



AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, March 26, 2024
6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702
TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

JESSE ARREGUIN, MAYOR
Councilmembers:

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

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – VACANT
DISTRICT 8 – MARK HUMBERT

This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1618014669>. To request to speak, use the “raise hand” icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 801 4669**. 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 meeting will be recorded.*

To submit a written communication for the City Council’s consideration and inclusion in the public record, email council@berkeleyca.gov.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.

Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.

Preliminary Matters

Roll Call:

Land Acknowledgement Statement: *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

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

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

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

Public Comment by Employee Unions (first regular meeting of the month): *This period of public comment is reserved for officially designated representatives of City of Berkeley employee unions, with five minutes allocated per union if representatives of three or fewer unions wish to speak and up to three minutes per union if representatives of four or more unions wish to speak.*

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 or Information 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. Lease Agreement: Dorothy Day House d.b.a Dorothy's Closet at 2425a Channing Avenue in the Telegraph-Channing Mall and Garage**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,900-N.S. authorizing the City Manager to execute a lease agreement with Dorothy Day House, a 501c3 nonprofit organization doing business as Dorothy's Closet to use and occupy 2425a Channing Avenue inside the Telegraph-Channing Mall and Garage for a five (5) year lease term with an option to extend for one additional five (5) year term. The initial lease term is anticipated to begin retroactively on May 1, 2023.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Andrew Murray, Public Works, (510) 981-6300
- 2. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of February 5, 2024 (closed), February 13, 2024 (regular), February 20 (closed), February 27, 2024 (special and regular) and February 29, 2024 (special).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 3. Contract No. 32200202 Amendment: Extending the Lease for the Real Property at 1461 University Avenue**
From: City Manager
Recommendation: Adopt an Urgency Ordinance authorizing the City Manager to execute an amendment to Contract No. 32200202 with Shree Jalasai Lodging, LP for the real property located at 1461 University Avenue, Berkeley, for the purposes of extending the interim noncongregate shelter program at this location to accommodate a longer-than-anticipated Homekey sales process. The proposed contract amendment will extend the term on a month-to-month basis for no longer than 6 months and increase the total cost by up to \$975,756, with actual costs pro-rated based on the length of the lease, for a new contract not-to-exceed amount of \$4,872,158.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000

Consent Calendar

- 4. Contract: Housing Consortium of the East Bay (HCEB) to operate shelter at the Rodeway Inn**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Housing Consortium of the East Bay (HCEB) to operate an interim housing program at the Rodeway Inn (1461 University Ave.) through September 30, 2024.
Financial Implications: See report
Contact: Peter Radu, City Manager's Office, (510) 981-7000
- 5. Contract No. 31900162 Amendment: Pride Industries Contract for Janitorial Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the City's contract with Pride Industries (Contract No. 31900162) through June 30, 2025, and to approve additional appropriations related for performance of this contract.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 6. Contract No. 32000060 Amendment: Toshiba for Multi-function Devices**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend the City's contract with Toshiba (contract #32000060) through September 15, 2025, and to approve additional appropriations related for performance of this contract.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 7. Contract No. 32400009 Amendment: Stella Courier for Satellite Mail Services/Mail Room Coverage**
From: City Manager
Recommendation: Adopt a Resolution approving an additional \$50,000 to Contract 32400009 with Stella Courier, and authorizing the City Manager to amend the contract accordingly.
Financial Implications: See report
Contact: Henry Oyekanmi, Finance, (510) 981-7300
- 8. Contract: Marina Landscape for Wildfire Safe Model Garden Construction at Firehouse #4**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or their designee to award a contract and execute any amendments, extensions, or change orders with Marina Landscape in an amount not-to-exceed \$275,000 over a two-year period, to provide landscaping, irrigation installation, grading, and the removal of previous vegetation around Berkeley Firehouse #4.
Financial Implications: See report
Contact: David Sprague, Fire, (510) 981-3473

Consent Calendar

- 9. Contract No. 32400033 Amendment: Strategic Economics for Affordable Housing Requirements Economic Feasibility Analysis**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract no. 32400033 with Strategic Economics, increasing the contract amount by \$50,000 for contract services in a total amount not to exceed \$200,000, with a contract end date of January 15, 2025.
Financial Implications: See report.
Contact: Margot Ernst, Health, Housing, and Community Services, (510) 981-5400
- 10. Contract No. 31900225 Amendment: LifeLong Medical Care to fund No Place Like Home (NPLH) supportive services at Maudelle Miller Shirek**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900225 with LifeLong Medical Care (LLMC) to add \$15,300 to provide No Place Like Home (NPLH) tenancy sustaining services at Maudelle Miller Shirek for a total contract amount not to exceed \$2,873,947.
Financial Implications: See report
Contact: Margot Ernst, Health, Housing, and Community Services, (510) 981-5400
- 11. Contract Amendment: The Labor Compliance Managers for Labor Standards Enforcement Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to the Contract with The Labor Compliance Managers increasing the contract by \$50,000 for consulting services for a total amount not to exceed \$100,000.
Financial Implications: See report
Contact: Margot Ernst, Health, Housing, and Community Services, (510) 981-5400
- 12. Contract for Health Officer Coverage**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract with Dr. Gail Newel for Health Officer services during periods when the City Health Officer is out of the office for the period May 1, 2024 through May 1, 2025 in an amount not to exceed \$30,000.
Financial Implications: See report
Contact: Tanya Bustamante, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

13. **Appointment of Director of Public Works**

From: City Manager

Recommendation: Adopt a Resolution confirming the appointment of Terrance Davis as the Director of Public Works to be effective April 15, 2024 at an annual salary of \$260,000.

Financial Implications: See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

14. **Memorandum of Understanding: Berkeley Chief Fire Officers Association**

From: City Manager

Recommendation: Adopt a Resolution 1) approving a successor Memorandum of Understanding (MOU) with the Berkeley Chief Fire Officers Association (BCFOA) for a three-year term from July 1, 2023 through June 30, 2026 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and 2) approving a new Classification and Salary table for BCFOA classifications (Representation Unit A) that implements the salary adjustments reflected in the new MOU and supersedes prior salary resolutions.

Financial Implications: See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

15. **Contract No. 32400015 Amendment: California Consulting for on-call grant writing services**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32400015 with California Consulting, Inc. for on-call grant writing services to increase the contract amount by \$303,000 for a new not-to-exceed amount of \$350,000 and extend the contract term to June 30, 2026.

Financial Implications: Various Funds - \$350,000

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

16. **Fiscal Year 2025 Street Lighting Assessments – Initiating Proceedings**

From: City Manager

Recommendation: Adopt two Resolutions describing proposed improvements to be used to determine the annual assessments levied for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District No. 2018, and ordering the preparation of Engineer's Reports.

Financial Implications: See report.

Contact: Andrew Murray, Public Works, (510) 981-6300

Consent Calendar

17. Purchase Order Extension Authorizations for Critical Vendors of Equipment Maintenance Parts and Services for Multiple Departments

From: City Manager

Recommendation: Adopt fourteen Resolutions authorizing the City Manager to execute extensions of existing multi-year purchase orders for Equipment Maintenance Parts and Services as described below through June 30, 2025:

1. Purchase Order with Golden State Emergency Vehicle for Fire vehicle repairs increased by \$500,000 to a new total Purchase Order amount not to exceed \$800,437.50.

2. Purchase Order with Pape Machinery, Inc. for heavy equipment parts and repairs increased by \$375,000 to a new total Purchase Order amount not to exceed \$666,697.50.

3. Purchase Order with City Auto Supply for ongoing vehicle parts increased by \$250,000 to a new total Purchase Order amount not to exceed \$432,447.50.

4. Purchase Order with Fleetwash, Inc. for vehicle washing increased by \$200,000 to a total Purchase Order amount not to exceed \$372,615.

5. Purchase Order with Coast Counties Truck & Equipment Co. for heavy equipment parts increased by \$225,000 to a new total Purchase Order amount not to exceed \$351,730.

6. Purchase Order with Arata Equipment Company for Zero Waste vehicle parts and repairs increased by \$210,000 to a new total Purchase Order amount not to exceed \$320,180.

7. Purchase Order with TEC of California, Inc. for vehicle parts and accessories increased by \$200,000 to a new total Purchase Order amount not to exceed \$305,000.

8. Purchase Order with Future Ford of Concord for auto/truck parts and service increased by \$205,000 to a new total Purchase Order amount not to exceed \$300,000.

9. Purchase Order with Acme Rigging & Supply Company, Inc. for wheel loader and heavy equipment parts increased by \$200,000 to a new total Purchase Order amount not to exceed \$285,995.

10. Purchase Order with Western Truck Center in an amount not to exceed \$260,000.

11. Purchase Order with Southern Counties Lubricants LLC for vehicle lubricants increased by \$175,000 to a new total Purchase Order amount not to exceed \$238,500.

12. Purchase Order with McNeilus Truck and Manufacturing Company for Zero Waste truck parts increased by \$150,000 to a new total Purchase Order amount not to exceed \$200,000.

13. Purchase Order with California Covers for upholstery services increased by \$60,000 to a new total Purchase Order amount not to exceed \$110,881.01.

14. Purchase Order with Berry Brothers for towing services increased by \$15,000 to a new total Purchase Order amount not to exceed \$50,000.

Financial Implications: See report

Contact: Andrew Murray, Public Works, (510) 981-6300

Consent Calendar

- 18. Filling Vacancies Among the Elected Representatives of the Poor**
From: Human Welfare and Community Action Commission
Recommendation: Adopt a Resolution confirming the appointment of Cheryl Atkinson (District 1) as an elected representative of the poor on the Human Welfare and Community Action Commission (HWCAC), having been voted at the HWCAC February 7, 2024 meeting, and that their term expires November 28, 2024.
Financial Implications: See report
Contact: Mary-Claire Katz, Commission Secretary, (510) 981-5400
- 19. Response to Council Referral: Long Term Care Facility Oversight**
From: Community Health Commission
Recommendation: Refer to the City Manager and the budget process the (1) establishment of an enhanced Ombudsperson program for oversight of Skilled Nursing Facilities and Residential Care Facilities for the Elderly, and (2) early implementation of the Centers for Medicare & Medicaid Services (CMS) proposal for minimum nursing staffing levels ahead of the three-year period proposed by CMS.
Financial Implications: See report
Contact: Kellie Knox, Commission Secretary, (510) 981-5301

Council Consent Items

- 20. Budget Referral: Funding to Protect Pedestrian Safety on Upper Marin Avenue**
From: Councilmember Hahn (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Taplin (Co-Sponsor), Councilmember Humbert (Co-Sponsor)
Recommendation: Refer to the Budget Process up to \$200,000 for study and implementation of traffic control measures on upper Marin Avenue to address urgent safety needs for pedestrians.
Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
- 21. Proclamation in Honor of City of Berkeley Holocaust Remembrance Day**
From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Adopt the Holocaust Remembrance Day Proclamation for the City of Berkeley's 21st Annual Holocaust Remembrance Day. The program will take place virtually on Sunday, May 5th, 2024.
Financial Implications: See report
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Council Consent Items

- 22. 2024 Virtual Holocaust Remembrance Day Program: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds**
From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$500 from Vice Mayor Wengraf, to support the City's Annual Holocaust Remembrance Day program with funds relinquished to the City's general fund. The relinquishment of funds from Vice Mayor Wengraf's discretionary Council Office Budget and all other Councilmembers who would like to contribute, allows the City of Berkeley to invite the community to its 21st Annual Holocaust Remembrance Day virtual program, created by the community with City Council support. This year's program will be held virtually on May 5th, 2024. Register via Eventbrite to attend.
Financial Implications: See report
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

Action Calendar

The public may comment on each item listed on the agenda for action. 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 during one of the Action Calendar public comment periods on the item. Public comment will occur for each Action item (excluding public hearings, appeals, and/or quasi-judicial matters) in one of two comment periods, either 1) before the Action Calendar is discussed; or 2) when the item is taken up by the Council.

A member of the public may only speak at one of the two public comment periods for any single Action item.

The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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 – Scheduled Public Comment Period

During this public comment period, the Presiding Officer will open and close a comment period for each Action item on this agenda (excluding any public hearings, appeals, and/or quasi-judicial matters). The public may speak on each item. Those who speak on an item during this comment period may not speak a second time when the item is taken up by Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. For certain hearings, this is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak line up at the podium, or use the "raise hand" function in Zoom, 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

Action Calendar – Public Hearings

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.

When applicable, 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.

23. Zoning Ordinance Amendments to Berkeley Municipal Code Chapter 23.326 Demolition and Dwelling Unit Controls

From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt first reading of an Ordinance regarding amendments to Berkeley Municipal Code Chapter 23.326 Demolition and Dwelling Unit Control Ordinance.

Financial Implications: See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

Action Calendar – New Business

24a. Dissolution of the Human Welfare and Community Action Commission and the Peace and Justice Commission; and, establishment of the Human Welfare, Peace and Justice Commission

From: City Manager

Recommendation: Adopt first reading of an Ordinance to:

1. Repeal Chapter 3.68, Peace and Justice Commission; and,
2. Repeal Chapter 3.78, Human Welfare and Community Action Commission; and,
3. Establish the Human Welfare, Peace and Justice Commission with Chapter 3.70

Financial Implications: See report

Contact: Margot Ernst, Health, Housing, and Community Services, (510) 981-5400

24b. Reform the Human Welfare and Community Action Commission by amending rules regarding the Commission’s composition, number of members, filling of vacancies, election of low-income representatives, enumerated functions, and other changes

From: City Manager

Recommendation: Adopt first reading of an Ordinance to reform the Human Welfare and Community Action Commission (HWCAC)

Financial Implications: See report

Contact: Margot Ernst, Health, Housing, and Community Services, (510) 981-5400

Information Reports

25. Fiscal Year 2024 Mid-Year Budget Update

From: City Manager

Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000

Information Reports

26. Two consecutive meetings canceled for lack of quorum

From: Homeless Services Panel of Experts

Contact: Josh Jacobs, Commission Secretary, (510) 981-5400

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply:*

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

Archived indexed video streams are available at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>.

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 made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <https://berkeleyca.gov/>.

Agendas and agenda reports may be accessed via the Internet at:

<https://berkeleyca.gov/your-government/city-council/city-council-agendas>

and may be read at reference desks at the following locations:

City Clerk Department - 2180 Milvia Street, First Floor

Tel: 510-981-6900, TDD: 510-981-6903, Fax: 510-981-6901

Email: clerk@berkeleyca.gov

Libraries: Main – 2090 Kittredge Street,

Claremont Branch – 2940 Benvenue, West Branch – 1125 University,

North Branch – 1170 The Alameda, Tarea Hall Pittman South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

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*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 14, 2024.*

Mark Numainville, City Clerk

## Communications

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

### **Item #20: Budget Referral: Funding to Protect Pedestrian Safety on Upper Marin Avenue**

1. Shodie Lyon

### **Item #23: Zoning Ordinance Amendments to Berkeley Municipal Code Chapter 23.326 Demolition and Dwelling Unit Controls**

2. John Selawsky

### **Item #24a: Dissolution of the Human Welfare and Community Action Commission and the Peace and Justice Commission; and, establishment of the Human Welfare, Peace and Justice Commission**

3. Janice Schroeder
4. Human Welfare Community Action Commission (HWCAC)

### **Greenhouse Gas Emissions Plan**

5. Derek Young

### **Traffic Safety**

6. Tucker Pinochi, on behalf of Ecole Bilingue de Berkeley

### **Berkeley Unified School District Parking Lot**

7. Amy



### **Bike Lanes**

8. Alex Merenkov
9. Nadia Rojas

### **Scooters Parked Illegally**

10. Sean McMahon (2)
11. Monica DiLullo, on behalf of Veo

### **Smokefree Multiunit Housing**

12. Carol Denney (2)

### **Restrooms at Channing Way & Telegraph Avenue**

13. Greg Dabel (2)

### **People's Park**

14. Holly Scheider

### **2021 Mason Tillman Report**

15. Elana Auerbach

### **Gaza and Israel**

16. Torie White
17. Karrie Keyes
18. Hannah Beth Schlacter
19. Gordon Gilmore

### **Supplemental Communications and Reports**

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

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



ORDINANCE NO. 7,900-N.S.

LEASE AGREEMENT: DOROTHY DAY HOUSE D.B.A DOROTHY'S CLOSET AT TELEGRAPH-CHANNING MALL AND GARAGE, 2425A CHANNING WAY

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

Section 1. FINDINGS:

The City owns the Telegraph-Channing Mall and Garage, and Dorothy Day House, a 501c3 nonprofit organization, doing business as Dorothy's Closet seeks to lease 2425a Channing Way at the premises for purpose of operating a community clothing distribution program and thrift store.

Section 2. AUTHORIZATION FOR CITY MANAGER TO ENTER INTO LEASE AT 2425a Channing Way, Berkeley CA:

The City Manager is hereby authorized to enter into a five-year lease agreement with the option for a five-year extension with Dorothy Day House d.b.a Dorothy's Closet for real property located at 2425a Channing Way, a ground floor retail space in the City of Berkeley Telegraph-Channing Mall and Garage. Such lease shall be on substantially the terms set forth in Exhibit A.

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

At a regular meeting of the Council of the City of Berkeley held on March 12, 2024, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Hahn, Humbert, Kesarwani, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

**CITY OF BERKELEY  
TELEGRAPH-CHANNING MALL LEASE**

This lease is made on \_\_\_\_\_, 2024, between the CITY OF BERKELEY ("Landlord"), a Charter City organized and existing under the laws of the State of California and Dorothy Day House, a 501c3 doing business as Dorothy's Closet ("Tenant"), who agree as follows:

*This Lease is made with reference to the following facts and objectives:*

A. Landlord is the owner of the real property at 2425a Channing Way, Berkeley, California, ("Premises") located inside Telegraph-Channing Mall and Garage at 2431 Channing Way as further described in Exhibit A, attached to and made a part of this Lease.

B. Tenant is willing to lease the Premises from Landlord pursuant to the provisions stated in this lease.

C. Tenant wishes to lease the Premises for the purpose of operating a community clothing program and thrift store.

D. Tenant has examined the Premises and is fully informed of the condition thereof and agrees to accept it in "as-is" condition.

**1. DESCRIPTION OF PREMISES**

Landlord leases to Tenant and Tenant leases from Landlord the Premises described above.

**2. TERM**

The term of this lease shall retroactively commence on May 1, 2023 and become on the effective date of the Ordinance which authorizes this lease unless the Ordinance provides otherwise and shall be for a period of five (5) years plus the partial month, if any, immediately preceding the first full calendar month of this lease. Tenant shall have an option to extend the term of this Lease for an additional period of five (5) years, pursuant to Section 35 of this Lease. The effective date of the Ordinance shall be no less than thirty (30) days after the second reading of the Ordinance and its approval by City Council. The Term is further described in Exhibit B, attached to and made a part of this Lease.

**3. RENT**

Tenant shall pay to Landlord as monthly rent, without deduction, setoff, prior notice, or demand, the sum of \$3,164.00 per month in advance on the first day of each month,

commencing eighteen (18) months after the retroactive commencement date of the lease or November 1, 2024 and continuing during the Term. Rent shall include basic water, garbage, and recycling service costs. Monthly rent for the first month shall be due and paid on the date City Council approves the Lease and authorizes the City Manager to execute the agreement. Monthly rent for any partial month shall be prorated at the rate of 1/30th of the monthly rent per day. All rent shall be paid to Landlord at the address to which notices to Landlord are given.

**4. PERIODIC RENT INCREASES**

a. The monthly rent shall be increased at the commencement of the third year of the Term (May 1, 2025) and each year thereafter ("the adjustment date"). The adjusted monthly rent will be calculated by adding three percent (3%). Monthly rent increases based on the annual 3% adjustment have been calculated and are further described in Exhibit C, attached to and made a part of this Lease.

**5. SECURITY DEPOSIT**

a. As security for the full and faithful performance by Tenant of each and every term, provision, covenant, and condition of this lease, Tenant shall deposit with Landlord cash in an amount equal to one month's payment of rent. Such security shall be deposited on or before the effective date of the ordinance authorizing this lease.

b. Tenant waives the provisions of California Civil Code section 1950.7, and all laws in force or that become in force after the date of execution of this Lease, that provide that Landlord may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of rent, to repair damage caused by Tenant, or to clean the Premises.

c. If Tenant defaults in respect to any of the terms, provisions, covenants and conditions of this lease, including but not limited to the payment of rent, Landlord may use the security deposit or any portion of it to cure the default or compensate the Landlord for all damage sustained by Landlord resulting from Tenant's default. If Landlord so uses any portion of the security deposit, Tenant will restore the security deposit to its original amount within ten (10) days after written demand from Landlord.

d. Landlord will not be required to keep the security deposit separate from its own funds and Tenant shall not be entitled to interest on the security deposit. The security deposit will not be a limitation on Landlord's damages or other rights under this lease, or a payment of liquidated damages, or an advance payment of the rent. If Tenant pays the rent and performs all of its other obligations under this lease, Landlord shall return the unused portion of the security deposit to Tenant within sixty (60) days after the end of the term; however, if Landlord has evidence that the security deposit has been assigned to an assignee of the Tenant, Landlord shall return the security deposit to the assignee. Landlord may deliver the security deposit to a purchaser of the Premises and be discharged from further liability with respect to it. Tenant

waives the provisions of California Civil Code section 1950.7, and all laws in force or that become in force after the date of execution of this Lease, that provide that Landlord shall return the security deposit no later than thirty (30) days after the Landlord receives possession of the Premises.

**6. LATE CHARGES**

Tenant acknowledges that late payment by Tenant to Landlord of rent and other sums due hereunder will cause Landlord to incur costs not contemplated by this lease, the exact amount of which will be extremely difficult to ascertain. Therefore, if any installment of rent or any other sum due from Tenant is not received by Landlord within ten (10) days after such amount is due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such overdue amount. The parties agree that this late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies available to it.

**7. USE OF PREMISES; OPERATION**

a. Tenant will use the Premises for the purpose of operating a community clothing program and thrift store and agrees to continuously and uninterruptedly occupy and use the entire leased Premises for said purpose and to maintain adequate personnel for the efficient service of clients or customers. Tenant shall not use nor permit the use of the whole or any part of the Premises for any other purpose without the Landlord's prior written consent.

b. Business may be conducted with the public on the leased Premises at any time on any day, provided that, 1) to do business after 10:00 p.m. on any day Tenant shall have obtained any permit required by federal, state or local law; and 2) Tenant hours of operation have been approved by the Landlord, including vacation, holiday, and seasonal schedule changes and/or closures (if any).

c. Tenant agrees to abide by all facility "Rules and Regulations" and are further described in Exhibit D, attached to and made a part of this Lease. Amendments to Exhibit D may be made from time to time and do not require approval by City Council.

d. In addition to Tenant's agreement to abide by all other restrictions on Tenant's use, Tenant hereby covenants that it shall not use the demised premises to engage in either the primary business of a flower shop, which shall include engaging in the primary business of selling flowers, plants, or related supplies nor the primary business of a deli/sandwich shop, which shall include engaging in the primary business of selling made to order sandwiches. Tenant agrees that any violation of these use restrictions shall constitute a default by Tenant under this Lease, and that Landlord's notice to Lessee of this specific use restriction shall not be

deemed a waiver by Landlord of any other use restriction imposed on the Tenant for the use of the demised Premises.

**8. TAXES AND ASSESSMENTS**

a. Tenant recognizes and understands that this lease may create a possessory interest subject to property taxation and assessment and utility taxation, and that the Tenant will be responsible for the payment of any property taxes and assessments, and utility taxes levied on such interest.

b. Tenant shall pay all taxes on its personal property, fixtures and on its leasehold or possessory interest in the leased Premises and any other assessment that may be lawfully levied.

**9. UTILITIES**

Tenant agrees to pay any and all PG&E charges for electricity, gas, heat, and cooling represented on their dedicated meter. Tenant also agrees to pay telephone, sewer use, water, refuse collection and other utilities used in the Premises for their exclusive use. For utilities paid directly to the Landlord on a per square foot basis, Landlord may adjust that rate to reflect the actual costs during the preceding year if Tenant usage for water, trash, or recycling or require the Tenant to pay directly for trash and recycling services if their use is determined to be excessive by the Director of Public Works.

**10. MAINTENANCE AND REPAIR**

a. Tenant is responsible for ensuring that the Premise meet all applicable City of Berkeley codes prior to occupancy under this lease.

b. Tenant shall keep and maintain in good order, condition and repair (except for reasonable wear and tear) all portions of the Premises including without limitation, all fixtures, interior walls, floors, ceilings, plumbing, glass, roof, heating, ventilating and sewage facilities serving the leased Premises, landscaping, and the sidewalk adjacent to the Premises.

c. Tenant shall make all required repairs upon demand by Landlord. Failure to make such repairs within thirty (30) days of the Landlord's demand shall constitute a default by Tenant.

**11. IMPROVEMENTS**

a. Tenant shall not erect additions or structures nor make nor cause to be made any alterations, improvements, additions, or fixtures that affect the exterior or interior of the

Premises, nor shall Tenant mark, paint, drill or in any way deface any floors, walls, ceilings, or partitions of the Premises without 1) first providing thirty (30) days' written notice to Landlord and 2) obtaining City of Berkeley Building Permits as required by the Berkeley Municipal Code as it exists at the time of such improvements. Failure to notify the Landlord or failure to obtain Building Permits or meet other regulatory requirements shall constitute a default by Tenant.

b. Tenant shall require all contractors to provide a labor and materials bond for the full amount of the contract. Tenant shall pay, when due, all sums of money that may be due or become due for any labor, services, materials, supplies or equipment furnished to or for Tenant, in, at, upon or about the leased Premises and which may be secured by any mechanic's, materialmen's or other lien against the Premises or Landlord's interest therein.

c. All alterations, improvements or additions that are now or in the future attached permanently to the Premises shall be the property of Landlord and remain with the Premises at the termination of this lease, except that Landlord can elect within thirty (30) days of the termination of the lease to require Tenant, at its cost, to remove any alterations, improvements or additions Tenant has made to the Premises.

## **12. INDEMNIFICATION**

Tenant shall indemnify, defend and hold Landlord, its officers, agents, volunteers and employees harmless from: 1) all claims of liability for any damage to property or injury or death to any person occurring in, on, or about the Premises; 2) all claims of liability arising out of Tenant's failure to perform any provision of this lease, or any act or omission by Tenant, its agents, contractors, invitees or employees; and 3) all damages, liability, fines, penalties, and any other consequences arising from any noncompliance or violation of any laws, ordinances, codes, or regulations, including but not limited to the Occupational Safety and Health Act of 1979 and the Americans with Disabilities Act of 1990. Except, however, that Landlord shall hold Tenant harmless from all claims of liability for damage resulting from the acts or omissions of Landlord or its authorized representatives.

## **13. INSURANCE**

a. Tenant at its cost shall maintain public liability \ insurance with a single combined liability limit of \$2,000,000 and property insurance against all risks of loss to any Tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision insuring against all liability of Tenant and its authorized representatives arising out of and in connection with Tenant's use or occupancy of the Premises. All such insurance shall insure performance by Tenant of the preceding indemnity provisions. All insurance shall name the City of Berkeley, its officers, agents, volunteers and employees as additional insureds and shall provide primary coverage with respect to the City.

b. If the insurance referred to above is written on a Claims Made Form, then



following termination of this lease, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this lease.

c. Tenant at its cost shall maintain on all its personal property, Tenant's improvements, and alterations, in on, or about the Premises, a policy of standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements. This coverage shall be considered primary, and the proceeds from any such policy shall be used by Tenant for the replacement of personal property or the restoration of Tenant's improvements or alterations.

d. If Tenant employs any person, it shall carry workers' compensation and employer's liability insurance and shall provide a certificate of insurance to the Landlord. The workers' compensation insurance shall: provide that the insurance carrier shall not cancel, terminate, or otherwise modify the terms and conditions of said insurance except upon thirty (30) days prior written notice to the Landlord; provide for a waiver of any right of subrogation against Landlord to the extent permitted by law; and be approved as to form and sufficiency by the Landlord's Risk Manager.

e. Tenant shall forward all insurance documents to: Real Property Administrator, Department of Public Works, Facilities Division 1947 Center Street, Fifth Floor, Suite 521 Berkeley, California, 94704.

#### **14. COMPLIANCE WITH LAW AND SAFETY**

a. Tenant shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the Tenant's activities, including all provisions of the Occupational Safety and Health Act of 1979 and all amendments thereto, and all applicable federal, state, municipal, and local safety regulations. All Tenant's activities must be in accordance with these laws, ordinances, codes, and regulations.

b. If a death, serious personal injury, or substantial property damage occurs in, on, or about the Premises, Tenant shall immediately notify the Landlord's Risk Management Office by telephone. If any accident occurs on the Premises, Tenant shall promptly submit a written report to Landlord, in such form as Landlord may require. This report shall include the following information: 1) name and address of the injured or deceased person(s), (2) name and address of Tenant's contractor, if any, (3) name and address of Tenant's liability insurance carrier, and (4) a detailed description of the accident.

c. Tenant shall report all existing hazardous materials handled at the site and any hazardous wastes generated at the site to the Toxics Management Division (TMD) on an annual basis and abide by all requirements of the TMD and other state and local environmental

agencies. Upon release of hazardous materials or hazardous waste at the property or adjacent to the property, Tenant shall immediately notify the City of Berkeley Toxics Management Division. If the release is significant, the Tenant must report it to the 911 and the Office of Emergency Services.

**15. NON-DISCRIMINATION AGAINST PERSONS WITH DISABILITIES**

a. If Tenant provides any aid, service or benefit to others on the City's behalf, Tenant shall, in the provision of such aid, service or benefit, observe and comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Tenant shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the City.

b. If Tenant is or becomes a "public accommodation" as defined in Title III of the Americans with Disabilities Act of 1990, Tenant shall observe and comply with all applicable provisions of the Act and any amendments thereto, and all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Tenant. All Tenant's activities must be in accordance with these laws, ordinances, codes, and regulations, and Tenant shall be solely responsible for complying therewith.

**16. REQUIRED ACCESSIBILITY DISCLOSURE**

a. Landlord hereby advises Tenant that the Premises and Improvements have not undergone an inspection by a certified access specialist, and except to the extent expressly set forth in this Ground Lease, Landlord shall have no liability or responsibility to make any repairs or modifications to the Premises or the Project in order to comply with accessibility standards. The following disclosure is hereby made pursuant to applicable California law:

b. "A Certified Access Specialist (CASp) can inspect the subject Premises and determine whether the subject Premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject Premises, the commercial property owner or Landlord may not prohibit the lessee or Tenant from obtaining a CASp inspection of the subject Premises for the occupancy or potential occupancy of the lessee or Tenant, if requested by the lessee or Tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises." [Cal. Civ. Code Section 1938(e)]. Any CASp inspection shall be conducted in compliance with reasonable rules in effect at the Premises with regard to such inspections and shall be subject to Landlord's

prior written consent.

**17. CITY NON-DISCRIMINATION ORDINANCE**

Tenant agrees to comply with the provisions of Berkeley Municipal Code Chapter 13.26 as amended from time to time. In the performance of this lease, the Tenant agrees as follows:

a. The Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

b. The Tenant shall permit the Landlord access to records of employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the opinion of the Landlord, are necessary to monitor compliance with this non-discrimination provision, and will, in addition, fill-out in a timely fashion, forms supplied by the Landlord to monitor these non-discrimination provisions.

**18. NUCLEAR FREE BERKELEY**

Tenant agrees to comply with Berkeley Municipal Code Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

**19. OPPRESSIVE STATES CONTRACTING PROHIBITION**

a. In accordance with Resolution Nos. 59,853-N.S., 60,382-N.S., and 70,606-N.S., Tenant certifies that it has no contractual relations with, and agrees during the term of this Lease to forego contractual relations to provide personal services to or to purchase, sell, lease or distribute commodities in the conduct of business with, the following entities:

- (1) The governing regime in any Oppressive State.
- (2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- (3) Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of its contract with the City), for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

b. For purposes of this lease, the Tibet Autonomous Region and the provinces of Aho, Kham, U-Tsang and Burma (Myanmar) shall be deemed oppressive states.

c. Tenant's failure to comply with this section shall constitute a default of this lease and Landlord may terminate this lease pursuant to Section 26. In the event that the City terminates this lease due to a default under this provision, City may deem Tenant a non-responsible bidder for five (5) years from the date this lease is terminated.

**20. BERKELEY LIVING WAGE ORDINANCE**

a. Tenant agrees to comply with Berkeley Municipal Code Chapter 13.27, the Berkeley Living Wage Ordinance. If Tenant employs six (6) or more part-time, full-time or stipend employees, and generates \$350,000 or more in annual gross receipts, Tenant will be required to provide all eligible employees with City mandated minimum compensation during the term of this lease, as defined in B.M.C. Chapter 13.27, and well as comply with the terms enumerated herein.

b. Tenant shall be required to maintain all reasonable records and documents that would establish whether Tenant is subject to Berkeley's Living Wage Ordinance (LWO). If Tenant is subject to the LWO, as defined therein, Tenant shall be further required to maintain monthly records of those employees located on the leased Premises. These records shall include the total number of hours worked, the number of hours spent providing service on the leased property, the hourly rate paid, and the amount paid by Tenant for health benefits, if any, for each of its employees providing services under the lease. The records described in this Section shall be made available upon the City's request. The failure to produce these records upon demand shall be considered a default, subject to the provisions contained in sections 28 and 29 herein.

c. If Tenant is subject to the LWO, Tenant shall include the requirements of the ordinance, as defined in B.M.C. Chapter 13.27, in any and all subleases in which Tenant enters with regard to the subject Premises. Sub-Tenants shall be required to comply with this ordinance with regard to any employees who spend 25% or more of their compensated time on the leased property.

d. If Tenant fails to comply with the requirements of this the LWO and this lease, the City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Tenant's failure to comply with this Section shall constitute default of the lease, upon which City may terminate this lease pursuant to Section 29.

In addition, at City's sole discretion, Tenant may be responsible for liquidated damages in the amount of \$50 per employee per day for each and every instance of an underpayment to an employee. It is mutually understood and agreed that Tenant's failure to pay any of its eligible employees at least the applicable living wage rate will result in damages being sustained by the City; that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damage for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty of forfeiture for Tenant's breach.

**21. BERKELEY EQUAL BENEFITS ORDINANCE**

a. Tenant hereby agrees to comply with the provisions of the Berkeley Equal Benefits Ordinance, B.M.C. Chapter 13.29. If Tenant is currently subject to the Berkeley Equal Benefits Ordinance, Tenant will be required to provide all eligible employees with City mandated equal benefits during the term of this lease, as defined in B.M.C. Chapter 13.29, as well as comply with the terms enumerated herein.

b. If Tenant is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Tenant agrees to supply the City with any records the City deems necessary to determine compliance with this provision. Failure to do so shall be a considered a default, subject to the provisions of Sections 28 and 29 of this lease.

c. If Tenant fails to comply with the requirements of this Section, City shall have the rights and remedies described in this Section, in addition to any rights and remedies provided by law or equity.

Tenant's failure to comply with this Section shall constitute default of the lease, upon which City may terminate this lease pursuant to Section 29.

In addition, at City's sole discretion, Tenant may be responsible for liquidated damages in the amount of \$50.00 per employee per day for each and every instance of violation of this Section. It is mutually understood and agreed that Tenant's failure to provide its employees with equal benefits will result in damages being sustained by City; that the nature and amount of these damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein is the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damage amount is not intended as a penalty or forfeiture for Tenant's breach.

**22. SANCTUARY CITY CONTRACTING ORDINANCE**

Tenant hereby agrees to comply with the provisions of the Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105. In accordance with this Chapter, Tenant agrees not to provide the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security with any Data Broker or Extreme Vetting Services as defined herein:

- a. "Data Broker" means either of the following: (1) The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies; (2) the aggregation of data that was collected for another purpose from that for which it is ultimately used.
- b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include: (1) The City's computer-network

health and performance tools; (2) Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

**23. CONFLICT OF INTEREST PROHIBITED**

a. In accordance with California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, neither Tenant nor any employee, officer, director, partner or member of Tenant, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a committee or commission member of Landlord, who has directly or indirectly influenced the making of this Lease.

b. In accordance with California Government Code Section 1090 and the Political Reform Act, (Government Code Section 87100 et seq.,) no person who is a director, officer, partner, trustee, employee or consultant of Tenant, or immediate family member of any of the preceding, shall make or participate in a decision made by Landlord or any of its boards, commissions or committees, if it is reasonable foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Tenant, except to the extent permitted by 2 California Code of Regulations, Section 18700(c)(2).

c. Interpretation of this paragraph shall be governed by the definitions and provisions use in the Political Reform Act, Government Code section 87100 et seq., its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, as amended from time to time.

**24. PESTICIDES**

All use of pesticides on the Premises shall be in compliance with the City of Berkeley's Pesticide Use Policy as it exists at the time of such use.

**25. SIGNS**

Tenant shall not install or letter any signs on the Premises without the prior written consent of Landlord. All signs on the Premises shall conform to the provisions of Berkeley Municipal Code Chapter 20.04.

**26. DAMAGE OR DESTRUCTION**

If the Premises are totally or partially destroyed from any cause, rendering the Premises totally or partially inaccessible or unusable, Landlord may elect to terminate this lease

or continue this lease in effect by giving notice to Tenant within thirty (30) days of the date of destruction. If Landlord elects to continue this lease in full force and effect, then Landlord shall restore the Premises and the rent shall be abated, from the date of destruction until the date restoration is completed, in an amount proportionate to the extent to which the destruction interferes with Tenant's use of the Premises. If Landlord fails to give notice of its decision to terminate or continue this lease within the period stated, Tenant may elect to terminate this lease. Tenant waives the provisions of Civil Code sections 1932(2) and 1933(4) with respect to any destruction of the Premises.

**27. EMINENT DOMAIN**

If the whole or any portion of the Premises is taken by any paramount public authority under the power of eminent domain, then the rights and obligations of the parties shall be determined as follows: If the Premises are totally taken by condemnation, this lease shall terminate on the date of taking. If any portion of the Premises is taken by condemnation, Tenant shall have the right to either terminate this lease or to continue in possession of the remainder of the Premises under the terms of this lease. Such right to terminate must be exercised by notifying Landlord within thirty (30) days after possession of the part taken by eminent domain. If Tenant does not terminate this lease within the thirty (30) day period, this lease shall remain in full force and effect except that the fixed rent shall be reduced in the same proportion that the square footage of the Premises taken bears to the square footage of the Premises immediately before the taking. All damages awarded for such taking shall belong to and be the property of Landlord; provided, however, that Landlord shall not be entitled to any portion of the award made for loss of business and of business installations or improvements made by Tenant in accordance with this lease.

**28. DEFAULT BY TENANT**

a. The occurrence of any of the following shall constitute a default by Tenant:

1. Failure to pay rent when due, if the failure continues for 10 days after notice has been given to Tenant.
2. Abandonment and vacation of the Premises (failure to occupy and operate the Premises for 14 consecutive days shall be deemed an abandonment and vacation).
3. Failure to perform any other provision of this lease if the failure to perform is not cured within 30 days after notice has been given to Tenant. If the default cannot reasonably be cured within 30 days, Tenant shall not be in default of this lease if Tenant commences to cure the default within the 30-day period and diligently and in good faith continues to cure the default.

b. Notices given under this paragraph shall specify the alleged default and the applicable lease provisions, and shall demand that Tenant perform the provisions of this lease or

pay the rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this lease unless Landlord so elects in the notice. The purpose of the notice requirements set forth in this section is to extend the notice requirements of the unlawful detainer statutes of California.

## **29. LANDLORD'S REMEDIES**

Landlord shall have the following remedies if Tenant commits a default. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law.

a. Tenant's Right to Possession Not Terminated. Landlord can continue this lease in full force and effect, and the lease will continue in effect as long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to collect rent when due. During the period Tenant is in default, Landlord can enter the Premises and relet them, or any part of them, to third parties for Tenant's account. Tenant shall be liable immediately to Landlord for all costs Landlord incurs in reletting the Premises. Reletting can be for a period shorter or longer than the remaining term of this lease. Tenant shall pay to Landlord the rent due under this lease on the dates the rent is due, less the rent Landlord receives from any reletting. No act by Landlord allowed by this paragraph shall terminate this lease unless Landlord notifies Tenant that Landlord elects to terminate this lease. After Tenant's default and for as long as Landlord does not terminate Tenant's right to possession of the Premises, Tenant shall have the right to assign or sublet its interest in this lease if Tenant obtains Landlord's consent, but Tenant shall not be released from liability.

If Landlord elects to relet the Premises as provided in this paragraph, rent that Landlord receives from reletting shall be applied to the payment of: first, any indebtedness from Tenant to Landlord other than rent due from Tenant; second, all costs, including for maintenance, incurred by Landlord in reletting; third, rent due and unpaid under this lease. After deducting the payments referred to in this paragraph, any sum remaining from the rent Landlord receives from reletting shall be held by Landlord and applied in payment of future rent as rent becomes due under this lease. In no event shall Tenant be entitled to any excess rent received by Landlord. If, on the date rent is due under this lease, the rent received from the reletting is less than the rent due on that date, Tenant shall pay to Landlord, in addition to the remaining rent due, all costs, including for maintenance, Landlord incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

b. Termination of Tenant's Right to Possession. Landlord can terminate Tenant's right to possession of the Premises at any time. No act by Landlord other than giving notice to Tenant shall terminate this lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this lease shall not constitute a termination of Tenant's right to possession. On termination, Landlord has the right to recover from Tenant:



i. The worth, at the time of award, of the unpaid rent that had been earned at the time of termination of this lease;

ii. The worth, at the time of award, of the amount by which the unpaid rent that would have been earned after the date of termination of this lease until the time of award exceeds the amount of the loss of rent that Tenant proves could have been reasonably avoided;

iii. The worth, at the time of award, of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Tenant proves could have been reasonably avoided; and

iv. Any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's default.

"The worth, at the time of award," as used in i and ii of this section, is to be computed by allowing interest at the maximum rate an individual is permitted by law to charge. "The worth, at the time of award," as referred to in iii of this section, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1%.

c. Appointment of Receiver. If Tenant is in default of this lease Landlord shall have the right to have a receiver appointed to collect rent and conduct Tenant's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Landlord to terminate this lease.

d. Landlord's Right to Cure. Landlord, at any time after Tenant commits a default, can cure the default at Tenant's cost. If Landlord at any time, by reason of Tenant's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date shall bear interest at the maximum rate an individual is permitted by law to charge from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. The sum, together with interest on it, shall be additional rent.

### **30. ASSIGNMENT AND SUBLETTING**

Tenant shall not voluntarily assign or encumber its interest in this lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity (except Tenant's authorized representative) to occupy or use all or any part of the Premises, without first obtaining Landlord's consent. Any assignments, encumbrance, or sublease without Landlord's consent shall be voidable and, at Landlord's election, shall constitute a default. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of

this paragraph.

**31. ENTRY**

Landlord and its authorized representatives shall have the right to enter the Premises at all reasonable times for any of the following purposes: to determine whether the Premises are in good condition and whether Tenant is complying with its obligations under the lease; to do any acts that may be necessary to protect Landlord's interest in the Premises; or to perform Landlord's duties under this lease. Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the Premises as provided in this section, except damage resulting from the acts or omissions of Landlord or its authorized representatives.

**32. NOTICES**

A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this lease and deposits it with the U.S. Postal Service, registered mail, postage prepaid. For purposes of this lease, notices shall be addressed as follows, as appropriate:

To the Landlord: City of Berkeley - Real Property  
Department of Public Works  
1947 Center Street, Fifth Floor, Suite 521  
Berkeley, CA 94704

Additionally, please email a PDF of the document to  
[real\\_property@berkeleyca.gov](mailto:real_property@berkeleyca.gov)

To the Tenant: Mailings should always be sent to both of the following addresses:

Dorothy Day House  
PO Box 12701  
Berkeley, CA 94712

Dorothy's Closet  
2425a Channing Way  
Berkeley, CA 94704

Additionally, please email correspondence to  
[r.montoya@dorothydayhouse.org](mailto:r.montoya@dorothydayhouse.org)

**33. WAIVER**

No delay or omission in the exercise of any right or remedy of Landlord on any default by Tenant shall impair such a right or remedy or be construed as a waiver. The receipt and acceptance by Landlord of delinquent rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular rent payment involved. Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of the lease.

No act or conduct of Landlord, including, without limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the term. Only a notice from Landlord to Tenant shall constitute acceptance of the surrender of the Premises and accomplish a termination of the lease.

Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent act by Tenant.

**34. EXCUSABLE DELAYS**

If the performance of any act required of Landlord or Tenant is prevented or delayed by reason of strikes, lockouts, labor disputes, act of God, acts of the public enemy, fire, floods, epidemics, freight embargoes or other cause beyond the control of the party required to perform an act, the performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for thirty (30) days.

**35. OPTION TO RENEW**

a. Option Period. So long as Tenant is not in default under this lease, either at the time of exercise or at the time the extended term commences, Tenant will have the option to extend the initial term of this lease for an additional period of five (5) years (the "option period") on the same terms, covenants, and conditions of this lease, except that the initial monthly rent and yearly rent increases during the option period will be determined as described below. In order to exercise this option, Tenant must give written notice of its election to do so to Landlord at least 180 days, but not more than one year, prior to the expiration date of the initial lease term. Tenant shall have no other right to extend the term beyond the option period.

b. Option Period Monthly Rent. For the purposes of this section, the "then-fair market rental value of the Premises" means what a Landlord under no compulsion to lease the Premises and a Tenant under no compulsion to lease the Premises would determine as rents (including initial monthly rent and rental increases) for the option period, as of its commencement, taking into consideration the uses permitted under this lease, the quality, size, design and location of the Premises, and the rent for comparable buildings located in the vicinity

of the Premises. Except, however, that the initial monthly rent and yearly rent increases for the option period shall not be less than that provided during the initial lease term.

**36. HOLDING OVER**

If Tenant remains in possession of the Premises with Landlord's consent after the expiration of the term of this lease without having exercised any option to renew this lease, or after the termination of any such option period, such possession by Tenant shall be construed to be a tenancy from month-to-month, terminable on thirty (30) days' notice given at any time by either party. All provisions of this lease, except those pertaining to term, shall apply to the month-to-month tenancy.

**37. SURRENDER OF PREMISES, REMOVAL OF PERSONAL PROPERTY**

At the termination of this lease, Tenant shall: 1) give up and surrender the Premises, in as good state and condition as reasonable use and wear and tear thereof will permit, damage by fire and the elements excepted; and 2) remove all property which is not a fixture of or permanent attachment to the Premises and which is owned and was installed by Tenant during the term of this lease.

**38. TERMS BINDING ON SUCCESSORS**

All the terms, covenants and conditions of this lease shall inure to the benefit of and be binding upon the successors and assigns of the parties to this lease. The provisions of this section shall not be deemed as a waiver of any of the conditions against assignment set forth above.

**39. TIME OF ESSENCE**

Time shall be of the essence of each provision of this lease.

**40. COVENANTS AND CONDITIONS**

Each term and each provision of this lease performable by Tenant shall be construed to be both a covenant and condition.

**41. GOVERNING LAW**

The laws of the State of California shall govern this lease.

**42. ENTIRE AGREEMENT, AMENDMENTS**

This lease and all exhibits attached and any documents expressly incorporated by

reference contain the entire agreement between the parties regarding the lease of the Premises described herein and shall supersede any and all prior agreements, oral or written, between the parties regarding the lease of these Premises. This lease cannot be altered or otherwise modified except by a written amendment.

**43. CONSENT OF PARTIES**

Whenever consent or approval of either party is required, that party shall not unreasonably withhold such consent or approval.

**44. BUSINESS LICENSE**

Tenant certifies that it has obtained or applied for a City of Berkeley business license number as required by Berkeley Municipal Code Chapter 9.04; or Tenant claims that it is exempt from the provisions of B.M.C. Ch. 9.04 and has written below the specific B.M.C. section under which it is exempt.

///  
///

**IN WITNESS WHEREOF**, Landlord and Tenant have executed this lease as of the date written on the first paragraph of this lease.

