
 - (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
 - (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
 - (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
 - (xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- (3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. *If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.* A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
- (4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.
- (5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.
- (6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed

accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or ~~imposed, including any owner-occupant requirement, except that~~ imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit ~~or~~ and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not

more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

~~(4)~~ (5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

~~(5)~~ (6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

~~(6)~~ (7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision

(b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family ~~home-~~ dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the

Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(7) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(8) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(9) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(10) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit

applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed.~~ *become operative on January 1, 2025.*

Effective January 1, 2021, Section 4740 of the Civil Code is amended to read (changes noted in ~~strikeout~~, underline/italics) (AB 3182 (Ting)):

4740.

(a) An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to ~~his or~~ her ~~their~~ separate interest.

~~(b) Notwithstanding the provisions of this section, an owner of a separate interest in a common interest development may expressly consent to be subject to a governing document or an amendment to a governing document that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant.~~

~~(c)~~ (b) For purposes of this section, the right to rent or lease the separate interest of an owner shall not be deemed to have terminated if the transfer by the owner of all or part of the separate interest meets at least one of the following conditions:

(1) Pursuant to Section 62 or 480.3 of the Revenue and Taxation Code, the transfer is exempt, for purposes of reassessment by the county tax assessor.

(2) Pursuant to subdivision (b) of, solely with respect to probate transfers, or subdivision (e), (f), or (g) of, Section 1102.2, the transfer is exempt from the requirements to prepare and deliver a Real Estate Transfer Disclosure Statement, as set forth in Section 1102.6.

~~(d)~~ (c) Prior to renting or leasing ~~his or her~~ their separate interest as provided by this section, an owner shall provide the association verification of the date the owner acquired title to the separate interest and the name and contact information of the prospective tenant or lessee or the prospective tenant's or lessee's representative.

~~(e)~~ (d) Nothing in this section shall be deemed to revise, alter, or otherwise affect the voting process by which a common interest development adopts or amends its governing documents.

~~(f) This section shall apply only to a provision in a governing document or a provision in an amendment to a governing document that becomes effective on or after January 1, 2012.~~

Effective January 1, 2021 of the *Section 4741 is added to the Civil Code, to read (AB 3182 (Ting)):*

4741.

(a) An owner of a separate interest in a common interest development shall not be subject to a provision in a governing document or an amendment to a governing document that prohibits, has the effect of prohibiting, or unreasonably restricts the rental or leasing of any of the separate interests, accessory dwelling units, or junior accessory dwelling units in that common interest development to a renter, lessee, or tenant.

(b) A common interest development shall not adopt or enforce a provision in a governing document or amendment to a governing document that restricts the rental or lease of separate interests within a common interest to less than 25 percent of the separate interests. Nothing in this subdivision prohibits a common interest development from adopting or enforcing a provision authorizing a higher percentage of separate interests to be rented or leased.

(c) This section does not prohibit a common interest development from adopting and enforcing a provision in a

governing document that prohibits transient or short-term rental of a separate property interest for a period of 30 days or less.

(d) For purposes of this section, an accessory dwelling unit or junior accessory dwelling unit shall not be construed as a separate interest.

(e) For purposes of this section, a separate interest shall not be counted as occupied by a renter if the separate interest, or the accessory dwelling unit or junior accessory dwelling unit of the separate interest, is occupied by the owner.

(f) A common interest development shall comply with the prohibition on rental restrictions specified in this section on and after January 1, 2021, regardless of whether the common interest development has revised their governing documents to comply with this section. However, a common interest development shall amend their governing documents to conform to the requirements of this section no later than December 31, 2021.

(g) A common interest development that willfully violates this section shall be liable to the applicant or other party for actual damages, and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

(h) In accordance with Section 4740, this section does not change the right of an owner of a separate interest who acquired title to their separate interest before the effective date of this section to rent or lease their property.

Effective January 1, 2020, Section 65852.22 of the Government Code is was amended to read (AB 68 (Ting)):
65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Effective January 1, 2020 Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read (SB 13 (Wieckowski)):

17980.12.

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

(A) The accessory dwelling unit was built before January 1, 2020.

(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

**GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 587 Accessory Dwelling Units**

Effective January 1, 2020 Section 65852.26 is was added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

65852.26.

(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

- (1) The property was built or developed by a qualified nonprofit corporation.
- (2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.
- (3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
 - (A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.
 - (B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.
 - (C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.
 - (D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
- (4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
- (5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

- (1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.
- (2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

**CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1
AB 670 Accessory Dwelling Units**

Effective January 1, 2020, Section 4751 is was added to the Civil Code, to read (AB 670 (Friedman)):

4751.

- (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.
- (b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability

to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6

AB 671 Accessory Dwelling Units

Effective January 1, 2020, Section 65583(c)(7) of the Government Code is was added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).

Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 is was added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.

(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

(b) The list shall be posted on the department's internet website by December 31, 2020.

(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

Attachment 2: State Standards Checklist

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains a proposed, or existing, dwelling.	65852.2(a)(1)(D)(ii)
	The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure, or detached from the proposed or existing dwelling and located on the same lot as the proposed or existing primary dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing primary dwelling but shall be allowed to be at least 800/850/1000 square feet.	65852.2(a)(1)(D)(iv), (c)(2)(B) & C
	Total area of floor area for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.	65852.2(a)(1)(D)(vii)
	Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)(I)

Attachment 3: Bibliography

[ACCESSORY DWELLING UNITS: CASE STUDY](#) (26 pp.)

By the United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

[THE MACRO VIEW ON MICRO UNITS](#) (46 pp.)

By Bill Whitlow, et al. – Urban Land Institute (2014)
Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

[SECONDARY UNITS AND URBAN INFILL: A Literature Review](#) (12 pp.)

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

[RETHINKING PRIVATE ACCESSORY DWELLINGS](#) (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)
Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

One of the large impacts of single-use, single-family detached zoning has been to severely shrink the supply of accessory dwellings, which often were created in or near primary houses. Detached single-family dwelling zones—the largest housing zoning category—typically preclude more than one dwelling per lot except under stringent regulation, and then only in some jurisdictions. Bureaucratically termed “accessory dwelling units” that are allowed by some jurisdictions may encompass market-derived names such as granny flats, granny cottages, mother-in-law suites, secondary suites, backyard cottages, casitas, carriage flats, sidekick houses, basement apartments, attic apartments, laneway houses, multigenerational homes, or home-within-a-home.

[Regulating ADUs in California: Local Approaches & Outcomes](#) (44 pp.)

By Deidra Pfeiffer
 Turner Center for Housing and Innovation, UC Berkeley

Accessory dwelling units (ADU) are often mentioned as a key strategy in solving the nation's housing problems, including housing affordability and challenges associated with aging in place. However, we know little about whether formal ADU practices—such as adopting an ordinance, establishing regulations, and permitting—contribute to these goals. This research helps to fill this gap by using data from the Turner California Residential Land Use Survey and the U.S. Census Bureau to understand the types of communities engaging in different kinds of formal ADU practices in California, and whether localities with adopted ordinances and less restrictive regulations have more frequent applications to build ADUs and increasing housing affordability and aging in place. Findings suggest that three distinct approaches to ADUs are occurring in California: 1) a more restrictive approach in disadvantaged communities of color, 2) a moderately restrictive approach in highly advantaged, predominately White and Asian communities, and 3) a less restrictive approach in diverse and moderately advantaged communities. Communities with adopted ordinances and less restrictive regulations receive more frequent applications to build ADUs but have not yet experienced greater improvements in housing affordability and aging in place. Overall, these findings imply that 1) context-specific technical support and advocacy may be needed to help align formal ADU practices with statewide goals, and 2) ADUs should be treated as one tool among many to manage local housing problems.

[ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes](#) (8 p.)

By David Garcia (2017)
 Turner Center for Housing and Innovation, UC Berkeley

As California's housing crisis deepens, innovative strategies for creating new housing units for all income levels are needed. One such strategy is building Accessory Dwelling Units (ADUs) by private homeowners. While large scale construction of new market rate and affordable homes is needed to alleviate demand-driven rent increases and displacement pressures, ADUs present a unique opportunity for individual homeowners to create more housing as well. In particular, ADUs can increase the supply of housing in areas where there are fewer opportunities for larger-scale developments, such as neighborhoods that are predominantly zoned for and occupied by single-family homes.

In two of California's major metropolitan areas -- Los Angeles and San Francisco -- well over three quarters of the total land area is comprised of neighborhoods where single-family homes make up at least 60 percent of the community's housing stock. Across the state, single-family detached units make up 56.4 percent of the overall housing stock. Given their prevalence in the state's residential land use patterns, increasing the number of single-family homes that have an ADU could contribute meaningfully to California's housing shortage.

[Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle and Vancouver](#) (29 pp.)

By Karen Chapple et al (2017)
 Turner Center for Housing and Innovation, UC Berkeley

Despite government attempts to reduce barriers, a widespread surge of ADU construction has not materialized. The ADU market remains stalled. To find out why, this study looks at three cities in the Pacific Northwest of the United States and Canada that have seen a spike in construction in recent years: Portland, Seattle, and Vancouver. Each city has adopted a set of zoning reforms, sometimes in combination with financial incentives and outreach programs, to spur ADU construction. Due to these changes, as well as the acceleration of the housing crisis in each city, ADUs have begun blossoming.