LANDLORD  
CITY OF BERKELEY

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

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

Attest by: \_\_\_\_\_  
City Clerk

TENANT

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
Robbi Montoya

Executive Director, Dorothy

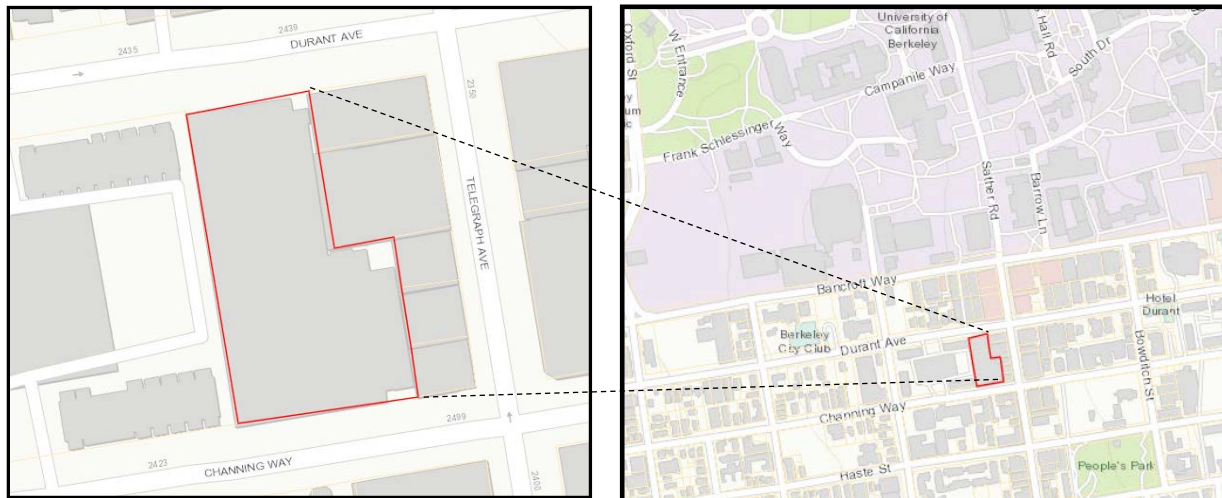
Title: \_\_\_\_\_  
Day House

Berkeley Business

License No.: \_\_\_\_\_  
BLA-2023-000275

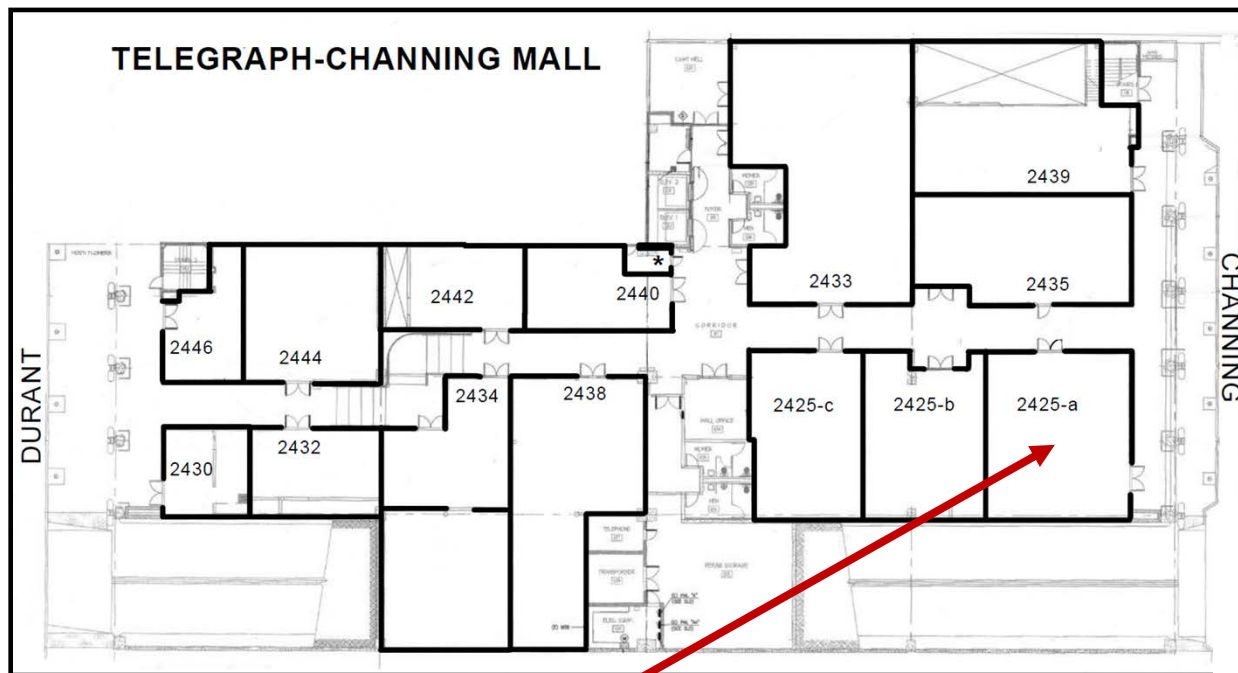
**Exhibit A**

**PREMISES**



**Physical (Legal) Address: 2431 Channing Way, Berkeley, CA 94704**

**Garage (and Commonly Used) Address: 2450 Durant Avenue, Berkeley, CA 94704**



**Dorothy's Closet**  
2425a Channing Way

**Exhibit B**

**AGREEMENT SPECIFYING TERM OF LEASE**

Attached to and made part of the Lease dated the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the CITY OF BERKELEY, a municipal corporation, as Landlord, and DOROTHY DAY HOUSE, A 501C3 ORGANIZATION D.B.A., DOROTHY’S CLOSET, a community clothing program and thrift store as Tenant ("Tenant").

Landlord and Tenant do hereby confirm and acknowledge the following dates:

- a. Lease Retroactive Commencement Date is May 1, 2023.
- b. Lease Commencement Approval Date is \_\_\_\_\_, 2024 (date document is approved by City Council and fully executed by the City Manager)
- c. Rent Commencement Date is November 1, 2024.
- d. Expiration Date of the initial term of the Lease is April 30, 2028 subject to extension as provided in the Lease.

This Agreement shall be binding on the parties hereto, their successor and assigns and all subtenants of Tenant and any other party claiming under or through Tenant. The Lease is in full force and effect as of the date hereof in accordance with its terms, and Tenant is in possession of the Premises. Landlord has fulfilled all of its obligations under the Lease that were required to be fulfilled by Landlord on or prior to the Rent Commencement Date and Tenant has no claim or right of set-off against any Rent (as defined in the Lease) under the Lease.

This Agreement was entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**ATTEST/WITNESS:**

**LANDLORD:**

CITY OF BERKELEY, a municipal corporation

By: \_\_\_\_\_

Its: City Manager

By: \_\_\_\_\_

Its: City Attorney

By: \_\_\_\_\_

Its: City Auditor

**ATTEST/WITNESS:**

**TENANT:**

DOROTHY DAY HOUSE D.B.A., DOROTHY’S CLOSET  
a 501c3 nonprofit organization

By: \_\_\_\_\_

Robbi Montoya, Executive Director



**Exhibit C**

**PAYMENTS**

| <b>RENT PAYMENT SCHEDULE: Dorothy Day House 2425A Channing @TCM</b> |             |          |              |              |              |                                          |
|---------------------------------------------------------------------|-------------|----------|--------------|--------------|--------------|------------------------------------------|
|                                                                     | <b>YEAR</b> | <b>1</b> | <b>2</b>     | <b>3</b>     | <b>4</b>     | <b>5</b>                                 |
| <b>MAY</b>                                                          | <b>1</b>    | \$ -     | \$ -         | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>JUNE</b>                                                         | <b>2</b>    | \$ -     | \$ -         | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>JULY</b>                                                         | <b>3</b>    | \$ -     | \$ -         | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>AUGUST</b>                                                       | <b>4</b>    | \$ -     | \$ -         | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>SEPTEMBER</b>                                                    | <b>5</b>    | \$ -     | \$ -         | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>OCTOBER</b>                                                      | <b>6</b>    | \$ -     | \$ -         | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>NOVEMBER</b>                                                     | <b>7</b>    | \$ -     | \$ 3,164.00  | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>DECEMBER</b>                                                     | <b>8</b>    | \$ -     | \$ 3,164.00  | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>JANUARY</b>                                                      | <b>9</b>    | \$ -     | \$ 3,164.00  | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>FEBRUARY</b>                                                     | <b>10</b>   | \$ -     | \$ 3,164.00  | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>MARCH</b>                                                        | <b>11</b>   | \$ -     | \$ 3,164.00  | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>APRIL</b>                                                        | <b>12</b>   | \$ -     | \$ 3,164.00  | \$ 3,258.92  | \$ 3,356.69  | \$ 3,457.39                              |
| <b>ANNUAL TOTAL:</b>                                                |             | \$ -     | \$ 18,984.00 | \$ 39,107.04 | \$ 40,280.25 | \$ 41,488.66                             |
|                                                                     |             |          |              |              |              | <b>INITIAL TERM TOTAL: \$ 139,859.95</b> |

|                                       |                  |
|---------------------------------------|------------------|
| <b>PREMISES AREA (SQFT):</b>          | 1400             |
| <b>MONTHLY RATE PER SQFT:</b>         | \$ 2.26          |
| <b>INITIAL MONTHLY RENT:</b>          | \$ 3,164.00      |
| <b>ANNUAL INCREASE:</b>               | 3.00%            |
| <b>LEASE START DATE:</b>              | May 1, 2023      |
| <b>INITIAL TERM:</b>                  | 60 MONTHS        |
| <b>INITIAL TERM TERMINATION DATE:</b> | April 30, 2028   |
| <b>NOTIFY LANDLORD FOR OPTION BY:</b> | November 1, 2027 |
| <b>OPTION START DATE:</b>             | May 1, 2028      |
| <b>OPTION TERM:</b>                   | 60 MONTHS        |
| <b>OPTION TERMINATION DATE:</b>       | April 30, 2033   |

**Exhibit D**

**RULES, RESTRICTIONS AND PROHIBITED USES**

Tenant shall not use or permit the use of the Premises for any other business or purpose, except as set forth in this Lease and in strict accordance with the Rules and Regulations. No part of the Premises shall be used in a way that endangers the health or safety of any user of the Premises. **THESE PROHIBITIONS AND RESTRICTIONS SHALL NOT BE DEEMED TO APPLY TO LANDLORD, BUT ONLY TO TENANT UNDER THIS LEASE.** Landlord shall have the right, in Landlord's sole and absolute discretion, to waive all or any of the prohibitions set forth herein upon such matters, terms and conditions as Landlord, in its sole discretion, may determine.

**RULES AND REGULATIONS FOR TELEGRAPH-CHANNING MALL**

All Tenants of Telegraph-Channing Mall ("TCM") shall comply with the following Rules and Regulations. Landlord shall not be responsible to Tenant for the failure of any other tenant or occupant of the building to comply with any of these Rules and Regulations:

1. Smoking is prohibited at TCM and Garage in accordance with Berkeley Municipal Code ("BMC") 12.70.030, *Locations Where Smoking Is Prohibited*. Tenant, Tenant's employees/volunteers, invitees, clients, guests, and other occupants shall abide by this Code. "No Smoking" signs are posted by Landlord. Tenant shall abide by and support the enforcement of this regulation prohibiting smoking in all public places, including but not limited to restaurants, public restrooms, business establishments, and parking garages.
2. No pets are allowed on the premises, Building, or Property unless such animal is designated as a "service animal" and licensed with the City of Berkeley. Every dog over the age of six months must be licensed and must wear the license (BMC 10.04.030). Special tags for service animals may be obtained from Alameda County Animal Control at (925) 803-7046.
3. Tenant restrooms are exclusively for the use of Tenants, their employees/volunteers, and customers. Public restrooms, located directly across from the elevators, are available for use by all other visitors, parking garage customers, and the general public.
4. No sign, placard, picture, name, advertisement, or notice visible from the exterior of the premises will be inscribed, painted, affixed, or otherwise displayed by Tenant on any part of the mall or parking structure without the prior written consent of Landlord. The Landlord will adopt and furnish to the tenant general guidelines relating to signs inside TCM. The tenant agrees to comply with those guidelines. All approved signs or lettering on doors will be printed, painted, affixed, or inscribed at the expense of the tenant by a person approved in writing by the Landlord. Material visible outside TCM will not be permitted.
5. The Directory of TCM (if any) will be provided for the display of the name and location of Tenants, and Landlord reserves the right to exclude any other names from the directory. Any additional name that the tenant desires to place upon the directory must be first approved by Landlord, and, if so approved, a charge will be made for the additional name or name change.
6. Tenant shall display the days and hours of operation for their business. The days and hours of

operation posted must match those shown in their Lease and/or approved by the Landlord. Tenant shall notify the Landlord in writing stating the reason (vacation, holiday or other observances, etc.) and the start and end date of any and all closures or deviations from the posted hours of operation exceeding two (2) calendar days.

7. Tenant shall assume all responsibility for protecting the premises from theft, robbery, pilferage, vandalism, damage, or waste, including keeping doors locked and keep other means of entry to the premises closed, and turning off all water faucets, water apparatus, and utilities when needed or necessary. Tenant shall be responsible for any waste in or damage to the premises or any injuries sustained by other Tenants or occupants of TCM or Landlord for Tenant's negligent or willful acts or omissions in protecting the premises as set forth herein.
8. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular Tenant or Tenants, but no waiver by Landlord shall be construed as a waiver of those Rules and Regulations in favor of any other Tenant or Tenants, nor prevent Landlord from enforcing any of those Rules and Regulations against any or all of the Tenants of TCM. Any waiver of these Rules and Regulations by the Landlord shall be done in writing.
9. Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations or to make any additional reasonable Rules and Regulations that, in Landlord's judgment, may be necessary for:
  - A. The management, safety, care, and cleanliness of the Premises, Building, and Real Property;
  - B. The preservation of good order; and
  - C. The convenience of other occupants and Tenants in the Premises, Building, and Real Property.
10. No store merchandise and/or displays shall be placed in TCM's main corridor/paseo, arcade, or light well, nor block the path of travel within any part of TCM at any time. No events, classes, conferences, demonstrations, celebrations, or other gatherings shall occur in TCM's corridor, porticos, trash room, or light well.





Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

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 February 5, 2024 (closed), February 13, 2024 (regular), February 20 (closed), February 27, 2024 (special and regular) and February 29, 2024 (special).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. February 5, 2024 – Special Closed Council Meeting
2. February 13, 2024 – Regular Council Meeting
3. February 20, 2024 – Special Closed Council Meeting
4. February 27, 2024 – Special Council Meeting
5. February 27, 2024 – Regular Council Meeting
6. February 29, 2024 – Special Council Meeting

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

**MONDAY, FEBRUARY 5, 2024**

**3:00 P.M.**

REDWOOD ROOM – 2180 MILVIA STREET, BERKELEY, CA 94704

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

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 – VACANT  
DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.*

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1616189638>. To request to speak, use the “raise hand” icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 618 9638**. 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 meeting will be recorded.*

*To submit a written communication for the City Council’s consideration and inclusion in the public record, email [council@berkeleyca.gov](mailto:council@berkeleyca.gov).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

*Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.*

## Preliminary Matters

**Roll Call:** 3:07 p.m.

**Present:** Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Humbert, Arreguin

**Absent:** Harrison

**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 LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Anne Cardwell, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director, Jonathan Holtzman, Renne Public Law Group

Employee Organizations: Berkeley Fire Fighters Association Local 1227 I.A.F.F., Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; Berkeley Police Association; SEIU 1021 Community Services and Part-time Recreation Activity Leaders, SEIU 1021 Maintenance and Clerical, Public Employee Union Local 1, Unrepresented Employees

**Action:** No reportable action taken.

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

a. Ruegg & Ellsworth v. City of Berkeley, Alameda County Superior Court, Case No. RG18930003

**Action:** No reportable action taken.

b. California Restaurant Association v. City of Berkeley (9th Cir. 2024) 89 F.4th 1094; California Restaurant Association v. City of Berkeley (N.D.Cal. 2021) 547 F.Supp.3d 878, rev'd and remanded (9th Cir. 2023) 65 F.4th 1045, and rev'd and remanded (9th Cir. 2024) 89 F.4th 1094.

**Action:** No reportable action taken.

### 3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8

Property Address: 1512 University Avenue, Berkeley CA  
Agency Negotiators: Peter Radu, City Manager's Office  
Negotiating Parties: City of Berkeley and Sai Shakti, Inc.  
Property Owner: Sai Shakti, Inc.  
Under Negotiation: Lease Price and Terms

**Action:** No reportable action taken.

**OPEN SESSION:**

No reportable action taken.

**Adjournment**

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

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

Adjourned at 4:54 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on February 5, 2024.

---

Mark Numainville, City Clerk



**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, February 13, 2024**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

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 – VACANT  
DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.*

*Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at [http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=1244](http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244).*

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1617862221> To request to speak, use the “raise hand” icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter Meeting ID: **161 786 2221**. 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 meeting will be recorded.*

*To submit a written communication for the City Council’s consideration and inclusion in the public record, email [council@berkeleyca.gov](mailto:council@berkeleyca.gov).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

*Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.*

## Preliminary Matters

**Roll Call:** 6:14 p.m.

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

**Absent:** Bartlett

Councilmember Bartlett present at 6:16 p.m.

Councilmember Harrison participated in the meeting remotely pursuant to the Brown Act, as amended by AB 2449.

**Land Acknowledgement Statement:** *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

### Ceremonial Matters:

1. Recognition of the 40<sup>th</sup> Anniversary of the WEE POETS show on BeTV
2. Adjourned in Memory of Irma Anderson, former Richmond Mayor
3. Adjourned in memory of Doran McGee, Berkeley Artist and Muralist
4. Presentation: Bay Area Housing Finance Authority

### City Manager Comments:

The City Manager noted that the portion of Item 6 regarding the start time of City Council meetings was withdrawn, but the date change remained for consideration.

**Public Comment by Employee Unions:** 2 speakers.

**Public Comment on Non-Agenda Matters:** 20 speakers.

Recess 8:04 p.m. – 8:23 p.m.

**Action:** M/S/C (Harrison/Wengraf) to accept an urgency item from Councilmember Harrison pursuant to Government Code Section 54954.2(b)(2) entitled Resolution Granting the Berkeley Repertory Theater \$15,393.29 to Offset the City's Business License Tax on Large Non-profits. Vice-Mayor Wengraf added as a co-sponsor. Added to Consent Calendar.

**Vote:** All Ayes.

**Action:** M/S/C (Bartlett/Taplin) to accept an urgency item from Councilmember Bartlett pursuant to Government Code Section 54954.2(b)(2) entitled Urgency Resolution Establishing a Policy Providing for the Continuance of Council District Constituent Services in the Event of Councilmember Resignation, Death or Expulsion. Added to the Action Calendar.

**Vote:** All Ayes.

**Public Comment on Consent Calendar and Information Items Only:** 22 speakers.

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

**Vote:** All Ayes.

## Consent Calendar

**Urgency Item: Resolution Granting the Berkeley Repertory Theater \$15,393.29 to Offset the City's Business License Tax on Large Non-profits**

**From: Councilmember Harrison (Author)**

**Recommendation:** Adopt a Resolution to support the Berkeley Repertory Theater (Berkeley Rep) by donating \$15,393.29 to their general operating budget in FY24 and grant them the amount of the tax annually.

**Financial Implications:** General Fund - \$15,393.29

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

**Action:** Vice-Mayor Wengraf added as a co-sponsor. Adopted Resolution No. 71,204–N.S.

1. **Amending the Miscellaneous CalPERS Contract to (a) Eliminate PEPRA Cost Sharing for Unrepresented Employees (b) Add Paramedic and Limited Term EMT to Safety Category**

**From: City Manager**

**Recommendation:** Adopt second reading of Ordinance No. 7,895-N.S. amending the contract between the Board of Administration, California Public Employees' Retirement System, and the City Council for the City of Berkeley (a) pursuant to California Government Code Section 20516 to eliminate the cost share contributions made on behalf of the City by PEPRA members of the Unrepresented Employees group, and (b) pursuant to California Government Code Section 20434 to add the Paramedic and Limited Term Emergency Medical Technician (EMT) classifications under the Safety category.

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

**Financial Implications:** See report

Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800

**Action:** Adopted second reading of Ordinance No. 7,895–N.S.

## Consent Calendar

- 2. At-Will Designations: Employee Relations Manager and Assistant to the City Attorney**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,896-N.S. amending Berkeley Municipal Code Section 4.04.120(A) to designate the unrepresented classifications of Employee Relations Manager and Assistant to the City Attorney as at-will.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Wengraf.  
**Financial Implications:** See report  
Contact: Aram Kouyoumdjian, Human Resources, (510) 981-6800  
**Action:** Adopted second reading of Ordinance No. 7,896–N.S.
- 3. Lease Agreement: We Wield The Hammer at 2440 Durant Avenue in the Telegraph-Channing Mall and Garage**  
**From: City Manager**  
**Recommendation:** Adopt second reading of Ordinance No. 7,897-N.S. authorizing the City Manager to execute a lease agreement with We Wield The Hammer (WWTH), a 501c3 nonprofit organization to use and occupy 2440 Durant Avenue inside the Telegraph-Channing Mall and Garage for a five (5) year lease term with an option to extend for one additional five (5) year term. The initial lease term is anticipated to begin March 1, 2024.  
**First Reading Vote:** Ayes – Kesarwani, Taplin, Bartlett, Harrison, Hahn, Humbert, Arreguin; Noes – None; Abstain – None; Absent – Wengraf.  
**Financial Implications:** See report.  
Contact: Andrew Murray, Public Works, (510) 981-6300  
**Action:** Adopted second reading of Ordinance No. 7,897–N.S.
- 4. City of Berkeley’s 2024 State and Federal Legislative Platform**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the City of Berkeley’s 2024 State and Federal Legislative Platform.  
**Financial Implications:** See report.  
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000  
**Action:** Adopted Resolution No. 71,205–N.S. with Exhibit A (full list) as revised in Supplemental Communications Packet #2 by Mayor Arreguin and further amended by Councilmembers Hahn and Bartlett at the meeting.

## Consent Calendar

### 5. **Amendments to the Regulations for Alternate Commissioners**

**From: City Manager**

**Recommendation:** Adopt a Resolution removing the now dissolved Police Review Commission from the list of designated commissions on which Alternate Commissioners may serve; expanding the list of designated commissions by adding the following five commissions: Community Health Commission, Environment and Climate Commission, Parks, Recreation, and Waterfront Commission, Transportation and Infrastructure Commission, and Zero Waste Commission; adding a new requirement for temporary appointments made to any quasi-judicial commissions to two business days prior to the meeting; and rescinding Resolution No. 67,205-N.S.

**Financial Implications:** None

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

**Action:** Adopted Resolution No. 71,206–N.S.

### 6. **Modifying the 2024 City Council Meeting Schedule**

**From: City Manager**

**Recommendation:** Adopt a Resolution modifying the City Council regular meeting schedule for 2024, revising the start time for regular meetings, and rescheduling the April 16, 2024 regular meeting to April 2, 2024.

**Financial Implications:** None

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

**Action:** Adopted Resolution No. 71,207–N.S. amended to remove reference to changing the start time of meetings and also to change the new meeting date from April 2 to March 26.

### 7. **Grant Application: National Endowment for the Arts Grant for up to \$150,000**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to the National Endowment for the Arts (NEA) to receive up to \$150,000 for a Civic Arts grant program totaling \$300,000 to be regranted to nonprofit organizations for arts and cultural programming in the City of Berkeley in Fiscal Year 2026; to accept the grant if awarded; and to execute any resulting grant agreements and any amendments.

**Financial Implications:** See report

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

**Action:** Adopted Resolution No. 71,208–N.S.

## Consent Calendar

- 8. Contract: Masako Miki Public Artwork Commission for Aquatic Park Pathway Wall**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any necessary amendments with artist Masako Miki for an amount not to exceed \$69,000 for a public art commission of a ceramic tile mural on the 42'-long curved wall located along the San Francisco Bay Trail west of the intersection of Addison Street and Bolivar Drive in Aquatic Park.  
**Financial Implications:** Cultural Trust Fund - \$69,000  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 71,209–N.S.
- 9. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 13, 2024**  
**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 - \$90,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.
- 10. Contract: Traditions Behavioral Health for Psychiatry Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract with vendor Traditions Behavioral Health to provide psychiatry services through June 30, 2027 in an amount not to exceed \$1,379,400.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 71,210–N.S.
- 11. Contract: CompuCom Systems, Inc. for Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with CompuCom Systems, Inc. for professional services for an amount not to exceed \$300,000 through December 31, 2024.  
**Financial Implications:** See report  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,211–N.S.

## Consent Calendar

### 12. Recommendation on Public Safety/Crime Prevention for Women

#### From: Commission on the Status of Women

**Recommendation:** That Council refer to the Council Public Safety Policy Committee to develop plans to implement public safety crime prevention programs to address the current rising crime against women, particularly older women. These plans should include a budget referral to the Council Budget and Finance Committee for consideration in the June budget process.

These plans should include:

1. Developing a plan of safety escorts modeled on the Respect-BART Escorts Program passed by Council in 2003 to address the rash of muggings on Berkeley BART paths (North Berkeley and Ashby). As in that plan, where \$40,500 was approved by Council, the Council Public Safety Policy Committee should identify the current amount of monies needed for funding for this newly developed 2024 plan and Council refer to the June budget process. These safety escorts should be available throughout the entire community of Berkeley upon request. The Council Public Safety Committee should also identify if a RFP need be issued for this purpose;
2. Develop a plan to engage Berkeley community ambassadors working under the Downtown Berkeley Association, Telegraph Business Improvement District and any similar ambassador programs to provide safety escort services upon request through the business districts they serve and nearby residences that can be reached by foot;
3. Explore if the City ride-share funded program, Go-Go Grandparent, should be expanded and in what form to provide ride shares for women concerned about their safety. Consider cost share, if necessary, for some women and working with the ride-share companies to ensure that they watch for the woman to safely reach her door before leaving; Consider the feasibility of lifting age or disability requirements. Identify a budgetary recommendation to be directed to the Council Budget and Finance Committee.
4. Develop a City-wide community forum targeted towards women with a special emphasis on safety and crime prevention for older, vulnerable women. This meeting should be led by the Berkeley Police Department with participation by other safety-related community resources and moderated by an official proposed by the Council Public Safety Committee. The Committee shall recommend that the forum be hybrid, both Zoom and in person. The Committee shall also discuss how City-wide promotion of this public safety crime prevention forum shall be conducted.
5. Consult with the Berkeley Police Department to provide data and other information identifying geographic locations which are high priority for safety escorts. Consult with Berkeley Police Department to secure other information as to where women are most at safety risk and what hours safety escorts, and other recommendations as stated above, be best utilized. The Berkeley Police Department shall provide this information at a Council Public Safety Committee meeting.

**Financial Implications:** See report

Contact: Okeya Vance-Dozier, Commission Secretary, (510) 981-7100

**Action:** Approved recommendation as amended to read as follows.

Refer to the City Manager to analyze and develop recommendations for public safety crime prevention programs to address the current rising crime against women, particularly

## Consent Calendar

older women. Refer the concepts below from the Commission on the Status of Women to the FY 2025-26 ("June 2024") Budget process.

Consider the following concepts:

1. Developing a plan of safety escorts modeled on the Respect-BART Escorts Program passed by Council in 2003 to address the rash of muggings on Berkeley BART paths (North Berkeley and Ashby). As in that plan, where \$40,500 was approved by Council, the City Manager should identify the current amount of monies needed for funding for this newly developed 2024 plan and Council refer to the June budget process. These safety escorts should be available throughout the entire community of Berkeley upon request. The City Manager should also identify if an RFP needs be issued for this purpose;
  2. Develop a plan to engage Berkeley community ambassadors working under the Downtown Berkeley Association, Telegraph Business Improvement District and any similar ambassador programs to provide safety escort services upon request through the business districts they serve and nearby residences that can be reached by foot;
  3. Explore if the City ride-share funded program, Go-Go Grandparent, should be expanded and in what form to provide ride shares for women concerned about their safety. Consider cost share, if necessary, for some women and working with the ride-share companies to ensure that they watch for the woman to safely reach her door before leaving; Consider the feasibility of lifting age or disability requirements. Identify a budgetary recommendation to be directed to the Council Budget and Finance Committee.
  4. Work with the Commission on the Status of Women and Commission on Aging to organize a City-wide community forum targeted towards women with a special emphasis on safety and crime prevention for older, vulnerable women. This meeting should be led by the Berkeley Police Department with participation by other safety- related community resources.
  5. Consult with the Berkeley Police Department to provide data and other information identifying geographic locations which are high priority for safety escorts. Consult with Berkeley Police Department to secure other information as to where women are most at safety risk and what hours safety escorts, and other recommendations as stated above, be best utilized. The Berkeley Police Department shall provide this information at a Council Public Safety Committee meeting.
- 13. RFP for Development of West Berkeley Service Center** *(Continued from January 16, 2024)*  
**From: Mayor Arreguin (Author), Councilmember Kesarwani (Author), Councilmember Hahn (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Refer to the City Manager to issue a Request for Proposal (RFP) for the development of the city-owned West Berkeley Service Center, (1900 Sixth Street), to permit site acquisition and construction of a 100-percent affordable housing project with the following key features: -Space on the ground floor of the building for administrative offices, community space and supportive services as currently provided by the City; -Maximizing the number of units under the existing



## Council Consent Items

zoning Mixed Use-Residential (MU-R) in conjunction with state law AB 1763 (2019); - A mix of unit sizes, including studios, one-bedroom, and two-bedroom units; -Require RFP applicants to include a plan for services provision and integration for the population(s) they propose to serve; -A preference for serving seniors and adults with mental health conditions while maintaining flexibility to serve other populations based on availability of funding.

The City Manager should also consider the feasibility of the following elements in the program design: -Universally designed housing for older adults with a portion of the units for assisted living and memory care; -A board and care facility with a minimum of 20 beds including space for staff and services; -Explore available federal, state, regional, local and private funding sources to finance the construction of a housing project, including with the potential target populations.

The issuance of an RFP should be timed to happen soon after funding for the development has been identified.

**Financial Implications:** See report

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

**Action:** Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Kesarwani as follows.

Refer to the City Manager to issue a Request for Proposal (RFP) or Request for Qualifications (RFQ), once a viable local funding source(s) has been identified, for the development of the city-owned West Berkeley Service Center, (1900 Sixth Street), to permit site acquisition and construction of a 100-percent affordable housing project with the following key features:

- Space on the ground floor of the building for administrative offices, community space and supportive services as currently provided by the City;
- Maximizing the number of units under the existing zoning Mixed Use-Residential (MU-R) in conjunction with state law AB 1763 (2019);
- A mix of unit sizes, including studios, one-bedroom, and two-bedroom units;
- Require RFP applicants to include a plan for services provision and integration for the population(s) they propose to serve;
- A preference for serving seniors with cognitive disabilities and adults with mental health conditions while maintaining flexibility to serve other populations based on availability of funding; and
- A board and care facility with a minimum of 20 beds including space for staff and services, unless it is determined that viable funding sources are not available.

The City Manager should also consider the feasibility of the following elements in the program design:

- Universally designed housing for older adults;
- Consider available federal, state, regional, local and private funding sources to finance the construction of a housing project, including with the potential target populations.

The issuance of an RFP should be timed to happen soon after the City has identified local funding for the development that could potentially be made available via the RFP/RFQ.

## Council Consent Items

**14. Establishing a Black Arts and Culture District in the Adeline Corridor**

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

**Recommendation:** Adopt a resolution designating the Adeline Corridor as the Black Arts and Culture District. Include members of Healthy Black Families and Equitable Black Berkeley in the Planning Committee to emphasize community involvement and focus on arts, culture, and well-being for South Berkeley residents. Establish a Black Arts and Culture Center.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,212–N.S. as revised in Supplemental Communications Packet #2 from Councilmember Bartlett.

## Action Calendar – Public Hearings

### 15. Appeal of Landmarks Preservation Commission Decision – Approval of Structural Alteration Permit #LMSAP22022-0005 for 1960 San Antonio Avenue/645 Arlington Avenue- Spring Estate

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution affirming the Landmarks Preservation Commission (LPC) decision to approve a Structural Alteration Permit (SAP) to restore the terrace, remove the non-historic building addition, and repair railings and walkways of the Spring mansion; demolish the detached, non-historic garage and construct a new ten-car garage; demolish and replace the non-historic driveway, retaining walls and stairs on the east side of the property; construct a new, detached pool house; excavate and install a new swimming pool; and complete landscape improvements at a City Landmark residential property in the Hillside neighborhood, contingent upon rehabilitation of the historic gymnasium building, and dismiss the appeal.

**Financial Implications:** None

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Public Testimony:** The Mayor opened the public hearing. 4 speakers.

M/S/C (Arreguin/Taplin) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Hahn/Wengraf) to adopt Resolution No. 71,213–N.S. to adopt a Resolution affirming the Landmarks Preservation Commission (LPC) decision to approve a Structural Alteration Permit (SAP) to restore the terrace, remove the non-historic building addition, and repair railings and walkways of the Spring mansion; demolish the detached, non-historic garage and construct a new ten-car garage; demolish and replace the non-historic driveway, retaining walls and stairs on the east side of the property; construct a new, detached pool house; excavate and install a new swimming pool; and complete landscape improvements at a City Landmark residential property in the Hillside neighborhood; modify condition #16 to require the applicant to bring the gymnasium into “good repair” as defined in BMC Section 3.24.290(B) and to submit a plan for the repairs to the gymnasium prior to Landmarks plan check approval of any building permits for new buildings or structures; to strike reference to the gymnasium from condition #15, and dismiss the appeal.

**Vote:** All Ayes.

## Action Calendar – New Business

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

**Vote:** Ayes – Kesarwani, Bartlett, Hahn, Arreguin; Noes – Taplin, Harrison, Wengraf, Humbert.

**Action:** M/S/Carried (Harrison/Taplin) to suspend the rules and extend the meeting to 11:15 p.m.; and to refer Item 16 to the Agenda & Rules Committee for scheduling.

**Vote:** All Ayes.

## Action Calendar – New Business

**Urgency Item: Urgency Resolution Establishing a Policy Providing for the Continuance of Council District Constituent Services in the Event of Councilmember Resignation, Death or Expulsion**

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

**Recommendation:** Adopt a Resolution establishing a policy providing for the continuance of District constituent services in the event of Councilmember death, resignation, or expulsion.

**Financial Implications:** See report

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

**Action:** M/S/C (Taplin/Kesarwani) to adopt Resolution No. 71,214–N.S. as amended by Councilmember Hahn with the Resolved clauses to read as follows.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that in the event of a vacancy in any Council District, due to resignation, death, or for any other reason, existing staff for such District shall continue in their positions during the interim period, in an at-will status, under the supervision and control of the Office of the Mayor. At such time as a new District Councilmember is sworn into office, such new Councilmember may choose to continue, adjust, or end the employment of any Continuing District Office staff.

BE IT FURTHER RESOLVED that, in the event of a vacancy in the office of the Mayor for any reason, Mayor's Office staff shall continue in an at-will status, under the same terms as Continuing District Office staff, under the supervision and control of the Vice Mayor or other Interim Mayor.

BE IT FURTHER AND FINALLY RESOLVED that the budget of a vacant Council District Office or of a vacant Mayor's Office shall be continued as if such Councilmember or Mayor were still in office and shall be managed and disbursed under the direction and control of the Mayor, Vice Mayor or other Interim Mayor, as applicable, to further the purposes of the District or Mayor's office experiencing a vacancy.

**Vote:** All Ayes.

**16. Dissolution of the Human Welfare and Community Action Commission and the Peace and Justice Commission; and, establishment of the Berkeley Community Action Agency Commission**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance to: 1. Repeal Chapter 3.68, Peace and Justice Commission; and, 2. Repeal Chapter 3.78, Human Welfare and Community Action Commission; and, 3. Establish the Berkeley Community Action Agency Commission with Chapter 3.70

**Financial Implications:** See report

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

**Action:** Referred to the Agenda & Rules Committee for future scheduling.

## Information Reports

**17. Small Sites Program Update**

**From: City Manager**

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

**Action:** Received and filed.

**18. Bay Area Housing Finance Authority and 2024 Regional Affordable Housing Bond**

**From: City Manager**

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

**Action:** Received and filed.

## Adjournment

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and adjourn the meeting.

**Vote:** All Ayes.

Adjourned at 11:14 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting held on February 13, 2024.

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Mark Numainville, City Clerk

## Communications

**Item #16: Dissolution of the Human Welfare and Community Action Commission and the Peace and Justice Commission; and, establishment of the Berkeley**

1. Human Welfare Community Action Commission (HWCAC)
2. Peace and Justice Commission (2)
3. Janice Schroeder

**Center Street Greenway & Strawberry Creek**

4. Kirstin Miller on behalf of Ecocity Builders

**Panoramic Hill Emergency Access/Egress**

5. Michael Kelly, on behalf of the Panoramic Hill Association

**Southside Rezoning**

6. Corey Smith

**Chess Club**

7. Carol Denney

**AC Transit**

- 8. Sandhya Hermon
- 9. Morry Hermon
- 10. Kabir Hermon
- 11. Arjun Hermon
- 12. Anne-Lise Francois

**United Artist Theater**

- 13. Laura Fujii
- 14. Robert Wilkinson
- 15. Melanie Lawrence
- 16. Lori Pottinger
- 17. Oakland Heritage Alliance

**Israel Military Aid**

18. Stephen Slauson

**Homelessness**

- 19. Tom Wolfman
- 20. Karima Cammell

**Tree Removal**

21. Carol Denney

**Scooter Safety**

- 22. Virginia Browning
- 23. Sean
- 24. Cindi Goldberg

**EBMUD Repaving**

- 25. Greg Couch
- 26. East Bay Municipal Utility District

**People's Park**

- 27. Sophia Faaland
- 28. Samuel Baker
- 29. 10 similarly-worded form letters

**Natural Gas Alternatives**

30. G. Richard Raab

**Ohlone Bikeway**

31. Carol Hirth

**Mayor Arreguin**

32. Elana Auerbach

33. Kira Findling

**Councilmember Robinson**

34. Barbara Gilbert

**Waterfront Specific Plan**

35. Cal Sailing Club

**Berkeley Mayoral Candidates**

36. Downtown Berkeley Association

**Fulton-Woolsey Bike Boulevard**

37. Walk Bike Berkeley

38. David Hoffman (2)

39. Valerie Young

**No Subject**

40. Michele Shipp

**Student Project**

41. Akshat Pant

**Street Paving**

42. Kathleen Davis

**Downtown Affordable Housing**

43. Berkeley Chamber of Commerce

**URL's Only**

44. Vivian Warkentin (2)

**Gaza/Israel**

45. Jennifer Fechner

46. Kim Friedman

47. Aaron Katler

48. Eleanor Wang

49. Hillary Kilimnik

50. Anna Henry

51. Moni Law (3)

52. Daniel Frydman

53. Aliza Craimer Elias

54. Rachel

- 55. Susanne DeWitt
- 56. Summer Brenner
- 57. Hillary Kllimnik
- 58. Anna Henry
- 59. Rosie Grady
- 60. Daniel Zilberman
- 61. Diana Bohn
- 62. Candice Schott
- 63. Jon Jackson
- 64. Monika Mann
- 65. Jacob Pincus
- 66. Dorothea Dorenz (3)
- 67. Imtiaz Ghori
- 68. Aaron Katler
- 69. 14 similarly-worded form letters

## **Supplemental Communications and Reports 1**

### **Urgency Resolution: FY 2024 Business License Tax on Large Non-profits**

70. Urgency item, submitted by Councilmember Harrison

### **Item #13: RFP for Development of West Berkeley Service Center**

71. Supplemental material, submitted by Councilmember Kesarwani and Mayor Arreguin

### **Item #15: Appeal of Landmarks Preservation Commission Decision – Approval of Structural Alteration Permit #LMSAP22022-0005 for 1960 San Antonio Avenue/645 Arlington Avenue- Spring Estate**

72. Abbas Mash (3)

### **Item #16: Dissolution of the Human Welfare and Community Action Commission and the Peace and Justice Commission; and, establishment of the Berkeley Community Action Agency Commission**

73. Janice Schroeder

## **Supplemental Communications and Reports 2**

### **Item #4: City of Berkeley’s 2024 State and Federal Legislative Platform**

74. Revised material, submitted by Mayor Arreguin

### **Item #6: Modifying the 2024 City Council Meeting Schedule**

- 75. Kevin Burke
- 76. Phoebe Thomas Sorgen
- 77. Maria Yates
- 78. Alfred Twu (2)
- 79. Negeen Mosaed
- 80. Diana Bohn
- 81. Charlene Woodcock
- 82. Alma Thompson
- 83. Vincent Casalaina
- 84. Cindy Shamban



- 85. James Mcfadden
- 86. Carla Woodworth
- 87. Willie Phillips
- 88. JP Massar
- 89. Russ Greene
- 90. Alexander Stec
- 91. Carol Berkenkotter
- 92. Rob Wrenn
- 93. Larry Snyder
- 94. Sarah Bell, on behalf of East Bay YIMBY

**Item #14: Establishing a Black Arts and Culture District in the Adeline Corridor**

- 95. Supplemental material, submitted by Councilmember Bartlett

**Item #15: Appeal of Landmarks Preservation Commission Decision – Approval of Structural Alteration Permit #LMSAP22022-0005 for 1960 San Antonio Avenue/645 Arlington Avenue- Spring Estate**

- 96. John Newton

**Item #16: Dissolution of the Human Welfare and Community Action Commission and the Peace and Justice Commission; and, establishment of the Berkeley Community Action Agency Commission**

- 97. Grace Morizawa, Chair, Peace and Justice Commission
- 98. Nikki Sachs
- 99. Mary-Claire Katz, Human Welfare Community Action Commission

**Item: Urgency Resolution Establishing a Policy Providing for the Continuance of Council District Constituent Services in the Event of Councilmember Resignation, Death or Expulsion**

- 100. Urgency resolution, submitted by Councilmember Bartlett

**Supplemental Communications and Reports 3**

**Item #4: City of Berkeley’s 2024 State and Federal Legislative Platform**

- 101. Sabyl Landrum, on behalf of Clean Slate

**Item #6: Modifying the 2024 City Council Meeting Schedule**

- 102. Laila Hamidi
- 103. Ann Garrison
- 104. Erika Andersen
- 105. Erin Diehm
- 106. Joe Liesner
- 107. Moni Law
- 108. Ruth Morgan
- 109. Max Ventura
- 110. Aimee Baldwin
- 111. Elana Auerbach
- 112. Avery Arbaugh, on behalf of Cal Berkeley Democrats
- 113. Nikki Sachs

- 114. Chrissy Hoffman
- 115. Erin Diehm
- 116. Tom Luce
- 117. Willie Phillips
- 118. Brennan Robins
- 119. Kaizen8forever@
- 120. Virginia Browning
- 121. Sylvia

**Item #15: Appeal of Landmarks Preservation Commission Decision – Approval of Structural Alteration Permit #LMSAP22022-0005 for 1960 San Antonio Avenue/645 Arlington Avenue- Spring Estate**

- 122. Presentation, submitted by Planning and Development
- 123. Thea Daniels

**Item: Urgency Resolution Establishing a Policy Providing for the Continuance of Council District Constituent Services in the Event of Councilmember Resignation, Death or Expulsion**

- 124. Barbara Gilbert

**Ceremonial Matters**

- 125. Presentation: Bay Area Housing Finance Authority

**Miscellaneous Communications**

- 126. Eids Television – Mohamed Eid Abdallah

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

**TUESDAY, FEBRUARY 20, 2024**

**3:00 P.M.**

REDWOOD ROOM – 2180 MILVIA STREET, BERKELEY, CA 94704

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708

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 – VACANT  
DISTRICT 8 – MARK HUMBERT

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## Preliminary Matters

**Roll Call:** 3:05 p.m.

**Present:** Taplin, Bartlett, Hahn, Wengraf, Humbert, Arreguin

**Absent:** Kesarwani, Harrison

Councilmember Kesarwani present at 3:16 p.m.

**Public Comment - Limited to items on this agenda only – 1 speaker**

## 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 Addresses: 1423 Ward Street and 1401 Carleton Street, neighboring properties of the Santa Fe Right-of-Way

Agency Negotiators: LaTanya Bellow, City Manager’s Office; Scott Ferris and Stacey Rutherford, Parks, Recreation & Waterfront

Negotiating Parties: City of Berkeley, 1423 Ward Street Property Owners, 1401 Carleton Street Property Owners

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: APN 060 238200301, Second Street, Berkeley, CA 94710

Agency Negotiators: LaTanya Bellow, City Manager’s Office; Peni Basalusalu, Public Works Deputy Director of Operations; Leticia Jauregui, Interim Division Solid Waste and Recycling Manager, Dionne Early, Public Works Real Property

Negotiating Parties: City of Berkeley and Target Corporation

Property Owner: Target Corporation

Under Negotiation: Price and Terms

**Action:** No reportable action taken.

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

Negotiators: Dee Williams-Ridley, City Manager, Anne Cardwell, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Aram Kouyoumdjian, Human Resources Director, Jonathan Holtzman, Renne Public Law Group

Employee Organizations: Berkeley Fire Fighters Association Local 1227 I.A.F.F., Berkeley Fire Fighters Association, Local 1227 I.A.F.F. / Berkeley Chief Fire Officers Association; Berkeley Police Association; SEIU 1021 Community Services and Part-time Recreation Activity Leaders, SEIU 1021 Maintenance and Clerical, Public Employee Union Local 1, Unrepresented Employees

**Action:** No reportable action taken.

**OPEN SESSION:**

No reportable action taken.

**Adjournment**

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

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

Adjourned at 4:37 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on February 20, 2024.

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Mark Numainville, City Clerk

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

**Tuesday, February 27, 2024  
4:30 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY 94708

TELECONFERENCE LOCATION – 301 WEST 17<sup>TH</sup> STREET, AUSTIN, TX 98701

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – VACANT

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – VACANT

DISTRICT 8 – MARK HUMBERT

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## Preliminary Matters

Less than a quorum of the City Council was present and commenced to receive the presentation. At 5:23 p.m. a quorum of the Council was present and the meeting was called to order.

**Roll Call:** 5:23 p.m.

**Present:** Taplin, Hahn, Wengraf, Humbert, Arreguin

**Absent:** Kesarwani, Bartlett

Councilmember Bartlett present at 5:27 p.m.

## Worksession

### 1. Berkeley Economic Dashboards Update

**From:** City Manager

Contact: Eleanor Hollander, Economic Development, (510) 981-7530

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

## Adjournment

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

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

Adjourned at 5:54 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting held on February 27, 2024.

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Mark Numainville, City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None

## **Supplemental Communications and Reports 3**

### **Item #1: Berkeley Economic Dashboards Update**

1. Presentation, submitted by the Office of Economic Development



**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, February 27, 2024**  
**6:00 PM**

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

TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, 94708

TELECONFERENCE LOCATION – 301 WEST 17<sup>TH</sup> STREET, AUSTIN, TX 98701

JESSE ARREGUIN, MAYOR

Councilmembers:

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DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – VACANT

DISTRICT 5 – SOPHIE HAHN  
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## Preliminary Matters

**Roll Call:** 6:20 p.m.

**Present:** Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Humbert, Arreguin

**Absent:** None

**Land Acknowledgement Statement:** *The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.*

### Ceremonial Matters:

1. Recognition of the 90<sup>th</sup> Anniversary of Berkeley Student Cooperative
2. Adjourned in Memory of Julia Elkin, Berkeley Resident
3. Presentation from the Health Officer: State of Public Health in Berkeley

**City Manager Comments:** None

**Public Comment on Non-Agenda Matters:** 20 speakers.

Recess 7:32 p.m. – 7:49 p.m.

## 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. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of January 16, 2024 (regular), January 17, 2024 (closed), January 22, 2024 (special) January 23, 2024 (closed and special) and January 30, 2024 (regular)  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved the minutes as submitted.
- 2. Contract No. 31900184 Amendment: Alcor Solutions, Inc. to Expand Services for Intranet Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900184 with Alcor Solutions, Inc., to expand scope to include intranet services.  
**Financial Implications:** None  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,215–N.S.
- 3. Contract No. 105921-1 Amendment - TruePoint Solutions, LLC for Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 105921-1 with TruePoint Solutions, LLC for professional services, increasing the amount by \$250,000, for a total not-to-exceed amount of \$1,297,200 and extending the term by one year for the term beginning June 1, 2015 to June 30, 2025.  
**Financial Implications:** See report  
Contact: Kevin Fong, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 71,216–N.S.
- 4. Donation: Memorial Bench at Cesar Chavez Park in memory of Charlie Pollack**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$3,400 for a memorial bench to be placed at Cesar Chavez Park in memory of Charlie Pollack.  
**Financial Implications:** Revenue - \$3,400  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,217–N.S.

## Consent Calendar

- 5. Contract: West Coast Arborists, Inc. for Tree Removal and Pruning Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with West Coast Arborists, Inc. for tree removal and pruning services in an amount not to exceed \$1,500,000 over a period of three years, with an option to renew for two additional years at \$500,000 per year, for a total contract amount not to exceed \$2,500,000.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 71,218–N.S.
- 6. Contract: Rincon Consultants for Environmental Justice Element, Safety Element Update, and Equitable Climate and Resilience Metrics**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or their designee to award a contract and execute any amendments, extensions, or change orders with Rincon Consultants, Inc. in an amount not-to-exceed \$634,000 over a three-year period, to update Berkeley’s General Plan Safety Element, develop a new General Plan Environmental Justice (EJ) Element, and create an Equitable Climate and Resilience Monitoring and Evaluation Strategy and Dashboard.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 71,219–N.S.
- 7. Contract No. 32300057 Amendment: Association for Energy Affordability for Pilot Climate Equity Fund**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or designee to amend Contract No. 32300057 with Association for Energy Affordability for the Pilot Climate Equity Fund, increasing the amount by \$43,556, to a new total contract amount not to exceed \$126,890, and extend the contract through May 30, 2025.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 71,220–N.S.

## Consent Calendar

- 8. Accept Energy Efficiency and Conservation Block Grant Program Equipment Voucher**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or their designee to submit an application and an Energy Efficiency and Conservation Strategy to the U.S. Department of Energy (DOE), execute any related revenue agreements and amendments, and accept funds for an equipment voucher from the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program of up to \$174,290 for the two-year period of February 13, 2024 through February 13, 2026.  
**Financial Implications:** See report  
Contact: Andrew Murray, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,221–N.S.
- 9. Contract: (Specification No. 24-11529-C) JJR Construction Inc. for FY 2024 Sidewalk Repair Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1) Approving plans and specifications for the FY 2024 Sidewalk Repair Project; 2) Accepting the bid of JJR Construction 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 in an amount not to exceed \$4,246,955.  
**Financial Implications:** See report  
Contact: Andrew Murray, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,222–N.S.
- 10. Contract: (Specification No. 24-11621-C): Bay Pacific Pipeline, Inc. for Virginia Street, Russell Street, et al. Sanitary Sewer Rehabilitation Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1) Approving plans and specifications for the Sanitary Sewer Project located on Virginia Street, Russell Street, et al., and 2) Accepting the bid of the lowest, responsive and responsible bidder, Bay Pacific Pipeline, Inc., and 2) Authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$4,828,002, which includes a 10% contingency of \$438,909.  
**Financial Implications:** See report  
Contact: Andrew Murray, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,223–N.S.

## Consent Calendar

- 11. Contract (Specification. No. 24-11645-C): Koios Engineering, Inc. for Urgent Sewer Repair FY2024 Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1) Approving plans and specifications for the Urgent Sewer Repair FY2024 Project; 2) Accepting the bid of the lowest responsive and responsible bidder, Koios Engineering, Inc.; and 3) Authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$465,187, which includes a 10% contingency of \$42,289.  
**Financial Implications:** See report  
 Contact: Andrew Murray, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,224–N.S.
- 12. Reject Bids – FY 2023 Retaining Wall and Storm Drain Improvement Project, Specification Nos. 23-11616-C & 23-11614-C**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to reject bids and direct staff to re-advertise the work associated with the FY 2023 Retaining Wall and Storm Drain Improvement Project, Specification Nos. 23-11616-C & 23-11614-C.  
**Financial Implications:** See report.  
 Contact: Andrew Murray, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,225–N.S.

## Council Consent Items

- 13. Resources to Plan for Future Health Care Access for Berkeley Residents**  
**From: Mayor Arreguin (Author), Councilmember Hahn (Author), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Allocate \$300,000 from the General Fund for legal and/or other technical expertise as may be needed to identify/evaluate existing or potential opportunities to secure the future of healthcare and hospital access for the people of Berkeley.  
 Funds should be used to broadly explore healthcare needs of the entire Berkeley community, now and in the coming decades, including the needs of low income communities and communities of color, the elderly, youth, women, and other groups that have lower health and life-expectancy outcomes and/or have specialized healthcare needs; and healthcare facilities, programs, and other assets that are and/or can be accessible to Berkeley residents in the coming years  
**Financial Implications:** See report  
 Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmember Humbert added as a co-sponsor. Approved recommendation.  
**Vote:** Ayes – Taplin, Bartlett, Hahn, Wengraf, Humbert, Arreguin; Noes – None; Abstain – Kesarwani.

## Council Consent Items

14. **Referral to the City Attorney: Eminent Domain Feasibility Analysis for 2902 and 2908 Adeline Street Properties and Abandoned House on 1946 Russell Street From: Councilmember Bartlett (Author)**

**Recommendation:** Refer the City Attorney to conduct an analysis and report to the Council on the feasibility of using eminent domain to enable the City to purchase the blighted commercial properties on 2902 and 2908 Adeline Street, as well as the adjacent abandoned house on 1946 Russell Street for the purposes of developing mixed-use affordable housing.

**Financial Implications:** See report

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

**Action:** Approved recommendation.

## Action Calendar – Public Hearings

15. **ZAB Appeal: 2924 Russell Street, Administrative Use Permit #ZP2023-0081 From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit #ZP2023-0081 to install an unenclosed hot tub in the rear yard.

**Financial Implications:** Nione

Contact: Jordan Klein, Planning and Development, (510) 981-7400

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

M/S/C (Arreguin/Humbert) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Humbert/Hahn) to adopt Resolution No. 71,226–N.S. affirming the decision of the Zoning Adjustments Board to approve Administrative Use Permit #ZP2023-0081 to install an unenclosed hot tub in the rear yard, and dismissing the appeal.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

**16. Zoning Amendments for Berkeley Business; Amending Berkeley Municipal Code Title 23**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt the first reading of an ordinance amending Title 23 of the Berkeley Municipal Code to streamline and clarify the permitting process for small businesses in commercial districts (“C-Prefixed”), select manufacturing (“M-Prefixed”) districts, and the Residential BART Mixed Use (R-BMU) and Residential Southside Mixed Use (R-SMU) zoning districts.

**Financial Implications:** See report

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Public Testimony:** The Mayor opened the public hearing. 2 speakers. M/S/C (Arreguin/Taplin) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to adopt first reading of Ordinance No. 7,898–N.S. Second reading scheduled for March 12, 2024. Referred to the City Manager a request to develop regulations and performance standards to mitigate noise impacts for Group Class Instruction uses.

**Vote:** All Ayes.

## Information Reports

**17. FY 2024 First Quarter Investment Report: Ended September 30, 2023**

**From: City Manager**

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

**Action:** Received and filed.

**18. State of Public Health in Berkeley Summary Report**

**From: City Manager**

Contact: Anju Goel, Health, Housing, and Community Services, (510) 981-5400

**Action:** Received and filed.

**19. LPO NOD: 2113-2115 Kittredge Street/#LMSAP2022-0011**

**From: City Manager**

Contact: Jordan Klein, Planning and Development, (510) 981-7400

**Action:** Received and filed.

## Adjournment

**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and adjourn the meeting.

**Vote:** All Ayes.



Adjourned at 9:26 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting held on February 27, 2024.

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Mark Numainville, City Clerk

## **Communications**

### **Item #15: ZAB Appeal: 2924 Russell Street, Administrative Use Permit #ZP2023-0081**

1. Homayoon Kazerooni

### **ZAB Appeal: 2113-2115 Kittredge Street**

2. Adams Broadwell Joseph & Cardozo

### **United Artist Theater at 2274 Shattuck**

3. Deborah Chalfie
4. Kay Weinstein
5. David Brandon
6. Stuart Hyde
7. Elizabeth LaBarre

### **Crime and Police Matters**

8. Sunwalk10@
9. Shellie Wharton
10. Miles Morris Walker

### **Council Chambers/Councilmembers**

11. Rod Gutierrez
12. Kelsi Pertual
13. Justin Lee
14. Vivian Pisano

### **Tree Removal**

15. Ken Jung, Transportation Department
16. Carol Denney

### **Property Taxes**

17. Pauline Wallace (2)

**PG&E Rate Increases**

18. Patrick Golier

**Pedestrian Safety**

19. Sophie Johnson

**McNair's Donated Items Taken**

20. Moni Law

21. Paul Kealoha Blake

**Fulton-Woolsey Bike Boulevard**

22. Charles Siegel (2)

23. Ken Jung, Transportation Department (2)

24. Councilmember Harrison

25. Megan Wachspres

26. David Hoffman (5)

27. Justin Baldwin

28. Matt Weber

29. Dan A.

30. Emily McAfee

31. Ben Hays

**Restaurant Inspections**

32. David Lerman

**Berkeley Marina**

33. Tahirah Rasheed

**Refuse Services Blocking Driveway**

34. Dan Bristol

**Middle Housing**

35. Jonathan Singh

36. D. Scott Phoenix

37. Amanda Le

**Chavez Park Air Quality**

38. Martin Nicolaus, on behalf of the Chavez Park Conservancy

39. Carol Denny

**Berkeley Unified School District**

40. Dorothea Dorenz

**Street Paving**

41. Barbara Gilbert

**Anti-Discrimination Ordinance**

42.6 similarly-worded form letters

**Golden Duplex Rent Control**

43. Lauren Schiller

**People's Park**

44. Moni Law (2)

**Gaza and Israel**

45. Micky Duxbury

46. Jon Jackson

47. Rainbow Alvarez

48. Naz Akbaroff

49. Nazanin Badakhsh

50. Dena Al-Adeeb

51. Michael Fullerton

52. Kelsi Pertula

53. Aaron Kalter

54. Anna Henry

55. Russbumper (2)

56. Nikki Roach

57. Anna Henry

58. Barbara Erickson

59. Gregory Kalkanis

60.6 similarly-worded form letters

**URL's Only**

61. Vivian Warkentin

**Supplemental Communications and Reports 1**

- None

**Supplemental Communications and Reports 2**

- None

**Supplemental Communications and Reports 3**

**Item #15: ZAB Appeal: 2924 Russell Street, Administrative Use Permit #ZP2023-0081**

62. Presentation, submitted by Planning and Development

**Item #16: Zoning Amendments for Berkeley Business; Amending Berkeley Municipal Code Title 23**

63. Presentation, submitted by Office of Economic Development

64. Liz Lisle, on behalf of the Shotgun Players

**Item #18: State of Public Health in Berkeley Summary Report**

65. Presentation, submitted by Health, Housing, and Community Services

**Item #19: LPO NOD: 2113-2115 Kittredge Street/#LMSAP2022-0011**

66. Dale Sophia

**Miscellaneous Communications**

67. Versus Mitsubishi, submitted by Eids Television

68. Path to Humanity, submitted by Travis Castle

## MINUTES SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

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

**Thursday, February 29, 2024  
3:00 PM**

CYPRESS ROOM – 2180 MILVIA STREET, BERKELEY, CA 94704  
TELECONFERENCE LOCATION - 1404 LE ROY AVE, BERKELEY, CA 94708  
TELECONFERENCE LOCATION - 1619 EDITH STREET, BERKELEY, CA 94703

JESSE ARREGUIN, MAYOR

Councilmembers:

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

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – VACANT  
DISTRICT 8 – MARK HUMBERT

*This meeting will be conducted in a hybrid model with both in-person attendance and virtual participation. If you are feeling sick, please do not attend the meeting in person.*

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1615877380>. To request to speak, use the “raise hand” icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252 or 1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 587 7380**. 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 meeting will be recorded.*

*To submit a written communication for the City Council’s consideration and inclusion in the public record, email [council@berkeleyca.gov](mailto:council@berkeleyca.gov).*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953 and applicable Executive Orders as issued by the Governor that are currently in effect. Any member of the public may attend this meeting. Questions regarding public participation may be addressed to the City Clerk Department (510) 981-6900. The City Council may take action related to any subject listed on the Agenda.*

*Pursuant to the City Council Rules of Procedure and State Law, the presiding officer may remove, or cause the removal of, an individual for disrupting the meeting. Prior to removing an individual, the presiding officer shall warn the individual that their behavior is disrupting the meeting and that their failure to cease their behavior may result in their removal. The presiding officer may then remove the individual if they do not promptly cease their disruptive behavior. “Disrupting” means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting and includes, but is not limited to, a failure to comply with reasonable and lawful regulations adopted by a legislative body, or engaging in behavior that constitutes use of force or a true threat of force.*

## Preliminary Matters

**Roll Call:** 3:05 p.m.

**Present:** Kesarwani, Bartlett, Hahn, Wengraf, Humbert, Arreguin

**Absent:** Taplin

Councilmember Taplin present at 3:11 p.m.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 6 speakers.

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

**Vote:** All Ayes.

## Consent Calendar

### 1. **Calling for a Special Municipal Election to fill the City Council District 4 Vacancy**

**From:** City Manager

**Recommendation:** Adopt a Resolution: a) Calling for a Special Municipal Election to be held in Berkeley to fill the City Council District 4 vacancy; b) Requesting that the Alameda County Board of Supervisors authorize the Registrar of Voters to provide election administration services for the special election; c) Authorizing certain procedural and contractual actions; and d) Establishing policies for the filing of candidate statements of qualification.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,227–N.S.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 3:37 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting held on February 29, 2024.

---

Mark Numainville, City Clerk

## **Communications**

### **Item #1: Calling for a Special Municipal Election to fill the City Council District 4 Vacancy**

1. Associated Students University of California (ASUC)
2. Sky Ocean (2)

## **Supplemental Communications and Reports 1**

- None

## **Supplemental Communications and Reports 2**

- None

## **Supplemental Communications and Reports 3**

### **Item #1: Calling for a Special Municipal Election to fill the City Council District 4 Vacancy**

3. Associated Students University of California





Internal



Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Peter Radu, Assistant to the City Manager

Subject: Contract No. 32200202 Amendment: Extending the Lease for the Real Property at 1461 University Avenue

RECOMMENDATION

Adopt an Urgency Ordinance authorizing the City Manager to execute an amendment to Contract No. 32200202 with Shree Jalasai Lodging, LP for the real property located at 1461 University Avenue, Berkeley, for the purposes of extending the interim noncongregate shelter program at this location to accommodate a longer-than-anticipated Homekey sales process. The proposed contract amendment will extend the term on a month-to-month basis for no longer than 6 months and increase the total cost by up to \$975,756, with actual costs pro-rated based on the length of the lease, for a new contract not-to-exceed amount of \$4,872,158.

FISCAL IMPACTS OF RECOMMENDATION

Total costs for this lease are not to exceed \$124 per room per night for 43 rooms, month-to-month for up to 6 months, for a total increase of no more than \$975,756, which will be paid for using Measure P and/or U1 funds. These funds will be appropriated in the Second Amendment to the FY2024 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

On September 19, 2023, the Council adopted an urgency ordinance to extend the current lease at the Rodeway Inn to continue operating noncongregate interim housing there while the City, Housing Consortium of the East Bay (HCEB) and MPI Homes were awaiting a possible Homekey award to purchase the motel and convert it to permanent supportive housing. That lease amendment authorized an extension of the lease (and commensurate funding for rental costs) through March 31, 2024.

On December 4, the State of California publicly announced that the City of Berkeley's Homekey grant to purchase the Rodeway Inn had been awarded. Since that time, the City, HCEB, and MPI Homes have been working with the State to close on the purchase of the property, but that timeline is taking longer than anticipated. The March 26, 2024 City Council meeting is the last meeting before the lease expiration on March 31, and as

of the submission of this report, the timeline for the close of escrow on the property is still unknown.

Therefore, in order to prevent the discontinuation of the interim shelter program operating at the Rodeway and currently housing the vulnerable former residents of the People's Park encampment, city staff propose a lease extension for up to 6 months, to allow sufficient time for the sale of the property to close.

The proposed contract amendment, as specified in Exhibit A attached to this report, continues the existing master lease for 43 rooms at a flat price of \$124 per room per night. This includes regular cleaning, linen service, and supplies to the rooms. The proposed amendment would authorize a month-to-month contract extension for up to 6 months, terminable by the City Manager with 30 days' notice. Actual rent costs will be pro-rated to the duration of the city's occupancy at the property, but will not exceed \$975,756 in the event that the city stays for the entire 6 months.

Staff will continue to contract with HCEB to provide the social services component of the program, as the current service provider. Council previously approved the social services contract and funding for it (on Sept 19, 2023), which can be extended by the City Manager without need for further Council authorization.

Continuing this access to interim housing for persons experiencing homelessness is consistent with the City's strategic priorities, and specifically the July, 2021 endorsement of the All Home Regional Action Plan.

### BACKGROUND

In February 2022, the City was awarded just over \$4.7M in State of California Encampment Resolution Funding grant funds to operate the Rodeway Inn as the primary interim housing option for people living in People's Park. On April 26, 2023, the Council approved a lease and a services contract with Abode Services to operate the Rodeway Inn as an interim noncongregate housing program. On September 19, 2023, the City Council approved an extension of the existing lease through March 31, 2024 in anticipation of a Homekey award to purchase the property (which was later announced on December 4, 2023) as well as a contract with Housing Consortium of the East Bay (HCEB) for the services contract.

The State awarded over \$14M in Homekey funds to support the acquisition, renovation, and ongoing operations of the Rodeway Inn, which will be converted to permanent supportive housing for formerly homeless residents. Current residents will have the opportunity to lease in place after the property transfer to HCEB and MPI Homes. The City is also contributing \$8.5M in general funds from Measure U1 to support the project.

### 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

If adopted, this lease amendment will allow the City to continue providing safe, low-barrier noncongregate shelter options to people previously living in encampments as the city works to close escrow on the Homekey sale of the property. Discontinuing the lease before the sale is finalized and the existing shelter occupants are allowed to lease-in-place at the property would return these vulnerable people back to the streets.

Adopting the agreement by Urgency Ordinance is appropriate in light of the current shelter crisis and the imminent expiration of the existing lease contract. By adopting this agreement through an Urgency Ordinance, it will be possible to execute a lease with an effective date of April 1, 2024.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CONTACT PERSON

Peter Radu, Assistant to the City Manager, 510 981-7045

### Attachments:

#### 1: Urgency Ordinance

Exhibit A: Contract Amendment

Exhibit B: City Council report and lease extension from September 19, 2023.

## ORDINANCE NO. X,XXX N.S.

AUTHORIZING THE CITY MANAGER OR HER DESIGNEE TO EXTEND A LEASE AND ANY NECESSARY AMENDMENTS WITH SHREE JALASAI LODGING, LP, DBA RODEWAY INN, BERKELEY, FOR REAL PROPERTY LOCATED AT 1461 UNIVERSITY AVENUE, BERKELEY, CA.

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

Section 1. The City Council finds as follows:

- a. The City of Berkeley is facing a growing housing and homelessness crisis, in part exacerbated by the acute lack of affordable housing and supportive housing for people experiencing homelessness; and
- b. Encampments in Berkeley are inherently unhealthy for their residents and frequently problematic for surrounding neighbors; and
- c. Resolving encampments requires working with their residents to find viable alternatives to their unsheltered status, such as low-barrier, noncongregate interim housing options; and
- d. April 26, 2022, the City Council adopted Ordinance No. 7,807-N.S. to master lease the Rodeway Inn at 1461 University Avenue to operate a low-barrier noncongregate shelter for people living in encampments; and
- e. On September 12, 2023, the City Council adopted urgency Ordinance No. 7,884-N.S., extending the master-lease at the Rodeway Inn through March 31, 2024; and
- f. On December 4, the State of California announced that it would fund the City of Berkeley's Homekey application to purchase and convert the Rodeway Inn to permanent supportive housing; and
- g. The current lease expires on March 31, 2024, putting the future of the interim program currently running at the Rodeway at risk of closure before the sale of the property can be finalized; and
- h. The property owner, Shree Jalasai Lodging, LP, dba Rodeway Inn, Berkeley, has offered to extend the lease on the same terms (43 rooms at a rate of \$124 per room per night), to the City for purposes of continuing a homeless shelter on a month-to-month basis for up to 6 additional months.

Section 2. The City Manager or her designee is hereby authorized to enter into a lease contract amendment starting April 1, 2024 with Shree Jalasai Lodging, LP, dba Rodeway Inn, Berkeley for real property located at 1461 University Avenue on substantially the same terms as set forth in Exhibit A. The rent will be \$124 per room per night and will be paid for with City of Berkeley General Funds.

Section 3. This Ordinance is adopted as an urgency ordinance pursuant to the Charter of the City of Berkeley, Article XIV, Section 93 and shall be effective immediately. The City Council finds and determines that the adoption of this Ordinance as an urgency ordinance is necessary for the immediate preservation of the public peace, health and safety of the residents of the City of Berkeley.

Internal

Contract Amendment for Extending the Lease for the Real Property at 1461  
University Avenue

CONSENT CALENDAR  
March 26, 2024

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 Old City Hall, 2134 Martin Luther King Jr. Way within fifteen calendar 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.

Public

Contract #32200202

AMENDMENT TO CONTRACT

THIS CONTRACT is entered into on April 1, 2024 between the CITY OF BERKELEY ("City"), a Charter City organized and existing under the laws of the State of California, and Shree Jalasai Lodging, LP dba Rodeway Inn, Owner ("Contractor") a company, doing business at 1461 University Ave, Berkeley, CA.

WHEREAS, City and Contractor previously entered into Contract Number 32200202, dated May 16, 2022, which Contract was authorized by the City Council of the City of Berkeley.

WHEREAS, City and Contractor previously amended and extended Contract Number 32200202 effective November 1, 2023, which Contract was authorized by the City Council of the City of Berkeley.

WHEREAS, on March 26, 2024, by Ordinance No. -N.S., the Berkeley City Council authorized amendment of said Contract as set forth below.

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

1. Section 2 is amended to read as follows:

PAYMENT

For services referred to in Section 1, City will pay Contractor a total amount not to exceed \$4,872,158. City shall make payments to Contractor in accordance with provisions described in Exhibit B, which is attached to and made part of this Contract. Payments shall be pro-rated according to the actual number of days the City occupies the property per each month.

Public

2. Section 3.a. is amended to read as follows:

TERM

This Contract shall begin on April 1, 2024 continuing month-to-month thereafter, and shall end no later than September 30, 2024. The City Manager of the City may terminate the contract at any time with thirty (30) days written days' notice, and may also extend the term of this Contract by giving written notice. Within ten (10) days of receiving the notice of termination from the City, Contractor may, at its sole discretion, give notice to City to extend the term ("Extension Term") of the contract an additional thirty (30) days. During the Extension Term only, The Daily Room Rate outlined in Contract Number 32200202, Section 3, Rent and Invoicing shall be reduced from one hundred twenty-four and 00/100 dollars (\$124.00) per Guest Room ("Rent) to ninety-nine and 00/100 dollars (\$99.00) per Guest Room ("Rent" regardless of whether the guestroom is occupied or not.

3. Further, this Contract is amended to include the following language regarding the City's Sanctuary Contracting Ordinance:

SANCTUARY CITY CONTRACTING

Contractor hereby agrees to comply with the provisions of the Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105. In accordance with this Chapter, Contractor agrees not to provide the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security with any Data Broker or Extreme Vetting Services as defined herein:

- a. "Data Broker" means either of the following:

Public

- i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies;
  - ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.
- b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include:
- i. The City's computer-network health and performance tools;
  - ii. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

In all other respects, the Contract dated May 16, 2022 shall remain in full force and effect.

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

CITY OF BERKELEY



Public

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

THIS CONTRACT HAS BEEN  
APPROVED AS TO FORM BY  
THE CITY ATTORNEY FOR  
THE CITY OF BERKELEY  
02/2022

Registered on behalf of the City Auditor by:

\_\_\_\_\_  
Finance Department

Attest:

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

CONTRACTOR

Jaydipsinh Devdhara

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

02-29-2024

By J.V. Devdhara (Owner)  
Signature and Title

Public  
**EXHIBIT B**

**PAYMENT**

**GENERAL:** Contract Amendment is \$ 975,756 for a new Not to Exceed (NTE) amount of \$4,872,158.

**BILLING:** Contractor will submit invoices for services rendered monthly. Payments shall be pro-rated according to the actual number of days the City occupies the property for that month.

**INVOICES:** Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. **Email invoices to Accounts Payable and cc' Peter Radu, email [pradu@berkeleyca.gov](mailto:pradu@berkeleyca.gov)**; (List on invoice, Attn: Peter Radu, Assistant to the City Manager) and reference contract number 32200202.

City of Berkeley  
Accounts Payable  
P.O. Box 700  
Berkeley, CA 94710-700  
Email: [AccountsPayable@berkeleyca.gov](mailto:AccountsPayable@berkeleyca.gov)  
Phone: 510-981-7310

**Payments:** The City will make payment to the vendor within 30 days of receipt of a correct, approved and complete invoice.

EXHIBIT 2

EXHIBIT

1. The purpose of this exhibit is to provide a detailed description of the information contained in the exhibit. This information is being provided to you for your information and is not intended to constitute an offer or a recommendation to buy or sell any securities or other financial products. The information is being provided to you for your information and is not intended to constitute an offer or a recommendation to buy or sell any securities or other financial products.

2. The information contained in this exhibit is being provided to you for your information and is not intended to constitute an offer or a recommendation to buy or sell any securities or other financial products. The information is being provided to you for your information and is not intended to constitute an offer or a recommendation to buy or sell any securities or other financial products.

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6. The information contained in this exhibit is being provided to you for your information and is not intended to constitute an offer or a recommendation to buy or sell any securities or other financial products. The information is being provided to you for your information and is not intended to constitute an offer or a recommendation to buy or sell any securities or other financial products.



# URGENT ITEM AGENDA MATERIAL

Government Code Section 54954.2(b)  
Rules of Procedure Chapter III.C.5

**THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES**

**Meeting Date: September 19, 2023**

**Item Description: Revised Resolution for a Joint Homekey Application and Urgency Ordinance to Amend Contract No. 32200202 Extending the Lease for Real Property at 1461 University**

This item is submitted pursuant to the provision checked below:

- Emergency Situation (54954.2(b)(1) - majority vote required)**  
*Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.*
- Immediate Action Required (54954.2(b)(2) - two-thirds vote required)**  
*There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.*

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).

**Facts supporting the addition of the item to the agenda under Section 54954.2(b) and Chapter III.C.5 of the Rules of Procedure:**

On March 21, 2023, City Council adopted a resolution authorizing a joint application with Memar Properties, Inc. and Housing Consortium of the East Bay (HCEB) to the State of California's Homekey Program to purchase the Rodeway Inn and convert the building to permanent supportive housing in anticipation of the release of a Notice of Funding Available (NOFA). The State released the NOFA for the Homekey Program's third round of funding on March 29th, 2023, and the City, Memar, and HCEB submitted the joint application for the Rodeway Inn project on May 10th.

The State is currently reviewing the application and notified Health, Housing, and Community Services (HHCS) staff on **September 6, 2023** that the City is required to submit a revised authorizing resolution using HCD's updated template in order to complete the application review. Failing to adopt the new resolution immediately will jeopardize the City's competitiveness and potential Homekey award.

On April 26, 2022, the Council adopted an urgency ordinance to enter into a lease for the Rodeway Inn, and the future availability of funding for permanent housing conversion was unknown. On October 31, 2023, the current lease at the Rodeway will expire. On September 9, 2023, Memar informed HHSC staff that if the Homekey application is successful, the updated project schedule anticipates that the Rodeway would convert to permanent supportive three to four months after an award is made. An urgency ordinance is needed to extend the lease and allow the Rodeway Inn to continue operating as interim housing prior to permanent housing conversion in the event that the Homekey Program funds are awarded.



Office of the City Manager

CONSENT CALENDAR  
September 19, 2023

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: Revised Resolution for a Joint Homekey Application and Urgency Ordinance to Amend Contract No. 32200202 Extending the Lease for Real Property at 1461 University

RECOMMENDATION

Adopt one resolution and one urgency ordinance approving the following actions in support of a Homekey program application by:

1. Authorizing the City Manager or her designee to prepare and submit a joint application together with Memar and HCEB for the State of California Housing and Community Development (HCD) Department's Homekey program for the University Inn permanent supportive housing project.
2. Authorizing the City Manager or her designee to take actions needed for the City's participation in HCD's Homekey program, including entering into HCD's Standard Agreement and any amendments.
3. Authorizing the City Manager, if Homekey funds are awarded, to execute an amendment to Contract No. 32200202 with Shree Jalasai Lodging, LP for the lease of real property located at 1461 University Avenue, Berkeley, extending the term by five months and increasing the total cost by \$891,132 for a new contract not-to-exceed amount of \$3,896,402 for the purposes of extending the interim non-congregate shelter program at this location.

FISCAL IMPACTS OF RECOMMENDATION

The proposed project is eligible for an estimated \$15M in State Homekey funds, including three years of operating subsidy. Funds already reserved in Resolution No. 70,736-N.S. constitute the required match. That resolution reserved an additional \$1,000,000 to continue operating the property as interim shelter for the period between the expiration of the current operator's contract and permanent housing conversion.

Total costs for this lease are not to exceed \$124 per room per night for 43 rooms, plus a \$2000 per room fund for damages payable upon lease termination, for an estimated total increase of \$891,132, which will be paid for using State of California Encampment

Resolution Funding grant funds and funding from City General Fund previously appropriated for the project. These funds will be appropriated in the Second Amendment to the FY2024 Annual Appropriations Ordinance.

### CURRENT SITUATION AND ITS EFFECTS

On March 21, 2023, Council adopted three resolutions authorizing a joint application with Memar Properties, Inc. and Housing Consortium of the East Bay (HCEB) to the State of California's Homekey Program to purchase the Rodeway Inn and convert the building to permanent supportive housing. This month staff were notified that the City's approval must follow the State's approved resolution template with specific language in order for their review of the application to continue. Since funding is allocated on a rolling basis, the application will be more likely to be funded the sooner the City can meet this requirement. The revised resolution accompanies this report as Attachment 1.

On April 26, 2022, Council adopted an urgency ordinance to enter into a lease for the Rodeway Inn, also referred to as the University Inn, using a combination of a California Encampment Resolution Funding grant and a UC Berkeley donation to operate non-congregate interim housing for the cohort of individuals currently living in the encampment at People's Park. Since its inception, the program has served 110 people with interim housing, 35 of whom have exited directly to permanent housing. Out of 72 total exits, this represents a success rate of 49%.

On October 31, 2023, the current lease at the Rodeway will expire. If the application is successful, the project schedule anticipates that the Rodeway would convert to permanent supportive three to four months after an award is made. The urgency ordinance would allow for a longer lease extension period, if necessary (approximately five months). This amendment would ensure that the Rodeway Inn could continue to operate as interim housing until Memar and HCEB acquire the property with Homekey funding.

### BACKGROUND

Homekey is an HCD program that provides government entities with funding to purchase and rehabilitate properties, including hotels, motels, and vacant apartment buildings, and convert them into interim or permanent housing. Homekey projects serve people experiencing homelessness or who are also at risk of becoming homeless. The program typically provides funding of up to \$200,000 per unit (depending on unit type), and may increase the subsidy if there are local matching funds.

In anticipation of HCD's Homekey NOFA release, the City issued a Request for Proposals (RFP) on November 29, 2022 to select an eligible Homekey project and development team. The RFP included \$8.5M in City funds, including General Funds received pursuant to Measure P and Measure U1. HHCS received two proposals to convert interim housing to permanent supportive housing: one from Memar Properties,

Inc. and Housing Consortium of the East Bay for the University Inn project and another from Insight Housing. Based on careful review of the proposals, the projects' feasibility, applicant experience with the Homekey program, and an evaluation of development team capacity, staff recommended selection of the University Inn project.

Council already acted to approve moving forward with this proposal, adopting three related resolutions on March 21, 2023. Resolution 70,736-N.S. reserved \$8.5M in City general funds to support acquisition, development, and operating costs, as well as an additional \$1M to continue operating Rodeway Inn as interim housing prior to permanent housing conversion. Resolution 70,737-N.S. also authorized the inclusion of a project preference for homeless individuals in Berkeley to the extent allowable under the coordinated entry system and all other applicable laws and regulations.

HCD released the Notice of Funding Availability (NOFA) for the Homekey program's third round of funding on March 29<sup>th</sup>, 2023, and the joint application for the Rodeway Inn project was submitted on May 10<sup>th</sup>. HCD is currently reviewing the application and is requiring the City to submit a revised authorizing resolution using HCD's updated template in order to complete the application review. Any alterations or additions to HCD's approved resolution language jeopardizes the City's ability to obtain a grant award. The revised resolution replaces Resolution 70,738-N.S. and would authorize a Homekey request of up to \$30M. HCD recommended securing authorization for twice the amount of funding anticipated, which is estimated at \$15M for the Rodeway Inn.

The proposed lease contract amendment, as specified in Exhibit A attached to this report, continues the existing master lease for 43 rooms at a flat price of \$124 per room per night, as well as a renewed damage fund not to exceed \$2000/room payable at the end of the lease, for a total amount not to exceed \$891,132. The cost includes regular cleaning, linen service, and supplies to the rooms.

In order for the project to receive the Homekey funds, the City will be required to enter into the State's Standard Agreement for the project. The Standard Agreement will be 55 years for permanent housing.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental sustainability effects directly associated with the recommendations in this report. If the City's funding application is successful, the project will be acquired and rehabilitated, which is generally considered a more sustainable type of development.

#### RATIONALE FOR RECOMMENDATION

Creation of permanent supportive housing through a partnership with Memar and HCEB will support chronically unhoused individuals in the City, and will bring new permanent supportive housing units online on an expedited timeline. If adopted, this lease



amendment will allow the City to continue providing safe, low-barrier noncongregate shelter options to people living in encampments.

ALTERNATIVE ACTIONS CONSIDERED

The City could decline to adopt a new Homekey resolution or lease extension. Failing to adopt the new resolution will jeopardize the City's competitiveness and potential Homekey award, and not extending the lease would result in displacement of those currently housed and impact their ability to transition to permanent housing in place. Since these options are not consistent with the City's Strategic Plan to increase affordable housing opportunities, staff is recommending participation as described above.

CONTACT PERSON

Grace Streltzov, Community Development Project Coordinator, HHCS, (510) 981-5430

Attachments:

1: Resolution

2: Urgency Ordinance

Exhibit A: Contract Amendment

Exhibit B: Lease Agreement from May 1, 2022

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

RESOLUTION OF THE GOVERNING BODY OF CITY OF BERKELEY AUTHORIZING  
JOINT APPLICATION TO AND PARTICIPATION IN THE HOMEKEY PROGRAM FOR  
UNIVERSITY INN

WHEREAS, The Department of Housing and Community Development (“Department”) has issued a Notice of Funding Availability, dated March 29, 2023 (“NOFA”), for the Homekey Program (“Homekey” or “Program”). The Department has issued the NOFA for Homekey grant funds pursuant to Health and Safety Code section 50675.1.3 (Assem. Bill No. 140 (2021-2022 Reg. Sess.), § 20.); and

WHEREAS, City of Berkeley (“Co-Applicant”) desires to jointly apply for Homekey grant funds with Housing Consortium of the East Bay and Memar Properties (“Corporation”). Therefore, Co-Applicant is joining Corporation in the submittal of an application for Homekey funds (“Application”) to the Department for review and consideration; and

WHEREAS, The Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement (“Standard Agreement”), and all other legal requirements of the Homekey Program.

NOW THEREFORE, BE IT RESOLVED that Co-Applicant is hereby authorized and directed to submit a joint Application to the Department in response to the NOFA, and to jointly apply for Homekey grant funds in a total amount not to exceed \$30,000,000.

BE IT FURTHER RESOLVED that if the Application is approved, Co-Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed \$30,000,000, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department and to participate in the Homekey Program, and all amendments thereto (collectively, the “Homekey Documents”).

BE IT FURTHER RESOLVED that Co-Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities identified in the Standard Agreement.

BE IT FURTHER RESOLVED that the City Manager or her designee is authorized to execute the Application and the Homekey Documents on behalf of Co-Applicant for participation in the Homekey Program.

ORDINANCE NO. -N.S.

AUTHORIZING THE CITY MANAGER OR HER DESIGNEE TO EXTEND A LEASE AND ANY NECESSARY AMENDMENTS WITH SHREE JALASAI LODGING, LP, DBA RODEWAY INN, BERKELEY, FOR REAL PROPERTY LOCATED AT 1461 UNIVERSITY AVENUE, BERKELEY, CA.

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

Section 1. The City Council finds as follows:

- a. The City of Berkeley is facing a growing housing and homelessness crisis, in part exacerbated by the acute lack of affordable housing and supportive housing for people experiencing homelessness; and
- b. Encampments in Berkeley are inherently unhealthy for their residents and frequently problematic for surrounding neighbors; and
- c. Resolving encampments requires working with their residents to find viable alternatives to their unsheltered status, such as low-barrier, noncongregate interim housing options; and
- d. April 26, 2022, the City Council adopted Ordinance No. 7,807-N.S. to master lease the Rodeway Inn at 1461 University Avenue to operate a low-barrier noncongregate shelter for people living in encampments; and
- e. The current lease expires on Oct. 31, 2023, putting the future of the interim program currently running at the Rodeway at risk of closure; and
- f. The property owner, Shree Jalasai Lodging, LP, dba Rodeway Inn, Berkeley, has offered to extend the lease on the same terms (43 rooms at a rate of \$124 per room per night and \$2000 per room in damage funds), to the City for purposes of establishing a homeless shelter for an additional 5 months.

Section 2. The City Manager or her designee is hereby authorized, contingent on the State of California awarding Homekey funding to the City, to enter into a lease contract amendment starting November 1, 2023 with Shree Jalasai Lodging, LP, dba Rodeway Inn, Berkeley for real property located at 1461 University Avenue on substantially the same terms as set forth in Exhibit A. The rent will be \$124 per room per night, including \$2000 per room in damage funds, and will be paid by State of California Encampment Resolution Funding grant funds and City of Berkeley General Funds.

Section 3. This Ordinance is adopted as an urgency ordinance pursuant to the Charter of the City of Berkeley, Article XIV, Section 93 and shall be effective immediately. The City Council finds and determines that the adoption of this Ordinance as an urgency ordinance is necessary for the immediate preservation of the public peace, health and safety of the residents of the City of Berkeley.

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 Old City Hall, 2134 Martin Luther King Jr. Way within fifteen calendar 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: Contract Amendment

B: Lease Agreement from May 1, 2022

Public  
Public

Contract #32200202

### AMENDMENT TO CONTRACT

THIS CONTRACT is entered into on November 1, 2023 between the CITY OF BERKELEY ("City"), a Charter City organized and existing under the laws of the State of California, and Shree Jalasai Lodging, LP dba Rodeway Inn ("Contractor") a company, doing business at 1461 University Ave, Berkeley, CA.

WHEREAS, City and Contractor previously entered into Contract Number 32200202, dated May 16, 2022, which Contract was authorized by the City Council of the City of Berkeley.

WHEREAS, on October 3, 2023, by Ordinance No. -N.S., the Berkeley City Council authorized amendment of said Contract as set forth below.

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

1. Section 2 is amended to read as follows:

#### PAYMENT

For services referred to in Section 1, City will pay Contractor a total amount not to exceed \$3,896,402. City shall make payments to Contractor in accordance with provisions described in Exhibit B, which is attached to and made part of this Contract.

2. Section 3.a. is amended to read as follows:

#### TERM

This Contract shall begin on November 1, 2023 and end on March 31, 2024. The City Manager of the City may extend the term of this Contract by giving written notice.

3. Further, this Contract is amended to include the following language regarding the

Public  
Public

City's Sanctuary Contracting Ordinance:

SANCTUARY CITY CONTRACTING

Contractor hereby agrees to comply with the provisions of the Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105. In accordance with this Chapter, Contractor agrees not to provide the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security with any Data Broker or Extreme Vetting Services as defined herein:

- a. "Data Broker" means either of the following:
  - i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies;
  - ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used.
- b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include:
  - i. The City's computer-network health and performance tools;
  - ii. Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and

Public  
Public

cyber-forensic based investigations and prosecutions of illegal computer-based activity.

In all other respects, the Contract dated May 16, 2022 shall remain in full force and effect.

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

CITY OF BERKELEY

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

THIS CONTRACT HAS BEEN  
APPROVED AS TO FORM BY  
THE CITY ATTORNEY FOR  
THE CITY OF BERKELEY  
02/2022

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

Attest:

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

CONTRACTOR

Jaydipsinh Deudhara  
Name (Printed)

By J.V. [Signature] (owner)  
Signature and Title

Public  
Public



Public  
Public  
**EXHIBIT B**

PAYMENT

**GENERAL:** Contract Amendment is \$ 891,132 for a new Not to Exceed (NTE) amount of \$3,896,402.

**BILLING:** Contractor will submit invoices for services rendered monthly. Invoices for damage deposit payments will be submitted separately in accordance with the terms set forth in the lease.

**INVOICES:** Invoices must be fully itemized, and provide sufficient information for approving payment and audit. Invoices must be accompanied by receipt for services in order for payment to be processed. **Email invoices to Accounts Payable and cc' Peter Radu, email [pradu@berkeleyca.gov](mailto:pradu@berkeleyca.gov)**; (List on invoice, Attn: Peter Radu, Assistant to the City Manager) and reference contract number 32200202.

City of Berkeley  
Accounts Payable  
P.O. Box 700  
Berkeley, CA 94710-700  
Email: [AccountsPayable@berkeleyca.gov](mailto:AccountsPayable@berkeleyca.gov)  
Phone: 510-981-7310

**Payments:** The City will make payment to the vendor within 30 days of receipt of a correct, approved and complete invoice.

**EXPENDITURE NON-CONSTRUCTION CONTRACT REVIEW FORM  
"NEW CONTRACT"**

Contract # 32200202 Vendor # 53334

CONTRACTOR NAME: Shree Jalasai Lodging, LP dba Rodeway Inn Berkeley Business License # BL-049456

Subject of Contract: Emergency Lease of Real Property - 1461 University Avenue

This contract package contains:

**3 Original Contracts (Vital Record and Vendor) in folder**

\*The Vital Record contract MUST be in a folder. Vendor copies may be assembled with an Acco-fastener.

\*\*DocuSign Agreements only require 1 Original (Vital Record) copy.

|                                                                                                          | Attached                            | Waiver Attached                     | Not Required                        |
|----------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| 1. CONTRACT BOILERPLATE <i>Vendor's format. Approved by CM &amp; Legal. Signed.</i>                      | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Scope of Services (Exhibit A @ boilerplate) <i>within contract body.</i>                              | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Payment Provisions (Exhibit B @ boilerplate) <i>Page two of contract</i>                              | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Evidence of Competitive Solicitation OR Waiver by CM or by <u>Council Resolution</u> <i>ORDINANCE</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 5. CERTIFICATIONS                                                                                        |                                     |                                     |                                     |
| a. Workforce Composition ( <i>businesses with 5 or more employees</i> )                                  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| b. Nuclear Free Berkeley Disclosure                                                                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| c. Oppressive States Disclosure ( <i>Exception: Community-based, non-profit organizations</i> )          | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| d. Sanctuary City Compliance Statement                                                                   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| e. Certification of Compliance with Living Wage Ordinance (LWO): <i>use current form on web*</i>         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| f. Certification of Compliance with Equal Benefits Ordinance: <i>use current form on web*</i>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| g. Community Agency: Certification of Anti-Lobbying                                                      | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| h. Community Agency: Certification of Drug-Free Workplace                                                | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 6. Insurance Certificate/s AND Endorsement/s OR Insurance Waiver/s ( <i>originals, not copies</i> )      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 7. Authorizing Council Resolution # <u>7,807-N.S. (ORDINANCE)</u>                                        | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 8. Consultant Contracts: Form 700, Statement of Economic Interests                                       | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 9. Federally Funded Project Requirement: Debarment status printout (SAM.gov)                             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

Requisition # \_\_\_\_\_ (*Hard copy attached*) Budget Code: 336-21-202-000-0000-000-412-612990 Amt. \$ \_\_\_\_\_

Contract Amount \$3,005,270.00 *12208432* Amt. \$ \_\_\_\_\_

Amt. \$ \_\_\_\_\_

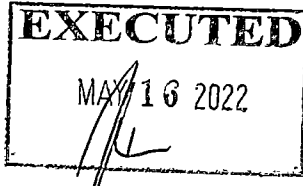
Council Approved Amount \$\$\$3,005,270.00

Was there any advance payment? No  Yes  ..... If Yes, Advanced Amount \$ \_\_\_\_\_  
If Yes, Purchase Order # \_\_\_\_\_

**Routing and signatures:**

All elements of the contract package, including information provided above, have been reviewed for completeness and accuracy and evidenced by the following signatures (Project Manager please print name):

- |                                                                                        |                    |                       |                   |
|----------------------------------------------------------------------------------------|--------------------|-----------------------|-------------------|
| 1. <u>Melanie E. Beasley</u><br>Project Manager (PRINT NAME/SIGN)                      | CMO<br>Department  | 981-7005<br>Phone No. | 5/05/2022<br>Date |
| 2. <u>Peter Radu</u><br>Department Administrative Officer/Accounting (PRINT NAME/SIGN) |                    |                       | 5/05/2022<br>Date |
| 3. <u>Paul Budd</u><br>Department Head (PRINT NAME/SIGN)                               |                    |                       | 5/12/22<br>Date   |
| 4. <u>Josh Roben</u><br>Contract Administrator (PRINT NAME/SIGN)                       |                    |                       | 5/12/2022<br>Date |
| 5. <u>SHARON FRIEDRICHSEN</u><br>Budget Manager (PRINT NAME/SIGN)                      | APPROVED VIA EMAIL |                       | 5/13/2022<br>Date |



Routing continues to the following persons, **who sign directly on the contract:**

6. City Manager (*Will not sign unless all signatures and dates appear above*)

7. City Clerk: Destruct \_\_\_\_\_ Review \_\_\_\_\_

**Radu, Peter**

---

**From:** Friedrichsen, Sharon  
**Sent:** Friday, May 13, 2022 9:20 AM  
**To:** Roben, Josh  
**Cc:** Rosete, Michelle; Dupaya, Maricar C.  
**Subject:** FW: New Contract: Shree Jalasai Lodging, LP dba Rodeway Inn

**Importance:** High

**Follow Up Flag:** Follow up  
**Due By:** Monday, May 16, 2022 7:30 AM  
**Flag Status:** Flagged

Josh,  
 Budget Final-Approved  
 Sharon

**From:** Rosete, Michelle  
**Sent:** Friday, May 13, 2022 9:19 AM  
**To:** Friedrichsen, Sharon <SFriedrichsen@cityofberkeley.info>  
**Cc:** Murty, Rama <RMurty@cityofberkeley.info>; Dupaya, Maricar C. <MDupaya@cityofberkeley.info>  
**Subject:** New Contract: Shree Jalasai Lodging, LP dba Rodeway Inn

Budget Initial – APPROVED

## Notes:

Authorizing Council Ordinance# 7,807 urgency ordinance authorizing the City Manager to execute lease agreement and necessary amendment for real property located at 1461 University Avenue.