[Accessory Dwelling Units as Low-Income Housing: California's Faustian Bargain](#) (37 pp.)

By Darrel Ramsey-Musolf (2018)

University of Massachusetts Amherst, ScholarWorks@UMass Amherst

In 2003, California allowed cities to count accessory dwelling units (ADU) towards low-income housing needs. Unless a city's zoning code regulates the ADU's maximum rent, occupancy income, and/or effective period, then the city may be unable to enforce low-income occupancy. After examining a stratified random sample of 57 low-, moderate-, and high-income cities, the high-income cities must proportionately accommodate more low-income needs than low-income cities. By contrast, low-income cities must quantitatively accommodate three times the low-income needs of high-income cities. The sample counted 750 potential ADUs as low-income housing. Even though 759 were constructed, no units were identified as available low-income housing. In addition, none of the cities' zoning codes enforced low-income occupancy. Inferential tests determined that cities with colleges and high incomes were more probable to count ADUs towards overall and low-income housing needs. Furthermore, a city's count of potential ADUs and cities with high proportions of renters maintained positive associations with ADU production, whereas a city's density and prior compliance with state housing laws maintained negative associations. In summary, ADUs did increase local housing inventory and potential ADUs were positively associated with ADU production, but ADUs as low-income housing remained a paper calculation.

**ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, January 26, 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/87354849181>. 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: 873 5484 9181. 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 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.

Council Consent Items

10. **Budget Referral to Reinstate Partial Funding for the Gun Buyback Program Previously Authorized by City Council** *(Continued from November 10, 2020)*
From: Councilmember Kesarwani (Author), Mayor Arreguin (Co-Sponsor), Councilmember Davila (Co-Sponsor)
Recommendation: Refer to the FY 2020-21 November Amendment to the Annual Appropriations Ordinance (AAO #1) \$40,000 to reinstate partial funding for the Gun Buyback Program—originally proposed by Councilmember Cheryl Davila and authorized by the City Council on Nov. 27, 2018.
Financial Implications: \$40,000
 Contact: Rashi Kesarwani, Councilmember, District 1 (510) 981-7110
Action: Approved recommendation revised to be a referral to the FY 2022 budget process.
11. **Short Term Referral to City Manager, Disaster and Fire Safety Commission and Planning Commission to Amend Local Accessory Dwelling Unit (ADU) Zoning Ordinance and Berkeley's Fire Code**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Refer to the City Manager, the Disaster and Fire Safety Commission and the Planning Commission to evaluate and recommend to Council within 90 days, a set of ordinance amendments and implementation programs to address emergency access and egress, parking and objective development standards to address the constraints presented by high fire hazard conditions and narrow and curving roadways in Fire Zones 2 and 3. (Attachment 1 to the report). Recommendations to Additional Objective Development Standards in Zones 2 and 3:
 -Zone 2 and 3 - limit the base maximum size of newly constructed, detached ADUs to 850 sq. feet. -Zone 2 and 3 – require compliance with front yard, side yard and open space and coverage requirements of the applicable zoning district.
 Recommendations to amend the Fire Code: -Prohibit parking on streets where egress and ingress will be adversely impacted by additional vehicles and increased population. -Require sprinklers in new construction, consistent with local Fire Code. - Explore their authority under California Health and Safety Code Sec. 13869.7 to mitigate the adverse impacts of ADU creation in requiring safe and adequate ingress and egress routes and sufficient off-street parking.
Financial Implications: Staff time
 Contact: Susan Wengraf, Councilmember, District 6 (510) 981-7160
Action: Approved recommendation revised to add the underlined phrase, “...and objective development standards for ADUs in all districts with expedited consideration to address the constraints presented by high fire hazard conditions and narrow and curving roadways in Fire Zones 2 and 3.”



Planning Commission

FINAL MINUTES OF THE REGULAR PLANNING COMMISSION MEETING APRIL 7, 2021

The meeting was called to order at 7:02 p.m.

Location: Virtual meeting via Zoom

1. ROLL CALL:

Commissioners Present: Janis Ching, Barnali Ghosh, Savlan Hauser, Robb Kapla, Shane Krpata, Christine Schildt, Jeff Vincent, and Brad Wiblin.

Commissioners Absent: Benjamin Beach and Mary Kay Lacey.

Staff Present: Secretary Alene Pearson, Katrina Lapira, Steve Buckley, Chris Jensen, Paola Boylan, and Kieron Slaughter.

2. **ORDER OF AGENDA:** No changes.

3. **PUBLIC COMMENT PERIOD:** 1

4. **PLANNING STAFF REPORT:**

- Please refer to information items.

Information Items:

- City Council – Objective Standards Recommendations for Density, Design and Shadows
- City Council – Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element

Communications:

- March 30 – CA Department of Food and Agriculture – Cannabis Appellations Program
- March 31 – Business Owner – Berkeley Marina Kosher Market

Late Communications: *See agenda for links.*

- Supplemental Packet One
- Supplemental Packet Two
- Supplemental Packet Three

5. **CHAIR REPORT:**

- None.

6. COMMITTEE REPORT: Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.

- BART Community Advisory Group (CAG) – Held a meeting on March 22 to further the discussion about the vision and priorities document. A draft zoning document is now available for public review on the CAG website. The next meeting will be about access planning to the respective BART sites.

7. APPROVAL OF MINUTES:

Motion/Second/Carried (Wiblin/Krpata) to approve the Planning Commission Meeting Minutes from March 17, 2021, with incorporated amendments to lines 82 and 90.

Ayes: Ghosh, Hauser, Kapla, Krpata, Schildt, and Wiblin. Noes: None. Abstain: Vincent and Ching. Absent: Beach. (6-0-2-1)

8. FUTURE AGENDA ITEMS AND OTHER PLANNING:

- May 5
 - Re-zone of Parcels to Commercial Adeline Corridor (C-AC)
 - Presentation on City-Wide Affordable Housing Requirements by Rick Jacobus

AGENDA ITEMS

9. Action: Response to Short Term Referral for Amendments to the ADU Ordinance and Related Definitions to Address Public Safety Concerns

Staff shared the proposed amendments to the local ADU Ordinance in response to the Council's Short Term referral. The proposed amendments focused on codifying State ADU regulations and modifications to ADU size and front yard setbacks to address public safety concerns. Commission discussion focused primarily on clarification of State ADU law and options for local changes to ADU size, setbacks, height and neighbor noticing. An additional two feet of height was incorporated into the final motion for Council consideration to allow design flexibility. The rationale for a Maximum Height of 18 feet -- without an increase in Maximum Size -- is that two-story ADUs reduce the ADU footprint, increasing Open Space, decreasing Lot Coverage and allowing flexible configurations on smaller lots.

Motion/Second/Carried (Barnali/Vincent) to close the public hearing on the Response to Short Term Referral for Amendments to the ADU Ordinance and Related Definitions to Address Public Safety at 8:55pm.

Ayes: Ching, Ghosh, Hauser, Kapla, Krpata, Schildt, Vincent, and Wiblin. Noes: None. Abstain: None. Absent: Beach. (8-0-0-1)

Motion/Second/Carried (Kapla/Schildt) to adopt staff's recommendation with the following edits and a request to add neighbor notification of Building Permit issuance to the administrative process of application approval:

- Amend 23C.24.010.B.1 to read: *One ADU and/or one JADU is allowed on a lot with one Single Family Dwelling.*
- Delete 23C.24.010.B.5: *One JADU is allowed on a lot with one Single Family Dwelling.*
- Add 23C.24.040.A.6 to read: *A JADU is subject to the Development Standards in paragraph B and G.*
- Amend 23C.24.040.C to read:
 1. *Maximum Height of a ~~free-standing detached~~, new construction ADU is 16-18 feet.*
 2. *Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is 16 18 feet.*

Ayes: Ching, Ghosh, Hauser, Kapla, Krpata, Schildt, Vincent, and Wiblin. Noes: None. Abstain: None. Absent: Beach. (8-0-0-1)

Public Comments: 10

10. Action: Response to Support Small Businesses Referral: Amendments to the Sign Ordinance to Establish a Master Sign Program

Staff presented proposed modifications to the Sign Ordinance, which included establishing a Master Sign Program, clarifying ordinance language, and exempting in-kind replacement of signs. The Commission discussed minor amendments the Zoning Ordinance to maintain consistency with the Sign Ordinance. Corresponding references to the Zoning Ordinance were highlighted by staffs and commission discussion centered on clarifying ordinance language to improve readability.

Motion/Second/Carried (Wiblin/Krpata) to adopt staff's recommendations with suggested edits to 23E.08.020.C [Applicability] as follows:

C. Permits Zoning Certificates, Administrative Use Permits, Use Permits, and Variances for projects that are subject to design review ~~may not be issued without design review approval, except that they may be issued~~ may be approved conditional upon final design review such approval occurring before the issuance a building permit or for a permit for a sign permit (as set forth in BMC Chapter 20.12.010 ~~(of the Sign Ordinance)~~.