Contract Amount: \$3,005,270

Req#12208432 – NTE \$3,005,270 (encumbered contract method)

Funding is available in account code 336-21-202-000-0000-000-412-612990-

Michelle M. Rosete  
 Associate Management Analyst  
 City Manager's Office  
 Budget and Fiscal Management Division  
 Tel. (510) 981-7042  
 E-mail: [mrosete@cityofberkeley.info](mailto:mrosete@cityofberkeley.info)

Internal

CITY OF BERKELEY

**EMERGENCY OCCUPANCY AGREEMENT**

|                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------|
| <u>OCCUPANCY AGREEMENT COVERING PREMISES LOCATED AT:</u><br>Rodeway Inn<br>1461 University Avenue, Berkeley, CA 94702 |
| <u>OWNER'S FED. TAX. I.D., NO. OR SOCIAL SECURITY NO.:</u>                                                            |
| <u>TENANT:</u><br>City of Berkeley                                                                                    |

File No:

**THIS OCCUPANCY AGREEMENT, made and entered into this 1 day of May 2022 by and between**

Preamble

**SHREE JALASAI LODGING, LP dba RODEWAY Inn, Berkeley**

hereinafter called the Owner, without distinction as to number or gender, and the City of Berkeley, hereinafter called the City ("Occupancy Agreement"). This Occupancy Agreement is entered into for the purposes of providing interim housing for persons experiencing homelessness in Berkeley, California.

Owner is the record owner of or authorized party to grant such rights concerning certain real property defined as the Premises herein situated in the County of Alameda, State of California and has the authority to grant the rights contained herein this Occupancy Agreement to the City.

**WITNESSETH**

Description

1. The Owner hereby authorizes the City and the City hereby hires from the Owner those certain premises "AS IS" with appurtenances situated in the City of Berkeley, County of Alameda, State of California, and more particularly described as follows:

The Forty-Three (43) rooms (collectively, the "Rooms") located at 1461 University Avenue, Berkeley, CA as outlined in red on the attached Exhibit A - Aerial Site Plan, consisting of one (1) page, dated June 14, 2020, said Exhibit A, hereby being incorporated into this Occupancy Agreement, and including all parking spaces contiguous to the subject hotel building, and unlimited use of the building's common facilities (collectively, the "Premises"). The City shall have exclusive access to and use of the Premises set forth in this Occupancy Agreement twenty-four (24) hours per day, seven (7) days per week with no exceptions. During the Term, Owner shall not rent or allow occupancy of any room or facilities in the hotel.

Term; Early Termination

2. The term of this Occupancy Agreement shall commence on May 1, 2022, with the City taking physical occupancy on May 15, 2022, and continue for eighteen (18) months until October 31, 2023; however, at any time after the first twelve (12) months of the Term (any time after April 30, 2023), the City shall have the right to terminate this Occupancy Agreement at any time by giving written notice to the Owner at least sixty (60) days prior to the date when such termination shall become effective (the "Term"). If the City fails to move out by the end of the Term, additional rent shall be paid and prorated on a 30-day month, based

*J.V.D*

Internal

on the actual number of days the City occupies the Premises following the effective date of termination.

**Rent and Invoicing**

3. Rent payments shall be paid by the City, from legally available funds and subject to the California Constitution, in arrears on the last day of each month during said term as follows:

**THE DAILY ROOM RATE SHALL BE ONE HUNDRED TWENTY-FOUR AND 00/100 DOLLARS (\$124.00) PER GUEST ROOM ("RENT"), REGARDLESS OF WHETHER THE GUEST ROOM IS OCCUPIED OR NOT. OTHER THAN THE RENT AND PAYMENT FOR ROOM RESTORATION DESCRIBED BELOW, THE CITY SHALL NOT BE RESPONSIBLE FOR ANY OTHER PAYMENT TO OWNER.**

Rent shall be paid to Owner at the address specified in Paragraph 4 or to such other address as the Owner may designate by a notice in writing.

**Notices**

4. All notices and correspondence herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and either: 1) deposited in the United States Mail, certified and postage prepaid; or 2) sent via an alternate commercial overnight delivery service (i.e. FedEx or similar) with receiver's signature required; and addressed as follows:

**To the Owner:** Shree Jalasai Lodging, LP  
Jaydipsinh (Jay) Devdhara, Manager  
547 35<sup>th</sup> Avenue  
San Francisco, CA 94121  
**Phone No.: 415-812-0756**  
**Hotel No.: 510-848-3840**  
**Email: jrajput86@gmail.com**

**To the City:** City Manager's Office  
City of Berkeley  
2180 Milvia St, 5<sup>th</sup> Floor  
Berkeley, CA 94704  
Attn: Peter Radu  
**Phone No. (510) 931-7045**  
**Email: pradu@cityofberkeley.info**

ALL NOTICES AND CORRESPONDENCE MUST REFERENCE PREMISES ADDRESS.

Rent warrants shall be made payable to:

Shree Jalasai Lodging, LP,

and mailed to: 1461 University Avenue  
Berkeley, CA 94702  
Attn: Jay Devdhara

Nothing herein contained shall preclude the giving of any such written notice by personal service so long as it is acknowledged in writing by the parties. The address to which notices and correspondence shall be mailed to either party may be changed by giving written notice to the other party.

Internal

**Parking**

5. Parking spaces, upon commencement of the Term of the Occupancy Agreement, shall be unobstructed and completely accessible for City's use. Parking spaces shall be provided at no additional charge.

**Services, Utilities, and Supplies**

6. Owner, at Owner's sole cost and expense, shall furnish normal and standard hotel operation functions, such as utilities and supplies, including without limitation the following: electricity and gas for heating, ventilating, air-conditioning and gas and electric services as the City needs for its operations, sewer, trash disposal up to 3 yards per week, hot and cold water service, internet, linen and laundry service, housekeeping and janitorial service, including toiletries, not less than every 3 days.

All housekeeping/janitorial services, as well as linen/terry and laundry services shall be provided in accordance with any applicable, current health and safety protocols established by public health officials as detailed in Exhibit C.

If Owner fails to provide the foregoing services or utilities, City may furnish the same and deduct the cost, plus City's administrative expenses, from the Rent.

**Repair and Maintenance**

7. During the Term of this Occupancy Agreement, the Owner shall maintain the Premises in good repair and tenantable condition. With 24 hours' written notice given, Owner reserves the right to inspect any Room upon request. Owner warrants and represents the Premises shall be readily accessible to and usable by individuals with disabilities in compliance with Title III of the Americans with Disabilities Act of 1990 and California Title 24, as amended from time to time and regulations issued pursuant thereto and in effect from time to time. Any and all costs incurred to cause the Premises to comply with said Act shall be borne by Owner.

8. The City shall have the right to assign this Occupancy Agreement.

**Quiet Possession**

9. The Owner agrees that the City, while keeping and performing the covenants herein contained, shall at all times during the existence of this Occupancy Agreement, peaceably and quietly have, hold, and enjoy the Premises without suit, trouble, or hindrance from the Owner or any person claiming under the Owner.

**Destruction**

10. If the Premises are totally destroyed by fire or other casualty, this Occupancy Agreement shall terminate. If such casualty shall render ten percent (10%) or less of the floor space of the Premises unusable for the purpose intended, Owner shall effect restoration of the Premises as quickly as is reasonably possible, but in any event within thirty (30) days.

In the event such casualty shall render more than ten percent (10%) of such floor space unusable but not constitute total destruction, Owner shall forthwith give notice to City of the specific number of days required to repair the same. If Owner under such circumstances shall not give such notice within fifteen (15) calendar days after such destruction, or if such notice shall specify that such repairs will require more than ninety (90) days to complete from date such notice is given, City, in either such event, at its option may terminate this Occupancy Agreement or, upon notice to Owner, may maintain occupancy and elect to undertake the repairs itself, deducting the cost thereof from the Rent due or to become due under this Occupancy Agreement and any other occupancy agreement between Owner and City.

In the event of any such destruction other than total, where the City has not terminated the Occupancy Agreement as herein provided, or pursuant to the terms hereof has not elected to make the repairs itself, Owner shall diligently prosecute the repair of said Premises and, in any event, if said repairs are not completed within the period of thirty (30) days for destruction aggregating ten percent (10%) or less of the floor space, or within the period specified in Owner's notice in connection with partial destruction aggregating more than ten percent (10%), the City shall have the option to terminate this Occupancy Agreement or complete the repairs itself, deducting the cost thereof from the Rent due or to become due under this Occupancy Agreement and any other occupancy agreement between Owner and City.

It is understood and agreed that the City or its agent has the right to enter the destroyed or partially destroyed Premises no matter what the condition. At the City's request, the Owner

J.V.D

Internal

shall immediately identify an appropriate route through the building to access the Premises. If the Owner cannot identify an appropriate access route, it is agreed that the City may use any and all means of access at its discretion in order to enter the Premises.

**Subrogation  
Waived**

11. To the extent authorized by any fire and extended coverage insurance policy issued to Owner on the Premises, Owner hereby waives the subrogation rights of the insurer, and releases the City from liability for any loss or damage covered by said insurance.

**Prevailing  
Wage  
Provision**

12. For those projects defined as "public works" pursuant to Labor Code §1720.2, the following shall apply:

- A. Owner/contractor shall comply with prevailing wage requirements and be subject to restrictions and penalties in accordance with §1770 et seq. of the Labor Code which requires prevailing wages be paid to appropriate work classifications in all bid specifications and subcontracts.
- B. The Owner/contractor shall furnish all subcontractors/employees a copy of the Department of Industrial Relations prevailing wage rates which Owner will post at the job site. All prevailing wage rates shall be obtained by the Owner/contractor from:

Department of Industrial Relations  
 Division of Labor Statistics and Research  
 455 Golden Gate Avenue, 8th Floor  
 San Francisco, California 94102  
 Phone: (415) 703-4774  
 Fax: (415) 703-4771

For further information on prevailing wage: [http://www.dir.ca.gov/dlsr/statistics\\_research.html](http://www.dir.ca.gov/dlsr/statistics_research.html)

- C. Owner/contractor shall comply with the payroll record keeping and availability requirement of §1776 of the Labor Code.
- D. Owner/contractor shall make travel and subsistence payments to workers needed for performance of work in accordance with the Labor Code.
- E. Prior to commencement of work, Owner/contractor shall contact the Division of Apprenticeship Standards and comply with §1777.5, §1777.6, and §1777.7 of the Labor Code and Applicable Regulations

**Fair  
Employment  
Practices**

13. During the Term of this Occupancy Agreement, the Owner shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. Owner shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

Owner shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.8), and the regulations or standards adopted by the awarding City to implement such article.

**Holding Over**

14. In the event the City remains in possession of the Premises after the expiration of the Occupancy Agreement Term, or any extension or renewal thereof, this Occupancy Agreement shall be automatically extended on a month to month basis, subject to a thirty day (30) day termination by the City and otherwise on the terms and conditions herein specified, so far as applicable. If the City fails to vacate the Premises within the notice period and remains for an extended period, additional rent shall be paid and prorated on a thirty (30) day month, based on the actual number of days the City occupies the Premises following the effective date of

Internal

termination. Any such payments for additional rent shall be limited to the actual number of Rooms occupied by the City following the effective date of termination.

**Surrender of Possession**

15. Upon termination or expiration of this Occupancy Agreement, the City will peacefully surrender to the Owner the Premises in good order, except for reasonable use and wear thereof and damage by earthquake, fire, public calamity, the elements, acts of God, or circumstances over which City has no control or for which Owner is responsible pursuant to this Occupancy Agreement. Notwithstanding the foregoing, City's obligation to restore the Premises shall be limited to and in accordance with paragraph 19.

**Time of Essence, Binding upon**

16. Time is of the essence of this Occupancy Agreement, and the terms and provisions of this Occupancy Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns to the respective parties hereto. All of the parties hereto shall be jointly and severally liable hereunder.

**No Oral Agreements**

17. It is mutually understood and agreed that no alterations or variations of the terms of this Occupancy Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

**Hazardous Substance**

18. City agrees that it will comply with all applicable laws existing during the Term of this Occupancy Agreement pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law. In the event a government order is issued naming the City or the City incurs any liability during or after the Term of this Occupancy Agreement in connection with contamination which pre-existed the City's obligations and occupancy under this Occupancy Agreement or which were not caused by the City, Owner shall hold harmless, indemnify, and defend the City in connection therewith and shall be solely responsible as between City and Owner for all efforts and expenses thereto.

**Restoration of Premises**

19. Upon termination of this Occupancy Agreement, Owner agrees that the equipment installed by the City shall be and remain the property of the City, and City shall remove such property when vacating the Premises. At the end of the Term, the City will reimburse the Owner a Fee not to exceed \$2,000.00 per Room for the actual out-of-pocket costs to replacing any damaged furniture, flooring and/or hard goods, beds and/or soft goods in the Rooms and any required deep cleaning, including pest control and heat treatments. Subject to the \$2,000.00 per Room cap, City shall pay the amount due to Owner within thirty (30) days of City's receipt of Owner's proof of payment including actual costs for the goods, services and labor, which may include Owner's labor expenses, in order for the hotel to be able to transition back to operating at capacity once this Occupancy Agreement terminates. City's obligation to restore the Premises to its condition prior to taking occupancy, subject to the limits in paragraph 15, shall be limited to the terms of this paragraph 19. The Owner reserves the right not to repair/replace any damages caused maliciously or intentionally by the City or its program guests in excess of the \$2,000.00 per Room reimbursement cap. The City will include language in any program guest agreement paperwork stipulating that excessive damages caused to the Room may be grounds for discharge from the program.

**Access**

20. Owner shall permit City to access to those Rooms on the Premises that are not undergoing rehabilitation or repairs beginning on May 1, 2022, and all Rooms beginning May 15, 2022, to stage and prepare the Premises for occupants, or for any other purpose the City deems necessary.

**Indemnification and Insurance**

21. The City agrees to indemnify and hold harmless the Owner in the event of any claim, demand, cause of action, judgments, obligations, or liabilities, and all reasonable expenses which Owner may suffer as direct and proximate result of the negligence or other wrongful act or violation of law by the City, its employees, or any person or persons acting under the direct control and authority of the City or its employees, in connection with the City's occupancy of the Premises under and during the Term of this Occupancy Agreement and agrees to repair or pay for any damage proximately caused by reason of the City's use of the Premises during the Term of this Occupancy Agreement, including fire damage caused by City occupants' sole



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negligence or arson, except to the extent that any such damages suffered by Owner are the result of Owner's negligent or wrongful acts or the acts of any persons acting under or on behalf of the Owner and/or where the City is found to have no liability by reason of any immunity arising by statute or common law in connection with the fulfillment of the City's constitutional and statutory public responsibilities.

Owner agrees to indemnify and hold harmless the City in the event of any claim, demand, cause of action, judgments, obligations, or liabilities, and all reasonable expenses which City may suffer as direct and proximate result of the negligence or other wrongful act or violation of law by the Owner, its employees, or any person or persons acting under the direct control and authority of the Owner or its employees, in connection with the City's occupancy of the Premises under and during the Term of this Occupancy Agreement except to the extent that any such damages or expenses suffered by City are the result of City's sole negligence. Owner specifically waives any claim to special or consequential damages it may have against City, including but not limited to claims concerning business reputation. Owner's defense and indemnity obligations under this paragraph shall not be limited by the policy limits of any policy of insurance.

Owner shall maintain in force at all times such policies of insurance as specified in Exhibit B, and shall abide by all of the terms and conditions of Exhibit B, which are incorporated by reference as if set forth in full herein.

For the Term of this Occupancy Agreement, City shall selfinsure or maintain, at its own expense, Comprehensive general liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) combined single and aggregate limits for both bodily injury and property damage, personal injury, completed operations and products liability. City insures City's personal property located on or in the Premises.

22. Owner is solely responsible for all tax liabilities, including property taxes.

**Exclusive Use**

23. Owner shall not rent or allow occupancy of any vacant rooms or facilities in the hotel during the Term of the City's occupancy of the Premises.

**Occupancy of**

24. Owner and City understand that they shall not receive rent, fees, or any other form of payments or consideration, or gifts from occupants of Rooms in exchange for access to or use of the Premises. Owner and City also understand that neither has entered into any contract with the occupants of the Rooms related to the use of the Premises within the meaning of California Civil Code section 1925. The occupants of the Rooms are not persons who hire any dwelling unit from Owner or City within the meaning of California Civil Code section 1940 and are not subject to the benefits of the California Civil Code or any other state statutes, rules, or regulations or local government rules, regulations or ordinances that confer tenancy rights on the occupants.

**Remedies**

25. In the event of a breach by the Owner of any term or provision of this Occupancy Agreement, the City shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Occupancy Agreement. The parties hereto agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by Owner of any of the provisions of this Occupancy Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, Owner shall waive the defense that a remedy at law would be adequate. Except as expressly provided elsewhere in this Occupancy Agreement, each party's rights and remedies under this Occupancy Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.

**Conflict of Interest**

26. By executing this Occupancy Agreement, Owner certifies that it does not know of any fact which constitutes a violation of California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, and further agrees promptly to notify the City if it becomes aware of any such fact during the Term of this Occupancy Agreement.

Internal

**HOTEL LABOR PROVISIONS**

27. During the Term of this Occupancy Agreement, no employee shall be terminated except for just cause.

**Employment**

28. The Owner shall comply with all local, state and federal wage-and-hour and other employment standards laws covering employers in the hotel industry. The City shall have the right to audit the Owner for compliance with such wage-and-hour and other employment-standards laws.

**Health & Safety**

29. In the event a room is to be cleaned while it is occupied by a guest, Owner shall ensure that at least two employees are present to do so. Owner shall furthermore ensure that personnel or a manager are readily accessible to provide assistance while such occupied rooms are being cleaned, and shall follow any local law requiring the provision of "panic buttons" or emergency contact devices to employees.

30. In the event that an employee has a reasonable concern that an assignment does not conform to Exhibit C and thus places their health and safety at risk, the employee may refrain from performing the assignment. No employee shall suffer retaliation from doing so. Owner shall ensure employees have read, understood and follow all safety provisions in Exhibit C, which will be updated from time to time.

31. Owner will comply with the March 31, 2020 Alameda County Health Order Section 13(h) and take all necessary and reasonable steps to ensure employees are in compliance with the order as it applies to Essential Businesses. As future Health Orders have been or are released, Owner shall follow all applicable requirements. Owner shall take reasonable steps to ensure employees are able to remain at least six (6) feet apart from other hotel personnel and guests while they are performing their assigned work and during breaks, in addition to any other social distancing protocols required by state or local public health agencies. In no event shall any employee be required to work within six feet of, or in the same room as, an individual who is under quarantine or in isolation, or who has or is suspected to have COVID-19.

32. Owner will comply with all relevant CDC standards, as listed in Exhibit C of this Occupancy Agreement.

33. Employees shall be considered third-party beneficiaries of the requirements set forth in Paragraphs 27-33.

**Enforcement**

**CITY OF BERKELEY PROVISIONS**

34. City Non-Discrimination Ordinance. Owner hereby agrees to comply with the provisions of the Berkeley Municipal Code ("B.M.C."), including without limitation Chapter 13.26, as amended from time to time. In the performance of its obligations under this Occupancy Agreement, Owner agrees as follows:

a. Owner shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

b. Owner shall permit City access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the reasonable opinion of City, are necessary to monitor compliance with this non-discrimination provision. In addition, Owner shall fill out, in a timely fashion, forms supplied by City to monitor this non-discrimination provision.

35. Non-Discrimination Against Persons With Disabilities.

*J.V.D*

Internal

a. If Owner provides any aid, service or benefit to others on the City's behalf, Owner shall, in the provision of such aid, service or benefit, observe and comply with all applicable provisions of Title II of the Americans with Disabilities Act of 1990 and any amendments thereto. Owner shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the City, if applicable.

b. If Owner is or becomes a "public accommodation" as defined in Title III of the Americans with Disabilities Act of 1990, Owner shall observe and comply with all applicable provisions of the Act and any amendments thereto, and all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Owner. All of Owner's activities must be in accordance with these laws, ordinances, codes, and regulations, and Owner shall be solely responsible for complying therewith.

36. Conflict of Interest Prohibited.

a. In accordance with California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, neither Owner nor any employee, officer, director, partner or member of Owner, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a committee or commission member of City, who has directly or indirectly influenced the making of this Occupancy Agreement.

b. In accordance with California Government Code Section 1090 and the Political Reform Act, (Government Code Section 87100 et seq.) no person who is a director, officer, partner, trustee, employee or consultant of Owner, or immediate family member of any of the preceding, shall make or participate in a decision made by City or any of its boards, commissions or committees, if it is reasonable foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or City, except to the extent permitted by 2 California Code of Regulations, Section 18700(c)(2).

Interpretation of this paragraph shall be governed by the definitions and provisions use in the Political Reform Act, Government Code section 87100 et seq., its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, as amended from time to time.

37. Nuclear Free Berkeley. Owner agrees to comply with B.M.C. Chapter 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

38. Oppressive States.

a. In accordance with Resolution No. 59,853-N.S., Owner certifies that it has no contractual relations with, and agrees during the Term of this Occupancy Agreement to forego contractual relations to provide personal services to, the following entities:

- i. The governing regime in any Oppressive State.
- ii. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- iii. Any individual, firm, partnership, corporation, association, or any other commercial organization, and including parent-entities and wholly-owned subsidiaries (to the extent that their operations are related to the purpose of this Occupancy Agreement) for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Internal

b. For purposes of this Occupancy Agreement, the Tibet Autonomous Region and the provinces of Abo, Kham, and U-Tsang shall be deemed Oppressive States.

c. Owner's failure to comply with this paragraph 60 shall constitute a default of this Occupancy Agreement and Owner may terminate this Occupancy Agreement on five days' written notice to Owner. In the event that City terminates this Occupancy Agreement due to a default under this provision, City may deem Owner a non-responsible bidder for five (5) years from the date this Occupancy Agreement is terminated.

39. Berkeley Sanctuary City Ordinance. Owner hereby agrees to comply with the provisions of the Sanctuary City Contracting Ordinance, B.M.C. Chapter 13.105. In accordance with this Chapter, Owner agrees not to provide the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security with any Data Broker or Extreme Vetting Services as defined herein:

a. "Data Broker" means either of the following: (1) The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private-sector business and government agencies; (2) the aggregation of data that was collected for another purpose from that for which it is ultimately used.

b. "Extreme Vetting" means data mining, threat modeling, predictive risk analysis, or other similar services. Extreme Vetting does not include: (1) The City's computer-network health and performance tools; (2) Cybersecurity capabilities, technologies and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cybersecurity events and cyber-forensic based investigations and prosecutions of illegal computer-based activity.

Internal

**IN WITNESS WHEREOF, this Occupancy Agreement has been executed by the parties hereto as of the dates written below.**

Internal

CITY:

CITY OF BERKELEY

By Dee Williams-Ridley  
D.W. Ridley

Date 5/13/22

Approved as to Form  
Sara Stephens  
Deputy CITY ATTORNEY  
By Sara Stephens

ATTEST FOR THE CITY OF BERKELEY  
[Signature]  
DEPUTY CITY CLERK  
ASST.

Registered on behalf of the City Auditor:

[Signature]  
Finance Department

OWNER:

SHREE JALASAI LODGING, LP

By J.V. Devdhar  
JAYDIPSINH DEVDHARA,  
Managing Member

Date 04-27-2022

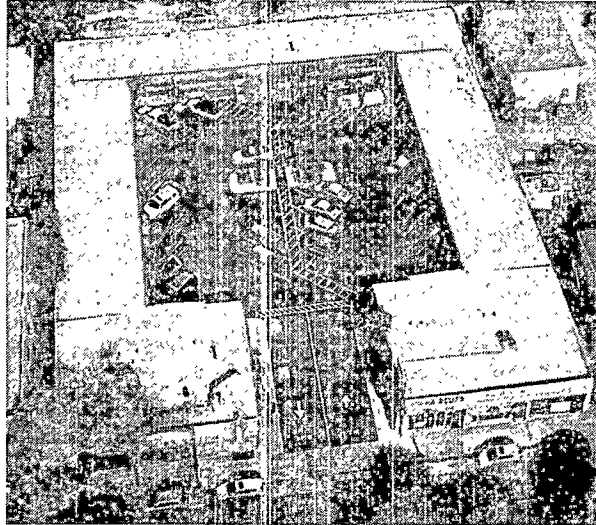
Date \_\_\_\_\_

Internal  
**Exhibit A**  
**Aerial Site Plan**

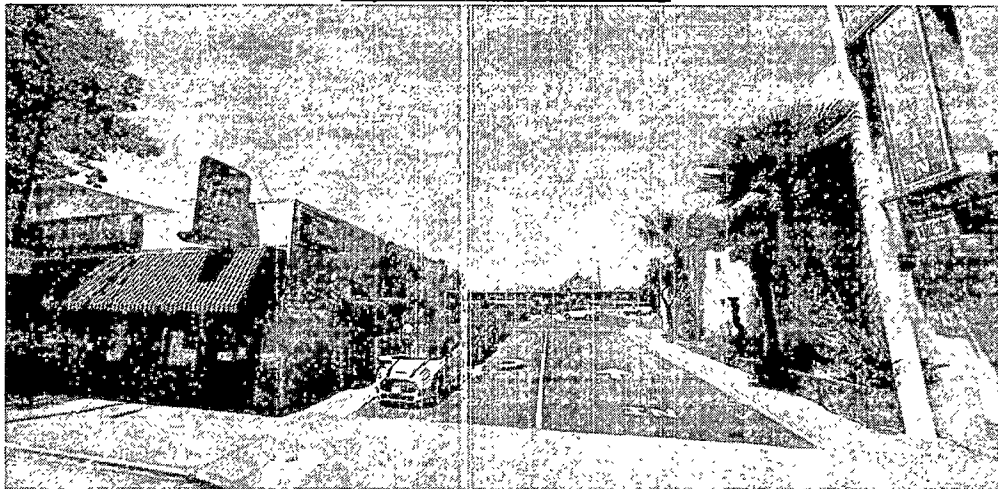
This is an aerial site plan including all parking spaces contiguous to the subject hotel building.

<https://earth.google.com/web/search/1461+University+Avenue,+Berkeley,+CA,+USA/@37.87052798,-122.28331165,29.73265671a,130.83737455d,35y,0.00000001h,44.99566261t,360r/data=CiqiJgokCREM3UOQ70JAEbC2JKSD70JAGVEzhUqikV7AlbHGd7y7kV7A>

Dated 06/14/2020



<https://earth.google.com/web/search/1461+University+Avenue,+Berkeley,+CA,+USA/@37.87032048,-122.28330065,30.80211199a,0d,88.22010856y,332.71991788h,99.18980124t,0r/data=CiqiJgokCREM3UOQ70JAEbC2JKSD70JAGVEzhUqikV7AlbHGd7y7kV7AlhoKFjU5X3JJbIpMcGVoejFhY2NGaTRkT3cQAq>



Internal  
**Exhibit B****City of Berkeley Minimum Insurance Requirements**

a. Contractor shall maintain at all times during the performance of this Contract a commercial general liability insurance policy with a minimum occurrence coverage in the amount of \$2,000,000 (two million dollars); an automobile liability insurance policy in the minimum amount of \$1,000,000 (one million dollars); and, if any licensed professional performs services under this contract, a professional liability insurance policy in the minimum amount of \$1,000,000 to cover any claims arising out of Contractor's performance of services under this Contract. All insurance, except professional liability, shall name the City, its officers, agents, volunteers and employees as additional insureds or certificate holder and shall provide primary coverage with respect to the City.

All insurance policies shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to the City's Contract Administrator; 2) be evidenced by the original Certificate of Insurance, specifying the required coverage and the insurance carrier's standard additional insured or certificate holder form endorsement; and 3) be approved as to form and sufficiency by the City's Contract Administrator. The original insurance certificates and all extensions to the insurance certificates should be sent to the address identified below.

b. If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of this Contract, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Contract.

c. If Contractor employs any person, it shall carry workers' compensation and employer's liability insurance and shall provide a certificate of insurance to the City. The workers' compensation insurance shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said insurance except upon thirty (30) days written notice to the City's Contract Administrator; 2) provide for a waiver of any right of subrogation against City to the extent permitted by law; and 3) shall be approved as to form and sufficiency by the Contract Administrator.

d. Contractor shall forward all insurance documents to:

Department Name: City Manager

Department Address: 2180 Milvia Street, Berkeley, CA 94704



Internal  
**Exhibit C****Health and Safety Requirements for Housekeeping and Hotel Staff\*****Sanitation of Rooms Between Guest Departure and Arrival**

In addition to standard room cleaning procedures usually followed by the hotel provider between guest departures and arrivals, hotel staff will take the following additional cleaning measure for room cleaning between guests:

- All cleaning shall be performed in alignment with guidelines as set forth in the California State Department of Public Health and CalOSHA's publication, "COVID-19 INDUSTRY GUIDANCE: Hotels and Lodging", most recent release date of May 6, 2020 and all updates issued thereafter and incorporated as procedure herein.
- Personal protective equipment and training of housekeepers will be provided in alignment with guidelines available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>
- Owners shall ensure compliance with social distancing protocol as required and updated by the local health official and as first introduced in the 3/31/20 Alameda County Health Order Section 13(k).
- Owner shall ensure that employees are provided break rooms in compliance with social distancing protocols that avoid congregate settings.
- Owner shall ensure that employees are practicing social distancing while performing all functions.

**Sanitation of Guest Rooms During Guest Stays**

Owner will provide guests cleaning supplies at the beginning of their stay to maintain cleanliness of their own rooms, and informed of their responsibility to maintain cleanliness of their rooms. Hotel staff will not enter the guest rooms during guest stays. Any towels and linens that the guest would like to be laundered may be left outside their door every third day in single-use, sealed bags within an established laundry pickup schedule every 3 days, to be exchanged for a clean set of towels and linens.

\*City reserves the right to modify these requirements as necessary to conform to any changes to rules, regulations, guidance or advice from public health officials.

**NON-DISCRIMINATION/WORKFORCE COMPOSITION**

FOR ALL CONTRACTS: 5 OR MORE EMPLOYEES

To assist the City of Berkeley in implementing its Non-Discrimination policy, you're requested to furnish information regarding your personnel, as indicated below, and return this form to the City Department handling your contract.

**ORGANIZATION** Shree Jalasai Lodging, LP dba Rodeway Inn, Berkeley  
**ADDRESS** 1461 University Avenue, Berkeley, CA 94702  
**BUSINESS LICENSE #** BL-049456

*You may complete this online & make entries in these cells they will be automatically totaled at the bottom. or print the form & complete by hand/typewriter.*

| Occupational Category<br>(see page 2 for definitions) | ALL EMPLOYEES |        | WHITE |        | BLACK |        | ASIAN |        | HISPANIC |        | OTHER (specify)* |        |
|-------------------------------------------------------|---------------|--------|-------|--------|-------|--------|-------|--------|----------|--------|------------------|--------|
|                                                       | Male          | Female | Male  | Female | Male  | Female | Male  | Female | Male     | Female | Male             | Female |
| Officials/Administrators                              | 1             |        |       |        |       |        | 1     |        |          |        |                  |        |
| Professionals                                         |               |        |       |        |       |        |       |        |          |        |                  |        |
| Technicians                                           |               |        |       |        |       |        |       |        |          |        |                  |        |
| Protective Service Workers                            |               |        |       |        |       |        |       |        |          |        |                  |        |
| Para-professionals                                    |               |        |       |        |       |        |       |        |          |        |                  |        |
| Office/Clerical                                       |               |        |       |        |       |        |       |        |          |        |                  |        |
| Skilled Craft Workers                                 |               |        |       |        |       |        |       |        |          |        |                  |        |
| Service/Maintenance                                   | 1             | 3      | 1     |        |       |        |       |        |          | 3      |                  |        |
| Other Occupation: Specify*                            |               |        |       |        |       |        |       |        |          |        |                  |        |
| <b>Totals</b>                                         |               |        |       |        |       |        |       |        |          |        |                  |        |

\*Specify other occupation:

\*\*Specify other ethnicity:

Is your business MBE/WBE/DBE certified?  If Yes, by what agency?

If Yes, please specify:  or ethnic identification:

Do you have a policy of non-discrimination?

Signature J.V. Devdhar Date 04/29/2022

Print/Type Name of Signer Jaydipsinh Devdhara

Verified by \_\_\_\_\_ Date \_\_\_\_\_

City of Berkeley Contract Administrator

## OCCUPATIONAL CATEGORIES

**Officials and Administrators** - Occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or provide specialized consultation on a regional, district or area basis. Includes: department heads, bureau chiefs, division chiefs, directors, deputy superintendents, unit supervisors and kindred workers.

**Professionals** - Occupations that require specialized and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge. Includes: personnel and public relations workers, social workers, doctors, psychologists, registered nurses, economists, dentists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, and kindred workers.

**Technicians** - Occupations that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training. Includes: computer programmers and operators, technical illustrators, highway technicians, technicians (medical, dental, electronic, physical sciences) and kindred workers.

**Protective Service Workers** - Occupations in which workers are entrusted with public safety, security and protection from destructive forces. Includes: police officers, fire fighters, guards, sheriffs, bailiffs, correctional officers, detectives, marshals, harbor patrol officers, and kindred workers.

**Para-Professionals** - Occupations in which workers perform some of the duties of a professional or technician in a supportive role, which usually requires less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of a staff development and promotion under a "New Careers" concept. Includes: library assistants, research assistants, medical aides, child support workers, police auxiliary, welfare service aides, recreation assistants, homemaker aides, home health aides, and kindred workers.

**Office and Clerical** - Occupations in which workers are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. Includes: bookkeepers, messengers, office machine operators, clerk-typists, stenographers, court transcribers, hearings reporters, statistical clerks, dispatchers, license distributors, payroll clerks, and kindred workers.

**Skilled Craft Workers** - Occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Includes: mechanics and repairpersons, electricians, heavy equipment operators, stationary engineers, skilled machine occupations, carpenters, compositors and typesetters, and kindred workers.

**Service/Maintenance** - Occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. Workers in this group may operate machinery. Includes: chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage laborers, custodial personnel, gardeners and groundskeepers, refuse collectors, and construction laborers.

CITY OF BERKELEY  
Nuclear Free Zone Disclosure Form

I (we) certify that:

- I am (we are) fully cognizant of any and all contract(s) held, products made or otherwise handled by this business entity, and of all such that are anticipated to be entered into, produced or handled for the duration of its contract(s) with the City of Berkeley. (To this end, more than one individual may sign this disclosure form, if a description of which type of contracts each individual is cognizant is attached.)
- I (we) understand that Section 12.90-170 of the Nuclear Free Berkeley Act (Berkeley Municipal Code Ch. 12.90 Ordinance No. 578- NS) prohibits the City of Berkeley from contracting with any person or business that knowingly engages in work for nuclear weapons.
- I (we) understand the meaning of the following terms as set forth in Berkeley Municipal Code Section 12.90-130.  
  
"Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management or administration of such work.  
  
"Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.  
  
"Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).
- Neither this business entity nor its parent nor any of its subsidiaries engages in work for nuclear weapons or anticipates entering into such work for the duration of its contract(s) with the City of Berkeley.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Printed Name: Jaydipsinh Devdhara Title: Partner

Signature: J.V. Devdhar Date: 04/29/2022

Business Entity: Shree Jalasai Lodging, LP

Contract Description/Specification No. Attachment C

**CITY OF BERKELEY**  
**Oppressive States Compliance Statement for Personal Services**

The undersigned, an authorized agent of Shree Jalasai Lodging, LP (hereafter "Vendor"), has had an opportunity to review the requirements of Berkeley City Council Resolution No. 59.853-N.S. (hereafter "Resolution"). Vendor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with those Business Entities which maintain business relationships with morally repugnant regimes. Vendor understands the meaning of the following terms used in the Resolution:

"Business Entity" means "any individual, firm, partnership, corporation, association or any other commercial organization, including parent-entities and wholly-owned subsidiaries" (to the extent that their operations are related to the purpose of the contract with the City).

"Oppressive State" means, Tibet Autonomous Region and the Provinces of Amdo, Kham and U-Tsang

"Personal Services" means "the performance of any work or labor and shall also include acting as an independent contractor or providing any consulting advice or assistance, or otherwise acting as an agent pursuant to a contractual relationship."

Contractor understands that it is not eligible to receive or retain a City contract if at the time the contract is executed, or at any time during the term of the contract it provides Personal Services to:

- a. The governing regime in any Oppressive State.
- b. Any business or corporation organized under the authority of the governing regime of any Oppressive State.
- c. Any person for the express purpose of assisting in business operations or trading with any public or private entity located in any Oppressive State.

Vendor further understands and agrees that Vendor's failure to comply with the Resolution shall constitute a default of the contract and the City Manager may terminate the contract and bar Vendor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

The undersigned is familiar with, or has made a reasonable effort to become familiar with, Vendor's business structure and the geographic extent of its operations. By executing the Statement, Vendor certifies that it complies with the requirements of the Resolution and that if any time during the term of the contract it ceases to comply, Vendor will promptly notify the City Manager in writing.

Based on the foregoing, the undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Printed Name: Jaydipsinh Devdhara Title: Partner

Signature: J.V. Devdhar Date: 04/29/2022

Business Entity: Shree Jalasai Lodging, LP

I am unable to execute this Statement; however, Vendor is exempt under Section VII of the Resolution. I have attached a separate statement explaining the reason(s) Vendor cannot comply and the basis for any requested exemption.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Contract description/Specification No.: \_\_\_\_\_

Attachment D

CITY OF BERKELEY  
Sanctuary City Compliance Statement

The undersigned, an authorized agent of Shree Jalasa Logging LP (hereafter "Contractor"), has had an opportunity to review the requirements of Berkeley Code Chapter 13.105 (hereafter "Sanctuary City Contracting Ordinance" or "SCCO"), Contractor understands and agrees that the City may choose with whom it will maintain business relations and may refrain from contracting with any person or entity that provides Data Broker or Extreme Vetting services to the U.S. Immigration and Customs Enforcement Division of the United States Department of Homeland Security ("ICE"). Contractor understands the meaning of the following terms used in the SCCO:

- a. "Data Broker" means either of the following:
  - i. The collection of information, including personal information about consumers, from a wide variety of sources for the purposes of reselling such information to their customers, which include both private and public business and government agencies;
  - ii. The aggregation of data that was collected for another purpose from that for which it is ultimately used;
- b. "Extreme Vetting" means "a combination of credit modeling, predictive risk analysis, or other similar services." Extreme Vetting does not include:
  - i. The City's computer-aided health and performance tools;
  - ii. Cybersecurity capabilities, technologies, and systems used by the City of Berkeley Department of Information Technology to predict, monitor for, prevent, and protect technology infrastructure and systems owned and operated by the City of Berkeley from potential cyberattacks, as well as cyber-forensic based investigations and prosecutions of illegal computer-based activity.

Contractor understands that it is not eligible to receive or retain a City contract if, at the time the Contract is executed, or at any time during the term of the Contract, it provides Data Broker or Extreme Vetting services to ICE.

Contractor further understands and agrees that Contractor's failure to comply with the SCCO shall constitute a material default of the Contract and the City Manager may terminate the Contract and bar Contractor from bidding on future contracts with the City for five (5) years from the effective date of the contract termination.

By executing this Statement, Contractor certifies that it complies with the requirements of the SCCO and that if at any time during the term of the Contract it ceases to comply, Contractor will promptly notify the City Manager in writing. Any person or entity who knowingly or willingly supplies false information in violation of the SCCO shall be guilty of a misdemeanor and up to a \$1,000 fine.

Based on the foregoing, the undersigned declares, under penalty of perjury, under the laws of the State of California that the foregoing is true and correct. Executed this 29th day of April, 2022 at Berkeley, California.

Printed Name: Jaydeep Devdara Title: Partner

Signed: J.V. Devdara Date: 04/29/2022

Business Entity: Shree Jalasa Logging LP

CITY OF BERKELEY

Living Wage Certification for Lessees of Public Property, Licensees, Concessionaires, And Franchisees

The Berkeley Municipal Code Chapter 13.27, Berkeley's Living Wage Ordinance (LWO), provides that lessees of public property, licensees, concessionaires, and franchisees ("user of public property" or "user") shall comply with all provisions of this Ordinance. The LWO requires a user of public property to provide City-mandated minimum compensation to all eligible employees, as defined in the LWO. In order to determine whether this lease, license, concession, or franchise ("agreement") is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those agreements where the user generates a certain amount of annual gross receipts. In addition, the agreement may become subject to the LWO if the status of the user's employees change (i.e. additional employees are hired) or the annual gross receipts in a subsequent year meet the threshold level, so that the user falls within the scope of the Ordinance.

Section I.

1. PLEASE ANSWER THE FOLLOWING QUESTIONS

a. Do you generate \$350,000 or more in annual gross receipts?
YES [checked] NO [ ]

If no, this agreement is NOT subject to the requirements of the LWO at this time, and you may continue to Section II. If yes, please continue to question 1(b).

b. Do you have six (6) or more employees, including part-time and stipend workers?
YES [ ] NO [checked]

If you have answered, "YES" to questions 1(a) and 1(b) this agreement IS subject to the LWO. If you responded "NO" to 1(b) this agreement IS NOT subject to the LWO. Please continue to Section II.

Section II

Please read, complete, and sign the following:

THIS AGREEMENT IS SUBJECT TO THE LIVING WAGE ORDINANCE, [ ]

THIS AGREEMENT IS NOT SUBJECT TO THE LIVING WAGE ORDINANCE, [checked]

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of Berkeley's Living Wage Ordinance, and the applicability of the Living Wage Ordinance, as indicated above, and the applicability of the subject agreement. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the Berkeley Municipal Code, Chapter 13.27. If at any time during the term of the agreement, the answers to the questions posed herein change so that the user would be subject to the LWO, the user will promptly notify the City Manager in writing. User further understands and agrees that the failure to comply with the LWO, this certification, or the terms of the agreement as it applies to the LWO, shall constitute a default of the agreement and the City Manager may terminate the agreement and bar the user from future agreements with the City for five (5) years from the effective date of the agreement termination. If the LWO is applicable to this agreement, the user must pay a living wage to all employees who spend 25% or more of their compensated time on the leased property or engaged in work directly related to the license, concession, or franchise.

These statements are made under penalty of perjury under the laws of the state of California.

By: David Dworkin, One Stop Integration, Inc., a California corporation, On behalf of Shree Jalasai Lodging
Printed Name: Its: President Title:
Signature: [Signature] Date: 05/09/2022

Business Entity: Shree Jalasai Lodging, LP

Agreement Description/Specification No: \_\_\_\_\_

**Section III**

• **\*\* FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY \*\***

I have reviewed this Living Wage Certification form, and determined that this Agreement IS / IS NOT (circle one) subject to Berkeley's Living Wage Ordinance.

\_\_\_\_\_  
Department Name

\_\_\_\_\_  
Department Representative



To be completed by  
Contractor/Vendor

Form EBO-1  
CITY OF BERKELEY



CERTIFICATION OF COMPLIANCE WITH EQUAL BENEFITS ORDINANCE

If you are a contractor, return this form to the originating department/project manager. If you are a vendor (supplier of goods), return this form to the Purchasing Division of the Finance Dept.

SECTION 1. CONTRACTOR/VENDOR INFORMATION

|                                                          |                |                         |            |
|----------------------------------------------------------|----------------|-------------------------|------------|
| Name: Shree Jaldas Lodging, LP dba Rodeway Inn, Berkeley |                | Vendor No.:             |            |
| Address: 1461 University Avenue                          | City: Berkeley | State: CA               | ZIP: 94702 |
| Contact Person: Jay Devdhara                             |                | Telephone: 415-812-0756 |            |
| E-mail Address: rajput86@gmail.com                       |                | Fax No.:                |            |

SECTION 2. COMPLIANCE QUESTIONS

- A. The EBO is inapplicable to this contract because the contractor/vendor has no employees.  
 Yes  No (If "Yes," proceed to Section 5; if "No," continue to the next question.)
- B. Does your company provide (or make available at the employees' expense) any employee benefits?  
 Yes  No  
 If "Yes," continue to Question C.  
 If "No," proceed to Section 5. (The EBO is not applicable to you.)
- C. Does your company provide (or make available at the employees' expense) any benefits to the spouse of an employee?  Yes  No
- D. Does your company provide (or make available at the employees' expense) any benefits to the domestic partner of an employee?  Yes  No  
**If you answered "No" to both Questions C and D, proceed to Section 5. (The EBO is not applicable to this contract.)**  
**If you answered "Yes" to both Questions C and D, please continue to Question E.**  
**If you answered "Yes" to Question C and "No" to Question D, please continue to Section 3.**
- E. Are the benefits that are available to the spouse of an employee identical to the benefits that are available to the domestic partner of the employee?  Yes  No  
**If you answered "Yes," proceed to Section 4. (You are in compliance with the EBO.)**  
**If you answered "No," continue to Section 3.**

SECTION 3. PROVISIONAL COMPLIANCE

- A. Contractor/vendor is not in compliance with the EBO now but will comply by the following date:
  - By the first effective date after the first open enrollment process following the contract start date, not to exceed two years, if the Contractor submits evidence of taking reasonable measures to comply with the EBO; or
  - At such time that administrative steps can be taken to incorporate nondiscrimination in benefits in the Contractor's infrastructure, not to exceed three months; or
  - Upon expiration of the contractor's current collective bargaining agreement(s).
- B. If you have taken all reasonable measures to comply with the EBO but are unable to do so, do you agree to provide employees with a cash equivalent?  Yes  No

\* The cash equivalent is the amount of money your company pays for spousal benefits that are unavailable for domestic partners.

SECTION 4. REQUIRED DOCUMENTATION

At time of issuance of purchase order or contract award, you may be required by the City to provide documentation (copy of employee handbook, eligibility statement from your plans, insurance provider statements, etc.) to verify that you do not discriminate in the provision of benefits.

**SECTION 5. CERTIFICATION**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I am authorized to bind this entity contractually. By signing this certification, I further agree to comply with all additional obligations of the Equal Benefits Ordinance that are set forth in the Berkeley Municipal Code and in the terms of the contract or purchase order with the City.

Executed this 29th day of April in the year 2022 at Berkeley CA  
(City) (State)

Jaydipsinh Devdhara  
Name: (please print)

J.V. Devdhara  
Signature

Partner  
Title

\_\_\_\_\_  
Federal ID or Social Security Number

| FOR CITY OF BERKELEY USE ONLY                                                                     |                                          |                                              |
|---------------------------------------------------------------------------------------------------|------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Non-Compliant (The City may not do business with this contractor/vendor) |                                          |                                              |
| <input type="checkbox"/> One-Person Contractor/Vendor                                             | <input type="checkbox"/> Full Compliance | <input type="checkbox"/> Reasonable Measures |
| <input type="checkbox"/> Provisional Compliance Category, Full Compliance by Date: _____          |                                          |                                              |
| Staff Name (Sign and Print): _____                                                                |                                          | Date: _____                                  |

# Certification of Payments to Influence Federal Transactions

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing

Shree Jalasai Lodging, LP

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-278 Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompanying herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012, 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Jaydipsinh Devdhara

Partner

Signature

Date (mm/dd/yyyy)



04/29/2022

Previous editions obsolete

form HUD 50071 (3/98)  
ref. Handbooks 7417, 7475, 7485.1, & 7485.3

# Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Shree Jalasai Lodging, LP

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f

2. Sites for Work Performance. The Applicant shall list (on separate pages) the sites for the performance of work done in connection with the HUD funding of the program/activity shown above. Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program activity receiving grant funding.)

Check here,  if there are workplaces on file that are not identified on the attached sheets

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C 1001, 1010, 1012; 31 U.S.C 3729, 3802)

Name of Authorized Official  
Jaydipsinh Devdhara

Title  
Partner

Signature

Date

X *J.V. Devdhara*

04/29/2022

form HUD-50070 (3/98)  
ref Handbooks 7417, 7475, 13, 7485 1 & 3



Internal

**REQUEST FOR WAIVER OF INSURANCE**

To Contract Administrator

From/Dept Contact Peter Radu Phone: 510-981-7045

Department City Manager's Office - Neighborhood Services

Date 5/2/22

CONTRACTOR NAME SHREE JALASAI LODGING, LP dba RODEWAY Inn, Berkeley

**INSTRUCTIONS**

**A written request must be submitted for any waiver consideration. Please complete and submit this request to Darryl Sweet, Contract Administrator.**

We are requesting one or more waivers of insurance on the above contract. Explanation must clearly state why this request meets the required criteria. See Contracts Online, Section III for details on Insurance Requirements & waivers.

**1. Type of service** to be performed for the City (explain in detail)

The Rodeway Inn will be leasing their real property at 1461 University Avenue, Berkeley, for the purposes of providing emergency shelter for persons experiencing homelessness.

**2. Reason/s for waiver requested** (ex: service does not warrant insurance; insurance not available)

Insurance is not available to this provider. Insurance carriers no longer offered additional insured to hotel providers for the purposes of providing homeless shelters. Alameda County and the State of California have been partnering with this property owner to operate a homeless shelter and have accepted certificate holder, rather than additional insured.

**3. Specific insurance waiver/s requested** (check all that apply)

auto  general liability  professional liability  workers comp

Other or details - please explain \_\_\_\_\_

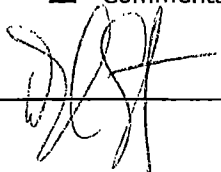
**4. Other Comments.** NOTE: Lack of advanced planning does not constitute conditions for waiver.

The City Attorney has reviewed and advised the City Manager and Mayor of potential risks.

**WAIVER/S RECOMMENDED**  Comments liability endorsement as add'l insured

**WAIVER/S DENIED**  Comments \_\_\_\_\_

Contract Administrator



5/2/22

Date

## ORDINANCE NO. 7,807-N.S.

URGENCY ORDINANCE AUTHORIZING THE CITY MANAGER OR HER DESIGNEE TO EXECUTE A LEASE AND ANY NECESSARY AMENDMENTS WITH SHREE JALASAI LODGING, LP, DBA RODEWAY INN, BERKELEY, FOR REAL PROPERTY LOCATED AT 1461 UNIVERSITY AVENUE, BERKELEY, CA.

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

Section 1. The City Council finds as follows:

- a. The City of Berkeley is facing a growing housing and homelessness crisis, in part exacerbated by the acute lack of affordable student housing and supportive housing for people experiencing homelessness; and
- b. To help address this crisis, on December 14, 2021, the City Council affirmed its support of the development of People's Park into affordable housing, including permanent supportive housing for people experiencing homelessness, by unanimously voting to commit \$14.4M in funding to help close the financing at this development; and
- c. Providing low-barrier, noncongregate interim housing options will be critical to end the unsheltered status and avoid the mere displacement of those currently living in People's Park to the surrounding communities of Berkeley; and
- d. On December 29, 2021, City staff partnered with the University of California, Berkeley to submit a grant application to the State of California, requesting \$4,708,015 in Encampment Resolution Funding (ERF) grant funds for one year of operations at the Rodeway Inn on University Avenue in Berkeley, which staff proposed as the primary interim housing option for those in the Park; and
- e. On February 24, 2022, the City learned that its ERF grant had been funded by the State in full; and
- f. The property owner, Shree Jalasai Lodging, LP, dba Rodeway Inn, Berkeley, has offered to lease 43 rooms at the property at 1461 University Avenue, Berkeley, at a rate of \$124 per room per night and \$2000 per room in damage funds, to the City for purposes of establishing a homeless shelter for 18 months.

Section 2. The City Manager or her designee is hereby authorized to enter into a lease and necessary amendments starting May 1, 2022 with Shree Jalasai Lodging, LP, dba Rodeway Inn, Berkeley for real property located at 1461 University Avenue on substantially the same terms as set forth in Exhibit A. The rent will be \$124 per room per night, including \$2000 per room in damage funds, and will be paid by State of California Encampment Resolution Funding grant funds and funds from the University of California, Berkeley.

Section 3. This Ordinance is adopted as an urgency ordinance pursuant to the Charter of the City of Berkeley, Article XIV, Section 93 and shall be effective immediately. The City Council finds and determines that the adoption of this Ordinance as an urgency ordinance is necessary for the immediate preservation of the public peace, health and safety of the residents of the City of Berkeley.


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 Old City Hall, 2134 Martin Luther King Jr. Way within fifteen calendar 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 April 26, 2022, this Urgency Ordinance was adopted by the following vote:

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

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

ATTEST:   
\_\_\_\_\_  
Mark Numainville, City Clerk

In effect: Immediately

**RECEIVED**  
MAY 16 2022  
CITY OF BERKELEY  
CITY CLERK DEPARTMENT





Office of the City Manager

CONSENT CALENDAR  
March 26, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Peter Radu, Assistant to the City Manager  
 Subject: Contract: Housing Consortium of the East Bay (HCEB) to operate shelter at the Rodeway Inn

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Housing Consortium of the East Bay (HCEB) to operate an interim housing program at the Rodeway Inn (1461 University Ave.) through September 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

If approved, this resolution will result in an expenditure contract with HCEB for an amount not to exceed \$1,925,256 for program operations through Sept 30, 2024. This contract will be paid for using remaining State of California Encampment Resolution Funding (ERF) grant funds (Fund #336) and City General Fund (Measure P and/or U1) and funds will be appropriated in the Second Amendment to the FY2024 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

On Sept 19, 2023, the City Council approved Resolution No. 71,044-N.S., authorizing the City Manager to enter into contract with Housing Consortium of the East Bay (HCEB). HCEB is providing the shelter services at the Rodeway Inn during the interim period between the end of Abode Services' contract (which ended Oct 31, 2023) and the close of escrow on the Homekey purchase of the Rodeway. The City will utilize remaining ERF and General Fund (Measure P and/or U1) funds for services through March 31, 2024. The latter funding was approved by City Council on March 21, 2023 through Resolution No. 70736. An additional \$1,100,102 is needed to cover services through September 30, 2024.

The September 19, 2023 Council item was written as a contingency report in the event that the Homekey funding had not been awarded, and the original staff report (included here as Attachment 1) had identified Measure P and/or U1 reserved for Homekey as the source of funding. To eliminate any administrative confusion, staff recommend re-authorizing this contract, making clear that the source of funding for extended services

Execute contract with Housing Consortium of the East Bay  
to operate shelter at the Rodeway Inn

CONSENT CALENDAR  
March 26, 2023

through September 30, 2024 will be Measure P and/or U1 sources not otherwise tied to Homekey.

#### BACKGROUND

In February 2022, the City was awarded just over \$4.7M in State of California Encampment Resolution Funding grant funds to operate the Rodeway Inn as the primary interim housing option for people living in People's Park. On April 26, 2023, the Council approved a lease with Shree Jalasai Lodging, LP and a services contract with Abode Services to operate the Rodeway Inn as an interim non-congregate housing program. Abode Services contract ended on October 31, 2023. On Sept 19, 2023, Council authorized a contract with HCEB to continue shelter operations at the Rodeway Inn until the close of escrow on the Homekey purchase of the property; Homekey funding was later announced by the State on Dec 4, 2023.

#### ENVIRONMENTAL SUSTAINABILITY

No environmental impacts or opportunities identified.

#### RATIONALE FOR RECOMMENDATION

Staff's original HCEB contract item (from Sept 19, 2023 and included as Attachment 1) was unclear as to the specific source of general funding for this contract.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Peter Radu, Assistant to the City Manager, 510-981-7045.

#### Attachments:

1: Council item for HCEB Contract from the Sept 19, 2023 Consent Calendar.

RESOLUTION NO. XX,XXX N.S.

AUTHORIZING A CONTRACT WITH HOUSING CONSORTIUM OF THE EAST BAY (HCEB) SERVICES TO OPERATE INTERM HOUSING AT THE RODEWAY INN FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$1,925,256 FOR THE PERIOD OCTOBER 15, 2023 to Sept 30, 2024.

WHEREAS, the severe lack of housing affordable for people who are experiencing homelessness, is contributing to an acute housing shortage that is worsening the rates of homelessness in Berkeley; and

WHEREAS, the City partnered with MPI Homes and Housing Consortium of the East Bay, to submit a proposal to the State of California's Homekey Program to purchase the Rodeway Inn and convert it to permanent supportive housing for people experiencing homelessness and the State is still reviewing the application; and

WHEREAS, that Homekey funding was awarded in an announcement by the State on Dec 4, 2023, but the close on the purchase of the property has yet to be completed; and

WHEREAS, there are currently 30 households enrolled in the interim shelter program, the majority of them waiting to be referred to permanent supportive housing;

WHEREAS, Housing Consortium of the East Bay is an experienced non-congregate shelter provider, having contracted with the County to provide services at Project Roomkey sites in Alameda County and is currently providing shelter services at the Rodeway in the intervening period up until the close of sale on the property.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to enter into a contract and necessary amendments for the period October 15, 2023 through September 30, 2024 with Housing Consortium of the East Bay for operating a non-congregate interim housing program at the Rodeway Inn.

BE IT FURTHER RESOLVED that the contract amount will not exceed \$1,925,256 with a payment up to \$890,850 to be advanced prior to contract execution to cover staffing and operating costs. Contract payments will be paid from remaining Encampment Resolution Funds and City General Fund (Measure P and/or U1). A recorded signature copy of said contract and any amendments will be on file in the City Clerk Department.



Office of the City Manager

ACTION CALENDAR  
SEPTEMBER 19, 2023

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Peter Radu, Assistant to the City Manager  
 Subject: Execute contract with Housing Consortium of the East Bay (HCEB) to operate shelter at the Rodeway Inn

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Housing Consortium of the East Bay (HCEB) to operate an interim housing program at the Rodeway Inn (1461 University Ave.) through April 30, 2026.

FISCAL IMPACTS OF RECOMMENDATION

If approved, this resolution will result in an expenditure contract with HCEB for an amount not to exceed \$4,000,000 for program operations through April 30, 2026. This contract will be paid for using State of California Encampment Resolution Funding grant funds (Fund #336), leftover UC Berkeley donation funds from the original lease (Fund #147), as well as funding from the City General Fund (Measure P and/or U1) previously reserved for HomeKey. These funds will be appropriated in the Second Amendment to the FY2024 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The City is currently funding Abode Services to provide interim emergency shelter at the Rodeway Inn through October 31, 2023. Abode Services is not interested in extending its contract with the city. There are currently 38 households enrolled in the program with 79% being eligible for permanent supportive housing.

On May 10, 2023, Health, Housing and Community Services Department, Housing and Community Services Division staff, in partnership with MPI Homes and HCEB, submitted a proposal to the State of California's Homekey Program to purchase the Rodeway Inn and convert and operate it as permanent supportive housing for people experiencing homelessness. As of the drafting of this report, the State is still reviewing the City's Homekey application. Since Abode Services will end on October 31<sup>st</sup>, a contract with HCEB is needed to continue to provide interim shelter services in the event the City is not awarded Homekey funding. Because of the time sensitive nature of this item, the budget reflects service and operations through April 30, 2026 including some funding for HCEB to be on-site in October to get familiar with site operations and

Execute contract with Housing Consortium of the East Bay  
to operate shelter at the Rodeway Inn

ACTION CALENDAR  
SEPTEMBER 19, 2023

program participants to be ready to take over full operations starting on November 1, 2023.

### BACKGROUND

In February 2022, the City was awarded just over \$4.7M in State of California Encampment Resolution Funding grant funds to operate the Rodeway Inn as the primary interim housing option for people living in People's Park. On April 26, 2023, the Council approved a lease with Shree Jalasai Lodging, LP and a services contract with Abode Services to operate the Rodeway Inn as an interim non-congregate housing program. Abode Services contract will end on October 31, 2023.

### ENVIRONMENTAL SUSTAINABILITY

Continuing to provide interim shelter and services to previously unsheltered people while they wait to be permanently housed minimizes the detrimental environmental impacts associated with encampment homelessness, including vector and fire hazards, accumulation of trash and waste, and impacts on sensitive waterways.

### RATIONALE FOR RECOMMENDATION

Housing Consortium of the East Bay is an experienced non-congregate shelter provider, having contracted with the County to provide services at Project Roomkey sites in Alameda County. They are also the co-applicant in the Homekey application for this site and are prepared to assume full site operations starting on November 1, 2023 whether or not the Homekey application is awarded.

### ALTERNATIVE ACTIONS CONSIDERED

Staff considered circulating a competitive solicitation (request for proposals) for the services at the Rodeway, but determined it wasn't feasible nor would it be in the program's best interest to do so. Specifically, this is because HCEB is the co-applicant in the Homekey application and is prepared to take over short- or long-term operations as of November 1<sup>st</sup>. If the Homekey project is awarded, having another provider take over short-term operations, would have been disruptive for program participants and general operations. This way, HCEB will be on-site and working with Abode Services in October so they are fully prepared to take over operations on November 1, 2023.

### CONTACT PERSON

Peter Radu, Assistant to the City Manager, 510-981-7045.

Attachments:  
1: Resolution

RESOLUTION NO. XX,XXX N.S.

AUTHORIZING A CONTRACT WITH HOUSING CONSORTIUM OF THE EAST BAY (HCEB) SERVICES TO OPERATE INTERM HOUSING AT THE RODEWAY INN FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$4,000,000 FOR THE PERIOD OCTOBER 1, 2023 TO APRIL 30, 2026.

WHEREAS, the severe lack of housing affordable for people who are experiencing homelessness, is contributing to an acute housing shortage that is worsening the rates of homelessness in Berkeley; and

WHEREAS, the City received State of California Encampment Resolution Fund (ERF) grant funds to operate the Rodeway Inn as an intensive interim housing destination and the current services will end on October 31, 2023; and

WHEREAS, there are currently 38 households enrolled in the interim shelter program, the majority of them waiting to be referred to permanent supportive housing;

WHEREAS, the City partnered with MPI Homes and Housing Consortium of the East Bay, to submit a proposal to the State of California's Homekey Program to purchase the Rodeway Inn and convert it to permanent supportive housing for people experiencing homelessness and the State is still reviewing the application; and

WHEREAS, Housing Consortium of the East Bay is an experienced non-congregate shelter provider, having contracted with the County to provide services at Project Roomkey sites in Alameda County and are prepared to assume full site operations starting on November 1, 2023 whether or not the Homekey application is awarded.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to enter into a contract and necessary amendments for the period October 1, 2023 through April 30, 2026 with Housing Consortium of the East Bay for operating a non-congregate interim housing program at the Rodeway Inn.

BE IT FURTHER RESOLVED that the contract amount will not exceed \$4,000,000 with a payment of \$387,100 to be advanced prior to contract execution to cover staffing and operating costs. Contract payments will be paid from Encampment Resolution Fund grant moneys, the City General Fund (Measure P and/or U1), and leftover donation funds from the University of California, Berkeley. A recorded signature copy of said contract and any amendments will be on file in the City Clerk Department.







Internal



Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Contract No. 31900162 Amendment: Pride Industries Contract for Janitorial Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend the City's contract with Pride Industries (Contract No. 31900162) through June 30, 2025, and to approve additional appropriations related for performance of this contract.

FISCAL IMPACTS OF RECOMMENDATION

Funds are available in individual departmental budgets. An additional \$400,000 is required to complete the current contract year due to changes to services after ramping back up post-pandemic, annual Living Wage Increase and inflation impacts anticipated to continue forward. The second extension period is estimated at \$1,000,000. This brings the total projected expenditure over five (5) years to \$5,125,735.

CURRENT SITUATION AND ITS EFFECTS

The original Pride contract was approved in the amount of \$3,725,735, which was intended to provide funding for three years. The pandemic necessitated departments to change their scopes of service – some decreased, some increased. Additionally, Pride's performance has overall been satisfactory during the contract period. Impacts from the annual Living Wage Increases and inflation have impacted the amount required to continue providing these services Citywide.

The City intends to extend the contract with Pride for another one (1)-year period to continue services. Estimated annual spend going forward is \$1,000,000 per year. A spend breakdown is listed in the table below:

|                                               |              |
|-----------------------------------------------|--------------|
| Initial Contract Amount                       | \$ 3,725,735 |
| Additional funds required for first extension | \$ 400,000   |
| Funds for second extension                    | \$ 1,000,000 |
| Total Contract not-to-exceed                  | \$ 5,125,735 |

BACKGROUND

The City of Berkeley is a medium-sized account for janitorial services in a municipal government setting. The City administered Request for Proposals number 18-11213-C in 2018 and awarded the contract to Pride Industries after an extensive review of competitive responses. Pride has been servicing the City since 2019.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Pride Industries complies with the City's environmental requirements and uses cleaning chemicals that are the least toxic on the market, and/or rated as environmentally friendly, where feasible. The paper products supplied by Pride meet or exceed the recycled content percentage required by the City.

RATIONALE FOR RECOMMENDATION

The City has many locations serviced by Pride. The City wishes to capitalize on the business relationship, efficiencies, and Pride's familiarity with City locations that have been established with Pride over the course of this contract.

ALTERNATIVE ACTIONS CONSIDERED

The City considered administering its own RFP, however, the city's janitorial needs are complex, and a new RFP would take several months to administer, and the cost to change vendors would be significant. Thus, extending the Pride contract for another period through June 30, 2025 outweighs the City administering its own RFP at this time.

CONTACT PERSON

Josh Roben, Contract Administrator, Finance/General Services, 510-981-7324

Attachments:

1: Resolution

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

AMENDMENT AND EXTENSION OF PRIDE INDUSTRIES CONTRACT 31900162

WHEREAS, City Council approved Resolution 68,789-N.S. on March 12, 2019 approving the contract for janitorial services with Pride Industries, as a result of Request for Proposals #18-11213-C; and

WHEREAS, City departments require ongoing janitorial services without a significant break in services, and have departmental budgets for those; and

WHEREAS, the pandemic led to dramatic changes in scopes of services at several city locations, many of which will continue as revised; and

WHEREAS, Pride continues to attest to compliance with the City's social responsibility requirements; and

WHEREAS, the benefits of continuing with Pride outweigh administering a City of Berkeley RFP at this time.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend and extend the contract with Pride Industries as required to continue to meet the janitorial services needs of City departments; the contract value is now not-to-exceed \$5,125,735 through FY 2025.



Internal



Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Contract No. 32000060 Amendment: Toshiba for Multi-function Devices

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend the City's contract with Toshiba (contract #32000060) through September 15, 2025, and to approve additional appropriations related for performance of this contract.

FISCAL IMPACTS OF RECOMMENDATION

Funds are available in individual departmental budgets. An additional \$720,000 is required to complete the current contract year due to increased products and services resulting from needs during pandemic, and that will continue forward. The two-year extension period is estimated at \$360,000 per year (\$720,000). This brings the total projected expenditure over five (5) years to \$1,750,000.

CURRENT SITUATION AND ITS EFFECTS

The original Toshiba contract was approved in the amount of \$828,170, which was intended to provide funding for three years. The pandemic necessitated departments to add a few new products (for example, additional scanners). Additionally, Toshiba's performance has been satisfactory to the City during the contract period.

The City intends to extend the contract with Toshiba for up to two (2) one-year periods to continue services. Estimated annual spend going forward is \$360,000 per year. A spend breakdown is listed in the table below:

|                                                       |             |
|-------------------------------------------------------|-------------|
| Initial Contract Amount                               | \$ 828,170  |
| Additional funds required for initial contract period | \$ 210,000  |
| Funds for two-year contract extension                 | \$ 720,000  |
| Total Contract not-to-exceed                          | \$1,750,000 |

### BACKGROUND

The City of Berkeley is a medium size account for copiers in a municipal government setting. Pricing obtained by the City was higher than that of larger cities. In 2019, City of Berkeley identified the Region 4 Education Service Center (ESC) contract, which leveraged several agencies combined to create a large account, but with similar multi-function device (printer/scanner/copier) needs. Region 4 ESC competed and awarded a multi-year contract to Toshiba prior to 2019, and the contract has been revised through May 2025. Region 4 ESC received advantageous pricing based on the size of their bid. The City of Berkeley is able to obtain the same pricing of the larger account by piggybacking on the Region 4 ESC contract, which is now part of Omnia Partners, a large and favorable government cooperative agency. Toshiba continues to attest to meeting the City of Berkeley's social responsibility certifications. The City is satisfied with Toshiba's quality and repair services, and, barring any major disruptions, or negative feedback, intends to continue with Toshiba for the contract extension period. The extension will allow the City time to determine service alternatives and whether competing the maintenance of the existing equipment is feasible.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Toshiba units are stocked with 100% recycled paper. The units themselves are energy-star rated, and scanning is promoted vs. printing. Toner cartridges flow through the EcoSmart toner recycling program, in which the cartridges are reused until they no longer can be, at which time they are transformed into another product.

### RATIONALE FOR RECOMMENDATION

The City has over 70 units dispersed throughout nearly all locations, and recompeting is not advantageous at this time.

### ALTERNATIVE ACTIONS CONSIDERED

The City considered administering its own RFP, however, the city's copier needs are complex, and a new RFP would take several months to administer, and the cost to change vendors would be significant. Thus, piggybacking on the new Region 4 ESC/Omnia Partners contract or other publicly competed/awarded contract outweighs the City administering its own RFP at this time.

### CONTACT PERSON

Josh Roben, Contract Administrator, Finance/General Services, 510-981-7324

Attachments:

1: Resolution

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

AMENDMENT AND EXTENSION OF TOSHIBA CONTRACT 32000060

WHEREAS, City Council approved Resolution 69,074-N.S. on September 10, 2019 approving the contract for copiers with Toshiba by piggybacking on the Region 4 Education Service Center (now part of OMNIA) available contract; and

WHEREAS, City departments require ongoing copying, printing, and scanning services, and have departmental budgets for those; and

WHEREAS, the pandemic led to dramatic increase in scanning and electronic storage needs; and

WHEREAS, Toshiba continues to attest to compliance with the City's social responsibility requirements; and

WHEREAS, the benefits of continuing with Toshiba outweigh administering a City of Berkeley RFP at this time.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend and extend the contract with Toshiba as required to continue to meet the copier/printer/scanner needs of City departments; the contract value is now not-to-exceed \$1,750,000 through FY 2025.





Internal



Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Henry Oyekanmi, Director, Finance  
Subject: Contract No. 32400009 Amendment: Stella Courier for Satellite Mail Services/Mail Room Coverage

RECOMMENDATION

Adopt a Resolution approving an additional \$50,000 to Contract 32400009 with Stella Courier, and authorizing the City Manager to amend the contract accordingly.

FISCAL IMPACTS OF RECOMMENDATION

An additional \$50,000 is required to complete the current contract year due to personnel issues which required Stella Courier to cover the mail room on a full-time basis from November 2023 through, and including, January 2024. The need for this long-term full-time coverage was not anticipated when competing for this work, or when drafting and approving the contract.

CURRENT SITUATION AND ITS EFFECTS

The original Stella Courier contract was approved in the amount of \$216,000, which was intended to provide funding for three (3) years. The unexpected leave by staff caused the City to utilize Stella Courier full-time in the mail room through January 2024, with occasional extra coverage now expected through the end of Fiscal Year 2024.

A spend breakdown is listed in the table below:

|                                                   |            |
|---------------------------------------------------|------------|
| Initial Contract Amount                           | \$ 216,000 |
| Additional funds required for first contract year | \$ 50,000  |
| Total Contract not-to-exceed                      | \$ 266,000 |

BACKGROUND

The City administered Request for Proposals number 23-11658-C in spring 2023 and awarded the contract to Stella Courier for providing daily services to the satellite locations, as well as, back-up coverage as needed for the mail room. City Council approved the contract award for Stella Courier in 2023. The contract commenced July 1, 2023.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Stella Courier supports the City's environmental requirements and uses only bicycles to execute the courier services and mail pick-up/drop-off while performing the scope of services in this contract.

RATIONALE FOR RECOMMENDATION

Stella was awarded this contract resulting from RFP 23-11568-C. The sudden need for full-time mail room coverage was not expected, and Stella Courier was able to step up and perform the work when called upon because they have the knowledge, expertise, specific training, and City security clearance required to perform the work.

ALTERNATIVE ACTIONS CONSIDERED

There was no other feasible action. Stella staff were already trained in City mail room operations. Hiring a temp worker would have required training, background check, etc., and Stella was already positioned to step in and perform the work, as they were doing so on an as-needed basis at the time city staff went on leave.

CONTACT PERSON

Josh Roben, Contract Administrator, Finance/General Services, 510-981-7324

Attachments:

1: Resolution

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

AMENDMENT AND EXTENSION OF STELLA COURIER CONTRACT 32400009

WHEREAS, City Council approved Resolution 70,844-N.S. on May 23, 2023 approving the contract for courier and mail room services with Stella Courier, as a result of Request for Proposals #23-11658-C; and

WHEREAS, City departments required ongoing mail services without any break in services from November 2023 through January 2024; and

WHEREAS, the urgent need for full-time mail room coverage was unexpected, and ongoing need now differs from original planning; and

WHEREAS, Stella Courier continues to support and comply with the City's social responsibility and environmental requirements by using only bicycles to perform the work; and

WHEREAS, the benefits of utilizing Stella Courier for their expertise and training outweighed sourcing temporary staff.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend the contract with Stella Courier to add \$50,000 as required for the first contract year, increasing the Not-to-Exceed amount to \$266,000.





Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: David Sprague, Fire Chief  
 Subject: Contract: Marina Landscape for Wildfire Safe Model Garden Construction at Firehouse #4

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or their designee to award a contract and execute any amendments, extensions, or change orders with Marina Landscape in an amount not-to-exceed \$275,000 over a two-year period, to provide landscaping, irrigation installation, grading, and the removal of previous vegetation around Berkeley Firehouse #4.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract exists within the Fire Department's FY 2024 General Fund budget.

CURRENT SITUATION AND ITS EFFECTS

On September 20, 2023, the City of Berkeley released a Request for Proposals (RFP) Specification Number 24-11622-C for Berkeley Fire Station Landscape Project.

The City received valid proposals from three respondents for this solicitation which were opened on October 26th, 2023. Staff assessed the proposals according to the selection criteria in the RFP, including project standing and approach, client references, qualifications and experience, scope of work, and price proposal. Based on a thorough review, including interviews and reference checks, staff recommends awarding a contract to Marina Landscape.

BACKGROUND

Creating and maintaining Defensible Space around homes in Very High Fire Danger Severity Zones is one of the most influential factors in how rapidly a wildfire spreads through a community in a Wildland Urban Interface. Defensible space acts as a buffer around structures from wildfire and embers. They are intentionally planned areas that reduce the danger of ignition during a wildfire and allow firefighters a better chance of protecting a home. Zone 0 (0-5 feet from a structure) has been scientifically proven to

Contract: Marina Landscape for Wildfire Safe  
Model Garden Construction at Firehouse #4

CONSENT CALENDAR  
March 26, 2024

be the most critical area reduce and remove combustibles from to improve the survivability of a structure during wildfire.

There are very few properties in Berkeley that have implemented model Defensible Space practices, and almost none that have implemented Zone 0 standards. This is because the State Board of Forestry has yet to adopt Zone 0 into the State's Fire Code and there is a lack of landscape architects and contractors that have experience with this type of design in the immediate area.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

All construction shall conform to the 2019 California Building, Fire, Mechanical, Plumbing, Electrical, Energy Code, California Building Code and Green Building Code.

#### RATIONALE FOR RECOMMENDATION

The project was identified as an action item in the City's Community Wildfire Protection Plan (CWPP) and will provide residents examples of fire safe landscaping practices that are compliant with the Fire Code and best practices, including Zone 0. This project represents one of the ways that the City can help residents see and experience some examples of what right looks like.

#### ALTERNATIVE ACTIONS CONSIDERED

None

#### CONTACT PERSON

David Sprague, Fire Chief, Fire Department, (510) 981-3483

Attachments:

1: Resolution

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

CONTRACT: MARINA LANDSCAPE

WHEREAS, creating and maintaining Defensible Space around homes in Very High Fire Danger Severity Zones is one of the most influential factors in how rapidly a wildfire spreads through a community in a Wildland Urban Interface, and

WHEREAS, Defensible space acts as a buffer around structures from wildfire and embers. They are intentionally planned areas that reduce the danger of ignition during a wildfire and allow firefighters a better chance of protecting a home. Zone 0 (0-5 feet from a structure) has been scientifically proven to be the most critical area reduce and remove combustibles from to improve the survivability of a structure during wildfire, and

WHEREAS, there are very few properties in Berkeley that have implemented model Defensible Space practices, and almost none that have implemented Zone 0 standards, and

WHEREAS, the project was identified as an action item in the City's Community Wildfire Protection Plan (CWPP) and will provide residents examples of fire safe landscaping practices that are compliant with the Fire Code and best practices, including Zone 0, and

WHEREAS, Specification Number 24-11622-C for Berkeley Fire Station Landscape Project was released on September 20, 2023 and the City received valid proposals from three respondents for this solicitation which were opened on October 26th, 2023, and

WHEREAS, staff assessed the proposals according to the selection criteria in the RFP, including project standing and approach, client references, qualifications and experience, scope of work, and price proposal. Based on a thorough review, including interviews and reference checks, staff recommends awarding a contract to Marina Landscape.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or their designee is authorized to award a contract and execute any amendments, extensions, or change orders with Marina Landscape in an amount not-to-exceed \$275,000 over a two-year period, to provide landscaping, irrigation installation, grading, and the removal of previous vegetation around Berkeley Firehouse #4.







Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Margot Ernst, Interim Deputy Director, Health, Housing, and Community Services

Subject: Contract No. 32400033 Amendment: Strategic Economics for Affordable Housing Requirements Economic Feasibility Analysis

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract no. 32400033 with Strategic Economics, increasing the contract amount by \$50,000 for contract services in a total amount not to exceed \$200,000, with a contract end date of January 15, 2025.

FISCAL IMPACTS OF RECOMMENDATION

The contract amount will be increased by \$50,000. This funding was appropriated to the General Fund (Fund 011) in the Annual Appropriations Ordinance #1 on January 16, 2024 for the Prevailing Wage Requirements for Southside Feasibility Study.

CURRENT SITUATION AND ITS EFFECTS

The City has a contract with Strategic Economics and Street Level Advisors as a subcontractor to conduct economic feasibility analysis for the City's Affordable Housing Requirements (AHR). The contract needs to be amended to accommodate Council's November 14, 2023 referral to update the existing study taking prevailing wage into account.

BACKGROUND

The City Council adopted the revised AHR (Berkeley Municipal Code Chapter 23.328) for new housing development projects on February 28, 2023. The ordinance went into effect on April 1, 2023. The revisions transition the City's affordable housing requirements from an affordable housing mitigation fee to an inclusionary housing requirement with an option to pay a fee in-lieu of the onsite provision of affordable housing. All in-lieu fees are deposited into the City's Housing Trust Fund program. City Council directed staff to conduct an economic feasibility analysis of the new AHR and in-lieu fee.

On November 14, 2023, the City Council adopted amendments to Berkeley Municipal Code Title 23 (Zoning Ordinance), the Zoning Map, General Plan Land Use Diagram, and the General Plan relating to the Southside Zoning Implementation Program of the 2023-2031 Housing Element Update. The adopted action included a referral to the City Manager to analyze prevailing wage requirements. Council assigned a one-time allocation of General Fund to complete the analysis. The City Manager directed staff to incorporate this referral into the ongoing feasibility analysis.

This referral requires an amendment to the adopted Scope of Work and budget. The current contract with Strategic Economics and Street Level Advisors expires on July 15, 2024. Staff request an extension of the current contract to January 15, 2025.

Strategic Economics and Street Level Advisors entered into the current contract with the City on July 12, 2023.

#### 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 zoning amendment's required prevailing wage analysis should be considered in the context of the City's ongoing work to analyze the AHR's economic impacts on the housing market. The analysis resulting from this contract will inform the City Council in light of evolving market conditions.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered. Staff will not be able to adequately conduct the analysis of prevailing wage requirements required by the zoning amendment if the contract with Strategic Economics and Street Level Advisors is not amended. Strategic Economics and Street Level Advisors are already very familiar with the City's regulatory requirements and will be able to proceed more quickly and efficiently than another vendor.

#### CONTACT PERSON

Mariela Herrick, Community Development Project Coordinator, HHCS, 510-981-5424

Attachments:

1: Resolution

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

CONTRACT: STRATEGIC ECONOMICS FOR AFFORDABLE HOUSING  
REQUIREMENTS ECONOMIC FEASIBILITY ANALYSIS

WHEREAS, the City of Berkeley adopted revised Affordable Housing Requirements (Berkeley Municipal Code Chapter 23.328) for new housing development projects on February 28, 2023; and

WHEREAS, on July 11, 2023, the Health, Housing and Community Services Department entered into a contract with Strategic Economics (contract # 32400033) to conduct an Economic Feasibility Analysis of the Affordable Housing Requirements for the Department of Health, Housing, and Community Services (HHCS); and

WHEREAS, due to the City Council adopted amendments to Berkeley Municipal Code Title 23 (Zoning Ordinance), the Zoning Map, General Plan Land Use Diagram, and the General Plan relating to the Southside Zoning Implementation Program of the 2023-2031 Housing Element requires an additional analysis into the ongoing Affordable Housing Requirements in-lieu fee feasibility analysis; and

WHEREAS, the Mayor recommended a one-time allocation of \$50,000 from the General Fund to complete this analysis; and

WHEREAS, the one-time allocation will be included in the FY24 Annual Appropriations Ordinance #2 (AAO2); and

WHEREAS, the City Manager directed staff to incorporate this analysis into the ongoing AHR in-lieu fee feasibility analysis; and

WHEREAS, Strategic Economics continue to provide critical support to the AHR in-lieu fee feasibility analysis;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to amend Contract No. 32400033 with Strategic Economics for personal services to add up to \$50,000 for a total not to exceed \$200,000, and extend the contract to January 15, 2025.





Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Margot Ernst, Interim Deputy Director, Health, Housing, and Community Services

Subject: Contract No. 31900225 Amendment: LifeLong Medical Care to fund No Place Like Home (NPLH) supportive services at Maudelle Miller Shirek

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900225 with LifeLong Medical Care (LLMC) to add \$15,300 to provide No Place Like Home (NPLH) tenancy sustaining services at Maudelle Miller Shirek for a total contract amount not to exceed \$2,873,947.

FISCAL IMPACTS OF RECOMMENDATION

On June 27, 2023, City Council allocated funding for supportive services to support new NPLH units in Berkeley, which included funding for this project. The FY24 amount, \$15,300, is prorated at 25% to cover services needed from April-June 2024. The annual amount, \$61,200, will be included in the FY25 Measure P, Fund 011, Program Code-5002, staff recommendations.

CURRENT SITUATION AND ITS EFFECTS

The Maudelle Miller Shirek Community Project is nearly complete and the lease up process is expected to start in April. Resources for Community Development has identified LLMC to provide the NPLH tenancy sustaining services at this location. Tenants for the NPLH units will be selected through the Countywide Coordinated Entry System (CES), which will prioritize people who are homeless and have a qualifying mental health disability. LifeLong Medical Care will provide a range of supportive services which may include the following depending on tenant needs: case management; clinical mental health services, such as assessment, crisis counseling, individual and group therapy; referrals to substance use services, such as treatment, relapse prevention, and peer support groups; support in linking to physical health care, including access to routine and preventive health and dental care, medication management, and wellness services; and basic housing retention skills (such as unit maintenance and upkeep, cooking, laundry, and money management).

## BACKGROUND

On December 10, 2019, Council adopted Resolution No. 69,212-N.S. authorizing the City Manager to submit a joint application for Maudelle Miller Shirek Community Project to access State of California No Place Like Home Program funds. The No Place Like Home program provides capital and operating funds to permanent supportive housing projects that serve formerly homeless individuals with mental health disabilities. The joint application required the City to provide or pay for mental health services to tenants of the twelve NPLH units. Berkeley Mental Health provides mental health services to qualifying people with serious mental illness who reside in Berkeley. However, some tenants in NPLH units are expected not to meet BMH criteria for services. To meet the State's requirement, City Council allocated Measure P funds to cover services provided by a community agency.

## 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

Resources for Community Development selected LLMC as its preferred on-site provider. LifeLong Medical Care is RCD's preferred provider because of its long-standing partnership, its experience in providing high quality supportive services in a supportive housing setting to tenants who are formerly homeless or have been identified as chronically homeless, and its designation as a Federally Qualified Health Center (FQHC) which enables it to leverage other LLMC services including primary medical care, mental health clinical services, and dental health services.

Lifelong Medical Care has been providing services at eight RCD properties including two permanent supportive housing projects in Berkeley. They have experience collaborating with RCD's onsite property management team and RCD's Associate Director of Resident Services, who provides oversight of all of RCD's buildings. These reasons distinguish LLMC from other services providers in the area.

In addition, the City currently funds LLMC to provide support services at two permanent supportive housing projects in Berkeley and is supportive of RCD's selection of LLMC to provide services at this location.

## ALTERNATIVE ACTIONS CONSIDERED

The City could release a Request for Proposals for supportive services at this location. However, given RCD's selection of LLMC based on its experience with LLMC for more than a decade and LLMC's unique position as a Federally Qualified Health Center (FQHC) and its ability to leverage additional health related services, the City recommends funding LLMC as the supportive services provider at this location.

LifeLong Medical Care Contract Amendment No. 31900225  
to fund No Place Like Home (NPLH) supportive services at Maudelle Miller Shirek

CONSENT CALENDAR  
March 26, 2024

CONTACT PERSON

Jennifer Vasquez, Homeless Services Program Manager, HHCS, 510-981-5431

Attachment:  
1: Resolution

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

CONTRACT NO. 31900225 AMENDMENT: LIFELONG MEDICAL CARE

WHEREAS, the City of Berkeley (City) awarded a total of \$17 million in predevelopment and development funding to Resources for Community Development (RCD) to support for the development of Maudelle Miller Shirek Community at 2001 Ashby Avenue (contract numbers 32000049 and 32200134) as authorized by Resolution No. 68,824-N.S. (adopted on April 23, 2019), Resolution No. 69,163-N.S. (adopted on October 29, 2019), and Resolution No. 69,231-N.S. (adopted on December 10, 2019); and

WHEREAS, City Council authorized a joint application with RCD for the State of California's No Place Like Home (NPLH) program on December 10, 2019 with Resolution No. 69,212-N.S.; and,

WHEREAS, the City of Berkeley and RCD submitted a joint NPLH application for Maudelle Miller Shirek Community on January 8, 2020 and were awarded funding on June 26, 2020; and

WHEREAS, the joint NPLH application required that the City will make mental health supportive services available to each project's NPLH tenants for at least 20 years;

WHEREAS, the Maudelle Miller Shirek Community will include 12 NPLH units and is expected to begin the lease up process in April 2024; and

WHEREAS, Resources for Community Development (RCD) has selected LifeLong Medical Care (LLMC) as its preferred provider to provide services to NPLH tenants based on its 14-year partnership and experience with LLMC providing high quality supportive services.

NOW THEREFORE, BE IT RESOLVED that the City Manager or her designee is hereby authorized to execute an amendment for Contract No. 31900225, with LifeLong Medical to add \$15,300 for a total contract not to exceed amount of \$2,873,947 for the purpose of providing NPLH supportive services at Maudelle Miller Shirek Community Project; and

BE IF FURTHER RESOLVED that a payment of \$15,300 will be advanced to cover staffing costs that will be accrued while executing the amendment; and

BE IT FURHTER RESOLVED that a record signature copy of said contract and any amendments to be on file in the City Clerk Department.





Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Margot Ernst, Interim Deputy Director, Health, Housing and Community Services  
Subject: Contract Amendment: The Labor Compliance Managers for Labor Standards Enforcement Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to the Contract with The Labor Compliance Managers increasing the contract by \$50,000 for consulting services for a total amount not to exceed \$100,000.

FISCAL IMPACTS OF RECOMMENDATION

The total not-to-exceed amount of this contract will be \$100,000. Resources for the contract will be provided from General Fund, #011 allocated to the Department of Health, Housing, and Community Services' Housing and Community Services Division (HHCS/HCS), which is currently available in the Fiscal Year 2024 Budget.

CURRENT SITUATION AND ITS EFFECTS

The City has a contract with The Labor Compliance Managers to support in the implementation of the Berkeley Fair Workweek Ordinance. These services include creating educational and outreach materials for employees whose rights have expanded under the Fair Workweek Ordinance, developing accounting tools to help City staff calculate "predictability pay" owed by employers who have violated the ordinance, and supporting City staff in the enforcement of the ordinance. The current contract with The Labor Compliance Managers is not to exceed \$50,000.

HHCS/HCS currently has insufficient staffing to enforce the City's current labor standards portfolio due to two career staff members who are out on long term leave through June, 2024. To ensure that the City's labor standards enforcement activities continue, staff is requesting an increase in the NTE amount to \$100,000 with an expanded scope that will include enforcement of the City's Minimum Wage, Living Wage, Paid Sick Leave, and Berkeley Family Friendly and Environment Friendly ordinances.

Enforcement of the local labor standards supports the Strategic Plan Priority Project of advancing our goal to champion and demonstrate social and racial equity.

### BACKGROUND

The term of City's original contract with The Labor Compliance Managers began on February 12, 2024 to provide consultant services related to the implementation of the Fair Workweek Ordinance. The scope of the original contract includes education and outreach to impacted Berkeley employees, the development of enforcement guidelines and accounting tools, and the processing of initial employee complaints of violations of the Fair Workweek Ordinance.

Due to an increased need for support, staff are requesting to expand the contract to include more labor standards enforcement work after the initial phases of employee education and the development of guidelines and procedures.

### 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

In recent years, the City has adopted more rigorous labor standards requirements that involve an increased amount of enforcement work. The work required currently exceeds HHCS/HCS' current capacity as multiple labor standards enforcement staff members are on medical leave.

### ALTERNATIVE ACTIONS CONSIDERED

If the Department is unable to amend and extend the contract with The Labor Compliance Managers, staff will not be able to adequately respond to initial employee complaints regarding violations of the Fair Workweek Ordinance.

### CONTACT PERSON

Margot Ernst, HCS Manager, HHCS, 510-981-5427

Attachments:

1: Resolution

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

CONTRACT AMENDMENT: PERSONAL SERVICES CONTRACT WITH THE LABOR COMPLIANCE MANAGERS

WHEREAS, on January 17, 2023 the City Council adopted a second reading of Ordinance No. 7,851-N.S. amending the FY 2023 Annual Appropriations Ordinance No. 7,828-N.S. for fiscal year 2023 based upon recommended re-appropriation of committed FY 2022 funding and other adjustments authorized since July 1, 2022, in the amount of \$178,289,951 (gross) and \$172,028,412 (net); and

WHEREAS, Ordinance No. 7,851-N.S. provides the Department of Health, Housing and Community Services' Housing and Community Services Division (HHCS/HCS) with \$50,000 from General Fund, #011 for the implementation of the Fair Workweek Ordinance; and

WHEREAS, The Health, Housing and Community Services Department entered into a contract with The Labor Compliance Managers to provide outreach and education, develop guidelines and procedures, and carry out initial enforcement of the Fair Workweek Ordinance; and

WHEREAS, The Labor Compliance Managers will provide critical support to labor standards enforcement staff in the enforcement of the Fair Workweek Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to amend the contract with The Labor Compliance Managers for personal services not to exceed amount of up to \$100,000.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute all original or amended documents or agreements to effectuate this action; a signed copy of said documents, agreements and any amendments will be kept on file in the Office of City Clerk.





Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Tanya Bustamante, Interim Deputy Director, Health, Housing, and  
 Community Services  
 Subject: Contract for Health Officer Coverage

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract with Dr. Gail Newel for Health Officer services during periods when the City Health Officer is out of the office for the period May 1, 2024 through May 1, 2025 in an amount not to exceed \$30,000.

FISCAL IMPACTS OF RECOMMENDATION

Costs for Health Officer coverage will be paid for by the Future of Public Health grant (Fund 302). Payment will be \$50 per hour/\$1,200 per day for approximately 25 days per year. Annual costs are not to exceed \$30,000.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley receives funding from the California Department of Public Health through the Future of Public Health grant. The funding requires each local health jurisdiction to have Health Officer on-call coverage at all times. The City of Berkeley currently has no plan for coverage when the City Health Officer is out of the office.

BACKGROUND

Most public health jurisdictions have on-call Health Officer coverage to address urgent communicable disease and other public health issues. Additionally, this coverage is required by the Future of Public Health grant. Dr. Newel is an experienced Health Officer who served in Santa Cruz and San Benito counties. The City Council is asked to approve Health Officer coverage, as Council also approves appointment of an Interim or Permanent Health Officer.

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

Health Officer coverage is required by the Future of Public Health grant, and may be needed if urgent public health issues arise.

ALTERNATIVE ACTIONS CONSIDERED

The City could continue to have periodic gaps in Health Officer coverage when the Health Officer is unavailable.

CONTACT PERSON

Anju Goel, MD, MPH, Health Officer, HHCS, 510-981-5292

Attachment:

1. Resolution

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

CONTRACT: DR. GAIL NEWEL FOR HEALTH OFFICER SERVICES DURING PERIODS WHEN THE CITY HEALTH OFFICER IS OUT OF OFFICE

WHEREAS, most public health jurisdictions have on-call Health Officer coverage to address urgent communicable disease and other public health issues; and

WHEREAS, the City of Berkeley receives funding from the California Department of Public Health through the Future of Public Health grant, which requires each local health jurisdiction to have Health Officer coverage at all times; and

WHEREAS, Dr. Newel is an experienced Health Officer who has served in Santa Cruz and San Benito counties, and who is willing to provide coverage for the City of Berkeley; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley to adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Dr. Gail Newel from May 1, 2024 to May 1, 2025 in an amount not to exceed \$30,000.00.







Office of the City Manager

CONSENT CALENDAR

March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Appointment of Director of Public Works

RECOMMENDATION

Adopt a Resolution confirming the appointment of Terrance Davis as the Director of Public Works to be effective April 15, 2024 at an annual salary of \$260,000.

FISCAL IMPACT

The salary and benefits for the Director of Public Works are included in the departmental budget, and the proposed salary for Mr. Davis is within the salary range designated for the classification.

CURRENT SITUATION AND ITS EFFECTS

In accordance with City Charter Article VII, Section 28(b), the City Manager is submitting her selection for the Director of Public Works to the City Council for confirmation.

Terrance Davis has over 20 years of local government management experience, including serving as a Public Works Director, with oversight of capital projects, water/sewer utilities, transportation, and real property. He has extensive familiarity with policy and budget development, and legislative affairs.

Mr. Davis currently serves as Assistant City Manager, and was previously Public Works Director, for the City of Vallejo, where he has been employed since 2017. In his capacity as Public Works Director, he was responsible for managing 74 employees working in the realms of engineering, street maintenance, transportation, traffic signals, real estate, landscape districts, 600-slip municipal marina, facilities, and fleet procurement and maintenance.

Previously, he was the Integrated Waste General Manager / Sustainability Manager for the City of Sacramento from 2014-2017; Assistant City Manager with the City of

Compton (2012-2013); and has held various management positions within Public Works in the City of Sacramento (2002-2012).

The holder of a Bachelor of Arts degree in American Ethnic Studies from the University of Washington in Seattle and a Master's in Business Administration from the City University of Seattle, Mr. Davis is a member of the American Public Works Association and the International City/County Management Association.

### BACKGROUND

The City retained the executive search firm of Peckham & McKinney in the effort to fill this key vacancy. Peckham & McKinney initiated a broad-ranged search that involved placement of ads with leading industry organizations, including American Public Works Association, American Society of Civil Engineers, California Municipal Utilities Association, and Women in Government, among many others; leveraged social media outlets; and conducted personal outreach through candidate databases and contact with potential candidates in surrounding jurisdictions.

The search yielded 48 applicants, and after initial rounds of screening the pool was narrowed to eight candidates, who were screened for qualifications that ranged from operational experience and technical skills, to collaborative leadership, strategic thinking, communication and management style, responsiveness, public engagement, and transparency.

Five candidates then interviewed with three panels: (1) an internal City panel; (2) a community panel; and (3) a panel of subject matter experts. Mr. Davis subsequently underwent another round of interviews with the City Manager and the Deputy City Managers.

Upon his selection, Mr. Davis met with the Mayor and Council in closed session.

### ENVIRONMENTAL SUSTAINABILITY

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

### RATIONAL FOR RECOMMENDATION

The Public Works Department has a budget of approximately \$189 million and nearly 350 full-time-equivalent employees, and is responsible for maintaining and improving the City's physical assets and infrastructure in a safe and serviceable condition. The Department provides services ranging from property management to equipment maintenance and solid waste collection and disposal.

With more than 20 years of municipal experience, Mr. Davis possesses knowledge and skills in every realm of Public Works, from engineering and transportation to facilities, fleets, and zero waste; moreover, his experience as a City administrator affords him deep familiarity with legislative and budget processes. He espouses a communicative and collaborative style of management and brings an innovative, forward-thinking, and solution-oriented approach to public works.

Appointment of Director of Public Works

Consent Calendar  
March 26, 2024

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, (510) 981-6807.