Ayes: Ching, Ghosh, Hauser, Kapla, Krpata, Schildt, Vincent, and Wiblin. Noes: None. Abstain: None. Absent: Beach (8-0-0-1)

Public Comments: 1

Motion/Second/Carried (Kapla/Ghosh) to adjourn the Planning Commission meeting at 10:10pm.

Ayes: Ching, Ghosh, Hauser, Kapla, Krpata, Schildt, Vincent, and Wiblin. Noes: None.
Abstain: None. Absent: Beach (8-0-0-1)

Members in the public in attendance: 23

Public Speakers: 11 speakers

Length of the meeting: 3hr 8 minutes

**NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL
AMENDMENTS TO ACCESSORY DWELLING UNIT (ADU) ORDINANCE TO ADDRESS
PUBLIC SAFETY CONCERNS**

The Department of Planning and Development is proposing that the City Council adopt a local Accessory Dwelling Unit (ADU) Ordinance that complies with State ADU law. The proposed Zoning Ordinance amendments are consistent with Government Code Sections 65852.2 and 65852.22 and include local regulations for the size, location, and other development standards for ADUs. The proposed Zoning Ordinance amendments also address public safety measures to the extent they are allowable by State law.

Public Hearing Information

The hearing will be held on September 28, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor’s Executive Order N-29-20.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **September 16, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

For further information, please contact Alene Pearson, Principal Planner, Planning and Development Department at (510) 981-7489.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: September 3, 2021 – The Berkeley Voice

City Clerk shall publish a notice at least 10 days prior to the date of the public hearing with the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on September 16, 2021.

  
\_\_\_\_\_  
Mark Numainville, City Clerk

**ANNOTATED AGENDA  
BERKELEY CITY COUNCIL MEETING  
Tuesday, October 26, 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 Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be 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/87152148000>. 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: **871 5214 8000**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

*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.*

*To submit a written communication for the City Council's consideration and inclusion in the public record, email [council@cityofberkeley.info](mailto:council@cityofberkeley.info).*

*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.*



## Action Calendar – Public Hearings

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

*Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.*

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

**32. Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04 (Continued from October 12, 2021) (Item contains Supplemental material)**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23C.24] and amendments to relevant Definitions [BMC Chapter 23F.04] in the Zoning Ordinance.

**Financial Implications:** None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Public Testimony:** The Mayor opened the public hearing. 31 speakers.

**Action:** M/S/C (Hahn/Arreguin) to suspend the rules and extend the meeting to 11:30 p.m. and to continue Items 35, 36, and 38 to November 9, 2021.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to suspend the rules and extend the meeting to 11:45 p.m.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Kesarwani) to suspend the rules and extend the meeting to 11:50 p.m.

**Vote:** All Ayes.

**Action:** M/S/C (Wengraf/Robinson) to suspend the rules and extend the meeting to 12:00 a.m.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

**Action:** M/S/Failed (Hahn/Harrison) to 1) Refer the development of a local ADU Ordinance that only covers area outside of Fire Zones 2 and 3; and Zones 2 and 3 continue to be governed by state regulations at this time; Refer to the City Attorney development of a special ordinance for Zones 2 and 3 with specific findings regarding public safety needs; 2) Include 20 foot height by right and a 4 foot setback with no protrusions into the setback; 3) Prohibit roof decks; 4) Include the 3 foot setback from the proposal by Councilmember Kesarwani; 5) Do not include language regarding design standards; 6) Request staff to propose language on the notification of existing tenants; 7) Provide links to requirements in other comparable jurisdictions; 8) Consider an AUP process for ADUs that exceed standards but may still be allowed; 9) Provide information of the oak tree replacement concept.

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

**Action:** M/S/Carried (Kesarwani/Taplin) to:

- 1) Adopt the proposed recommendations from Councilmembers Kesarwani, Bartlett, Taplin, and Robinson contained in Supplemental Communications Packet #2 for area outside the Hillside Overlay District only.
- 2) Referral to the November 4 Legislative Platform Meeting, a discussion of ADU limitations in the Hillside Overlay District.
- 3) For the Hillside District, in light of the public hazards and life safety concerns, we refer to the City Manager and City Attorney for staff analysis and recommendations for a potential ordinance, Councilmember Wengraf's full list of recommendations (including the number of ADUs on a parcel) as well as the issue of ADU limitations where there is one access and egress route with a goal of returning within a month or less.
- 4) Refer to the City Manager and the City Attorney the proposal from Councilmember Robinson to consider the following language: "As part of their application, an applicant will attest to whether the lot on which the proposed ADU or JADU is to be built is occupied by tenants." Further, to consider creating a notification system for tenants of properties where an ADU is to be ministerially approved, including potentially by requiring in the code that property owners notify their tenants or by creating a staff-side notification process, and to explore other options to protect tenants, with special attention to elderly and disabled tenants.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:10 a.m.

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

Councilmember Harrison absent at 11:56 p.m.

## Action Calendar – Public Hearings

### 33. Proposed Ordinance Amending Paragraph ‘NN’ of Berkeley Municipal Code Section 19.48.020

**From:** City Manager

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the second reading of Ordinance No. 7,788-N.S. which modifies the language of Paragraph ‘NN.’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and which will expand the existing local code amendment that requires the installation of fire sprinklers in new structures and the retrofit fire sprinklers into existing structures that currently exists in Fire Zone 3 to include structures located in Berkeley Fire Zone 2.

**First Reading Vote:** All Ayes

**Financial Implications:** See report

Contact: Abe Roman, Fire, (510) 981-3473

**Public Testimony:** The Mayor opened the public hearing. 9 speakers.

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

**Vote:** All Ayes.

**Action:** M/S/C (Wengraf/Droste) to adopt the second reading of Ordinance No. 7,788-N.S.

**Vote:** All Ayes.

Recess 7:57 p.m. – 8:12 p.m.

## Action Calendar – Old Business

### 34. Identifying City Council Referrals for Removal (*Continued from October 12, 2021*)

**From:** City Manager

**Recommendation:** 1. Review the referrals marked as rescinded by the sponsoring Councilmember or District; 2. Consider the referrals identified by Councilmembers for further discussion; and 3. Approve the removal of referrals that have been marked as rescinded by the sponsoring Councilmember or District.

**Financial Implications:** None

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

**Action:** 4 speakers. M/S/C (Arreguin/Droste) to approve the removal of the referrals in the item with the following changes:

- 1) Remove the Fair Chance Ordinance item (Arreguin)
- 2) Keep the Racism as a Public Health Threat item (Taplin)
- 3) Keep the Referral to Prevent Displacement item (Taplin)
- 4) Remove the five items identified by Councilmember Robinson in Supplemental Communications Packet #1 (Robinson)
- 5) Keep the AC Transit MOU item (Hahn)

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

**NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL  
AMENDMENTS TO ACCESSORY DWELLING UNIT (ADU) ORDINANCE**

The City Council will consider adopting a local ordinance regarding Accessory Dwelling Units (ADUs). The proposed Municipal Code amendments are consistent with Government Code Sections 65852.2 and 65852.22 and include local regulations for the size, location, and other development standards for ADUs and address public safety measures in portions of the hillside area. The amendments would apply throughout the City. This action is considered exempt from the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations (CEQA Guidelines) Class 3, New Construction or Conversion of Small Structures.

The hearing will be held on **Tuesday, December 14, 2021 at 6:00 p.m.** The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of December 2, 2021. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

For further information, please contact Alene Pearson, Principal Planner, Planning and Development Department at (510) 981-7489, or by e-mail at [apearson@cityofberkeley.info](mailto:apearson@cityofberkeley.info).

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** December 3, 2021 – The Berkeley Voice

City Clerk shall publish a notice at least 10 days prior to the date of the public hearing with the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on December 2, 2021.



Mark Numainville, City Clerk



Office of the City Manager

PUBLIC HEARING
December 14, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Abe Roman, Fire Chief, Fire and Emergency Services Department
Jordan Klein, Director, Planning and Development Department

Subject: Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of a local ordinance enacting Chapter 12.99 (Accessory Dwelling Units in Wildfire Hazard Areas) and amending Chapter 23.306.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

On October 26, 2021, City Council considered Planning Commission's recommendations for a local ADU Ordinance and directed the City Manager to develop a set of narrowly-focused public safety regulations that apply to Accessory Dwelling Units (ADUs). These regulations are to address public safety issues that arise from new development, residents and dwelling units in fire-prone areas.

The proposed ordinance incorporates all of the recommendations referred to the City Manager and City Attorney by the Council on October 26, 2021 in a manner that is narrowly tailored to achieve the public safety goal of preventing fatalities during a wildfire evacuation. This staff report includes an array of alternatives for consideration by the Council, should it wish to narrow or expand the scope of the proposed ordinance.

BACKGROUND

As stated in California Government Code Section 51175, the Legislature has found that wildfires pose a serious threat to the preservation of the public peace, health and safety, and that the wildfire front is not the only source of risk, since embers and firebrands travel far beyond the area impacted by the fire front, and pose a risk of ignition to structures and fuels on a site for a longer time. In that same statute the legislation has determined that it is necessary that all levels of government, including local

governments work to implement preventive measures to ensure the preservation of the public peace, health, or safety. The ability to evacuate people safely during a wildfire is a major challenge in Berkeley. The trend of increasing the density of households even in recognized Very High Fire Hazard Severity Zones as mandated by existing State ADU law demands that the City impose more restrictive fire and public safety requirements as allowed by Gov. Code 51175 and other laws in order to mitigate difficult and dangerous evacuation conditions.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Studies have shown that the total acreage of vegetation burned in California over the decades since the late 1980s has consistently increased over time. One study concluded that the estimated 7.08 million acres burned in the time period from 2009-2018 is approximately 259% more than the acreage burned during the period from 1989-1998 (2.73 million acres) (Buechi, Cameron, Heard, Plantinga, & Weber, 2021)¹. All other variables being equal, this increase in burned acreage will also equate to a corresponding increase in carbon dioxide released to the environment due to wildfires. Measures taken to prevent wildfires, slow the development of wildfires once they are ignited, make wildfires easier to suppress, or prevent the diversion of valuable firefighting resources from rescue missions and allow them to concentrate on suppressing the wildfire will have the effect of reducing this emission of carbon dioxide.

RATIONALE FOR RECOMMENDATION

The wildland fire problem throughout the State of California and the western region of the United States has become progressively worse over the past 30-40 years. The duration of what was once considered a 'wildfire season' has extended to the point that wildfire events occur throughout most of the calendar year. This tends to blur any distinct lines between adjacent fire seasons. As a result, wildfire activity has become more of a cycle and less of a 'season'. Recent wildfire incidents since 2017 have consistently set records for fire size, intensity and rate of spread. Scientific evidence suggests that our current extreme drought conditions that make vegetation more susceptible to ignition and the fire weather conditions which lead to extreme fire behavior and make fire control difficult are due in large part to global climate change.

Formal studies confirm that the overall severity of the wildfire problem in the state has steadily increased over the past 30-40 years and recent wildfire incidents in California since 2017 have consistently set records for fire size, intensity and rate of spread. The difficulty of controlling recent wildfires is evidenced by the number of structures being lost in wildfires despite the record expenditure of public funds on fire control efforts and in the anecdotal reports of experienced firefighters.

¹ Buechi, Hanna; Cameron, Dick; Heard, Sarah; Plantinga, Andrew J; Weber, Page "Long-Term Trends in Wildfire Damages in California", 2020: <https://emlab.ucsb.edu/sites/default/files/documents/wildfire-brief.pdf>

The October 20, 1991 Oakland-Berkeley firestorm (known officially as the Tunnel-Oakland Hills fire), resulted in 25 fatalities due to evacuation challenges posed by winding narrow roads in the Oakland Hills bordering Berkeley. In light of these risks, since 2007, Fire Zone 3, (which comprises the Panoramic Hill neighborhood zoned as the Environmental Safety-Residential District), has been subject to safety restrictions including requirements for the installation and retrofit of fire sprinklers. Today, the Berkeley Fire Department believes that based on deteriorating wildfire conditions throughout the state that the wildland fire problem in Fire Zone 2 is now very similar to the wildland fire problem in Fire Zone 3.

The geographic area designated as Fire Zone 2 shares most of the wildfire characteristics present within Fire Zone 3. Both areas are recognized by the City and the Director of the California Department of Forestry and Fire Protection as Very High Fire Hazard Severity Zones (VHFHSZ) and share similar fire weather. Both areas have narrow, winding and steeply graded roads and streets. Both areas have abundant vegetation intermixed with structures. The topography of both areas is steep which creates the potential for rapidly advancing slope-driven fires. The original parcel subdivisions created narrow but deep lots in both Fire Zones. This tends to crowd adjacent structures and greatly reduces the amount of defensible space available to provide for wildfire safety. Many of the streets average less than 26 feet in width, resulting in choke points where two vehicles are unable to pass each other in the presence of any parking lane. The main factor that the two areas do not share is the condition of a single means of evacuation and access by road that exists in Fire Zone 3. The majority of street segments in Fire Zone 2 have access to more than one evacuation and access route. However, given the dramatic increase in the severity of the wildfire problem it is believed that even the availability of a second or additional access routes, which is typical in Fire Zone 2, cannot mitigate all of the factors previously listed that may contribute to a catastrophic wildfire.

The hazard posed by winding, narrow streets in the wildfire-prone areas is likely to increase substantially with increased density of human life, structures and vehicles and any resulting increase in evacuation traffic. Increasing the number of households living on a given parcel is highly likely to result in an increase in the number of separate vehicles evacuating from that parcel. A parcel containing a single-family home, a JADU and an ADU, occupied by three households, is more likely to generate three separate evacuation vehicles than a single-family home occupied by a single household.

In a study performed at UC Berkeley, researchers modeled a wildfire evacuation scenario in the Berkeley Hills. According to their model, if each household in the Berkeley Hills used only one vehicle to evacuate, then the estimated evacuation time would be less than 2 hours, and 245 vehicles would be exposed to immediate fire danger. However, if each household took 1.7 vehicles to evacuate, that would increase evacuation time to three hours and expose 782 vehicles to fire. If all households evacuate with three vehicles, exposed vehicles reach 2,497 (11% of the total). The

report concluded that reducing the number of personal vehicles (and thereby reducing traffic congestion) was one of the most impactful measures that could prevent wildfire fatalities by ensuring that all households are able to evacuate safely.²

By the same reasoning, preventing an increase in the number of households living within the Very High Fire Hazard Severity Zone will have a direct impact upon the risk of exposure of evacuating vehicles to wildfire risk.

On October 26, 2021, the City Council directed the City Manager and City Attorney to take action to address these hazards as follows:

For the Hillside Overlay District (HOD), in light of the public hazards and life safety concerns, we refer to the City Manager and City Attorney for staff analysis and recommendations for a potential ordinance, Councilmember Wengraf's full list of recommendations (including the number of ADUs on a parcel) as well as the issue of ADU limitations where there is one access and egress route with a goal of returning within a month or less.

Councilmember Wengraf's Supplemental item listed the following recommendations:

1. Allow one accessory dwelling unit on parcels in the HOD by either:

A. conversion of existing space (garage, basement or attic) to an ADU no larger than 800 sq. feet

or

B. conversion of existing internal space for JADU no larger than 500 sq. feet

or

C. one detached ADU of 800 sq. feet

2. Prohibit roof-top decks and balconies for fire safety

3. Prohibit all protrusions into the four-foot rear or side setback to maintain defensible space

4. Maintain 16-foot maximum height for ADUs

5. Allow parking in the front yard setback in coordination with ministerial ADU permit

Additionally, on page 4 of her supplemental item, Councilmember Wengraf uses a street width narrower than 33 feet as grounds for restricting the development of multiple ADUs per parcel.

² Zhao, Bingyu, PhD Wong, Stephen D, PhD "Developing Transportation Response Strategies for Wildfire Evacuations via an Empirically Supported Traffic Simulation of Berkeley, California" 2021: <https://escholarship.org/uc/item/70p6k4rf>

The proposed ordinance applies in Fire Zones 2 and 3 and incorporates all of the recommendations set forth in the Council referral. The primary effect of the proposed ordinance would be to reduce the number of ADUs per parcel from two (one ADU and one JADU) to one (either an ADU or a JADU) and thereby limit the number of separate households likely to flee a wildfire event, which would result in fewer vehicles and a lower likelihood that escaping vehicles would be exposed to wildfire risk due to traffic congestion during the evacuation. Fire Zones 2 and 3 are the formally recognized Very High Fire Hazard Severity Zone in the City of Berkeley, for purposes of Government Code 51179. Certain portions of Fire Zone 2 near the campus of the University of California are zoned for multi-family housing and do not share the narrow, winding streets and related hazardous conditions present in the hilly portions of the VHFHSZ; those areas not zoned for single-family housing are excluded to ensure that these protections are narrowly tailored.

ALTERNATIVE ACTIONS CONSIDERED

This report includes alternative options for City Council consideration. These options, which would revise the proposed language of Chapter 12.99, are outlined below, and each option could be used to further narrow the scope of the proposed ordinance. There is also an implementation concern regarding the prohibition on “rooftop decks and balconies” which are not defined terms for purposes of ministerial approval of zoning certificates.

Replace Fire Zone 2 and 3 with State Recommended VHFHSV

The proposed ordinance uses the boundary of Fire Zones 2 and 3 to designate the areas in which additional restrictions apply to the development of ADUs for wildfire safety purposes. As an alternative, the Council could narrow the applicability of the Ordinance by relying upon the State-Recommended VHFHSV boundaries, which would exclude a portion of Fire Zone 2 in the northwest corner of the locally-adopted VHFHSV.

Government Code Section 51178 requires that the state Director of Forestry and Fire Protection identify Very High Fire Hazard Severity Zones throughout the state, and submit those recommendations to the local jurisdictions where those VHFHSZs are located. Government Code Section 51179 provides that the local jurisdiction may, in turn, designate additional areas that where their inclusion within the VHFHSZ is necessary for effective fire suppression in the area. These locally-adopted VHFHSZs are then transmitted to the state and become the official VHFHSZ for the area until such time as they are modified upon review, which takes place every five years, per Government Code Section 51181.