ATTACHMENTS

Resolution

## RESOLUTION NO. xxxxx - N.S.

## APPOINTMENT OF DIRECTOR OF PUBLIC WORKS

WHEREAS, the Public Works Department has a budget of approximately \$189 million and nearly 350 full-time-equivalent employees, and is responsible for maintaining and improving the City's physical assets and infrastructure in a safe and serviceable condition. The Department provides services ranging from property management to equipment maintenance and solid waste collection and disposal.

WHEREAS, the City Manager has selected Terrance Davis for appointment as Director of Public Works,

WHEREAS, Mr. Davis has over 20 years of local government management experience, including as Public Works Director, and oversight of capital projects, water/sewer utilities, transportation, and real property, and he has extensive familiarity with policy and budget development, and legislative affairs;

WHEREAS, Mr. Davis currently serves as Assistant City Manager and was previously Public Works Director for the City of Vallejo – where he has been employed since 2017 – and in his capacity as Public Works Director was responsible for managing 74 employees working in the realms of engineering, street maintenance, transportation, traffic signals, real estate, landscape districts, 600-slip municipal marina, facilities, and fleet procurement and maintenance;

WHEREAS, Mr. Davis was the Integrated Waste General Manager / Sustainability Manager for the City of Sacramento from 2014-2017; Assistant City Manager with the City of Compton (2012-2013); and held various management positions within Public Works in the City of Sacramento (2002-2012);

WHEREAS, Mr. Davis is the holder of a Bachelor of Arts degree in American Ethnic Studies from the University of Washington in Seattle and a Master's in Business Administration from the City University of Seattle, and is a member of the American Public Works Association and the International City/County Management Association.

WHEREAS, with more than 20 years of municipal experience, Mr. Davis possesses knowledge and skills in every realm of Public Works, from engineering and transportation to facilities, fleets, and zero waste; and espouses a communicative and collaborative style of management and brings an innovative, forward-thinking, and solution-oriented approach to public works.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby confirms the City Manager's appointment of Terrance Davis as the Director of Public Works with an annual salary of \$260,000 on the same terms and conditions as other regular at-will employees effective April 15, 2024.

Internal



Office of the City Manager

CONSENT CALENDAR

March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Aram Kouyoumdjian, Director of Human Resources

Subject: Memorandum of Understanding: Berkeley Chief Fire Officers Association

RECOMMENDATION

Adopt a Resolution 1) approving a successor Memorandum of Understanding (MOU) with the Berkeley Chief Fire Officers Association (BCFOA) for a three-year term from July 1, 2023 through June 30, 2026 and authorizing the City Manager to execute and implement the terms and conditions of employment set forth in the new MOU and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and 2) approving a new Classification and Salary table for BCFOA classifications (Representation Unit A) that implements the salary adjustments reflected in the new MOU and supersedes prior salary resolutions.

The terms of the proposed 2023-2026 MOU are within the parameters of authority approved by Council in closed session.

FISCAL IMPACTS OF RECOMMENDATION

The cost for the new MOU is approximately \$70,264 in the first year, \$197,487 in the second year, and \$387,673 in the third year. The new Standby Pay structure has an approximate annual cost of \$138,000.

Savings to the City from modifications to retiree health benefits will vary depending on staffing levels and longevity rates. However, the modified retiree health structure – in tandem with revisions to the retiree health plan for the Berkeley Fire Fighters Association – will reduce the City's unfunded other post-employment benefits (OPEB) liability by an estimated \$5.32 million, according to a recent actuarial study.

CURRENT SITUATION AND ITS EFFECTS

With the sole exception of standby pay for Duty Chief assignments, all notable changes in the 2023-2026 MOU are consistent with the agreement the City reached with the Berkeley Fire Fighters Association:

Internal

Memorandum of Understanding: Berkeley Chief Fire Officers Association

CONSENT CALENDAR

March 26, 2024

- (1) **COLA Increases:** The terms of the new MOU provide for a 3% wage increase effective the start of the first full pay period after Council adoption; a 3% wage increase effective July 7, 2024; and a 3% wage increase effective July 6, 2025 for a cumulative wage increase of 9% through the end of the contract.
- (2) **Certification Differentials:** The City will incentivize a trio of certifications with a 2% differential for each: Incident Command Systems (ICS) 200 (upon approval of the contract), Incident Command Systems 300 (beginning on 1/1/25), and Incident Command Systems 400 (beginning on 1/1/26).
- (3) **Longevity Pay:** Effective the first full pay period after Council adoption, the MOU modifies the current longevity pay structure to provide 4% longevity pay beginning with the 12<sup>th</sup>, 15<sup>th</sup>, and 20<sup>th</sup> years of service for a maximum of 12%. The modifications aim to keep the department competitive with other agencies and enhance retention.
- (4) **Retiree Health Benefits:** Effective July 7, 2024, the retiree medical benefit identified in the current MOU will be frozen at rates in place as of July 1, 2024 for current members hired between June 5, 2006 to June 30, 2024. (Members hired prior to June 5, 2006 will not be affected by this modification.) Effective July 7, 2024, the City will contribute to the IAFF Retiree Medical Trust on behalf of each current member an individual amount (according to their date of hire), with the City's contribution not to exceed a \$350 per month contribution average across all members covered by this provision (with members themselves contributing \$25 per month toward that amount). New employees hired on or after July 1, 2024 will contribute \$75 per month into the IAFF RMT and after they complete five continuous years of service, the City will contribute an additional \$225 per month into their individual RMT accounts.

These changes, in tandem with those effectuated for the Berkeley Fire Fighters Association, will account for future City savings that may be as high as \$5.32 million in other post-employment benefits (OPEB), thus reducing the City's long-term unfunded liabilities.

- (5) **Standby Pay for Duty Chief Assignments:** Upon approval of the contract, standby pay for Duty Chief assignments will cease to be a percentage differential (currently 4.8% of base salary for Assistant Chiefs and 5.6% for Battalion Chiefs) and will become a flat rate of \$20 per hour.

### BACKGROUND

The City's labor contract with the Union expired on June 30, 2023. In an effort to reach agreement on a successor MOU, representatives of the City and representatives of the Union commenced negotiations immediately following BFFA negotiations and reached a tentative agreement in early March 2024.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

The City's labor contract with BCFOA expired on June 30, 2023, triggering the need to negotiate a successor agreement.

The recommended changes to the MOU address the need for COLA increases and modifications to longevity pay in order to keep the Berkeley Fire Department competitive in its recruitment and retention efforts.

ALTERNATIVE ACTIONS CONSIDERED

Various alternative proposals were considered by the Union and the City's negotiation team before mutual agreement was reached on the proposed MOU.

CONTACT PERSON

Aram Kouyoumdjian, Director of Human Resources, (510) 981-6807.

Attachments:

- 1: Resolution: Memorandum of Understanding: Berkeley Chief Fire Officers Association
  - Exhibit A: Memorandum of Understanding Between the City of Berkeley and Berkeley Chief Fire Officers Association, 2023-2026 (Revised Version)
  - Exhibit B: Memorandum of Understanding Between the City of Berkeley and Berkeley Chief Fire Officers Association, 2023-2026 (Tracked Changes Version)

Internal

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

MEMORANDUM OF UNDERSTANDING: BERKELEY CHIEF FIRE OFFICERS ASSOCIATION

WHEREAS, the City is obligated under the provisions of California Government Code Sections 3500-3500, commonly referred to as the Meyers-Milias-Brown Act, to meet and confer in good faith and attempt to reach agreement with representatives of recognized bargaining units on matters within the scope of representation including, but not limited to, wages, hours, and other terms and conditions of employment; and

WHEREAS, the City's labor contract with the Berkeley Chief Fire Officers Association expired as of June 30, 2023; and

WHEREAS, representatives of the City and the Berkeley Chief Fire Officers Association have met and conferred in good faith and have reached agreement on a new Memorandum of Understanding that incorporates all changes and modifications in wages, hours, and other terms and conditions of employment agreed to by the parties;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute the new Memorandum of Understanding for the period July 1, 2023 through June 30, 2026 with the Berkeley Chief Fire Officers Association, including changes in certain benefits on dates specified in the Memorandum of Understanding which is attached hereto, made a part hereof and marked Exhibit A, and to make non-substantive edits to the format and language of the MOU in alignment with the tentative agreement, and conforming to legal requirements; and

BE IT FURTHER RESOLVED that the Council of the City of Berkeley approves, and the City Manager is hereby authorized to effectuate, a new Classification and Salary table for BFFA Classifications (Representation Unit A) that implement the salary adjustments reflected in the new MOU and supersede prior salary resolutions; and

BE IT FURTHER RESOLVED that a fully executed original of said contract is filed in the Office of the City Clerk.

Exhibits

- A: Memorandum of Understanding Between the City of Berkeley and Berkeley Chief Fire Officers Association, 2023-2026 (Revised Version)
- B: Memorandum of Understanding Between the City of Berkeley and Berkeley Chief Fire Officers Association, 2023-2026 (Tracked Changes Version)





# Agenda Item Attachment

This attachment will be provided to the City Council and the public prior to the meeting (including posting to the city website) in accordance with the requirements for revised and supplemental materials in the Open Government Ordinance.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**The City of Berkeley, City Council's Web site:**  
<http://berkeleyca.gov>





Office of the City Manager

CONSENT CALENDAR

March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract No. 32400015 Amendment: California Consulting for on-call grant writing services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32400015 with California Consulting, Inc. for on-call grant writing services to increase the contract amount by \$303,000 for a new not-to-exceed amount of \$350,000 and extend the contract term to June 30, 2026.

FISCAL IMPACTS OF RECOMMENDATION

This on-call contract has spent almost 95% of the currently authorized not-to-exceed amount of \$47,000. A contract amendment in the amount of \$303,000 for this on-call contract will come from the following funding sources: Reimagining Public Safety General Fund allocation (\$153,000), Fire Department Measure FF allocation (\$100,000), and a Parks Tax allocation (\$50,000).

CURRENT SITUATION AND ITS EFFECTS

On November 15, 2021, the Bipartisan Infrastructure Law (BIL) enacted the Infrastructure Investment and Jobs Act by congress, which set up a wide variety of competitive grant programs for public agencies. These grant programs will fund billions in infrastructure projects and public safety programs across the U.S. over the next several years. Examples of upcoming grant programs for the Reimagining Public Safety Initiative will include, but are not limited to Crisis Intervention programs, public safety equipment and technology, Diversity, Equity, and Inclusion programs, Gender and Domestic violence prevention programs, and Law Enforcement Mental Health and Wellness Act (LEMHWA) programs; examples of upcoming grant programs for the Berkeley Fire Department will include, but are not limited to fire prevention and safety FEMA grants, community wildfire prevention and mitigation projects, and urban and community forestry management grants; and examples of upcoming Parks infrastructure projects will include, but are not limited to hazardous soil remediation projects, parks improvement projects, and sea-level rise adaptation and habitat projects. Several City departments have a need for grant writing services to compete for these funding programs. A contract amendment with California Consulting, Inc.

will provide the City with high quality grant writing services to compete for these upcoming grant programs.

### BACKGROUND

On July 27, 2023, the City executed contract no. 32400015 with California Consulting, Inc. for on-call grant writing services in an amount not to exceed \$47,000 for the period of July 20, 2023 through July 20, 2024. For over twenty-seven years, California Consulting has provided grant writing services to cities, school districts, and other public entities throughout California. In the past five years, California Consulting has provided grant-writing assistance to the City of Berkeley for thirteen (13) competitive grants. To-date, the City has received four grant awards totaling \$12.9 million, two were not awarded, and we will learn about another seven (7) grant award decisions in the next three to six months. A contract amendment with California Consulting will provide the City with the necessary capacity to submit competitive grant proposals as Notice of Funding Opportunities (NOFO's) for grant programs are announced over the next two fiscal years.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no negative impacts to environmental sustainability and climate change associated with the contents of this report.

### RATIONALE FOR RECOMMENDATION

In the past five years, California Consulting has provided grant-writing assistance to the City of Berkeley for thirteen (13) competitive grants. To-date, the City has received four grant awards totaling \$12.9 million, two were not awarded, and we will learn about seven (7) grant award decisions in the next three to six months. California Consulting has a team of highly-qualified grant writers that will provide the City with the necessary capacity to submit competitive grant proposals as Notice of Funding Opportunities (NOFO's) for grant programs are announced over the next two fiscal years.

### ALTERNATIVE ACTIONS CONSIDERED

None

### CONTACT PERSON

Scott Ferris, Director, Parks Recreation & Waterfront, (510) 981-6700

David Sprague, Fire Chief, (510) 981-6903

Jen Louis, Police Chief, (510) 981-5900

Carianna Arredondo, Assistant to the City Manager, City Manager's Office, 510-981-7655

Attachments:

1: Resolution

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

AMENDMENT TO CONTRACT NO. 32400015 WITH CALIFORNIA CONSULTING, Inc.  
FOR ON-CALL GRANT WRITING SERVICES

WHEREAS, on November 15, 2021, the Bipartisan Infrastructure Law (BIL) enacted the Infrastructure Investment and Jobs Act by congress, which set up a wide variety of competitive grant programs for public agencies. These grant programs will fund billions in infrastructure projects and public safety programs across the U.S. over the next several years; and

WHEREAS, on July 27, 2023, the City executed contract no. 32400015 with California Consulting, Inc. for on-call grant writing services in an amount not to exceed \$47,000 for the period of July 20, 2023 through July 20, 2024; and

WHEREAS, for over twenty-seven years, California Consulting has provided grant writing services to cities, school districts, and other public entities throughout California; and

WHEREAS, in the past five years, California Consulting has provided grant-writing assistance to the City of Berkeley for thirteen (13) competitive capital improvement grants. To-date, the City has received four grant awards totaling \$12.9 million, two were not awarded, and we will learn about seven (7) grant award decisions in the next three to six months.

WHEREAS, funding for this contract amendment in the amount of \$303,000 will come from the following funding sources: Reimagining Public Safety General Fund allocation (\$153,000), Fire Department Measure FF allocation (\$100,000), and a Parks Tax allocation (\$50,000).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 32400015 with California Consulting, Inc. for grant writing services increasing the amount by \$303,000 for a revised contract amount not-to-exceed \$350,000, and extending the contract to June 30, 2026. 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  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Andrew Murray, Interim Director of Public Works  
Subject: Fiscal Year 2025 Street Lighting Assessments – Initiating Proceedings

RECOMMENDATION

Adopt two Resolutions describing proposed improvements to be used to determine the annual assessments levied for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District No. 2018, and ordering the preparation of Engineer’s Reports.

FISCAL IMPACTS OF RECOMMENDATION

Staff will prepare the Engineer’s Reports for Berkeley Street Lighting Assessment District No. 1982-1 (1982 District) and Street Lighting Assessment District No. 2018 (2018 District). This effort to prepare the reports has been included in the budget process for the City’s operation and maintenance of the street lights. These reports will be prepared in accordance with the Landscaping and Lighting Act of 1972 (Act), promulgated in California Streets and Highways Code Section 22500 et seq., and are required to be prepared for each fiscal year (FY) for which assessments are to be levied and collected.

In FY 2025, the assessments for the 1982 District and the 2018 District will generate approximately \$2.22 million in revenue for the Street Lighting program Fund 142.

CURRENT SITUATION AND ITS EFFECTS

The Act requires the City’s governing body adopt a resolution generally describing any proposed new improvements to be used to determine the annual assessments levied for the City’s street lighting districts, and order the preparation of Engineer’s Reports for the assessments. These are the first steps in allowing the City to levy and collect the assessments necessary to operate and maintain the street lighting districts. The improvements to be made in these assessment districts are generally described as maintenance and/or servicing of existing and future public lighting facilities including: traffic signals; installation and construction of curbs, gutters, walls, sidewalks or paving; water, irrigation, or drainage related to operation of the public lighting facilities.

Collecting the street lighting fees are necessary to maintain and implement needed improvements and services to support the Strategic Plan goals of creating a resilient,

safe, connected, and prepared city and of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### BACKGROUND

The 1982 District was established in accordance with the requirements of the Act on July 27, 1982 (Resolution No. 51,449-N.S.). The 2018 District was established in accordance with the requirements of the Act on June 12, 2018 (Resolution No. 68,482-N.S.). The Act requires the City prepare Engineer's Reports for each fiscal year for which assessments are to be levied and collected. City staff and Consultants will prepare the reports in accordance with the Act.

The City's original assessment structure for the 1982 District failed to generate sufficient revenue to sustain the long-term operations of the City's Street Lighting Program (Program). For a period beginning in FY 2006 and running through FY2017 the City used General Funds to sustain operations necessary to the Program. To establish financial sustainability for the Program and to avoid significant reductions to service in the future, the City moved forward with the formation of the 2018 District. This district was formed separately from the 1982 District, leaving the 1982 District's structure and rates in place. Assessments for the 2018 District were first levied in FY 2019. Allowable annual inflation adjustments of the 2018 District assessment rates are expected to raise revenues over the coming years.

The 2018 District boundaries are generally described as all accessor parcels within the City limits. A diagram is included in the Engineer's Report filed in FY 2019. A diagram of the 1982-1 District is included in the 1983 Engineer's Report prepared by John H. Heindel.

### ENVIRONMENTAL SUSTAINABILITY

The City exclusively uses LED (light emitting diode) street lighting. LED lights provide environmental benefits by: reducing the level of greenhouse gases emitted; reducing level of toxic materials disposed; maximizing energy cost savings; complying with the City's illumination standards; and minimizing administration costs and staff time for street light maintenance. Assessing and levying the street lighting fees for the 1982 District and the 2018 District will allow the City to sustain environmental benefits of the LED lights.

### RATIONALE FOR RECOMMENDATION

Failure to adopt Resolutions ordering the preparation of Engineer's Reports for the City's street lighting assessments would result in non-compliance of the requirements set forth in the Act. Failure to comply with the Act would jeopardize the City's ability to levy and collect assessments in Fiscal Year 2025. The collection of these assessments is needed to establish financial sustainability for the Program and to avoid significant reductions in service.



CONTACT PERSON

Ronald A. Nevels, Manager of Engineering/City Engineer, (510) 981-6439

Srinivas Muktevi, Supervising Civil Engineer, (510) 981-6402

Ricardo Salcedo, Associate Civil Engineer, (510) 981-6407

Attachments:

1: Resolution – Initial Proceedings – Street Lighting Assessment District 1982-1

2: Resolution – Initial Proceedings – Street Lighting Assessment District 2018

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

INITIATE PROCEEDINGS FOR BERKELEY STREET LIGHTING ASSESSMENT  
DISTRICT 1982-1 FOR FISCAL YEAR 2025 AND ORDER CITY STAFF TO PREPARE  
AND FILE THE ENGINEER'S REPORT FOR FISCAL YEAR 2025

WHEREAS, on July 27, 1982, the Council of the City of Berkeley Adopted Resolution No. 51,449–N.S. that completed proceedings to form the Berkeley Street Lighting Assessment District No. 1982-1 pursuant to Chapter II of the Landscaping and Lighting Act of 1972 Streets and Highways Code Section 22585-22613; and

WHEREAS, Section 22622 of the Street and Highway Code requires the City Council to adopt a resolution generally describing any proposed new improvements to be used to determine the annual assessment levied for any assessment district created under the Landscaping and Lighting Act of 1972; and

WHEREAS, Section 22622 further requires that the City Council order the preparation of an Engineer's Report prior to initiating proceedings to set the annual levy and collection of assessments for such assessment districts.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that improvements to be included in Berkeley Street Lighting Assessment District No. 1982-1 for assessing Fiscal Year 2025 fees are generally described as maintenance or servicing, or both, of existing and future public lighting facilities, including, but not limited to, traffic signals and the installation and construction of public lighting or the maintenance or servicing thereof, including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk or paving, or water, irrigation, or drainage related to operation of the public lighting facilities.

BE IT FURTHER RESOLVED, Pursuant to Street and Highways Code Section 22622, that City Engineer is hereby directed to prepare the annual Engineer's Report prior to initiating proceedings to levy and collect the annual assessment for Berkeley Street Lighting Assessment District No. 1982-1 in Fiscal Year 2025.

Internal

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

INITIATE PROCEEDINGS FOR STREET LIGHTING ASSESSMENT DISTRICT 2018  
FOR FISCAL YEAR 2025 AND ORDER CITY STAFF TO PREPARE AND FILE THE  
ENGINEER'S REPORT FOR FISCAL YEAR 2025

WHEREAS, on June 12, 2018, the Council of the City of Berkeley Adopted Resolution No. 68,432–N.S. that completed proceedings to form the Street Lighting Assessment District 2018 pursuant to Chapter II of the Landscaping and Lighting Act of 1972 (Act) Streets and Highways Code Section 22585-22613; and

WHEREAS, Section 22622 of the Street and Highway Code requires the City Council to adopt a resolution generally describing any proposed new improvements to be used to determine the annual assessment levied for any assessment district created under the Act; and

WHEREAS, Section 22622 further requires that the City Council order the preparation of an Engineer's Report prior to initiating proceedings to set the annual levy and collection of assessments for such assessment districts.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that improvements to be included in Street Lighting Assessment District 2018 for assessing Fiscal Year 2025 fees are generally described as maintenance or servicing, or both, of existing and future public lighting facilities, including, but not limited to, traffic signals and the installation and construction of public lighting or the maintenance or servicing thereof, including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk or paving, or water or irrigation, drainage related to operation of the public lighting facilities.

BE IT FURTHER RESOLVED, by the Council of the City of Berkeley that SCI Consulting Group is hereby designated as Engineer of Work for purposes of these proceedings and is hereby ordered to prepare an Engineer's Report in accordance with Street and Highways Code Section 22622. Upon completion, the Engineer shall file the Engineer's Report with the City for submission to the City Council.





Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Andrew Murray, Interim Director of Public Works  
 Subject: Purchase Order Extension Authorizations for Critical Vendors of Equipment Maintenance Parts and Services for Multiple Departments

RECOMMENDATION

Adopt fourteen Resolutions authorizing the City Manager to execute extensions of existing multi-year purchase orders for Equipment Maintenance Parts and Services as described below through June 30, 2025:

1. Purchase Order with Golden State Emergency Vehicle for Fire vehicle repairs increased by \$500,000 to a new total Purchase Order amount not to exceed \$800,437.50.
2. Purchase Order with Pape Machinery, Inc. for heavy equipment parts and repairs increased by \$375,000 to a new total Purchase Order amount not to exceed \$666,697.50.
3. Purchase Order with City Auto Supply for ongoing vehicle parts increased by \$250,000 to a new total Purchase Order amount not to exceed \$432,447.50.
4. Purchase Order with Fleetwash, Inc. for vehicle washing increased by \$200,000 to a total Purchase Order amount not to exceed \$372,615.
5. Purchase Order with Coast Counties Truck & Equipment Co. for heavy equipment parts increased by \$225,000 to a new total Purchase Order amount not to exceed \$351,730.
6. Purchase Order with Arata Equipment Company for Zero Waste vehicle parts and repairs increased by \$210,000 to a new total Purchase Order amount not to exceed \$320,180.
7. Purchase Order with TEC of California, Inc. for vehicle parts and accessories increased by \$200,000 to a new total Purchase Order amount not to exceed \$305,000.
8. Purchase Order with Future Ford of Concord for auto/truck parts and service increased by \$205,000 to a new total Purchase Order amount not to exceed \$300,000.
9. Purchase Order with Acme Rigging & Supply Company, Inc. for wheel loader and heavy equipment parts increased by \$200,000 to a new total Purchase Order amount not to exceed \$285,995.

10. Purchase Order with Western Truck Center in an amount not to exceed \$260,000.
11. Purchase Order with Southern Counties Lubricants LLC for vehicle lubricants increased by \$175,000 to a new total Purchase Order amount not to exceed \$238,500.
12. Purchase Order with McNeilus Truck and Manufacturing Company for Zero Waste truck parts increased by \$150,000 to a new total Purchase Order amount not to exceed \$200,000.
13. Purchase Order with California Covers for upholstery services increased by \$60,000 to a new total Purchase Order amount not to exceed \$110,881.01.
14. Purchase Order with Berry Brothers for towing services increased by \$15,000 to a new total Purchase Order amount not to exceed \$50,000.

FISCAL IMPACTS OF RECOMMENDATION

See table on next page

| Vendor                                   | Department Served / Description of Goods/Service       | Purchase Order Number | Amount Currently Spent | Amount Encumbered | Additional Amount Needed FY 2024 (03/01/2024 – 06/30/2024) | Amount Needed FY 2025 (07/01/2024 – 06/30/2025) | Total Purchase Order Authorization Amount |
|------------------------------------------|--------------------------------------------------------|-----------------------|------------------------|-------------------|------------------------------------------------------------|-------------------------------------------------|-------------------------------------------|
| Golden State Emergency Vehicle           | Fire/specialized repairs to fire vehicles              | 22400219              | \$272,339.81           | \$300,437.50      | \$100,000.00                                               | \$400,000.00                                    | \$800,437.50                              |
| Pape Machinery, Inc.                     | Public Works/heavy equipment parts & repairs           | 22400272              | \$240,312.88           | \$291,697.50      | \$75,000.00                                                | \$300,000.00                                    | \$666,697.50                              |
| City Auto Supply                         | Fire/vehicle parts                                     | 22400278              | \$165,065.80           | \$182,447.50      | \$50,000.00                                                | \$200,000.00                                    | \$432,447.50                              |
| Fleetwash, Inc.                          | Zero Waste (PW)/cleaning of garbage trucks             | 22400283              | \$131,294.70           | \$172,615.00      | \$50,000.00                                                | \$150,000.00                                    | \$372,615.00                              |
| Coast Counties Truck & Equipment Co      | Public Works/heavy equipment parts & repairs           | 22400196              | \$122,294.98           | \$126,730.00      | \$50,000.00                                                | \$175,000.00                                    | \$351,730.00                              |
| Arata Equipment Company                  | Zero Waste (PW)/specialized repairs & parts            | 22400212              | \$65,653.91            | \$110,180.00      | \$50,000.00                                                | \$160,000.00                                    | \$320,180.00                              |
| TEC of California, Inc.                  | Public Works/vehicle parts                             | 22400309              | \$70,723.82            | \$105,000.00      | \$50,000.00                                                | \$150,000.00                                    | \$305,000.00                              |
| Future Ford of Concord                   | Police/Parts & Repairs                                 | 22400281              | \$65,401.26            | \$95,000.00       | \$55,000.00                                                | \$150,000.00                                    | \$300,000.00                              |
| Acme Rigging & Supply Company, Inc.      | Public Works/Wheel loader and heavy equipment parts    | 22400070              | \$57,127.00            | \$85,995.00       | \$50,000.00                                                | \$150,000.00                                    | \$285,995.00                              |
| Western Truck Center                     | Zero Waste(PW)/specialized parts and repairs           | 22403341              | \$63,686.15            | \$85,000.00       | \$50,000.00                                                | \$125,000.00                                    | \$260,000.00                              |
| Southern Counties Lubricants LLC         | Public Works/vehicle lubricants                        | 22400319              | \$67,759.17            | \$83,500.00       | \$25,000.00                                                | \$130,000.00                                    | \$238,500.00                              |
| McNeilus Truck and Manufacturing Company | Zero Waste(PW)/vehicle parts                           | 22400281              | \$41,808.55            | \$50,000.00       | \$50,000.00                                                | \$100,000.00                                    | \$200,000.00                              |
| California Covers                        | Public Works/upholstery services                       | 22400080              | \$26,580.12            | \$50,881.01       | \$0.00                                                     | \$60,000.00                                     | \$110,881.01                              |
| Berry Brothers                           | Public Works/towing large fleet vehicles and equipment | 22403742              | \$0.00                 | \$35,000.00       | \$0.00                                                     | \$15,000.00                                     | \$50,000.00                               |
| <b>Total Amount</b>                      |                                                        |                       |                        |                   | <b>FY24<br/>\$655,000</b>                                  | <b>FY25<br/>\$2,265,000</b>                     | <b>\$4,694,483.51</b>                     |

The amounts requested above will be funded by Equipment Maintenance Fund 672 which bills customer departments based on usage and services to be cost recoverable. Funding for FY 2025 in the amount of \$2,265,000 will be appropriated as part of the annual budget process. Funding for FY 2024 is available in the Equipment Maintenance Fund budget subject to appropriation in the Second Amendment to the Annual Appropriations Ordinance.

#### CURRENT SITUATION AND ITS EFFECTS

Due to evolving purchasing process improvements, Public Works administrative staff plan to transition away from single year purchase orders to multiyear contracts or multiyear purchase orders with vendors selected through a competitive process or with validation of sole source agreements. Public Works is continuing to implement best management practices in the procurement of goods and services. This approval by City Council will give staff the needed time to continue maintaining critical vehicles such as fire engines, ambulances, Police vehicles, garbage trucks, and other essential first responder and maintenance vehicles until new contracts or multiyear purchase orders are in place for each selected vendor prior to July 1, 2025.

Additionally, due to unforeseen increases in pricing for parts and services, the Equipment Maintenance Division needs additional purchasing authority to continue operating. Due to mechanic vacancies, repair services by outside vendors have been necessary, which increased Equipment Maintenance expenditures over the last several years. Without this authorization, the Equipment Maintenance Division will be unable to perform needed repairs and service. Public Works is rapidly approaching purchasing limits for specific vendors and anticipate that the Equipment Maintenance Division will reach their purchase order limits for all the above vendors by the end of this fiscal year.

Public Works has recently hired additional administrative staff and assigned them the responsibility of implementing best practices to ensure that procurement process is well managed.

Authorization of these purchase orders is a Strategic Plan Priority advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

#### BACKGROUND

Equipment Maintenance has utilized these fourteen vendors through existing purchase orders in previous years to provide required parts and services that City staff need in order to keep equipment in service.

In many cases, these vendors are the sole authorized repair and parts centers in Northern California for fleet vehicle parts required by the City's Equipment Maintenance Division.



ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental or climate impacts with this action aside from ensuring vehicles are in their best operating condition.

RATIONALE FOR RECOMMENDATION

Authorizing the Resolutions to increase existing purchase order authority allows the Equipment Maintenance Division to continue to provide critical equipment maintenance repairs to Police, Fire, Zero Waste, Forestry, and Public Works vehicles which service the City.

ALTERNATIVE ACTIONS CONSIDERED

Without authorization for purchase order extensions, the City's ability to repair vehicles that provide critical services, such as fire engines, garbage trucks, ambulances, backhoes, etc., will be jeopardized. Public Works staff is actively working through the process of procuring new competitive solicitations and identifying recommendations for sole source agreements for these critical vendors.

CONTACT PERSON

Joy Brown, Operations Manager 510-981-6629

## Attachments:

- 1: Resolution – Purchase Orders Extension: Golden State Emergency Vehicle for Fire Vehicle Repairs
- 2: Resolution – Purchase Orders Extension: Pape Machinery Inc. for Heavy Equipment Parts and Repairs
- 3: Resolution – Purchase Orders Extension: City Auto Supply for Ongoing Vehicle Parts
- 4: Resolution – Purchase Orders Extension: Fleetwash, Inc. for Vehicle Washing of Police and Zero Waste Vehicles
- 5: Resolution – Purchase Orders Extension: Coast Counties Truck & Equipment Co. for Zero Waste Heavy Equipment Parts
- 6: Resolution – Purchase Orders Extension: Arata Equipment Company for Zero Waste Vehicle Parts and Repairs
- 7: Resolution – Purchase Orders Extension: TEC of California, Inc. for Vehicle Parts and Accessories
- 8: Resolution – Purchase Orders Extension: Future Ford of Concord for Auto/Truck Parts and Service
- 9: Resolution – Purchase Orders Extension: Acme Rigging & Supply Company, Inc. for Zero Waste Wheel Loader and Heavy Equipment Parts
- 10: Resolution – Purchase Orders Extension: Western Truck Center for Specialized Parts and Repairs
- 11: Resolution – Purchase Orders Extension: Southern Counties Lubricants LLC for Vehicle Lubricants
- 12: Resolution – Purchase Orders Extension: McNeilus Truck and Manufacturing for Zero Waste Truck Parts

13: Resolution – Purchase Orders Extension: California Covers for Upholstery Services

14: Resolution – Purchase Orders Extension: Berry Brothers for Towing Services

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

PURCHASE ORDERS EXTENSION: GOLDEN STATE EMERGENCY VEHICLE FOR  
FIRE VEHICLE REPAIRS

WHEREAS, the specialized services of Golden State Emergency Vehicle are needed for Fire vehicle repairs; and

WHEREAS, the Equipment Maintenance Division needs additional mechanic capacity due to vacancies, fire apparatus warranty work and repairs to specialty equipment that Equipment Maintenance does not provide; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Golden State Emergency Vehicle for Fire vehicle repair, increasing the combined amount by \$500,000 for a total not-to-exceed amount of \$800,437.50.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: PAPE MACHINERY INC. FOR HEAVY  
EQUIPMENT PARTS AND REPAIRS

WHEREAS, the specialized services of Pape Machinery Inc. are needed for heavy equipment parts and vehicle repairs; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase the specific parts for the heavy equipment and provide repairs that staff are not able to perform; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Pape Machinery Inc. for heavy equipment parts and repairs, increasing the combined amount by \$375,000 for a total not-to-exceed amount of \$666,697.50.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: CITY AUTO SUPPLY FOR ONGOING VEHICLE PARTS

WHEREAS, the specialized services of City Auto Supply are needed for ongoing vehicle parts; and

WHEREAS, the Equipment Maintenance Division needs to purchase a variety of dealer original equipment manufacturer parts at a discount to support repairs; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with City Auto Supply for ongoing vehicle parts, increasing the combined amount by \$250,000 for a total not-to-exceed amount of \$432,447.50.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: FLEETWASH, INC. FOR VEHICLE WASHING

WHEREAS, the specialized services of Fleetwash, Inc. are needed for vehicle washing; and

WHEREAS, the Equipment Maintenance Division needs to keep vehicles clean to support the life span of the vehicle; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and funding will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Fleetwash, Inc. for vehicle washing, increasing the combined amount by \$200,000 for a total not-to-exceed amount of \$372,615.00.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: COAST COUNTIES TRUCK & EQUIPMENT CO.  
FOR HEAVY EQUIPMENT PARTS

WHEREAS, the specialized services of Coast Counties Truck & Equipment Co. are needed for heavy equipment parts and service repairs; and

WHEREAS, the Equipment Maintenance Division needs to be able to purchase specific parts to support repairs on heavy equipment, and provide repairs that staff are not able to perform; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Coast Counties Truck & Equipment Co. for heavy equipment parts, increasing the combined amount by \$225,000 for a total not-to-exceed amount of \$351,730.00.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: ARATA EQUIPMENT COMPANY FOR ZERO  
WASTE VEHICLE PARTS AND REPAIRS

WHEREAS, the specialized services of Arata Equipment Company are needed for Zero Waste vehicle parts and repairs; and

WHEREAS, the Equipment Maintenance Division needs be able to purchase specific parts and needs additional repairs support for specialized heavy equipment; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with of Arata Equipment Company for Zero Waste vehicle parts and repairs, increasing the combined amount by \$210,000 for a total not-to-exceed amount of \$320,180.00.



March 26, 2024

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

PURCHASE ORDERS EXTENSION: TEC OF CALIFORNIA, INC. FOR VEHICLE PARTS AND ACCESSORIES

WHEREAS, the specialized services of TEC of California, Inc. are needed for vehicle parts and accessories; and

WHEREAS, the Equipment Maintenance Division needs to purchase a variety of vehicle parts to support repairs; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with TEC of California, Inc. for vehicle parts and accessories, increasing the combined amount by \$200,000 for a total not-to-exceed amount of \$305,000.00.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: FUTURE FORD OF CONCORD FOR  
AUTO/TRUCK PARTS AND SERVICE

WHEREAS, the specialized services of Future Ford of Concord are needed for vehicle parts and service; and

WHEREAS, the Equipment Maintenance Division needs be able to purchase specific parts and needs additional repairs support; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Future Ford of Concord for auto/truck parts and service, increasing the combined amount by \$205,000 for a total not-to-exceed amount of \$300,000.00.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: ACME RIGGING & SUPPLY COMPANY, INC.  
FOR WHEEL LOADER AND HEAVY EQUIPMENT PARTS

WHEREAS, the specialized services of Acme Rigging & Supply Company, Inc. are needed for wheel loader and heavy equipment parts; and

WHEREAS, the Equipment Maintenance Division needs be able to purchase specific parts and needs additional repairs support; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Acme Rigging & Supply Company, Inc. for wheel loader and heavy equipment parts increasing the combined amount by \$200,000 for a total not-to-exceed amount of \$285,995.00.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: WESTERN TRUCK CENTER FOR  
SPECIALIZED REPAIRS AND PARTS

WHEREAS, the specialized services of Western Truck Center are needed; and

WHEREAS, the Equipment Maintenance Division needs additional mechanic capacity due to vacancies, specialized repairs, and heavy equipment parts; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Western Truck Center, increasing the combined amount by \$175,000 for a total not-to-exceed amount of \$260,000.00.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: SOUTHERN COUNTIES LUBRICANTS LLC FOR  
VEHICLE LUBRICANTS

WHEREAS, the specialized services of Southern Counties Lubricants LLC are needed for vehicle lubricants; and

WHEREAS, the Equipment Maintenance Division needs be able to purchase lubricants like oil, transmission fluids, coolants, and others to perform regular maintenance on its work vehicles; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Southern Counties Lubricants LLC for vehicle lubricants, increasing the combined amount by \$155,000 for a total not-to-exceed amount of 238,500.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: MCNEILUS TRUCK AND MANUFACTURING  
FOR ZERO WASTE TRUCK PARTS

WHEREAS, the specialized services of McNeilus Truck and Manufacturing are needed for Zero Waste truck parts; and

WHEREAS, the Equipment Maintenance Division needs be able to purchase specific parts and needs additional repairs support; and

WHEREAS, funding will be appropriated in the FY 2024 budget in Equipment Maintenance Fund 672 via amendment to the annual appropriations ordinance and will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with McNeilus Truck and Manufacturing Company for Zero Waste truck parts, increasing the combined amount by \$150,000 for a total not-to-exceed amount of \$200,000.00.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: CALIFORNIA COVERS FOR UPHOLSTERY SERVICES

WHEREAS, the Equipment Maintenance Division has the need to have specialized upholstery for specific vehicles; and

WHEREAS, the Division does not have internal resources to provide this service and needs additional time to go through the procurement process; and

WHEREAS, funding will be appropriated in the will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with California Covers for upholstery services, increasing the combined amount by \$60,000 for a total not-to-exceed amount of \$110,881.01.

March 26, 2024

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

PURCHASE ORDERS EXTENSION: BERRY BROTHERS FOR TOWING SERVICES

WHEREAS, the services provided by Berry Brothers Towing are needed by the Department of Public Works Equipment Maintenance Division for towing large fleet equipment and vehicles; and

WHEREAS, Berry Brothers has provided towing services under contract for the Division over the last eleven years and the contract has insufficient funds; and

WHEREAS, additional time is needed to do a Request for Proposals for fleet towing services; and

WHEREAS, funding will be appropriated in the will be appropriated in the FY 2025 budget through the annual budget process.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order extension through June 30, 2025 with Berry Brothers for towing services, increasing the combined amount by \$15,000 for a total not-to-exceed amount of \$50,000





Office of the City Manager

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mary Behm-Steinberg, Chairperson, Human Welfare and Community Action Commission  
 Subject: Filling Vacancies Among the Elected Representatives of the Poor

RECOMMENDATION

Adopt a Resolution confirming the appointment of Cheryl Atkinson (District 1) as an elected representative of the poor on the Human Welfare and Community Action Commission (HWCAC), having been voted at the HWCAC February 7, 2024 meeting, and that their term expires November 28, 2024.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Failure to maintain full membership on the HWCAC, which also acts as the Board of the Berkeley Community Action Agency (CAA), could result in a loss of Community Services Block Grant (CSBG) funding. Vacancies on the Berkeley CAA Board were noted as a “finding” during the CY 2023 desk review of this program conducted by the State Department of Community Services and Development.

BACKGROUND

The HWCAC is made up of fifteen members, nine of whom are appointed by Berkeley City Council members and six of whom are elected representatives of the poor. Berkeley Municipal Code Section 3.78.080 stipulates that elections of representatives of the poor are held biennially in the month of November in even numbered years. The next election will take place in November 2018. Subsection C of the code states, “...the remaining representatives of the poor...shall select a person to fill the vacancy until the next election...” and that the, “...name of the selected representatives shall be submitted to the City Council for confirmation.” BMC 3.78.030 (b) also states in part, that the remaining elected commission members shall recommend to the Council that the newly elected person fill out the term of the appointment.

There were no elected representatives of the poor at the meeting; therefore, commissioners voted (M/S/C: Behm-Steinberg, Lippman. Ayes – Behm-Steinberg,

Lippman; Noes – None; Abstain – None; Absent: None) to select Cheryl Atkinson to fill one of the current vacancies.

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

Failure to maintain full membership on the HWCAC is in violation of the CSBG contract and may jeopardize future funding.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mary-Claire Katz, Commission Secretary, HHCS, (510) 981-5414

Attachments:

1: Resolution

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

FILLING A VACANCY AMONG THE ELECTED REPRESENTATIVES OF THE POOR  
ON THE HWCAC

WHEREAS, Berkeley Municipal Code Section 3.78.080 stipulates that election of representatives of the poor are held biennially in the month of November in even numbered years, and the next election will take place in November 2024; and

WHEREAS, Subsection C states "...the remaining representatives of the poor...shall select a person to fill the vacancy until the next election..." and that the "...name of the selected representatives shall be submitted to the City Council for confirmation"; and

WHEREAS, at the February 7, 2024 HWCAC special meeting, the Commission elected Cheryl Atkinson (District 1) to fill one vacancy with her term ending November 28, 2024.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Cheryl Atkinson (District 1) is confirmed as an elected representative of the poor serving on the Human Welfare and Community Action Commission until November 28, 2024.





Community Health Commission

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Community Health Commission

Submitted by: Andy Katz, Chair, Community Health Commission

Subject: Response to Council Referral: Long Term Care Facility Oversight

RECOMMENDATION

Refer to the City Manager and the budget process the (1) establishment of an enhanced Ombudsperson program for oversight of Skilled Nursing Facilities and Residential Care Facilities for the Elderly, and (2) early implementation of the Centers for Medicare & Medicaid Services (CMS) proposal for minimum nursing staffing levels ahead of the three-year period proposed by CMS.

FISCAL IMPACTS OF RECOMMENDATION

Dependent on the available resources for an ombudsperson program, and the ability to support the program with user fees. Minimal resources to draft an ordinance implementing minimum staffing levels.

SUMMARY

The Community Health Commission recommends that the City of Berkeley enact a licensure program for skilled nursing facilities that could collect modest user fees funding an enhanced ombudsperson program, and consider supporting this program from the General Fund in the range of a total 1-2 FTE, also serving Residential Care Facilities for the Elderly. The enhanced ombudsperson program should, among other activities, include regular unannounced visits to facilities and provide services of witnessing, investigating, and documenting resident/patient complaints to encourage quality patient care by ensuring accountability.

The Commission defers to the City Manager for further investigation and comment regarding whether HHCS staff should develop in-house ombudsperson staffing, perhaps in conjunction with its public health nursing services, or if services can be provided with greater care and skill through a partnership with Empowered Aging (the current service provider for Alameda County), or another organization. An enhanced ombudsperson program should also serve Residential Care Facilities for the Elderly, depending on need.

The Commission recommends implementing the proposed Centers for Medicare & Medicaid requirement for minimum staffing for skilled nursing facilities for registered nurse hours of care 3 years ahead of the CMS regulation and recommends such early implementation within 90 days after an ordinance can be drafted and adopted.

### BACKGROUND

The City Council referred to the City Manager and the Community Health Commission on December 14, 2021, 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.

The referral stated that 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 referral suggested that the City could establish a licensure enforcement program, citing to the ability for another city government in Colorado reserving the right to suspend a business license “when any activity conducted by the licensee, his or her employee or agent violates any federal, state or local rule, regulation or law.” The Berkeley Municipal Code does not have such a revocation provision but clarifies that issuance of a business license does not permit practices that would violate other local, state, or federal laws. Even if the City were to adopt such a provision, implementation would require a robust investigation and hearing procedure to ensure due process and competence of the investigators and hearing examiners, similar to the City’s labor standards enforcement and hearings under the rent stabilization program.

More specific to the subject industry, the California Department of Public Health, Center for Health Care Quality (“CHCQ”) is responsible for regulatory oversight of licensed health care facilities and health care professionals to ensure the safety and quality of health care. CHCQ operates with over 1,500 employees to license and certify over 14,000 health care facilities and professionals ranging from nurse assistants, home health aides, hemodialysis technicians, and the licensing of nursing home administrators.

The CHC Health Facilities subcommittee met with California Advocates for Nursing Home Reform (CANHR), an organization that advocates for nursing home residents, and is critical of CDPH/CHCQ’s performance as a regulator. CANHR offers the public Nursing Home Fact Sheets to educate consumers about their rights, including how to file a complaint with CDPH. CANHR urges notifying the local ombudsperson office, the Division of Medi-Cal Fraud and Abuse, and local legislators of filed complaints. CANHR

also provides resources for referral to attorneys for seeking remedies in the civil justice system. CANHR provided anecdotes of CDPH/CHCQ failing to issue citations for violations or lowering the severity level of citations except for the most egregious. CANHR publishes and archives a “violation of the month,” for example, a report of the inappropriate administration of psychotropic drugs to 27 residents at Palos Verdes Health Care Center to control behavior, without a documented clinical rationale, but to make “it easier to provide care,” “follow instructions better,” and make them “easier to talk to.” Despite the multiple violations affecting multiple residents, the facility was given one Class B citation and fined only \$2,000. While there are other incidents of patient deaths incurring citations of \$100,000 at the Class AA level, advocates assess the enforcement level as inadequate to systemically prevent and discourage violations.

The Public Health Officer Unit commented informally that creating a parallel licensing and enforcement program would be challenging and require significant resources to dedicate expertise and enforcement time. The City would also be in the same complex position of evaluating how to manage potential implications of severe remedies such as license revocation. It is also unknown to the Commission whether this area and degree of regulation is preempted by State law. Costs for nursing home residence care ranges from \$4,000 to \$24,000 per month, and the average resident monthly cost is \$7,140. Collecting significant user fees to provide licensing for a robust enforcement program thoroughly adjudicating complaints could also impact resident affordability, particularly for the lowest-cost facilities that are important for fixed-income seniors.

At the January 25, 2024 meeting, the commission took the following action:

Ayes: Commissioners Smart, Spigner, Katz

Noes: None.

Abstain: None.

Absent from vote: Commissioner Webber

Excused: Commissioners Bechtolsheim, Lee. .

Motion Passed.

### Ombudsperson Program

However, a licensure program that could collect user fees funding an enhanced ombudsperson program could mitigate program costs, while providing services that may serve the population best – witnessing, investigating, and documenting resident/patient complaints to encourage quality patient care by ensuring accountability. It appears that a modest licensing fee providing ombudsperson user services could support approximately 1 FTE citywide in addition to funds identified in the budget process, and the CHC defers to the City Manager to identify specific funding scenarios. Alameda County Department of Social Services operates an ombudsman program that is reliant on contracting with Empowered Aging in Oakland, which also operates ombudsperson services for Contra Costa and Solano Counties. However, Empowered Aging is also

reliant on part-time volunteers without any substantial social work or health care training. While a layperson volunteer may be capable of training how to engage residents and help document concerns, the CHC believes that such training and experience is valuable and important to quality patient advocacy services, particularly for complex cases and patients at risk of negligence or abuse. The program operated by Empowered Aging states that they make regular unannounced visits to facilities, investigate resident complaints, improve facility conditions by providing staff trainings, provide information about advanced health care directives and help execute official documents, promote community awareness through educational workshops, and field informational calls from families in distress.