The City lawfully exercised its authority under Government Code 51179 to modestly expand the boundary of the Very High Fire Hazard Severity Zone originally identified by the Director of Forestry and Fire Protection (adopted on January 1, 2011, repealed and re-enacted on December 3, 2019). The City’s determinations of the boundaries Fire

Zones 2 and 3 were based upon substantial evidence in the record that inclusion of these areas is necessary for effective fire protection within the area.

Relying upon the state recommended VHFHSZ rather than Fire Zones 2 and 3 (the applicable and lawfully established VHFHSZ) would have the effect of excluding certain narrow streets and streets that lack two distinct means of egress that are located outside of the state-recommended VHFHSZ but within the locally-adopted VHFHSZ. It would also pose implementation problems associated with the fact that the state-recommended VHFHSZ was not adopted by the City and therefore is not in use anywhere, parcels on the boundary may dispute whether or not the state-recommended VHFHSZ does or does not apply.

Below is alternative language for Council's consideration:

BMC 12.99.020 A

A. *A lot that meets the following criteria shall be subject to the provisions of this Chapter.*

1. *Lots that are located within a very high fire hazard severity zone ("~~Fire Zone 2~~" or "~~Fire Zone 3~~") as designated in paragraph III. of Berkeley Municipal Code Section 19.48.020 as designated by the Director of Forestry and Fire Protection pursuant to California Government Code section 51178. If the California Government Code is amended such that the Director of Forestry and Fire Protection is no longer required to designate very high fire hazard severity zones, the City Manager, in consultation with the Fire Marshal, shall identify an appropriate substitute designation, which the City Manager shall cause to be published and updated on the City's website no later than June 30 of each calendar year; and*
2. *Lots that are not located within the R-2H (Restricted Two-Family Residential—Hillside Overlay), R-2AH (Restricted Multiple-Family Residential—Hillside Overlay), R-3H (Multiple-Family Residential—Hillside Overlay), or R-4H (Multi-Family Residential) districts.*

Further Narrow Applicability based on Street Width or Egress

The proposed ordinance would apply protections to parcels that are within the Fire Zone 2 or 3, which includes areas that contain narrow streets or have only one distinct means of egress. Council could further narrow the applicability of the fire safety restrictions by applying them only to parcels that are *both* located within Fire Zone 2 or 3 *and* where at least one other Applicability criterion is met, either the street width requirement or the absence of multiple distinct means of egress. This would reduce the number of parcels where ADUs are limited to one ADU or one JADU, thereby increasing the number of parcels with three separate dwelling units which could be occupied by three separate households in the area prone to wildfire risk.

Below is alternative language for Council's consideration:

BMC 12.99.020.A

A. A lot that meets all of the following criteria shall be subject to the provisions of this Chapter.

- 1. Lots that are located within a very high fire hazard severity zone ("Fire Zone 2" or "Fire Zone 3") as designated in paragraph III. Of Berkeley Municipal Code Section 19.48.020; and*
- 2. Lots that are not located within the R-2H (Restricted Two-Family Residential—Hillside Overlay), R-2AH (Restricted Multiple-Family Residential—Hillside Overlay), R-3H (Multiple-Family Residential—Hillside Overlay), or R-4H (Multi-Family Residential) districts; and*
- 3. Either of the following:*
 - a. Lots that lack distinct means of vehicular access as follows:*
 - i. The two (2) distinct means of vehicular access, as measured from the lot frontage to the point of intersection with the highway, shall not overlap with each other; and*
 - ii. Each distinct means of vehicular access shall contain a paved or unpaved road of at least twenty-four (24) feet in width, exclusive of sidewalks, landscaping, and parking lanes;*
 - or*
 - b. Lots that are on streets less than 33 feet wide.*

Further Narrow Street Width

The Council referral used 33 feet as a threshold for street width, below which protections would apply in the Hillside District Overlay. In the alternative, Council could further narrow the applicability of the fire safety restrictions by using a narrower street width criterion. City staff has mapped streets where the average width is below 26 feet, and has also mapped streets where the average width is below 24 feet. These widths were selected because they limit vehicle access when combined with a parking lane. The ordinance could impose requirements on streets where the condition and width of the road is such that a 20-foot fire lane cannot be maintained; however implementation of a street width criterion for applicability will be greatly facilitated by the use of a width that has already been mapped and is readily accessible to staff.

The use of a narrower street width as part of the criteria for applicability of the fire safety restrictions would reduce the number of parcels where ADUs are limited to one ADU or one JADU, thereby increasing the number of parcels with three separate dwelling units which could be occupied by three separate households in the area prone to wildfire risk.

Below is alternative language for Council's consideration, using 26 feet as the street width criterion.

BMC 12.99.020.A

- A. *A lot that meets all of the following criteria shall be subject to the provisions of this Chapter.*
1. *Lots that are located within a very high fire hazard severity zone (“Fire Zone 2” or “Fire Zone 3”) as designated in paragraph III. Of Berkeley Municipal Code Section 19.48.020; and*
 2. *Lots that are not located within the R-2H (Restricted Two-Family Residential—Hillside Overlay), R-2AH (Restricted Multiple-Family Residential—Hillside Overlay), R-3H (Multiple-Family Residential—Hillside Overlay), or R-4H (Multi-Family Residential) districts; and*
 3. *Either of the following:*
 - a. *Lots that lack distinct means of vehicular access as follows:*
 - i. *The two (2) distinct means of vehicular access, as measured from the lot frontage to the point of intersection with the highway, shall not overlap with each other; and*
 - ii. *Each distinct means of vehicular access shall contain a paved or unpaved road of at least twenty-four (24) feet in width, exclusive of sidewalks, landscaping, and parking lanes;*
 - or*
 - b. *Lots that are on streets less than 26 feet wide.*

Implementation Concerns regarding “rooftop decks and balconies”

The terms “rooftop decks and balconies” as used in the list of items referred by the City Council, do not reflect defined terms that can be used by Land Use Planning staff to ministerially approve or deny applications for zoning certificates. It is not clear whether this language is intended to include all forms of exterior elevated elements, such as attached exterior decks; if the language is not intended to incorporate what is commonly referred to as a “deck,” staff will need to devise a clearer definition distinguishing a balcony from a deck.

CONTACT PERSON

Steven Buckley, Land Use Planning Manager, Planning and Development Department,
510-981-7411

Steven Riggs, Fire Marshall, Fire Department, 510-981-5584

Attachments:

- 1: Ordinance
- 2: Public Hearing Notice

ORDINANCE NO. -N.S.

AMENDMENTS TO THE ACCESSORY DWELLING UNIT (ADU) ORDINANCE (BMC 23.306) AND ADOPTION OF A WILDFIRE HAZARD EVACUATION RISK MITIGATION ORDINANCE (BMC 12.99)

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

Section 1. Berkeley Municipal Code Chapter 23.306 is amended to read as follows (additions are shown in underlined text and deletions are shown in ~~striketrough~~):

23.306 Accessory Dwelling Units

Sections:

- 23.306.010 Purposes
- 23.306.020 Applicability
- 23.306.030 Permit Procedures
- 23.306.040 Development Standards
- 23.306.050 Deed Restrictions
- 23.306.060 Neighborhood Noticing
- 23.306.070 Rooftop Decks and Balconies

23.306.010 Purposes

The purposes of this Chapter are to:

- A. Implement California Government Code Section 65852.2 and 65852.22.
- B. Increase overall supply and range of housing options in Berkeley.
- C. Expedite small-scale infill development.
- D. Support Housing Element goals of facilitating construction of accessory dwelling units and increasing the number of housing units that are more affordable to Berkeley residents.
- E. Encourage development of accessory dwelling units in zoning districts with compatible land uses and infrastructure.
- F. Reduce potential impacts of new development in high fire severity areas and the Hillside Overlay District (HOD) due to unique conditions and hazards within these areas that require additional restrictions on ADUs and JADUs because of impacts of traffic flow and public safety consistent with Government Code 65852.2, subdivision (a)(1)(A), which allows local agencies to regulate ADUs based on "adequacy of water and sewer service, and the impacts of traffic flow and public safety."

23.306.020 Applicability

A. The provisions of this chapter apply to zoning districts where residential uses are permitted, on lots that have at least one existing or proposed Dwelling Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.

1. ~~Exceptions. The provisions of this chapter that permit ADUs and JADUs do not apply to lots in the R-1H (Single-Family Residential—Hillside Overlay), R-2H (Restricted Two-Family Residential—Hillside Overlay), or R-2AH (Restricted Multiple-Family Residential—Hillside Overlay) districts. In such districts, ADUs and JADUs shall only be permitted to the extent required by subdivision (e)(1) of Government Code section 65852.2.~~

B. Number of ADUs and JADUs Permitted Per Lot. Except as expressly modified by Chapter 12.99, the following number of ADUs and JADUs shall be the maximum number of accessory units permitted on lots subject to this Chapter.

1. Lot with one Single Family Dwelling: One ADU and/or one JADU.
2. Lot with more than one Single Family Dwelling: One ADU.
3. Lot with a Duplex or Multiple-Family Dwelling, either:
 - a. Up to two detached ADUs; or
 - b. At least one ADU converted from non-habitable portions of the existing Main Building (e.g. basement, attic, storage room). The maximum number of ADUs converted from non-habitable portions of the existing Main Building shall not exceed 25% of the total number of existing Dwelling Units on the lot.
4. Lot with a Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory: One ADU.

23.102.010 – Permit Procedures

A. Zoning Certificate. An application for an ADU or JADU shall be allowed with a Zoning Certificate. Review must be completed within 60 days of submission of a completed application. A completed application must include evidence of compliance with this Chapter, including Development Standards, Deed Restrictions, and Neighborhood Noticing.

1. If an application to create an ADU or JADU is submitted as part of a project that requires discretionary review, a Zoning Certificate for a Building Permit shall not be issued for the ADU or JADU until the discretionary approval(s) has/have been granted and any applicable appeal periods have expired.
2. Issuance of a Zoning Certificate shall not be denied for the construction or conversion of an ADU or JADU that complies with the requirements of Government Code Section 65852.2(e)(1).

3. Issuance of a Zoning Certificate for the construction or conversion of an ADU or JADU shall not be denied based on the failure of an applicant to correct a nonconforming zoning condition.

23.306.040 Development Standards

A. **Basic Standards.** See Table 23.306-1: ADU and JADU Development Standards.

TABLE 23.306-1 ADU AND JADU DEVELOPMENT STANDARDS

	ADU ¹	JADU
Maximum Size <u>Outside of HOD</u> ^{2, 5}		500 sf
Studio or 1 bedroom	850 sf	N/A
2 + bedrooms	1000 sf	
Maximum Size <u>Within HOD</u>	800 sf	500 sf
Maximum Height <u>Outside of HOD</u>	20 ft.	N/A
Maximum Height <u>Within HOD</u>	16 ft.	
Front Yard Setback	Same as underlying district	
Rear Setback	4 ft ³	
Side Setback	4 ft ³	
Required Off-Street Parking <u>Outside of HOD</u>	None ⁴	
Required Off-Street Parking <u>Within HOD</u>	The lesser of 1 space per bedroom or ADU ^{6, 7}	None ⁷

[1] An ADU converted from an Accessory Building or Accessory Structure legally established prior to December 1, 2021 that does not comply with the Maximum Height, Size, and/or Rear and Side Setback requirements is allowed to maintain non-conformity to the same dimensions of the existing Accessory Building or Accessory Structure, provided that the existing side and rear setbacks are sufficient for fire and safety as determined by the Building Official and the Fire Marshal. Any physical additions to the existing Accessory Building or Accessory Structure shall comply with the development standards in this table.

[2] An ADU created entirely through conversion with no modifications to the existing building envelope that is non-compliant with the standards in this table is allowed a physical addition of no more than 150 square feet that complies with Maximum Height and Setback requirements in this table.

[3] If there is a lesser setback allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district, that setback shall apply.

[4] Replacement of off-street parking for the Main Building is allowed and does not need to comply with Parking Maximums (BMC 23.322.070) nor Parking Layout and Design (BMC 23.322.080).

[5] For purposes of Table 23.306-1, ‘HOD’ means lots that are within Fire Zones 2 or 3 (BMC 19.48.020, para. III.), but does not include lots located within the R-2H (Restricted Two-Family Residential—Hillside Overlay), R-2AH (Restricted Multiple-Family Residential—Hillside

Overlay), R-3H (Multiple-Family Residential—Hillside Overlay), or R-4H (Multi-Family Residential) districts.

[6] No off-street parking shall be required for ADUs that satisfy the criteria defined in subdivision (d) of California Government Code section 65852.2 or any successor provision thereto.

[7] If an applicant provides off-street parking for an ADU or a JADU in the HOD, parking shall be allowed in any configuration on the lot, including within the front yard setback.

B. Projections.

1. Except as limited by Paragraph B.2 of this Section, architectural Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, Awnings) may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines. Bay windows may not project into a setback.

2. No projections shall be allowed within the required setbacks on lots that are within Fire Zones 2 or 3 (BMC 19.48.020, para. III.) except on lots located within the R-2H (Restricted Two-Family Residential—Hillside Overlay), R-2AH (Restricted Multiple-Family Residential—Hillside Overlay), R-3H (Multiple-Family Residential—Hillside Overlay), or R-4H (Multi-Family Residential) districts.

23.306.050 - Deed Restrictions

A. The property owner shall file a deed restriction with the Alameda County Recorder which states:

1. The JADU shall not be sold separately from the Main Building;
2. The ADU shall not be sold separately from the Main Building unless the conditions of BMC 23.306.050 B are met;
3. The ADU and/or JADU shall not be rented for a term that is shorter than 30 days; and
4. If the property includes a JADU, the JADU, or the Single Family Dwelling in which the JADU is located, shall be owner-occupied.

B. ADUs Developed by a Qualified Nonprofit Developer. An ADU built or developed by a “qualified nonprofit corporation” may be sold or conveyed separately from the Main Building to a “qualified buyer,” as such terms are defined in subdivision (b) of Section 65852.26 of the California Government Code. The ADU must be held pursuant to a recorded tenancy in common agreement recorded on or after December 31, 2021 that includes the following elements:

1. Delineation of all areas of the property that are for the exclusive use of a cotenant;

2. Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, and improvements associated with the property;
3. Procedures for dispute resolution among cotenants before resorting to legal action;
4. Allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies;
5. A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the ADU or primary dwelling if the buyer desires to sell or convey the property;
6. A requirement that the qualified buyer occupy the ADU or primary dwelling as the buyer's principal residence; and
7. Affordability restrictions on the sale and conveyance of the ADU or primary dwelling that ensure the ADU and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
8. If requested by a utility providing service to the primary residence, the ADU shall have a separate water, sewer, or electrical connection to that utility.

23.306.060 – Neighbor Noticing

A. Scope and Timing of Notice. Notice of an ADU application shall be mailed to owners and tenants of the subject, adjacent, confronting and abutting properties within ten working days of submission to the Planning Department.

B. Content of Notice. Notice shall provide the address of the project, allowable hours of construction, and a link to the City's ADU webpage.

C. Mailing Fees. The applicant shall be responsible for the cost of materials, postage and staff time necessary to process and mail notices.

23.306.070 Rooftop Decks and Balconies

A. Notwithstanding any provisions of this Title to the contrary, rooftop decks and balconies shall be prohibited on lots that are within Fire Zones 2 or 3 (BMC 19.48.020, para. III.) except on lots located within the R-2H (Restricted Two-Family Residential—Hillside Overlay), R-2AH (Restricted Multiple-Family Residential—Hillside Overlay), R-3H (Multiple-Family Residential—Hillside Overlay), or R-4H (Multi-Family Residential) districts.

Section 2. Berkeley Municipal Code Chapter 12.99 is adopted to read as follows:

12.99 Wildfire Hazard Evacuation Risk Mitigation Ordinance

Sections

- 12.99.010 Title and Purposes
- 12.99.020 Applicability
- 12.99.030 Total Number of Units Permitted

12.99.010 Title and Purposes

- A. This Chapter may be referred to as the “Wildfire Hazard Evacuation Risk Mitigation Ordinance.”

- B. The purposes of this chapter are to permit and promote the construction of accessory dwelling units and junior accessory dwelling units while protecting human life and health, promoting the public health, safety, and general welfare, and minimizing public and private losses due to dangerous conditions in specific areas.

- C. Government Code 65852.2, subdivision (a)(1)(A) allows local agencies to regulate ADUs based on "adequacy of water and sewer service, and the impacts of traffic flow and public safety."

- D. The Hillside Overlay District has unique conditions and hazards that require additional restrictions on ADUs and JADUs because of impacts of traffic flow and public safety:
 - 1. Wildfires, earthquakes and landslides put residents of the Hillside Overlay District at significant risk.

 - 2. The Hayward fault bisects the Hillside Overlay District.

 - 3. Due to the maze of narrow, winding streets, the Hillside Overlay District has extremely poor emergency access and egress conditions. Safety is compromised by a substandard street infrastructure that has limited accessibility for emergency responders as well as inadequate capacity for fast and reliable escape. A majority of street widths in the North Berkeley hills have substandard widths.

 - 4. A study published by UC Berkeley researchers concluded that in the best-case scenario, if each household evacuated from the hill with one vehicle, estimated evacuation time would be two hours and 245 vehicles would be exposed to immediate fire danger. However, if each household evacuated with 1.7 vehicles, evacuation time would increase to three hours and 782 vehicles would be exposed to immediate fire danger.

- E. Increasing density and intensity by permitting both one ADU and one JADU (2 total) in addition to the primary home, on every parcel zoned residential in the Hillside Overlay District or in a very high fire hazard severity zone will seriously exacerbate the already very hazardous conditions that currently exist, necessitating reasonable limitations that reduce exposure to hazardous conditions.

12.99.020 Applicability

A. A lot that meets all of the following criteria shall be subject to the provisions of this Chapter.

1. Lots that are located within the very high fire hazard severity zone (“Fire Zone 2” or “Fire Zone 3”) as designated in paragraph III. of Berkeley Municipal Code Section 19.48.020; and

2. Lots that are not located within the R-2H (Restricted Two-Family Residential—Hillside Overlay), R-2AH (Restricted Multiple-Family Residential—Hillside Overlay), R-3H (Multiple-Family Residential—Hillside Overlay), or R-4H (Multi-Family Residential) districts.