The Commission defers to the City Manager for further investigation and comment regarding whether HHCS staff should develop in-house ombudsperson staffing, perhaps in conjunction with improved funding for public health nursing services, or if services can be provided with greater care and skill through a partnership with Empowered Aging or another organization. The investigation should survey whether there is existing experience within the six facilities within Berkeley, how often unannounced visits occur or can occur with sufficient funding, the quality of such visits, including the role and benefits of nursing care or social work background and expertise, the effort made to thoroughly make contact with residents, and the ability to perform diligent documentation and advocacy in response to a particular complaint. For example, an indicator of quality outreach should include the number of direct patient contacts that empower a patient to follow up with an informal complaint or request for assistance, beyond the possibility of a visit or a general outreach meeting. Patients without independent access to phone, e-mail, or family advocates should be identified and offered more frequent outreach due to this potentially vulnerable situation. Services should include taking of contemporaneous statements from the affected patient and other witnesses, and photographic evidence, to assist in regulatory or civil enforcement actions. Such evidence can make a significant difference in the ability to retain legal counsel or to encourage quality patient care, because the legal standard to show negligence in nursing home abuse cases is a “clear and convincing evidence” standard and not the ordinary “preponderance” standard. Residents should also be provided resources regarding their rights and legal services such as CANHR materials. Finally, the enhanced ombudsperson program should also provide a record to support state regulator determination of staffing adequacy for resident needs where indicated, as described below.

Services with a partner organization should be based on City ability to provide the services, and require results-based reporting based on the above-described expectations. This evaluation may occur in the near-term or may complete after City Council initial review of this approach compared to other approaches.

#### Inclusion of Residential Care Facilities for the Elderly



Residential Care Facilities for the Elderly (RCFEs) are also known as “Assisted Living” and are licensed by the California Department of Social Services, Community Care Licensing. They are considered non-medical facilities that provide room, meals, housekeeping, supervision, distribution of medication, and personal care assistance with basic activities. There are five licensed facilities in Berkeley according to CDSS, and a few other facilities that may be operating under different license types. Administrators must complete a minimal 80-hour training for certification. They do not have minimum medical staffing requirements. California law requires that facility personnel shall at all times be sufficient in numbers, qualifications, and competency to provide the services necessary to meet resident needs, and to ensure their health, safety, comfort, and supervision.<sup>1</sup> There must be at least one administrator or designated substitute with qualifications adequate to be responsible for the management and administration of the facility on premises 24 hours per day, and the facility must also have at least one staff member trained in CPR and first aid on duty and on the premises at all times.<sup>2</sup> While the default is that Medi-Cal will not pay for RCFE services, Alameda County residents are among the communities exempted by a waiver program and Medi-Cal pays for care services at a rate between \$88 - \$250 per day depending on the tier of services. The CHC recommends inclusion of RCFEs in an enhanced ombudsperson program, depending on demonstrated need, but at this time recommends that services be based on General Fund support rather than a City license and user fee program until feasibility and impacts on resident costs can be assessed.

### Staffing Levels for Skilled Nursing Facilities

While many problems in patient care stem from direct abuse, other problems in the quality of care arise from the systemic understaffing of nursing homes. CMS issued a proposed rule last year that would require nursing homes to provide residents with a minimum of 0.55 hours of care from a registered nurse per resident per day, and 2.45 hours of care from a nurse aide per resident per day. In addition, nursing homes would also be required to ensure a registered nurse is on site 24 hours per day, 7 days per week, and to complete robust facility assessments on staffing needs, which may lead to higher levels of staffing above the proposed minimum standards. California already requires skilled nursing facilities to provide a minimum 3.2 hours of care per patient per day and requires a 24-hour registered nurse, with slightly higher requirements for larger facilities.<sup>3</sup> If this staffing level is not adequate to meet resident needs, the nursing home must employ as many licensed nursing and certified nursing assistants as are needed. In a clearly visible place, a facility must post daily, for each shift, the current number of licensed and unlicensed nursing staff directly responsible for resident care.<sup>4</sup> A 2001 study by the Centers for Medicare & Medicaid Services (CMS) recommended a total of

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<sup>1</sup> HSC 1569.269(a)(6), 1569.618(c); CCR 87411, 87468.2(a)(4)

<sup>2</sup> HSC 1569.618(b); HSC 1569.618(c)

<sup>3</sup> Health and Safety Code section 1276.5

<sup>4</sup> 42 USC §1396r(b)(8) , 42 CFR §483.30(e), California Health & Safety Code §1276.65(f)

4.1 hours of nursing care per resident per day.<sup>5</sup> This was further enumerated in subcategories of 0.75 hours provided by a registered nurse, 0.55 hours provided by a licensed vocational nurse, and 2.8-3.0 hours provided by a certified nursing assistant.

Four skilled nursing facilities in Berkeley reported staffing levels to CMS in 2021: Berkeley Pines Skilled Nursing Center, Chaparral House, Elmwood Care Center, and Kyakameena Care Center, with care staffing levels of 3.42, 4.18, 3.79, and 3.59 hours of nursing care per resident per day, respectively. Care by a registered nurse was 0.18, 0.38, 0.43, and 0.28 hours of care per resident per day, respectively, below the proposed CMS standard. Data was not available for Ashby Care Center. The CMS regulation would substantially increase patient access to a registered nurse, but would not affect overall staffing levels. However, the CMS regulation is phased in over three years after it is eventually adopted.

The Commission strongly supports increased staffing levels for skilled nursing facilities that would be adequate to meet the needs of the resident population, but without at this time understanding each facility's budget, is concerned that imposing a cost burden on facilities that are more dependent on inadequate CMS reimbursement rates could impact operations or risk a facility closing when regulated at the city level, as opposed to state level regulation. The Commission does not find this risk with implementing the registered nursing hours of care 3 years ahead of the CMS regulation, and recommends such early implementation within 90 days after an ordinance can be drafted and adopted. The ombudsperson enhancement program should also provide an opportunity to review the staffing reports of each facility in light of ombudsperson site visits and patient reports and should enable ombudsperson reports to CHCQ/CDPH of site-specific inadequate staffing beyond the minimum requirements. The City may review CHCQ/CDPH responsiveness to these reports over time and later consider implementing such a needs-based staffing requirement by ordinance.

#### 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

Protection of vulnerable elders. See background discussion.

#### ALTERNATIVE ACTIONS CONSIDERED

The Commission considered the regulatory approach suggested in the referral, and more robust minimum staffing levels. See report.

#### CITY MANAGER

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<sup>5</sup> <https://nap.nationalacademies.org/catalog/10027/crossing-the-quality-chasm-a-new-health-system-for-the>

The City Manager takes no position with the content and recommendations of the Commission's Report.

CONTACT PERSON

Kellie Knox, Commission Secretary, HHCS, 510-981-5301

Attachments:

- 1: City Council Referral
- 2: Fact Sheet: Medicare and Medicaid Programs: Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting



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.<sup>1</sup> 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 action<sup>2</sup>. 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.<sup>3</sup>

**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.”<sup>4</sup> The City

<sup>1</sup><https://canhrnews.com/guidelines-for-3-5-direct-care-service-hours-per-patient-day-dhppd-staffing-audits/>

<sup>2</sup> <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx>

<sup>3</sup> <https://calmatters.org/health/2021/10/nursing-homes-oversight-california-hearing/>

<sup>4</sup> [https://library.municode.com/co/superior/codes/municipal\\_code?nodeId=CH6BULIRE](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

|                            |                                                                                  |
|----------------------------|----------------------------------------------------------------------------------|
| Councilmember Ben Bartlett | <a href="mailto:bbartlett@cityofberkeley.info">bbartlett@cityofberkeley.info</a> |
| James Chang                | <a href="mailto:jchang@cityofberkeley.info">jchang@cityofberkeley.info</a>       |
| Hillary Phan               | 510-981-7130                                                                     |
| Jerry Wong                 | 510-981-7135                                                                     |



## Fact sheet

# Medicare and Medicaid Programs: Minimum Staffing Standards for Long- Term Care Facilities and Medicaid Institutional Payment Transparency Reporting (CMS 3442-P)

Sep 01, 2023 Nursing facilities, Quality, Safety

On September 1, 2023, the Centers for Medicare & Medicaid Services (CMS) issued the Minimum Staffing Standards for Long-Term Care (LTC) Facilities and Medicaid Institutional Payment Transparency Reporting proposed rule, which seeks to establish comprehensive nurse staffing requirements to hold nursing homes accountable for providing safe and high-quality care for the over 1.2 million residents receiving care in Medicare and Medicaid-certified LTC facilities each day.

Ensuring that beneficiaries receive safe, reliable, and quality nursing home care is a critical function of the Medicare and Medicaid programs and a top priority of CMS. The COVID-19 Public Health Emergency (PHE) tragically caused unprecedented illness and death among nursing home residents and workers. The PHE also exacerbated staffing challenges experienced in many facilities and further highlighted disparities in care and outcomes. Despite existing requirements that facilities provide sufficient levels of staffing in LTC facilities, chronic understaffing remains a significant concern.

The proposed rule consists of three core staffing proposals: 1) minimum nurse staffing standards of 0.55 hours per resident day (HPRD) for Registered Nurses (RNs) and 2.45 HPRD for Nurse Aides (NAs); 2) a requirement to have an RN onsite 24 hours a day, seven days a week; and 3) enhanced facility assessment requirements. The proposed rule also includes a staggered implementation approach and possible hardship exemptions for select facilities. This proposed rule results from a multi-faceted approach aimed at determining the minimum level and type of staffing needed to enable safe and quality care in LTC facilities. This effort included issuing a Request for Information (RFI) in the FY 2023 Skilled Nurse Facility Prospective Payment System Proposed Rule, hosting listening sessions and extensive engagement with various interested parties, conducting a 2022 Nursing Home Staffing Study, which builds on existing evidence and research studies using multiple data

sources, and reviewing recent years of Payroll-Based Journal System staffing data. CMS also considered how the proposed minimum staffing requirements would align or interact with ongoing CMS initiatives and programs that impact the LTC community. Information gathered from each of these facets was used by CMS in the development of the proposed requirements that would ensure all nursing home residents are provided safe, quality care.

This proposed rule would also promote public transparency related to the percentage of Medicaid payments for services in nursing facilities and intermediate care facilities for individuals with intellectual disabilities that are spent on compensation to direct care workers and support staff. The Medicaid institutional payment transparency provision is intended to align with a similar transparency provision focused on specific Medicaid home and community-based services in the *Ensuring Access to Medicaid Services* proposed rule (CMS-2442-P), published in the May 3, 2023, issue of the Federal Register.

Additionally, CMS announced a national campaign to support staffing in nursing homes. CMS will work with the Health Resources and Services Administration (HRSA) and other partners to make it easier for individuals to enter careers in nursing homes, investing over \$75 million in financial incentives such as scholarships and tuition reimbursement. This staffing campaign builds on other actions through the [HHS Health Workforce Initiative](#), including the [recent announcement that HRSA awarded more than \\$100 million to train more nurses and grow the nursing workforce](#).

### Establishing Minimum Nurse Staffing Standards

Staffing in LTC facilities has remained a persistent concern, especially among low-performing facilities that are at most risk for providing unsafe care. CMS believes that national minimum nurse staffing standards in LTC facilities, the adoption of a 24/7 RN requirement, and enhanced facility assessment requirement (as discussed later in this fact sheet) are necessary at this time to protect resident health and safety and ensure their needs are met.

Therefore, CMS proposes individual minimum nurse staffing standards for LTC facilities of 0.55 HPRD for RNs and 2.45 HPRD for NAs. However, these thresholds are minimums; while these proposed minimum standards, if finalized, would be applied across all LTC facilities, CMS also expects facilities to staff above these minimum baseline levels to address the specific needs of their unique resident population based on the facility assessment and resident acuity levels.

CMS is soliciting comments on alternative policy options that should be considered for establishing minimum nurse staffing standards. Based on the proposed policy presented in this rule, CMS is seeking feedback regarding whether alternative policy options would be



better suited to meet and maintain acceptable quality and safety within LTC facilities, with consideration for external factors affecting staffing.

Specifically, CMS is seeking comment on an alternative total nurse staffing standard of 3.48 HPRD, among other alternatives, within which there would still be 0.55 RN HPRD and 2.45 NA HPRD minimums. Facilities would have to meet the individual standards for RNs and NAs, i.e., 0.55 and 2.45 HPRD, respectively, as well as the 3.48 HPRD, for total nurse staffing to be considered in compliance. Lastly, we seek comments on the benefits and tradeoffs of different standards, evidence, or methodologies states use to establish minimum staffing standards and other key considerations.

### **Improving the RN On-Site Requirement**

LTC facilities provide care for residents with increasing medical complexity and acuity of health conditions who require substantial resources and care provided or supervised by an RN. While the minimum staffing standard proposal described above seeks to build on existing requirements by creating consistent and broadly applicable standards that significantly reduce the risk of unsafe and low-quality care across LTC facilities, the current minimum nurse standards do not reduce the risk of avoidable resident safety events when there is no RN on site, particularly during evenings, nights, weekends, and holidays. Therefore, CMS proposes that LTC facilities must have an RN onsite 24 hours a day, seven days a week, who is available to provide direct resident care. This proposal aims to address these challenges and ensure that residents are receiving safe, quality care by an RN, at all times when needed.

CMS is interested in comments regarding the feasibility of our proposed requirements for each LTC facility to have an RN on site 24 hours a day, seven days a week, including possible alternatives to this proposal.

### **Strengthening the Facility Assessment Requirement**

To help improve the safety of residents, a comprehensive approach to establishing staffing standards is necessary to ensure that facilities are making thoughtful, informed staffing plans and decisions focused on meeting resident needs. As part of that approach, LTC facilities are already required to conduct, document, and review annually and, as necessary, a facility-wide assessment to determine what resources are necessary to care for residents competently during both day-to-day operations and emergencies.

To ensure that facilities are utilizing the facility assessment as intended by making thoughtful, person-centered staffing plans and decisions focused on meeting resident needs, including staffing at levels above the proposed minimums as indicated by resident



acuity, CMS is proposing several updates to the facility assessment as a means of strengthening these requirements, including:

- Clarifying that facilities must use evidence-based methods when care planning for their residents, including consideration for those residents with behavioral health needs;
- Requiring that facilities use the facility assessment to assess the specific needs of each resident in the facility and to adjust as necessary based on any significant changes in the resident population;
- Requiring that facilities include the input of facility staff, including, but not limited to, nursing home leadership, management, direct care staff (i.e., nurse staff), representatives of direct care staff, and staff who provide other services; and,
- Requiring facilities to develop a staffing plan to maximize recruitment and retention of staff consistent with what was described in the [President's April Executive Order on Increasing Access to Higher Quality Care and Supporting Caregivers](#).

### Permitting Regulatory Flexibility

CMS aims to hold nursing homes accountable for ensuring that residents receive safe and high-quality care. While we fully expect that LTC facilities will be able to meet our proposed minimum staffing standards, we recognize that in some instances, external circumstances may temporarily prevent a facility from achieving compliance despite the facility's demonstrated best efforts. Moreover, some LTC facilities are still experiencing challenges in hiring and retaining certain nursing staff because of local workforce unavailability, which was exacerbated by the COVID-19 pandemic. Therefore, CMS proposes to allow for a hardship exemption in limited circumstances. LTC facilities may qualify for a temporary hardship exemption from the minimum nurse staffing HPRD standards only if they are able to meet specific criteria demonstrating the following:

- Workforce unavailability based on their location, as evidenced by either a medium (that is, 20 percent below the national average) or low (that is, 40 percent below national average) provider-to-population ratio for the nursing workforce, as calculated by CMS, by using the Bureau of Labor Statistics and Census Bureau data, or the facility is located at least 20 miles away from another LTC facility (as determined by CMS); and
- Good faith efforts to hire and retain staff through the development and implementation of a recruitment and retention plan; by documenting job postings, and job vacancies, including the number and duration of vacancies, job offers made, and competitive wage offerings, and
- A financial commitment to staffing by documenting the total annual amount spent on direct care staff.

Prior to being considered, the LTC facility must be surveyed to assess the health and safety of the residents. Suppose an LTC facility is found noncompliant with the minimum staffing requirements while not meeting the exclusionary criteria (as outlined below). In that case, CMS will determine if the facility is in a workforce unavailability area. If CMS determines the facility is in a workforce unavailability area, the LTC facility's documentation of a good faith effort to hire and retain staff and the LTC facility's documentation of a financial commitment must be submitted to the State or CMS. CMS will then determine if the facility will be granted an exemption from enforcement. CMS will indicate if a facility has obtained an exemption on the [Medicare.gov Care Compare website](https://www.medicare.gov/Care-Compare) to ensure current and prospective residents and their families are aware that a facility has levels of staffing lower than the standard.

Facilities would not be eligible for an exemption if:

- They have failed to submit their data to the Payroll-Based Journal System;
- They have been identified as a special focus facility (SFF) or
- They have been identified within the preceding 12 months as having widespread insufficient staffing with resultant resident actual harm or a pattern of insufficient staffing with resultant resident actual harm or have been cited at the immediate jeopardy level of severity with respect to insufficient staffing as determined by CMS.

Given the complex health needs of residents living in LTC facilities and to protect resident health and safety, CMS believes that it is important for exempted facilities to continue to maintain compliance with existing requirements to provide services by a sufficient number of staff on a 24-hour basis to all residents in accordance with resident care plans. These requirements are responsive to longstanding concerns related to low staffing levels in facilities on weekends and evenings; further, ongoing RN presence is needed to provide care and monitor resident health. If a facility seeks relief from the 24/7 RN requirement, it would have to follow the applicable existing waiver process, as required by statute and set out in the current regulations.

### Staggering Implementation

To give LTC facilities time to achieve compliance with the proposed minimum staffing requirements, CMS proposes that implementation of the final requirements will occur in three phases over a 3-year period for all non-rural facilities. Specifically, we propose for non-rural facilities:

- Phase 1 would require facilities located in urban areas to comply with the facility assessment requirements 60 days after the publication date of the final rule;

- Phase 2 would require facilities located in urban areas to comply with the requirement for an RN onsite 24 hours and seven days/week two years after the publication date of the final rule and
- Phase 3 would require facilities located in urban areas to comply with the minimum staffing requirements of 0.55 and 2.45 hours per resident day for RNs and NAs, respectively, three years after the publication date of the final rule.

CMS acknowledges the unique challenges that rural LTC facilities face, especially as it relates to staffing. We intend to promote safe, high-quality care for all residents regardless of location. We also recognize the need to strike an appropriate balance that considers the current challenges some LTC facilities are experiencing, particularly in rural areas.

Therefore, we are proposing a later implementation date for rural facilities. Rural facilities will have three years to meet the proposed 24/7 RN requirement and five years to meet the proposed minimum staffing requirements (HPRD) as outlined below. Specifically, we propose for rural facilities:

- Phase 1 would require facilities to comply with the facility assessment requirements 60 days after the publication date of the final rule;
- Phase 2 would require facilities to comply with the requirement for an RN onsite 24 hours and seven days/week three years after the publication date of the final rule and
- Phase 3 would require facilities to comply with the minimum staffing requirement of 0.55 and 2.45 HPRD for RNs and NAs, respectively, five years after the publication date of the final rule.

### Medicaid Institutional Payment Transparency

Millions of Americans, including children and adults of all ages, need long-term services and supports because of disabilities, chronic illness, and other factors. Today, most people who receive Medicaid-funded long-term services and supports are served in the community. However, about 1.5 million people receive Medicaid-funded long-term services and supports in nursing homes and intermediate care facilities for people with intellectual disabilities each year.

As the Biden-Harris Administration works to ensure that older adults, people with disabilities, and families have access to affordable, high-quality care, we recognize that workforce shortages and high rates of worker turnover in nursing facilities and intermediate care facilities for individuals with intellectual disabilities make it difficult for people with disabilities and older adults to have access to high-quality services.

The proposed rule includes provisions that are intended to promote public transparency related to the percentage of Medicaid payments for services in nursing facilities and intermediate care facilities for individuals with intellectual disabilities that are spent on compensation to direct care workers and support staff. The Medicaid institutional payment transparency reporting provisions, if adopted as proposed, would build on proposals in the *Ensuring Access to Medicaid Services proposed rule* in which CMS proposed to require, among other things, that states report to CMS and publicly on the percentage of Medicaid payments for certain home and community-based services that are spent on compensation for direct care workers.

Highlights from this proposed rule include:

- **New proposed institutional payment reporting requirements for states** that would require states to report to CMS on the percentage of Medicaid payments for services in nursing facilities and intermediate care facilities for individuals with intellectual disabilities that are spent on compensation for direct care workers and support staff. These requirements would apply regardless of whether a state's long-term services and supports delivery system is fee-for-service or managed care.
- **Promoting the public availability of Medicaid institutional payment information** by proposing that both states and CMS make the institutional payment information reported by states to CMS available on public-facing websites.

The goals of these proposed requirements are to promote accountability and inform efforts to address the link between sufficient payments being received by the institutional direct care and support staff workforce and access to and, ultimately, the quality of services received by Medicaid beneficiaries.

### Comment Submission

There will be a 60-day comment period for the notice of proposed rulemaking, and comments must be submitted to the Federal Register no later than November 6, 2023. For more information on how to submit comments or to review the entire rule, visit the Federal Register <https://www.federalregister.gov/public-inspection/current>.

# # #

A federal government website managed and paid for by the U.S. Centers for Medicare & Medicaid Services.

7500 Security Boulevard, Baltimore, MD 21244





**Sophie Hahn**  
**Councilmember, District 5**  
**City of Berkeley**  
**2180 Milvia Street**  
**Berkeley, CA 94704**

CONSENT CALENDAR

March 26, 2024

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Sophie Hahn (Author) and Councilmembers Wengraf, Taplin, and Humbert (Co-Sponsors)  
 Subject: Budget Referral: Funding to Protect Pedestrian Safety on Upper Marin Avenue

### RECOMMENDATION

Refer to the Budget Process up to \$200,000 for study and implementation of traffic control measures on upper Marin Avenue to address urgent safety needs for pedestrians.

### SUMMARY STATEMENT

On February 12, 2024, Berkeley resident Julia Elkin was struck by a car in the crosswalk of Oxford at Marin. Tragically, she died of her injuries two weeks later. In recent years there have been other fatalities and serious injuries on the steep upper blocks of Marin, from The Circle to Grizzly Peak Boulevard. In 2021, an almost identical crash occurred at the Marin crossing of Shattuck Avenue, resulting in serious injuries to an elderly resident, and a driver and passenger in a vehicle that lost control and crashed near Santa Barbara Road both died of their injuries. Councilmembers Hahn and Wengraf have consulted with Public Works staff to improve visibility and safety on numerous occasions, and in 2021 they [co-authored an item to have \\$150,000 allocated to support safety upgrades](#), which were implemented by Public Works staff. Despite these efforts and improvements, the crash that took Ms. Elkin's life is a stark reminder of the need to study and implement more significant safety improvements on upper Marin.

### BACKGROUND

Marin Avenue in north Berkeley climbs straight uphill with a 25% grade and is one of the steepest streets in the entire San Francisco Bay Area. Berkeley's Vision Zero Plan identified Marin as a "high injury street," where the most severe injuries and fatalities occurred based on data collected from 2008-2018. Over the years, this single stretch of road has resulted in numerous deaths, serious injuries, and "close calls." Subsequent to 2018, there have been a number of serious and fatal incidents, continuing this disturbing trend.

On May 11, 2021, just as Cragmont Elementary students were leaving school for the day, a fatal crash on Marin claimed the lives of Ruby Edwards and Anthony Rollins. Following this tragic accident, Councilmembers Wengraf and Hahn co-authored a budget referral for traffic control mitigations to protect pedestrian access to Cragmont Elementary. \$150,000 was allocated by the City Council, and after Public Works analyzed conditions, numerous actions were taken to increase pedestrian safety on Marin and other access streets for the school.

Improvements included repainting crosswalks, refreshing white stop bars and stop legends, refreshing white shoulder lines, refreshing red curbs, installing/refreshing double yellow lines, “stop ahead” signs and legends, “crosswalk ahead” signs, “school crosswalk ahead” signs, “Speed Limit 15 MPH School” signs, newer (larger) “traffic on your left does not stop” signs, and “School Slow Xing” signs. A visual display of Marin Striping Signage Improvements is attached hereto. Additionally, Public Works installed two speed feedback signs on Marin at the San Benito crossing going east/uphill and at the Cragmont Avenue crossing going west/downhill.

Also in 2021, [Councilmember Wengraf authored an item to amend the Berkeley Municipal Code to reduce the commercial vehicle weight limit](#) from four to three tons, thereby reducing the number of large trucks travelling up and down upper Marin.

Despite these and other efforts, accidents and fatalities have continued.

On December 10, 2021, 90-year-old Jacque Ensign, a co-founder of the Berkeley Path Wanderers Association, was struck while crossing Marin at Shattuck. Just several days before the accident, a cyclist suffered serious injuries in a separate event. In the wake of these incidents, Councilmembers Hahn and Wengraf visited the sites with the Deputy City Manager, Director of Public Works, and transportation staff to consider further improvements. A number of improvements were implemented at that time as well.

Despite these additional efforts, measures to address pedestrian safety on Marin have fallen short of preventing another devastating tragedy. It’s time to consider new and more impactful solutions, beyond those already implemented. Some solutions the City Manager, Berkeley Police Department, and/or Public Works Department are requested to consider include:

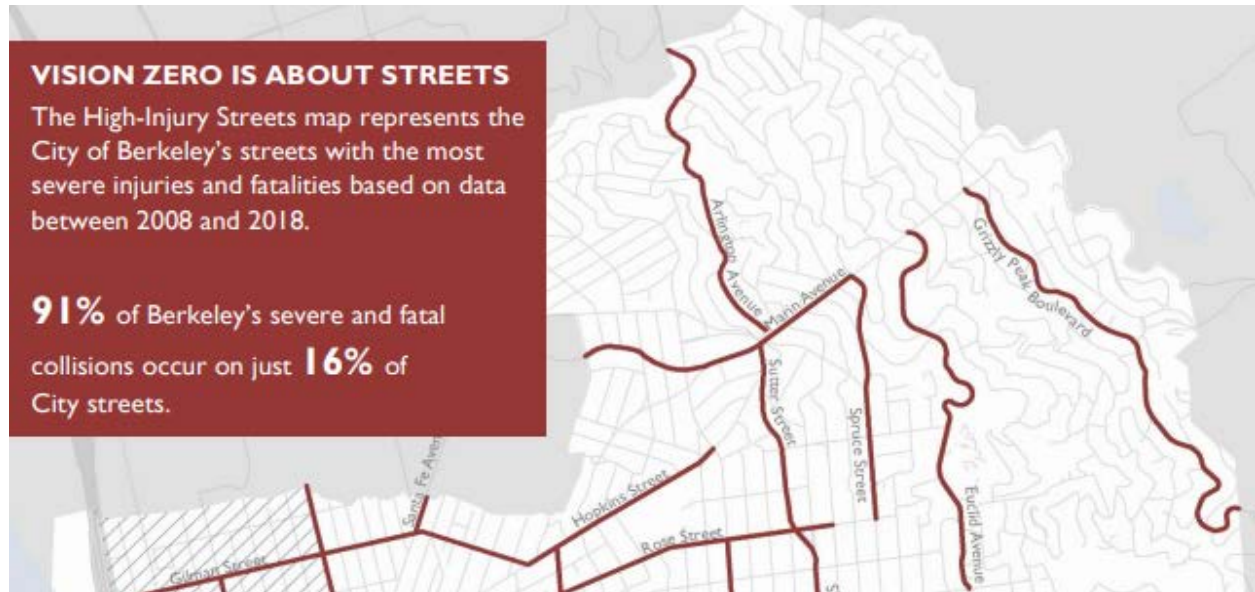
- Painting a center line - or creating a crosshatched center “median” to visually restrict lane width.
- Increasing enforcement of speed limit and stop sign violations.



- Removing or trimming hedges and shrubs within a certain number of feet of crosswalks to “daylight” corners from which pedestrians emerge to cross.
- Moving crosswalks inwards towards intersections or making other changes to placement and marking of crosswalks, to improve site lines for downhill traffic, without decreasing visibility/safety for vehicles traveling uphill.
- Moving or adding crosswalks at the uphill side of intersections.
- Installing additional speed feedback signs.
- Adding signage for slower recommended speeds, even if the official limit can’t be lowered.
- Scheduling refreshment of painted elements such as crosswalks, stop lines and other pavement markings at more frequent intervals to account for poor adhesion of paint markings to concrete (Marin is paved with concrete) and extreme wear and tear.
- Converting crosswalks to high visibility “zebra” crossings.
- Studying installation of hawk lights at intersections with poor visibility.
- Studying possible options to make some or all of Marin one-way uphill; most of the serious crashes have been caused by vehicles traveling downhill.
- Other possible measures to increase safety for pedestrians.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

In 2019, Berkeley adopted the Vision Zero Action Plan to eliminate traffic deaths and severe injuries on city streets by 2028. Marin Avenue from Spruce Street to the border with the City of Albany is included as a High-Injury Street. When Councilmember Hahn was first elected in 2016, she held a community meeting and met with transportation staff to discuss dangerous conditions on Marin. Subsequent to the crash that killed two passengers in 2021, the City Council allocated \$150,000 for safety improvements for Marin, and numerous upgrades were implemented (See Attachments). In the wake of the crash that injured Jacquie Ensign, Councilmembers Hahn and Wengraf and pedestrian safety advocates from the Berkeley Path Wanderers met with the Deputy City Manager, Public Works Director and transportation staff at the site, and a series of additional upgrades were implemented. The City Council also lowered the weight limit for commercial vehicles on Marin.



### ACTIONS/ALTERNATIVES CONSIDERED

None. The City must take more decisive action to address the dangers presented by the unique features of upper Marin Avenue, which was designed for a cable car, not for vehicles. Marin has extreme and unique grade and sight line challenges that must be addressed with more impactful solutions.

### CONSULTATION/OUTREACH OVERVIEW AND RESULTS

Councilmembers Hahn and Wengraf have previously conducted on-site visits and have been in contact with the City Manager, Police and Public Works Departments about potential safety improvements on upper Marin Avenue. Councilmember Hahn is meeting with City staff on Tuesday March 5 and is meeting with neighbors the following week, to review continuing challenges and discuss additional measures that can be implemented and/or studied to increase safety on upper Marin.

### RATIONALE FOR RECOMMENDATION

In an average year, 2 people die and 21 are severely injured in traffic collisions in Berkeley. 91% of Berkeley's severe and fatal collisions occurred on just 16% of City streets from 2008 to 2018, including on Marin Avenue. With additional tragic and fatal accidents since 2018, the City must work to address the unique challenges presented by upper Marin and consider broader solutions.

### ENVIRONMENTAL SUSTAINABILITY

Transportation makes up the biggest share of greenhouse gas emissions in California. As collisions disproportionately impact pedestrians and cyclists, improving traffic safety and encouraging walking is key to the City's goal of reducing GHG emissions.

FISCAL IMPACTS

Up to \$200,000 for improvements to safety on Marin Avenue.

CONTACT

Sophie Hahn, District 5, (510) 981-7150

**Attachments:**

1. Marin Cragmont Funding Item
2. Marin Commercial Weight Reduction Item
3. Marin Improvements implemented in response to Marin Cragmont Funding Item
4. Letter from Neighbors in wake of death of Julia Elkin



## URGENT ITEM AGENDA MATERIAL

Government Code Section 54954.2(b)  
Rules of Procedure Chapter III.C.5

**THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES**

**Meeting Date: May 25, 2021**

**Item Description: Budget Referral: Funding for Traffic Control Mitigations to Protect Pedestrian Access to Cragmont Elementary School**

This item is submitted pursuant to the provision checked below:

- Emergency Situation (54954.2(b)(1) - majority vote required)  
*Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.*
- Immediate Action Required (54954.2(b)(2) - two-thirds vote required)  
*There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.*

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).

### **Facts supporting the addition of the item to the agenda under Section 54954.2(b) and Chapter III.C.5 of the Rules of Procedure:**

On May 11, 2021 a horrific collision occurred on Marin Avenue, resulting in the tragic deaths of the driver and passenger of one vehicle and moderate injuries of the driver of another vehicle. Many parents and their young children at Cragmont Elementary were present and witnessed a vehicle literally flying past the school's Marin frontage and then crashing just below Spruce Street. They are fearful of the dangers of walking along Marin Ave and crossing at Spruce and Cragmont Streets. Had the vehicles, which flipped and hit at least one telephone pole, jumped a sidewalk or run through a crosswalk with children present, the outcome would have been even more tragic.

Immediate action is required to approve this budget referral to fund traffic control mitigations to protect pedestrian access to Cragmont Elementary School so it can be included in the upcoming budget process.



Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf (author) and Councilmember Hahn (author)  
Councilmember Taplin and Mayor Arreguín (co-sponsors)

Subject: Budget Referral: Funding for Traffic Control Mitigations to Protect Pedestrian Access to Cragmont Elementary School

RECOMMENDATION

Refer to the Fiscal Year 2022/2023 Budget Process an allocation of \$150,000 for traffic control measures on streets surrounding Cragmont Elementary School, with an emphasis on Marin Avenue, and Spruce Ave to provide as much protection as possible to children, parents, teachers, staff and neighbors accessing the school.

FINANCIAL IMPLICATIONS

\$150,000 in funding.

BACKGROUND

The Vision Zero Plan identifies Marin Ave and neighboring streets such as Spruce, Grizzly Peak, and Euclid as high injury streets. The location of Cragmont School with property spanning along various high injury streets on Marin Ave and Spruce Street creates a challenging situation where Cragmont students cross two high injury streets on their way to and from school.

Marin Avenue in north Berkeley climbs straight up a hill with a 25% grade and is the steepest street in the entire San Francisco Bay area.

On May 11, 2021, at approximately 1:40 p.m., a horrific collision occurred on this segment of Marin resulting in the tragic deaths of Ruby Edwards and Anthony Rollins. A second vehicle was impacted in the collision. The driver was taken to the hospital with moderate injuries. Luckily, her 3-year-old child, strapped into a car seat in the rear of her vehicle, was not hurt.

Compounding the horror of the incident is that kindergartners at Cragmont Elementary had just been dismissed for the day. Many parents and their young children were present and witnessed a vehicle literally flying past the school's Marin frontage and then crashing just below Spruce Street. They are fearful of the dangers of walking along Marin Ave and crossing at Spruce and Cragmont Streets. Had the vehicles, which flipped and hit at least one telephone pole, jumped a sidewalk or run through a crosswalk with children present, the outcome would have been even more tragic.

Marin Avenue is a major thoroughfare for entry and exit from I-80 to all of North Berkeley. Due to services such as Waze and Google Maps, it is also an increasingly frequent route for vehicles travelling from I-80 to communities east of the East Bay Hills, who take Marin to bypass the MacArthur Maze and Highway 24 back-ups. Despite signage prohibiting heavy trucks, vehicles that appear to be overweight or oversized are frequently seen travelling both up and down Marin.

The safety of Berkeley's elementary schoolchildren is of paramount concern, and the location of Cragmont Elementary is unique in the steepness and configuration of surrounding streets. While the impact location for the recent tragic accident on Marin was below Spruce Street, high speeds and erratic driving, the cause of which have yet to be determined, occurred above Spruce. Reviewing safety for the entire steep portion of Marin is therefore of particular concern.

When Cragmont Elementary was rebuilt in 1999, Spruce Street was the designated drop-off and pick-up access area but accessing the school from that vantage involves climbing a steep staircase and parents do not have visibility onto the schoolyard to view their children meeting up with friends and adult supervisors. The work to identify measures to reduce risks should include outreach to BUSD and Cragmont Elementary Administration, teachers, staff and families, as enhancing safety will require partnership.

This item refers an amount adequate to cover some measures which may be taken to reduce speeds, improve crossings, and otherwise manage potential challenges on Marin Avenue and consider potential improvements to Regal Road and Spruce Street entrances to the School, as well as measures that might be taken by BUSD/Cragmont Elementary in collaboration with the City to meet our shared commitment to the safety and well-being of students, teachers, staff and neighbors.

#### ENVIRONMENTAL SUSTAINABILITY

Pedestrian safety is paramount to encouraging adults and children to walk to their destinations, which reduces GHG emissions and supports health.

#### CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160



Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
September 28, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor),  
Councilmember Taplin (Co-Sponsor), Councilmember Droste (Co-Sponsor)

Subject: Amending BMC Section 14.56.040 to reduce the commercial weight limit on  
Marin Ave

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Section 14.56.040 to reduce the commercial vehicle weight limit from four tons gross weight to three tons gross weight on Marin Avenue between Grizzly Peak Boulevard and The Marin Fountain Circle.

FINANCIAL IMPLICATIONS

Staff time and sign replacement. Expense covered by approved FY 2022 funding allocation for "Traffic Control Mitigations to Protect Pedestrian Access to Cragmont Elementary School".

CURRENT SITUATION AND ITS EFFECTS

Reducing the commercial vehicle weight limit on Marin Ave between Grizzly Peak Boulevard and The Marin Fountain Circle will make Marin Avenue safer to walk on, drive on and live on. Marin Avenue is the steepest street in the City of Berkeley; one of the steepest in the entire Bay Area. Accidents on Marin Ave involving failed brakes and other mechanical failures have resulted in deaths, severe injuries and property damage. The heavier a vehicle the greater potential for catastrophic results from an accident.

On May 11, 2021, at approximately 1:40 PM, a driver of a sedan and his passenger died in a collision with a telephone pole. A second vehicle was impacted in the collision with injuries to the driver. A parked car was also hit. The reason for the accident is still under investigation but speculated to be some sort of mechanical failure. Cragmont Elementary students and parents were traumatized by witnessing the out of control car and hearing the resulting crash. Had the car been a high tonnage commercial vehicle the results would likely have been even more disastrous.

Councilmember Wengraf and Transportation staff participated in a Community Town Hall on Marin Ave Safety, hosted by the Cragmont School PTA on May 26, 2021. This item is a result of discussion and consideration of steps to improve safety on Marin Ave. The recent tragic deaths along with years of concern over traffic safety on Marin Ave bring this recommendation to Council.



BACKGROUND

The commercial vehicle weight limit for the upper section of Marin Ave, between The Marin Fountain Circle and Grizzly Peak Blvd. was set at four tons in 1957 and has remained unchanged. Weight limits were not set again in Berkeley until 1992 (BMC 14.56.050) when five-ton vehicle weight limits were set for sections of collector streets Gilman, Hopkins, The Alameda and MLK Jr. Way. In 2000 the passage of Ordinance No. 6535 – N.S. created a designated truck route system for commercial vehicles exceeding seven tons (BMC 14.56.060). It wasn't until 2004 that the City Council once again addressed commercial vehicle traffic on residential streets with the passage of Ordinance No. 6799 – N.S., which added BMC 14.56.070, and limited commercial vehicle weight limits to three tons on sections of 46 different streets. Marin Ave remains the only residential street in Berkeley with a four-ton weight limit.

Currently, Marin Ave remains the only residential street in Berkeley with a four-ton weight limit.

Marin Avenue is a major thoroughfare for entry and exit from I-80 to all of North Berkeley. It is also a residential street where residents walk up, down and across for exercise and pleasure. As mentioned, Cragmont Elementary School is located on Marin where students, parents and staff walk and cross the street to get to and from school, daily.

Reducing the commercial vehicle weight limit on Marin Avenue between Grizzly Peak Boulevard and The Marin Fountain Circle is consistent with the City's Vision Zero strategy to eliminate all traffic fatalities and severe injuries while increasing safe, healthy and equitable mobility for all. Vision Zero has designated lower Marin Ave, below Spruce street, as one of the City's "High Injury Streets" (16% of the City's streets) where 91% of severe and fatal collisions occurred between 2008 and 2018. While the latest fatal collision on Marin Avenue occurred on lower Marin, the car's speed began to get out of control in the steep, weight limited section of Marin, above Cragmont Elementary. Reducing the commercial vehicle weight limit on Marin Ave by one ton will make Marin Avenue safer for all.

ENVIRONMENTAL SUSTAINABILITY

Safer streets encourage lower emission forms of transportation such as walking, biking and use of public transportation.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

## Attachments:

1: Ordinance

2: [Commercial Vehicle Weight Limit Map](#)



ORDINANCE NO. -N.S.

**AMENDING BERKELEY MUNICIPAL CODE SECTION 14.56.040, PROHIBITING THE OPERATION OF COMMERCIAL VEHICLES ON MARIN AVENUE BETWEEN GRIZZLY PEAK BOULEVARD AND THE CIRCLE EXCEEDING FOUR TONS GROSS VEHICLE WEIGHT**

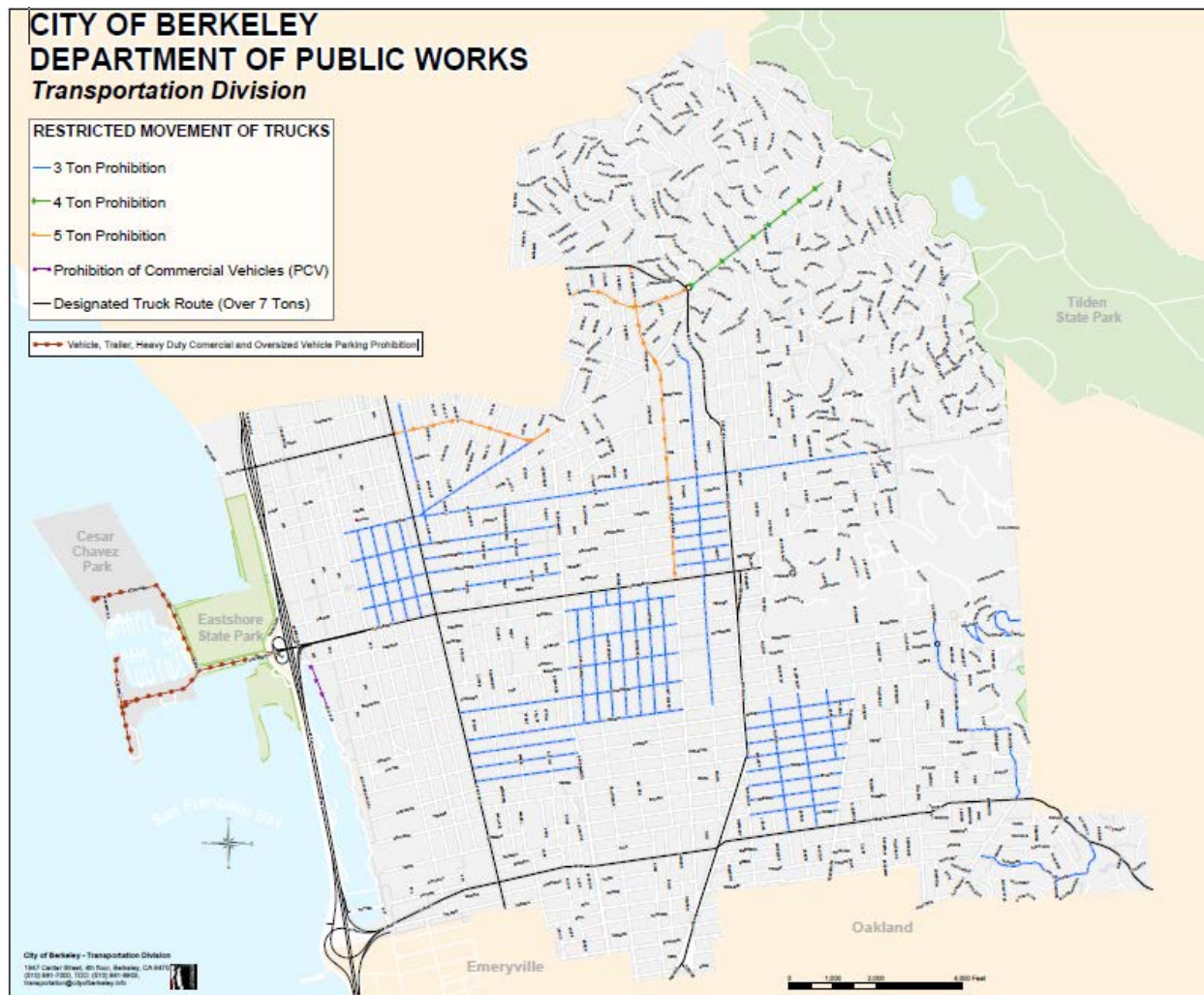
BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That subsection A of Section 14.56.040 of the Berkeley Municipal Code is amended to read as follows:

A. It is unlawful for any person to operate any commercial vehicle over three tons gross weight on Marin Avenue between Grizzly Peak Boulevard and The Marin Fountain Circle. Provided, however, that this section shall not apply to any commercial vehicle using said street when necessary for the purpose of making pickups or deliveries of goods, wares and merchandise from or to any building or structure located on said portion of Marin Avenue or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon such portion of Marin Avenue for which a building permit has previously been obtained therefore, providing the operator of said commercial vehicle enters and leaves said portion of Marin Avenue by the cross street either above or below the point of pickup or delivery. Provided, further, that this section shall not apply to any vehicle owned by a public utility while necessarily in use in the construction, installation or repair of any public utility. (Ord. 6799-NS § 1 (part), 2004; Ord. 3600-NS § 1, 1957)

B. The prohibitions established herein shall not be effective until appropriate signs are erected indicating the streets affected by this section. (Ord. 6526-NS § 1, 2000; Ord. 6508-NS § 1, 1999; Ord. 6426-NS § 1, 1998; Ord. 6351-NS § 1, 1996; Ord. 6265-NS § 1, 1994; Ord. 6102-NS § 1, 1992)

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of 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.



<https://www.berkeleyside.org/2021/05/13/fatal-crash-revives-traffic-safety-concerns-for-berkeley-hills-neighbors>



WO: 1

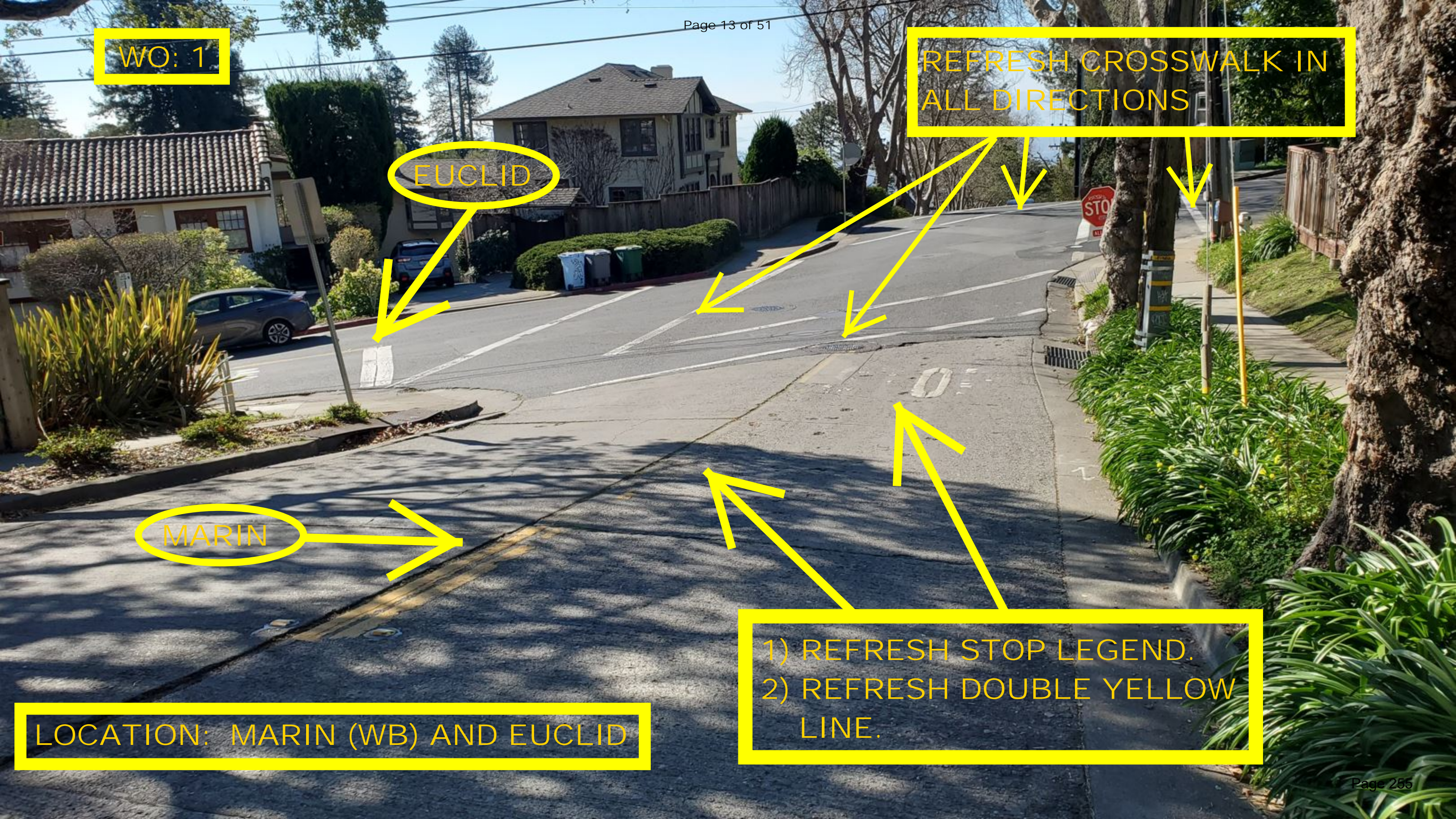
REFRESH CROSSWALK IN ALL DIRECTIONS

EUCLID

MARIN

1) REFRESH STOP LEGEND.  
2) REFRESH DOUBLE YELLOW LINE.