12.99.030 Total Number of Units Permitted

A. Notwithstanding any provisions of Chapter 23.306 to the contrary, no more than one ADU or JADU shall be permitted per lot that is subject to this Chapter.

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.

**NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL
AMENDMENTS TO ACCESSORY DWELLING UNIT (ADU) ORDINANCE**

The City Council will consider adopting a local ordinance regarding Accessory Dwelling Units (ADUs). The proposed Municipal Code amendments are consistent with Government Code Sections 65852.2 and 65852.22 and include local regulations for the size, location, and other development standards for ADUs and address public safety measures in portions of the hillside area. The amendments would apply throughout the City. This action is considered exempt from the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations (CEQA Guidelines) Class 3, New Construction or Conversion of Small Structures.

The hearing will be held on **Tuesday, December 14, 2021 at 6:00 p.m.** The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of December 2, 2021. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

For further information, please contact Alene Pearson, Principal Planner, Planning and Development Department at (510) 981-7489, or by e-mail at apearson@cityofberkeley.info.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Published: December 3, 2021 – The Berkeley Voice

City Clerk shall publish a notice at least 10 days prior to the date of the public hearing with the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on December 2, 2021.

  
\_\_\_\_\_  
Mark Numainville, City Clerk



Office of the Director  
of Police Accountability

ACTION CALENDAR  
December 14, 2021

To: Honorable Mayor and Members of the City Council  
From: Katherine J. Lee, Interim Director of Police Accountability  
Subject: Ratification of Police Accountability Board's Standing Rules

RECOMMENDATION

Review and approve Standing Rules of the Police Accountability Board.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Police Accountability Board ("Board") was established by Measure II, amending the City Charter to create a new structure for civilian oversight of the Berkeley Police Department. The City Council appointed Board members in June 2021 and the Board began meeting the following month. According to Article XVIII, Section 125 (13)(c) of the City Charter, "The Board shall establish rules of procedure governing the conduct of business, which shall be subject to ratification by the City Council."

At its first meeting, held July 7, 2021, the Board adopted temporary Standing Rules. At subsequent meetings, the Board discussed permanent Standing Rules and, at its October 27, 2021 meeting, approved a set of Standing Rules (Attachment 1) for which the Board now seeks the Council's approval.

BACKGROUND

The Police Accountability Board is independent of the City Manager and answerable directly to the City Council. Article XVIII, Section 125 of the City Charter sets forth duties and obligations of the Board with respect to how the Board operates and its subject matter jurisdiction.

City Charter Article XVIII, Section 125 (13)(e) states that, unless otherwise specified, rules of procedure governing the conduct of the Board must comply with the Commissioners' Manual. The Board's Standing Rules elaborate upon some of the procedural rules of the Commissioners' Manual, such as those governing the election of a Chair and Vice-Chair, submission of agenda items, and meeting procedures. Additionally, the Board's Standing Rules establish procedures for powers granted under the City Charter, such as review of Departmental policies, appointment of members of

the public to subcommittees, and commendations of Berkeley Police Department personnel.

The Board voted unanimously at its October 27, 2021 meeting to approved the Standing Rules appearing as Attachment 1. Moved/Second: Calavita/Harris; Ayes – Calavita, Chang, Harris, Leftwich, Levine, Mizell, Moore, Owens, Ramsey; Noes – none; Abstentions – none; Absent – none.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

The City Charter directs the Police Accountability Board to adopt rules of procedure that are subject to ratification by the City Council.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Katherine J. Lee, Interim Director of Police Accountability, Office of the Director of Police Accountability, 510-981-4950.

Attachments:

1: Police Accountability Board Standing Rules, approved October 27, 2021



**Police Accountability Board**  
**Standing Rules**  
**Approved Oct. 27, 2021**

**A. PURPOSE**

These Standing Rules are established by the Police Accountability Board to ensure transparency and efficiency of our operations.

**B. AMENDMENTS AND REVISIONS**

Amendments and revisions to these Standing Rules shall be adopted by a majority vote of the Board, except that the Board may not adopt rules that conflict with the enabling Charter amendment (Measure II) or the Commissioners' Manual.

**C. AGENDA ITEMS – REGULAR MEETINGS**

Individual Board members shall submit agenda items to the Board secretary by 12:00 noon one week before the meeting date.

**D. COMMUNICATIONS**

Individual Board members shall submit communications to be included in the agenda packet to the Board secretary by 12:00 noon one week before the meeting date to ensure inclusion in the packet. Communications received after this deadline and before 3:00 p.m. on the meeting day will be distributed via email and/or hard copy at the meeting. If communications are received after 3:00 p.m. on the meeting day, the Board secretary will make every effort, but cannot guarantee, to have hard copies available at the meeting.

**E. MEETING PROCEDURES**

1. Items shall be introduced by the Board member or staff member who proposed the item. The Chair shall then allow an initial period for discussion by recognizing Board members in rotation to ensure that each Board member has the opportunity to speak before a Board member is allowed to speak again. Board members are allowed a maximum of two minutes to speak each time they are given the floor.
2. After a motion on the item is made and seconded, the Chair will recognize the maker of the motion, and then the seconder, to speak. After that, the Chair will recognize Board members in rotation, giving each Board member the opportunity to speak before a Board member is allowed to speak again. Board members are allowed a maximum of one minute to speak each time they are given the floor, and must confine their remarks to the merits of the motion. The Chair may give the maker of the motion an additional minute to speak before putting the matter to a vote.

3. A pending motion may be modified by a “friendly amendment”; that is, by a proposed amendment that is accepted by the maker and seconder of the motion.
4. Action on a motion may be by either voice or general consent. In either case, the Chair shall repeat, or ask the Board secretary to repeat, the motion before the action.
5. Guest speakers who are not on the agenda may address the Board only by general consent, or upon a formal motion.
6. None of these procedural rules shall supersede the procedures set forth in Robert’s Rules of Order.

*F. PUBLIC COMMENT*

1. Public comment shall be agendized near the beginning and at the end of each Board meeting. The Chair, subject to the consent of the Board, may determine the time limit for each speaker and the total number of speakers.
2. Before an agenda item is heard, the Chair or Vice-Chair may poll members of the public present to determine if a significant number of them wish to speak on a particular agenda item. If so, the Chair or Vice-Chair may move that public comment on that item can be heard just before the item.

*G. POLICY COMPLAINTS AND REVIEWS*

1. A request for the Board to review a BPD policy, practice, or procedure may be initiated by a member of the public by filing a policy complaint on a form provided by the Office of the Director of Police Accountability, and is considered a “policy complaint.”
  - a) Policy complaints should be reviewed by staff and brought to the Board for discussion and action within 30 days of filing or the next regular meeting of the Board if the 30 days has expired.
  - b) Additionally, a public comment period shall be agendized immediately preceding consideration of the policy complaint, limited to comments on that complaint. Policy complainants will be allowed to speak for five minutes. Other members of the public will be allowed up to three minutes; the time allotted is subject to the discretion of the Chair, who will consider the number of persons wishing to speak. Board members may ask policy complainants brief questions. The BPD will be given an opportunity to respond to the Board. The Board may accept the policy complaint upon a majority vote.
2. The Board may initiate a review of a BPD policy, practice, or procedure upon a majority vote.
3. a) For policy complaints or policy reviews, Board members shall then determine how to proceed. Possible actions include, but are not limited to: considering the issue as a whole Board, assigning a Board member to research the issue, asking staff to investigate or research the issue, or establishing a



subcommittee. If a subcommittee is created it will seek BPD involvement in its policy review and, upon completing its review, will present its conclusions and recommendations to the full Board.

- b) The full Board may recommend to the BPD, City Manager, or City Council that the BPD adopt a new policy, revise an existing policy, or take no action. Upon conclusion, a policy complaint shall be formally closed by a majority vote of the Board.

#### *H. REGULAR MEETINGS*

Regular meetings shall be held on the second and fourth Wednesday of the month, except in the months of August, November, and December. The Board shall not meet in August, and shall meet only on one Wednesday of the month in November and December. Exceptions shall be made when a meeting day falls on a religious holiday.

Regular meetings shall commence at 7:00 p.m., and shall be held at a location or locations as may be determined by the Board, or virtually via teleconference when allowed by an emergency order.

#### *I. ELECTIONS*

1. Elections shall be held during the second January meeting of each year. During the Board meeting preceding the election meeting, the nomination of the Chair will precede the nomination of the Vice-Chair, and the following nomination process will be followed for each office:
  - a) The presiding Chair declares the nomination process open.
  - b) A Board member nominates another Board member or themselves. A Board member must be present in order to be nominated and may decline the nomination.
  - c) The nomination is seconded (the nomination fails if there is no second).
2. At the second January meeting of the year, the following election process will be followed for each office:
  - a) Additional nominations shall occur in accordance with section I.1.
  - b) Each nominee is allowed two (2) minutes to express their reason for seeking the position. A nominee may decline this opportunity.
  - c) Board members pose questions to each candidate.
  - d) The presiding Chair calls for a roll vote and then announces the winner, except in the following circumstances:
    - i. If there is only one nominee for a position, the presiding Chair may seek or move a vote by acclamation.
    - ii. If a tie occurs among nominees, the presiding Chair will conduct a second round of voting, including any additional nominations.

- iii. If a clear winner is still not identified after a second round of voting, the presiding Chair will conduct a coin toss to break the tie and determine a winner. The Board secretary will assign “heads” and “tails.”
3. The Board secretary will record the maker and the second of the nomination motion as well as the total votes and results per office.
4. The outgoing Chair and Vice-Chair will be given the opportunity to make 2-minute departing statements after the election process takes place. The newly-elected Chair and Vice-Chair will assume their positions at the end of the meeting.

#### *J. APPOINTMENT OF MEMBERS OF THE PUBLIC TO SUBCOMMITTEES*

1. In accordance with the City Charter, the Chair may appoint members of the public to subcommittees in which they have expressed an interest. Such appointments are subject to approval of the Board. Members of the public seeking to serve on a subcommittee must: a) be residents of the City of Berkeley; and b) present themselves at a Board meeting before or at the time of the appointment and speak on the public record on their intent to serve and what they will bring to the subcommittee work and deliberations.
2. Members of the public appointed to subcommittees are non-voting members and may not be selected to be the subcommittee Chair
3. Board members must constitute a majority of membership of any subcommittee, but a subcommittee may convene and conduct business even if Board members are not a majority of subcommittee members present. However, a quorum of voting members must be present to convene a meeting.
4. The term of appointment for members of the public appointed to subcommittees shall not exceed the life of the subcommittee. If a subcommittee must be reauthorized, any members of the public serving on the subcommittee must be reappointed by the Chair, subject to the approval of the Board.
5. A public member of a subcommittee who is absent from two consecutive subcommittee meetings is automatically removed from the subcommittee, but may be reinstated by the Chair if good cause for the absences is shown.
6. The Chair, subject to the approval of the Board, may remove a member of the public from a subcommittee for good cause. Examples of good cause are: failure to work cooperatively with subcommittee members; unruly or disruptive behavior at meetings; or failure to participate in the work of the subcommittee.
7. All actions by the Chair to appoint, reappoint, or remove a member of a public to or from a subcommittee shall occur at a Board meeting.

#### *K. MUTUAL AID AGREEMENTS*

The Board shall constitute a mutual aid subcommittee no later than the first meeting in February of each year to review the compendium of agreements made between the BPD and other law enforcement entities. The Board or the subcommittee may determine which agreements to review.

*L. COMMENDATIONS OF BERKELEY POLICE DEPARTMENT PERSONNEL*

1. The Board regularly receives copies of communications praising Berkeley Police Department (BPD) personnel for noteworthy service; these commendations are both external (from members of the public) and internal (from fellow BPD or City of Berkeley employees). This process shall be used when the Board desires to bestow additional recognition upon those BPD personnel, or when a Board member on his or her own initiative wants the Board to recognize BPD personnel.
2. The Board may commend or otherwise honor with a special award or recognition an individual sworn officer or civilian employee of the BPD, or a group of officers and/or employees of the BPD, such as a team or division.
3. The Board secretary shall agendize commendations the Board receives from the BPD periodically, as received. A Board member wishing to initiate a commendation or other honor from the Board shall submit the proposal to the Board secretary for placement on the Board agenda in accordance with Section C of these rules. The proposal shall include the name of the person or group to be honored, and a description of the noteworthy action.
4. For the Board to issue a commendation or other honor, the BPD officer, employee, or group must be found to have performed an extraordinary service or performed in an extraordinary manner that meets one or more of the following criteria:
  - a) Exceptional valor, bravery, or heroism;
  - b) Superior handling of a difficult situation;
  - c) An action or performance that is above and beyond typical duties;
  - d) Extraordinary compassion, empathy, or kindness.
5. A motion to commend or otherwise honor BPD personnel shall include the act or incident giving rise to the honor and describe how it meets the above criteria. The motion must receive a majority of affirmative votes of Board members present at the meeting to pass.
6. Following the meeting, the Board secretary shall communicate the Board's action in writing to the City Council, and shall also forward the commendation to the Chief of Police, with a request that the commendation or other honor be placed in the personnel file of each sworn officer or civilian employee commended.

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Office of the City Manager

## INFORMATION CALENDAR

December 14, 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: City of Berkeley, State Tobacco Prevention Program (STPP) Overview

### INTRODUCTION

During the July 2017 through December 2021 program period, the City of Berkeley, State Tobacco Prevention Program (STPP) focused their work in three areas:

1. Addressing improperly disposed of tobacco product waste in Berkeley
2. Increasing awareness of the health effects of using flavored tobacco products, including vape and menthol products
3. Recruiting, educating and training Berkeley community members and stakeholders for the Berkeley Tobacco Prevention Coalition

The City of Berkeley, State Tobacco Prevention Program (STPP) conducted observational and public intercept surveys that focused on flavored tobacco and the retail environment. The survey responses provide insight on Berkeley Residents' views on improperly disposed tobacco waste, prohibited smoking areas, and the potential impact of flavored tobacco on youth.

### CURRENT SITUATION AND ITS EFFECTS

During the 2018-2021 program period, the STPP conducted several activities addressing improperly disposed of tobacco litter in Berkeley. Due to the COVID pandemic, the program's approach to completing activities, collecting and synthesizing data had to be accommodated for employee safety. As a result, annual summaries and reporting was postponed, resulting in a subsequent delay in relaying a summary to council. In 2018, a public intercept survey found that 66% of Berkeley residents believed that tobacco waste was a problem. Currently, the STPP's tobacco litter audit sites have no smoking ordinances; these sites include multi-unit housing, bus stops, ATMs, senior centers, commercial areas and parks. Between August 2018 and April 2019, STPP's staff and Berkeley Tobacco Prevention Coalition members chose 27 tobacco litter audit sites to assess the impact of current ordinances and to measure the amount of tobacco litter found onsite. It was concluded that 50% of tobacco litter that was collected was found in commercial areas. Over 300 pieces of tobacco waste were collected during a

single visit to a commercial area, while other sites averaged about 206 pieces of improperly disposed tobacco.<sup>1</sup>

Like all tobacco products, flavored tobacco use is addictive and poses serious health risks. In 2019, when surveying Berkeley residents about flavored tobacco products, nine out of 10 residents thought that flavored tobacco is more appealing to youth than unflavored tobacco products. In addition, 81% of Berkeley residents think it is easy for youth age 21 and under to purchase flavored tobacco products. Limiting access to flavored tobacco will help reduce the likelihood of Berkeley youth using tobacco products that often target the youth population with sweet and candy like flavors. As a result, 67% of residents would support a law that would prohibit the sale of flavored tobacco products in the City. In October 2019, the Berkeley City Council amended Berkeley Municipal Code sections 9.80.020 and 9.80.035, adding sections 9.80.031 and 9.80.032 to prohibit the sale of flavored tobacco products, require a minimum package size for cigars/little cigars, and require a minimum price for certain tobacco products sold in the city.

City of Berkeley's STPP participated in the California State Tobacco Control's Healthy Stores for Healthy Communities initiative. The Healthy Stores for a Healthy Community initiative is a statewide collaboration between tobacco and alcohol use prevention, sexually transmitted disease prevention, and nutrition partners to examine what is in our community stores and how that impacts public health. The goal of the Healthy Stores for Healthy Communities initiative is to improve the health of Californians through changes in community stores, while maintaining vibrant businesses.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

In June 2019, 82 tobacco litter audits were conducted at 27 tobacco litter audit sites. STPP staff created a template to identify the impact of current no smoking ordinances. The template identifiers included items such as: tobacco litter, smoking signs, trash receptacles, and the number of active smokers. The amount of litter ranged from 1 item to over 300 items, with an average of 206 items per observation. Although commercial areas have the largest amount of litter, bus stops had the 2<sup>nd</sup> largest amount of litter per observation and public parks had the 3<sup>rd</sup> highest average. Cigarette butts were the most common form of trash collected during the City of Berkeley's STPP tobacco litter audits.

Tobacco product waste poses enormous environmental and public health challenges. Cigarette filters not only pose significant health risks to wildlife, but also to humans as they leach toxic chemicals that impact food and water supplies. E-cigarette waste, including batteries, pods and/or cartridges that contain nicotine, pose significant harm to the environment. These products were not represented in the collection of litter during the audits, but are known to show up in landfills in manners similar to discarded batteries. Currently, data on the amount of E-cigarette waste in Berkeley is unavailable.

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<sup>1</sup> City of Berkeley Fall 2018 Tobacco Litter Audit Observational Survey

POSSIBLE FUTURE ACTION

Health education and awareness are key in the future implication of understanding the long-term effects of flavored tobacco and subsequent tobacco litter waste. As a result, the following is encouraged:

- Increase community education and awareness of the harms of improperly disposed of tobacco,
- Increase no smoking ordinance enforcement where smoking is prohibited,
- Reduce the number of unhealthy ads situated near school campuses,
- Reestablish coalition goals to continue addressing tobacco control topics.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Current state funding will support implementation of action items. Additional funding will be solicited and explored when applicable.

CONTACT PERSON

Rebecca Day-Rodriguez, Health Services Program Specialist, PHD, (510) 981-5337



# 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