LOCATION: MARIN (WB) AND EUCLID





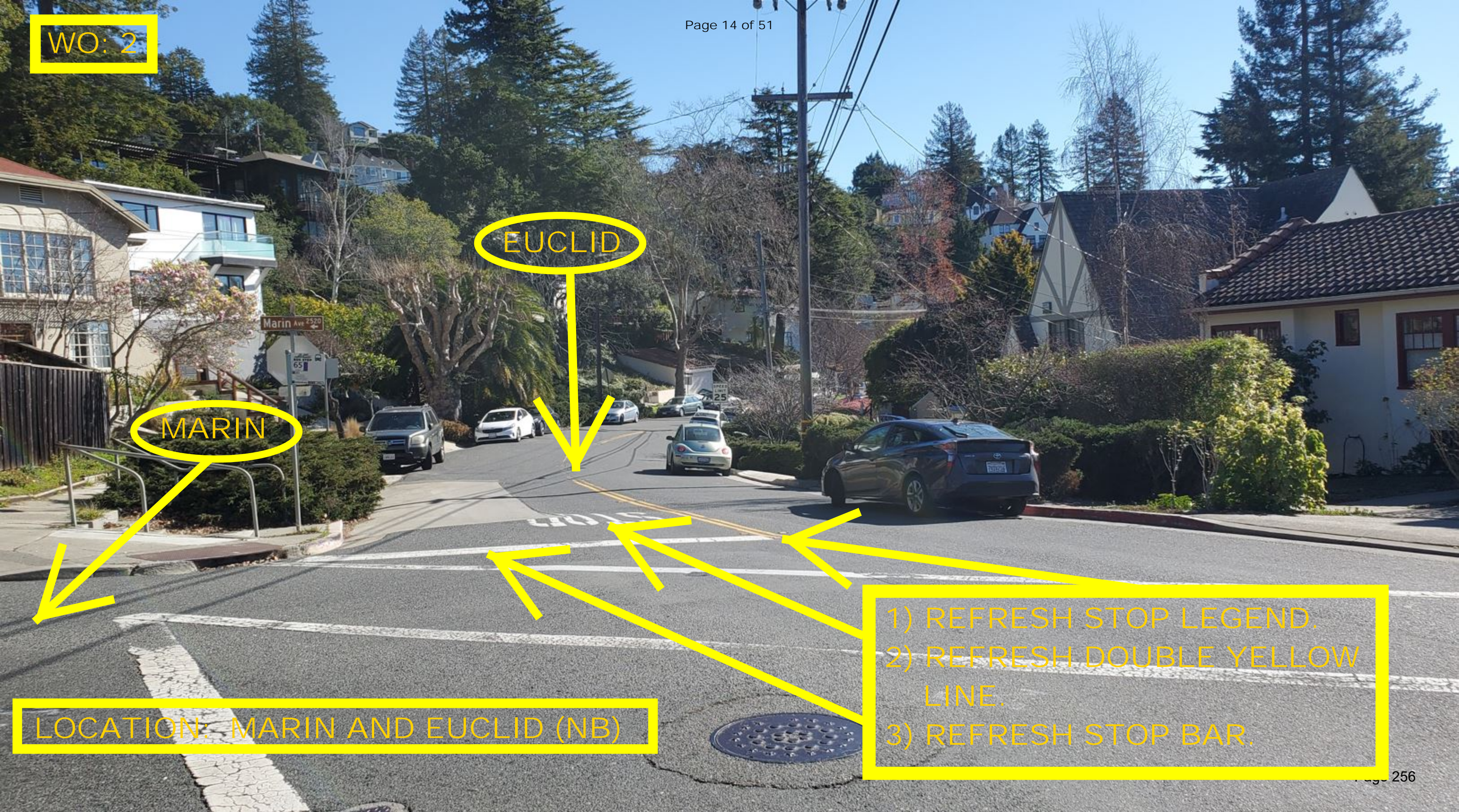
WO: 2

EUCLID

MARIN

- 1) REFRESH STOP LEGEND.
- 2) REFRESH DOUBLE YELLOW LINE.
- 3) REFRESH STOP BAR.

LOCATION: MARIN AND EUCLID (NB)





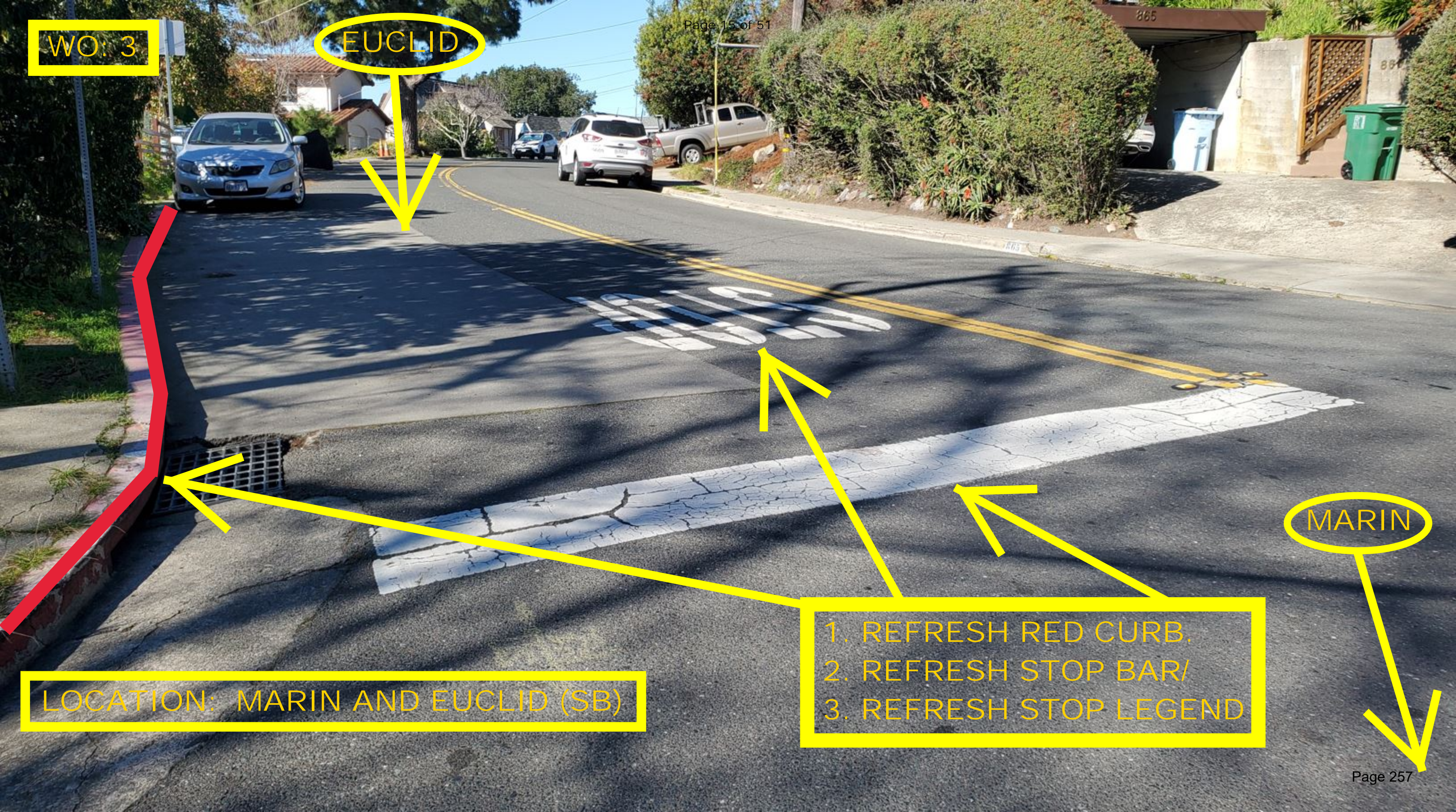
WO: 3

EUCLID

MARIN

LOCATION: MARIN AND EUCLID (SB)

- 1. REFRESH RED CURB.
- 2. REFRESH STOP BAR/
- 3. REFRESH STOP LEGEND





WO: 4

EUCLID

MARIN



LOCATION: MARIN (EB) AND EUCLID

- 1) REFRESH STOP LEGEND.
- 2) REFRESH DOUBLE YELLOW LINE.



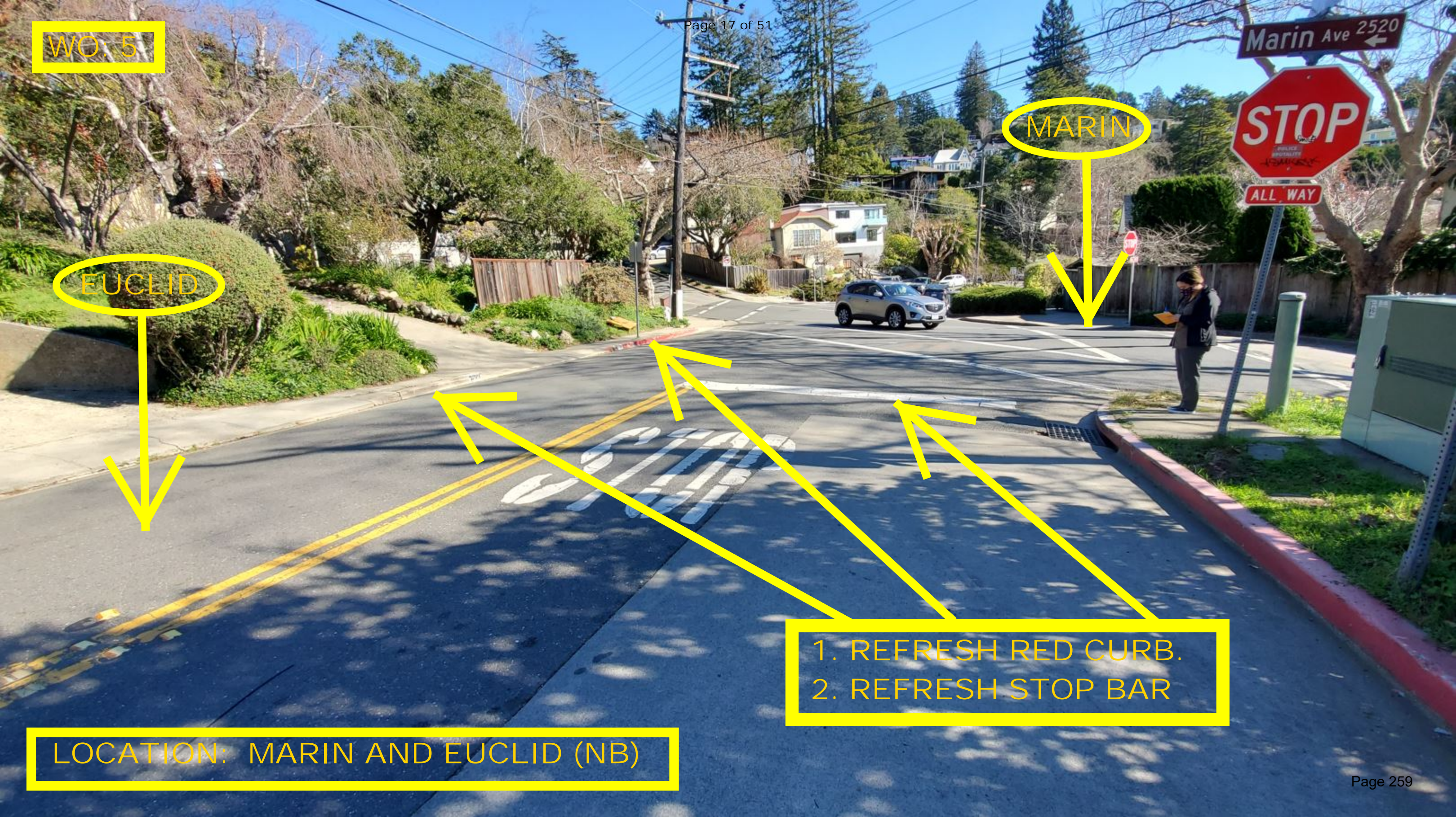
WO: 5

EUCLID

MARIN

- 1. REFRESH RED CURB.
- 2. REFRESH STOP BAR

LOCATION: MARIN AND EUCLID (NB)





WO: 6

MARIN

EUCLID



Euclid Ave 900  
Marin Ave 2520

- 1) REFRESH STOP LEGEND.
- 2) REFRESH RED CURB.
- 3) REFRESH STOP BAR

LOCATION: MARIN AND EUCLID (NB)



WO: 7

MARIN

EUCLID

1) REFRESH RED CURB.

LOCATION: MARIN AND EUCLID (SB)





WO: 8

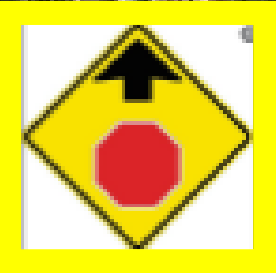
EXISTING "20 SPEED LIMIT"

SPEED  
LIMIT  
20



AHEAD

BONNIE



MARIN



- 1) INSTALL STOP AHEAD SIGN AND STOP AHEAD LEGEND
- 2) INSTALL CROSSWALK AHEAD. SIGN

LOCATION: MARIN (WB) AND BONNIE





EUCLID

WO: 9

EXISTING "END SCHOOL SPEED LIMIT"



REGAL

MARIN



1) INSTALL STOP AHEAD LEGEND.  
2) INSTALL CROSSWALK AHEAD.  
SIGN

LOCATION: MARIN (EB) AND REGAL





EXISTING "STOP AHEAD SIGN"

WO: 10



MARIN

SPRUCE

LOCATION: MARIN (WB) AND SPRUCE

- 1) REFRESH STOP AHEAD LEGEND.
- 2) INSTALL SCHOOL CROSSWALK AHEAD SIGN



WO: 11

EXISTING "NO PARKING SIGN"

MARIN

LOCATION: MARIN (WB) AND SPRUCE



SPRUCE

1) INSTALL SPEED LIMIT 15 SCHOOL SIGN (BELOW NO PARKING SIGN)



MARIN

SPRUCE

WO: 12

- 1) REFRESH CROSSWALK IN ALL 4 DIRECTIONS.
- 2) REFRESH ALL RED CURBS ALONG THE INTERSECTION

LOCATION: MARIN AND SPRUCE



WO: 13

1) REFRESH STOP LEGEND

SPRUCE

MARIN

LOCATION: MARIN (EB) AND SPRUCE





MARIN

WO: 14

- 1) REFRESH RED CURB.
- 2) REFRESH WHITE SHOULDER LINE.
- 3) REFRESH DOUBLE YELLOW LINE.

LOCATION: MARIN AND SPRUCE (SB)

SPRUCE



WO: 15

MARIN

1) REFRESH RED CURB.  
2) REFRESH DOUBLE YELLOW LINE.

SPRUCE

LOCATION: MARIN AND SPRUCE (NB)





WO: 16

MARIN

SPRUCE

LOCATION: MARIN AND SPRUCE (SB)

- 1) REFRESH RED CURBS.
- 2) REFRESH DOUBLE YELLOW LINE.
- 3) REFRESH WHITE SHOULDER LINE.
- 4) REFRESH STOP LEGEND.



WO: 17

MARIN

SPRUCE

- 1) REFRESH RED CURB.
- 2) REFRESH WHITE SHOULDER LINE.

LOCATION: MARIN AND SPRUCE (NB)



EXISTING "OVER 4 TONS" SIGN

WO: 18

MARIN



- 1) REFRESH STOP AHEAD LEGEND.
- 2) INSTALL SCHOOL CROSSWALK AHEAD SIGN.

LOCATION: MARIN (EB) AND SANTA BARBARA

SANTA BARBARA



SANTA BARBARA

MARIN

Marin

AHEAD  
STOP

1) REFRESH BOTH CROSSWALKS

LOCATION: MARIN AND SANTA BARBARA



WO: 20

MARIN

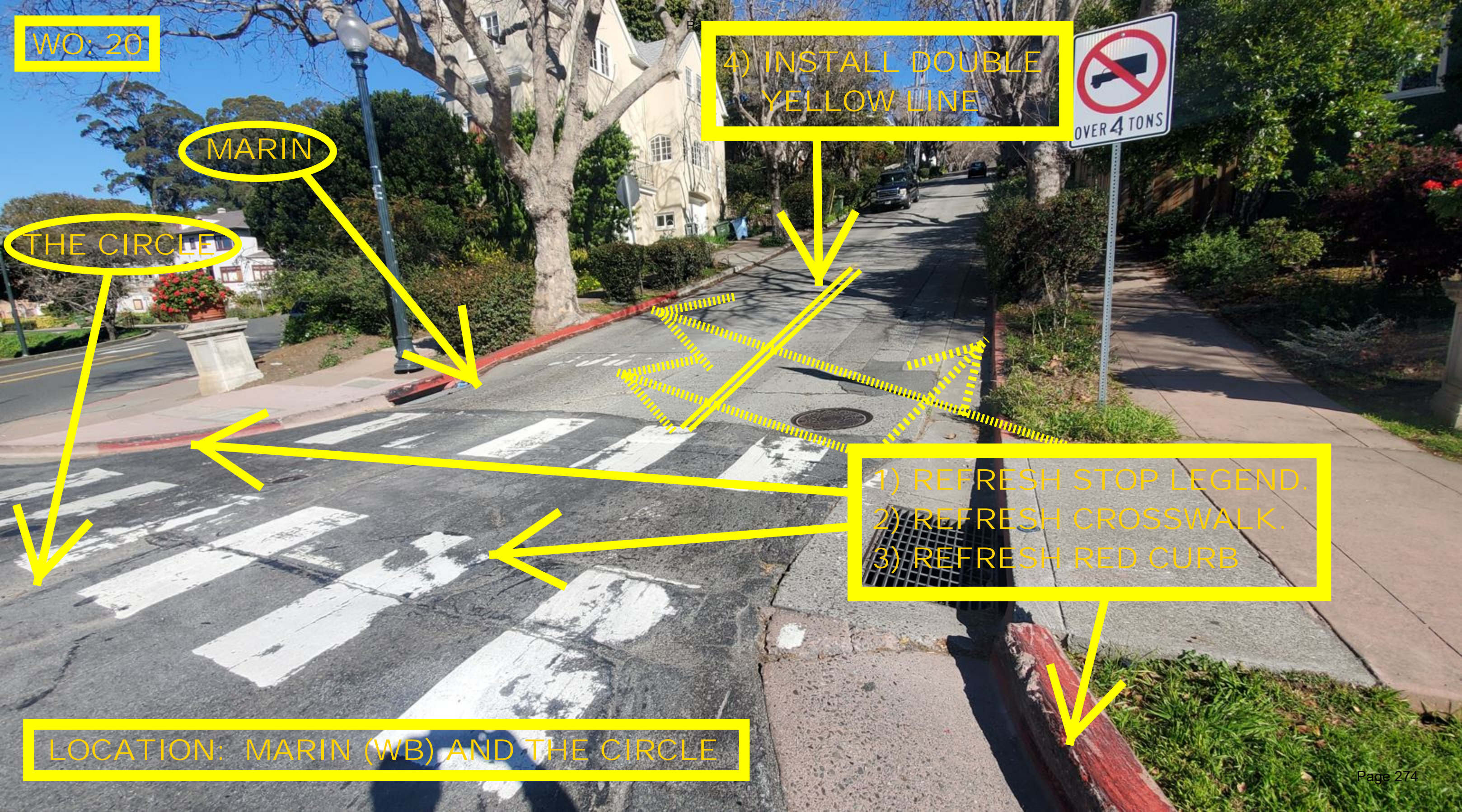
THE CIRCLE

4) INSTALL DOUBLE YELLOW LINE



1) REFRESH STOP LEGEND.  
2) REFRESH CROSSWALK.  
3) REFRESH RED CURB

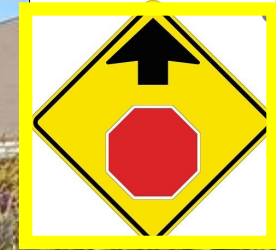
LOCATION: MARIN (WB) AND THE CIRCLE





WO: 21

THE CIRCLE



AHEAD

MARIN



- 1) INSTALL STOP AHEAD SIGN ABOVE CROSSWALK SIGN
- 2) INSTALL STOP AHEAD LEGEND (AS SHOWN).

LOCATION: MARIN (WB) BETWEEN THE CIRCLE AND SHATTUCK



WO: 22

SHATTUCK

1) REFRESH ALL RED CURBS ALONG THE INTERSECTION.

MARIN

1) REFRESH BOTH CROSSWALKS.  
2) REFRESH STOP LEGEND AND STOP BAR.

LOCATION: MARIN AND SHATTUCK



WO: 23

MARIN AVE

TRAFFIC ON YOUR LEFT DOES NOT STOP

- 1) REFRESH STOP BAR.
- 2) REFRESH STOP LEGEND.
- 3) REFRESH RED CURBS

LOCATION: MARIN AND SHATTUCK (NB)

SHATTUCK





- 1) REFRESH STOP BAR.
- 2) REFRESH STOP LEGEND.
- 3) REFRESH RED CURBS

LOCATION: MARIN (WB) AND OXFORD



WO: 25

OXFORD

MARIN AVE

LOCATION: MARIN AND OXFORD

- 1) REFRESH DOUBLE YELLOW LINE
- 2) REFRESH STOP LEGEND.
- 3) REFRESH BOTH CROSSWALKS.
- 4) REFRESH RED CURBS ALONG THE INTERSECTION.



MARIN AVE

OXFORD ST

TRAFFIC ON YOUR LEFT DOES NOT STOP

REFRESH RED CURBS

INSTALL "TRAFFIC ON YOUR LEFT DOES NOT STOP" CURRENT SIGN IS TOO SMALL.

- 1) REFRESH DOUBLE YELLOW LINE
- 2) REFRESH STOP LEGEND.
- 3) REFRESH RED CURBS ALONG THE INTERSECTION.
- 4) REFRESH STOP BAR.

LOCATION: MARIN AND OXFORD (SB)

WO: 26



- 1) INSTALL DOUBLE YELLOW LINE
- 2) REFRESH STOP LEGEND.
- 3) REFRESH RED CURBS ALONG THE INTERSECTION.
- 4) REFRESH STOP BAR.
- 5) REFRESH CROSSWALK.

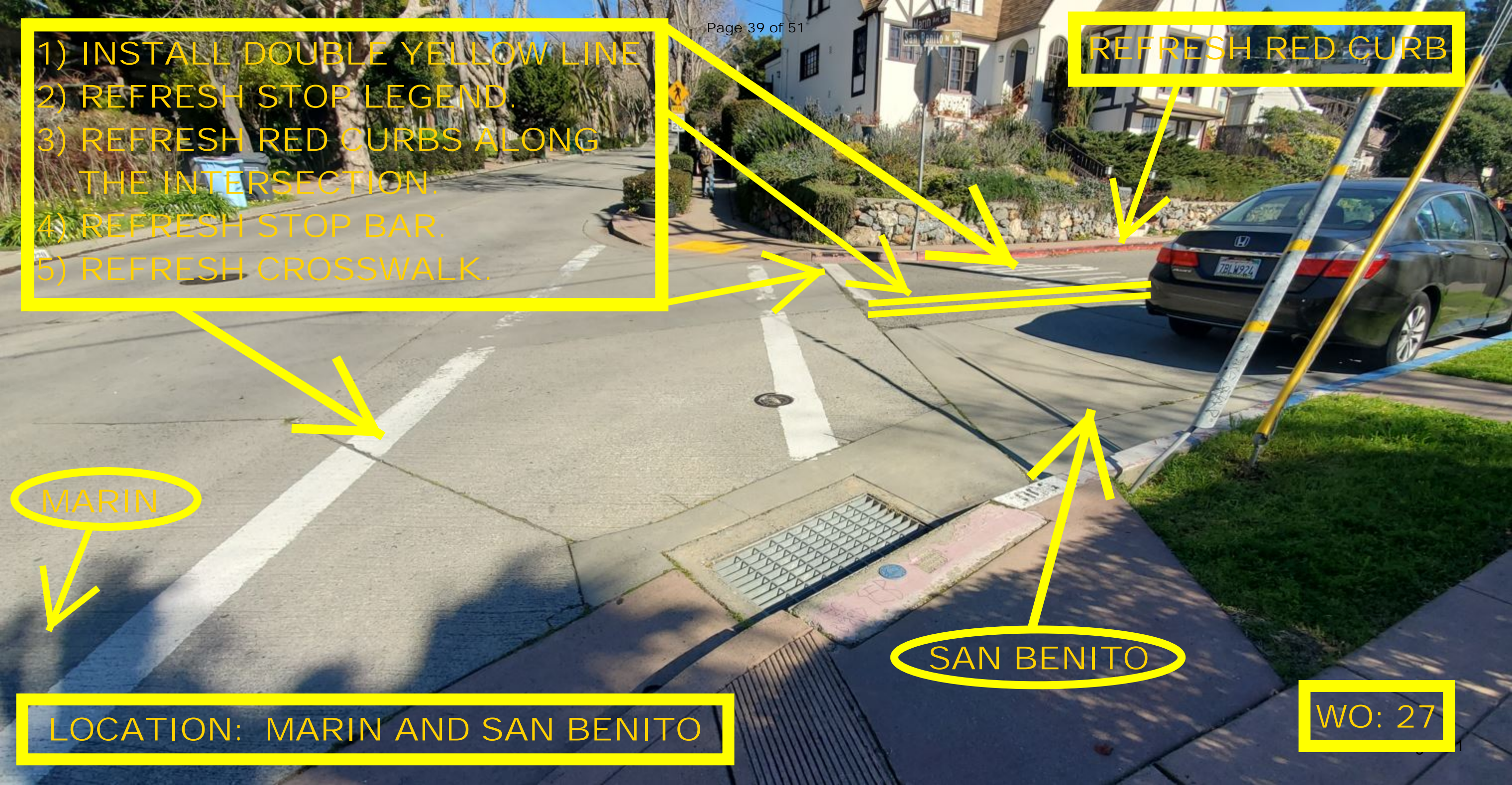
REFRESH RED CURB

MARIN

SAN BENITO

LOCATION: MARIN AND SAN BENITO

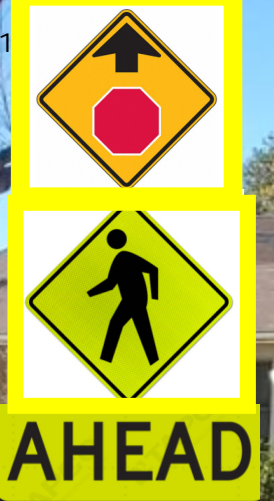
WO: 27





OXFORD

MARIN



- 1) INSTALL STOP AHEAD SIGN.
- 2) INSTALL STOP AHEAD LEGEND
- 3) INSTALL CROSSWALK AHEAD SIGN.



LOCATION: MARIN BETWEEN SAN BENITO AND OXFORD

WO 28  
Page 28





MARIN

SAN BENITO

1) INSTALL "TRAFFIC ON YOUR LEFT DOES NOT STOP" UNDER STOP SIGN.

TRAFFIC ON YOUR LEFT DOES NOT STOP

LOCATION: MARIN AND SAN BENITO (NB)

WO: 29  
Page 283



WO: 30

MARIN

REFRESH "SLOW SCHOOL XING"



INSTALL SCHOOL CROSSWALK AHEAD



LOCATION: MARIN BETWEEN SPRUCE AND CRAGMONT



WO: 31



INSTALL CROSSWALK SIGN AND ARROW

- 1) REFRESH BOTH CROSSWALKS.
- 2) REFRESH ALL RED CURBES ALONG THE INTERSECTION.
- 3) REFRESH STOP LEGEND AND STOP BAR.

LOCATION: MARIN AND HILSSDALE

REFRESH RED CURBES



MARIN

REFRESH STOP LEGEND

GRIZZLY PEAK

WO: 32

- 1) REFRESH BOTH CROSSWALKS.
- 2) REFRESH ALL RED CURBS ALONG THE INTERSECTION.
- 3) REFRESH STOP LEGEND.
- 4) REFRESH DOUBLE YELLOW LINE.

LOCATION: MARIN AND GRIZZLY PEAK



WO: 33

TRAFFIC ON YOUR LEFT DOES NOT STOP

TRAFFIC ON YOUR LEFT DOES NOT STOP

Marin Ave 2580

STOP

MARIN

1) INSTALL " TRAFFIC ON YOUR LEFT DOES NOT STOP "

LOCATION: MARIN AND HILSSDALE

HILLSDALE



WO: 34

SCHOOL CROSSWALK



REGAL

MARIN

1) INSTALL " TRAFFIC ON YOUR LEFT DOES NOT STOP "

LOCATION: MARIN AND REGAL

- 1) REFRESH CROSSWALK.
- 2) REFRESH ALL RED CURBS ALONG THE INTERSECTION.
- 3) REFRESH BOTH STOP LEGENDS.
- 4) INSTALL DOUBLE YELLOW LINE (NB/SB).
- 5) REFRESH STOP BARS (NB/SB)



WO: 35



MARIN

REFRESH "SLOW SCHOOL XING"

LOCATION: MARIN AND REGAL

REGAL





WO: 36

MARIN

Cragmont

- 1) REFRESH ALL CROSSWALKS.
- 2) REFRESH ALL RED CURBS ALONG THE INTERSECTION.
- 3) REFRESH STOP LEGEND.
- 4) REFRESH DOUBLE YELLOW LINE (SB).

LOCATION: MARIN AND CRAGMONT





February 28, 2024

Berkeley City Council  
2180 Milvia Street,  
Berkeley, CA 94704

Dear Berkeley City Council and City Manager Dee Williams-Ridley,

We are a group of neighbors who live near the corner of Marin and Oxford and are writing to you in hopes that you can address the urgent need for a traffic calming on Marin Ave and Oxford and intersection improvements on the corner of Marin and Oxford. As you may know, Marin Ave is a high injury street as identified in the City's Vision Zero Action Plan. The city must calm traffic on the side streets leading up to Marin and also on Marin Avenue itself. Although we know that traffic calming on steep streets can be a challenge, we have seen cities like San Francisco add traffic calming measures on steep streets such as Clipper Street.

On February 12, 2024, many of us heard the terrible crash when a young woman named Julia Elkin was hit by a driver as she was in the crosswalk on the corner of Marin Ave and Oxford. The driver was traveling westbound, down hill on Marin Ave. We are devastated to hear that Julia passed away from her injuries.

This young woman could have been any of us. She was exercising in our neighborhood around 1:30pm. Many of us heard her scream before she was hit and rushed to the scene to support her and call for help. Julia's death was a tragedy that was preventable. We are asking that you do everything in your power to ensure that we do not lose another neighbor on our streets to traffic violence.

We have seen many drivers in our neighborhood who do not stop at the stop sign on the corner of Marin and Oxford heading westbound. Furthermore, the fact that traffic traveling eastbound on Marin does not have a stop sign makes it a very confusing intersection. On a daily basis, we witness bad driver behavior including drivers speeding downhill on Marin Ave, nearly hitting anyone in the crosswalk. This bad behavior isn't merely going to stop through education – we need physical traffic calming measures installed to create a safer environment.

We have several vulnerable populations crossing this intersection, including children traveling up and down Marin to get to school and seniors who live in the neighborhood. After speaking to several of our neighbors, we understand that there was stronger traffic enforcement on Marin Ave and specifically near the intersection of Marin and Oxford prior to the pandemic. As an interim measure, we request more traffic enforcement near this intersection while the City simultaneously works on a traffic calming study and on a plan to add intersection improvements on Marin and Oxford, such as a Rectangular Rapid Flashing Beacons at Oxford and Marin, rumble strips on the westbound side of Marin, solar powered radar speed signs heading westbound, and making the intersection an all way stop.

We request a community meeting by March 25th so we can hear about the steps that you will take to address the need for traffic calming on Marin Ave. Thank you in advance for your consideration. Please do everything in your power to help us reduce preventable traffic violence in our neighborhood.

Sincerely,

Ana & Jyotindra Vasudeo  
2200 Marin Ave

Brent Blackaby & Larry Huynh  
744 Grizzly Peak Blvd

Mike and Paula Rice  
4 Sunset Ln.

Will Dogan & Rafael Reis  
870 Grizzly Peak Blvd

Pavitra Prabhakar  
755 Grizzly Peak Blvd

Christine Blanchet Aitkins & Steve Aitkins  
790 Hilldale Ave

Max & Claudine Blanchet  
790 Hilldale Ave

Arly Cassidy & Levon Dolbakian  
1053 Oxford Street

Ellen Evers & Bart Timmers  
1001 Oxford street

Victoria Kahn  
Helene Silverberg  
915 Oxford Street

Hope & Noah Alper  
910 Oxford Street

Rose Schweig  
2262 Summer St

John & Becky Pierson  
2011 Marin Ave

Esta Brand  
Zack Rogow  
841 Oxford Street

Swati Agarwal and Vipul Garg  
746 wildcat canyon road

Gertrude Weil  
1028 Oxford Street

Scott and Lourdes Moore  
936 Oxford st.

Sylvia Luk and Mark Smedley  
920 Oxford St

Leslie Rosenfeld  
1027 Oxford St.

Rena & Mordy Rosen  
984 Oxford Street

Elizabeth Hawk & Fritjof Capra  
1019 Oxford Street

Katy Haynes & Matt Gronniger  
833 Oxford Street

Iain Clark and Amy Pickering  
811 Oxford Street

Mark Cohen  
825 Oxford Street

Patricia and Bob Young  
850 Oxford Street

Rebecca Whitney & Perry de Valpine  
807 Oxford Street

Aeryn Johnson  
823 Oxford Street

Scott Willson  
919 Oxford Street

Lindsay and Peter Nofelt  
2031 Del Norte St.

Miriam Eisenhardt and  
Edward Murphy  
843 Oxford St.

Susan Scherer  
1036 Oxford St

Lynanne Jacob and Lloyd Lee  
812 Oxford St

Elizabeth Koller and Tom Mulvihill  
808 Oxford Street

Candace Khanna  
736 Grizzly Peak Blvd.

Thierry and Melissa Diagana  
835 Oxford St.

Alex Schoenfeld  
762 Grizzly Peak Blvd.

Ranko Yamada  
2207 Marin Ave.

Shannon Mochel  
1404 Oxford







Susan Wengraf  
Vice Mayor and Councilmember District 6

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Vice Mayor Susan Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)

Subject: Proclamation in Honor of City of Berkeley Holocaust Remembrance Day

RECOMMENDATION

Adopt the Holocaust Remembrance Day Proclamation for the City of Berkeley's 21<sup>ST</sup> Annual Holocaust Remembrance Day. The program will take place virtually on Sunday, May 5<sup>th</sup>, 2024.

FINANCIAL IMPLICATIONS

An allocation of \$6,000 dollars was approved in the 2023-2024 budget for this event.

BACKGROUND

For the past twenty-one years, The City of Berkeley has sponsored the Holocaust Remembrance Day program to honor survivors, and to remember those who were murdered, those who resisted, and those who rescued victims of the Holocaust. As Estelle Laughlin, a Holocaust Survivor, states in US Holocaust Memorial Museum's video, *Why We Remember the Holocaust*, "Memory is what shapes us. Memory is what teaches us. We must understand that's where redemption is."

Margit Meissner, a Holocaust Survivor in the *Why We Remember the Holocaust* video, reminds us of the context for the Holocaust. "A strong man came to power in Germany whose ideas were that Germany has to create a national community, which would include only the Aryan race, which he considered superior, and all the people who did not belong to the Aryan race could be eliminated."

More than 11 million people were targeted for extermination by the Nazis, including 6 million Jews, Roma, Poles, people with physical disabilities, homosexuals, communists, socialists and dissenting clergy.

in January 2024 the Anti-Defamation League reported skyrocketing antisemitic incidents in the U.S., having recorded a total of 3,291 antisemitic incidents in the prior three months, a 361-percent increase compared to the same period one year prior.

Proclamation in Honor of Holocaust Remembrance Day 2024

CONSENT CALENDAR  
March 26, 2024

Holocaust Remembrance Day reminds us of the extreme dangers of letting hate go unchecked. The 2024 Program will honor Kitty Klaidman, a distinguished artist and Holocaust Survivor, who will speak about her experiences in the Holocaust. The program will also feature musical performances by Rebecca Rust on Cello and Friedrich Edelman on Bassoon, and a unique candle lighting ceremony by survivors and family members.

ENVIRONMENTAL SUSTAINABILITY

No direct impact

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: Proclamation



**BERKELEY'S 21<sup>ST</sup> ANNUAL HOLOCAUST REMEMBRANCE DAY**

**Whereas**, the Holocaust was the state-sponsored, systematic genocide of more than six million European Jews by Nazi Germany and its collaborators between 1933 and 1945; and

**Whereas**, the Holocaust was a crime of shocking inhumanity, targeting for persecution and death, six million Jews and also Roma and Sinti people, those with mental illness and physical disabilities, homosexuals, Slavs, Poles, and members of anti-Nazi networks from throughout Europe; and

**Whereas**, Holocaust Remembrance Day reminds us of the importance of remembering: "Memory is what shapes us. Memory is what teaches us. We must understand that's where redemption is, Holocaust Survivor, Estelle Laughlin noted; and

**Whereas**, false information on the Holocaust continues to deny and trivialize the truth of what took place during the Nazi regime and, for the benefit of past, present and future generations, we must never forget the appalling crimes of the Holocaust; and

**Whereas**, in January 2024 the Anti-Defamation League reported skyrocketing antisemitic incidents in the U.S., having recorded a total of 3,291 antisemitic incidents in the prior three months, a 361-percent increase compared to the same period one year prior; and

**Whereas**, the purpose of Berkeley's Holocaust Remembrance Day is to join together as a community to remember the Holocaust, to honor survivors who chose to rebuild their lives in Berkeley and the Bay Area, and to reflect on the need to respect all people.

**NOW THEREFORE, BE IT RESOLVED** that I, Jesse Arreguín, Mayor of the City of Berkeley, do hereby proclaim May 5, 2024 as

**Holocaust Remembrance Day**

In the City of Berkeley, in memory of those who perished and in honor of the survivors as well as the rescuers and liberators.

**BE IT FURTHER PROCLAIMED** that the City of Berkeley is committed to never forgetting the events of the Holocaust and to working actively to combat antisemitism, racism, bigotry, and hatred in all forms, and to the promotion of human rights and dignity for all.





Susan Wengraf  
Vice Mayor and Councilmember District 6

CONSENT CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Susan Wengraf (Author), Mayor Arreguin (Co-Sponsor),  
Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)  
Subject: 2024 Virtual Holocaust Remembrance Day Program: Relinquishment of Council  
Office Budget Funds from General Funds and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$500 from Vice Mayor Wengraf, to support the City’s Annual Holocaust Remembrance Day program with funds relinquished to the City’s general fund. The relinquishment of funds from Vice Mayor Wengraf’s discretionary Council Office Budget and all other Councilmembers who would like to contribute, allows the City of Berkeley to invite the community to its 21<sup>st</sup> Annual Holocaust Remembrance Day virtual program, created by the community with City Council support. This year’s program will be held virtually on May 5th, 2024. Register via Eventbrite to attend.

FINANCIAL IMPLICATIONS

No General Fund impact: up to \$500 is available from contributing Councilmember’s Council Office Budget discretionary accounts.

BACKGROUND

The City of Berkeley’s Annual Holocaust Remembrance Day program has been supported by the City Council since its inception in 2002. The program has occurred annually, except in the year 2020 when the pandemic hit without enough time to pivot to a virtual program. Berkeley’s Holocaust Remembrance Day has become a treasured event for Holocaust survivors, family members and the Bay Area community as the only secular, city-sponsored program in the region. The community program invites attendees to honor those who perished in the Holocaust and those who survived. With rising hate incidents and hate crimes in our region and nation-wide, it is critical that we hear the stories of survivors of the Holocaust and re-affirm our resolve to never forget.

ENVIRONMENTAL SUSTAINABILITY

No impact

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160

Attachment: 1. Resolution



2180 Milvia Street, Berkeley, CA 94704 • Tel: (510) 981-7160 • TDD: (510) 981-6903 • Fax: (510) 981-7166  
E-Mail: [swengraf@cityofberkeley.info](mailto:swengraf@cityofberkeley.info)

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Wengraf has surplus funds in her office expenditure accounts and will contribute \$500, and invite the Mayor and other Councilmembers to join her in contributing; and

WHEREAS, a California nonprofit tax-exempt corporation, The Jewish Community Center of the East Bay, serves as the fiscal sponsor of the Holocaust Remembrance Day program and will receive funds in an amount up to \$500 per contributing Councilmember's discretionary account; and

WHEREAS, the provision of such services would fulfill the municipal public purpose of providing a community program supporting Holocaust survivors, community recognition and education about the Holocaust and unity among Berkeley residents. The grants will provide funds to produce the virtual event.

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 Jewish Community Center of the East Bay to fund the City of Berkeley's virtual 21<sup>st</sup> Annual Holocaust Remembrance Day program on May 5, 2024.







Office of the City Manager

PUBLIC HEARING  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Jordan Klein, Director, Planning and Development  
 Subject: Zoning Ordinance Amendments to Berkeley Municipal Code Chapter 23.326 Demolition and Dwelling Unit Controls

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an Ordinance regarding amendments to Berkeley Municipal Code Chapter 23.326 *Demolition and Dwelling Unit Control Ordinance*.

SUMMARY

State law SB 330 (Housing Crisis Act of 2019) established new provisions related to demolition of residential units, including the rights of sitting tenants and affordability requirements for demolished units. The law provides different options to comply with these requirements.

The proposed ordinance (***Attachment 1 (redlined)*** and ***Attachment 2 (clean)***) includes provisions to bring the current Demolition Ordinance (***Attachment 4***) into conformance with SB 330, clarify replacement unit requirements, maximize tenant protections, and preserve the existing affordable housing stock. The proposed ordinance includes a number of new Berkeley-specific provisions as recommended by the 4x4 Joint Task Force Committee on Housing and the Planning Commission, and includes a number of text edits, including grammatical corrections and renumbering.

FISCAL IMPACTS OF RECOMMENDATION

The proposed ordinance is not anticipated to have a noticeable impact on staffing needs or workload, and any fiscal impacts would be minimal.

The proposed ordinance includes the removal of an option to pay a fee for affordable housing in lieu of replacing new units, as State law requires the replacement of demolished units.

## CURRENT SITUATION AND ITS EFFECTS

Revising Berkeley Municipal Code Chapter 23.326 *Demolition and Dwelling Unit Controls* (“the Demolition Ordinance”) supports the City’s Strategic Plan Goal to create affordable housing and housing support services for its most vulnerable community members.

The existing Demolition Ordinance (***Attachment 4***) requires a Use Permit for the demolition or elimination of one or more dwelling units in Berkeley. The Zoning Adjustments Board (ZAB) may issue a Use Permit for the demolition of a dwelling unit for specific listed reasons:

- A building is “hazardous or unusable and is infeasible to repair.”
- “Demolition is necessary to permit construction... of at least the same number of dwelling units.”
- “The elimination of the dwelling units would not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City.”

The existing Demolition Ordinance includes provisions for unit replacement and the rights of sitting tenants, as well as additional situations such as:

- When housing units are demolished and no new housing units are proposed to be developed at the site (e.g., commercial development);
- When tenants have been unlawfully evicted, such as forcing a tenant out of a unit without a court order; and
- When units are being merged or converted within an existing building rather than physically demolished.

The existing Demolition Ordinance includes a provision whereby applicants may pay a fee rather than provide below-market-rate replacement units. However, the amount of that fee has never been established.

Demolition of dwelling units is prohibited where a residential building has been removed from the rental market under the Ellis Act during the preceding five years. Demolition is also prohibited where there have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years. Project applicants are generally required to provide relocation benefits, including moving expenses and differential rent payments to tenants. In addition, displaced tenants are provided a right of first refusal to rent new units after the lot has been redeveloped.

The existing ordinance also includes provisions related to the demolition of non-residential buildings, accessory buildings and building relocations. Changes to these provisions are not proposed.

#### Proposed Demolition Ordinance Provisions

The proposed ordinance includes provisions to bring the Demolition Ordinance into conformance with State law and includes a number of new Berkeley-specific provisions as recommended by the 4x4 Joint Task Force Committee on Housing. The proposed ordinance also includes a number of text edits, including grammatical corrections and renumbering.

The most significant changes are summarized in Table 1 and discussed in detail below. The primary rationales for the proposed changes include clarifying the applicability of the ordinance, expanding tenant protections, bringing the ordinance into conformance with State law, and assigning the Rent Stabilization Board (Rent Board) to administer some aspects of the ordinance rather than the ZAB.

#### *Applicable Unit*

The existing ordinance indicates that it applies to a “dwelling unit or units.” The proposed ordinance includes clarifications that it applies to dwelling units, group living accommodations, residential hotel rooms, certain ADUs and units constructed without a building permit.

Regarding Accessory Dwelling Units (ADUs), the 4x4 Committee proposed incorporating ADUs into the ordinance, subject only to the tenant notice and relocation requirements. This means an ADU wouldn't be obligated to meet replacement or affordability requirements. The Planning Commission expressed concern that applying these requirements to ADUs would discourage their production, specifically in cases where there was one single-family home and one ADU on a lot. However, Planning Commission also determined that ADUs within larger, multi-unit rental properties should be subject to replacement requirements. As a result, the Planning Commission recommended exempting an ADU entirely on lots which include only one single-family dwelling and one ADU. All other ADUs would be treated similarly to other units.

#### *Protected Unit*

SB 330 includes a no net loss provision that requires that a residential development project that includes the demolition of existing units must result in at least as many units as are demolished. In addition, certain types of units—“protected units”—are subject to specific replacement and affordability provisions. The proposed ordinance includes a definition of protected unit consistent with SB 330, and includes units that have been:



- Subject to a low-income deed restriction for any of the previous five years;
- Subject to rent control per Berkeley Municipal Code 13.76; or
- Rented by a household at 50% Area Median Income or lower.

#### *Comparable Unit*

The existing ordinance refers to a “comparable unit” when referring to replacement units, but does not define “comparable unit.” The proposed ordinance includes an explicit definition of “comparable unit,” indicating that it should be of a comparable size, include similar amenities, and be located in a similar area of the city as the demolished unit.

#### *Units Built Without Proper Permits*

The proposed ordinance applies to Dwelling Units, ADUs and JADUs that were created without proper zoning approvals or building permits (i.e. “illegal units”). These units, and the tenants residing in them, would be treated as properly permitted units for the purposes of the proposed ordinance, with the following distinctions:

- For a unit built without proper permits to qualify as a residential unit, it would have to be registered with the Rent Stabilization, or the Rent Stabilization Board must determine that a tenant-landlord relationship existed during the previous five years.
- The proposed ordinance includes a provision that allows the Building Officer, Zoning Officer or Fire Marshal to determine that the replacement of such a unit is not required when the replacement of the unit would be infeasible given existing Zoning, Building or Fire Code requirements.

#### *Prohibited Demolitions*

The existing ordinance prohibits demolition for units that have been removed from the rental stock through the Ellis Act within the past five years, or in cases where there has been substantial evidence of tenant harassment by a rental property owner, or an attempted or actual illegal eviction, within the past three years. In the latter case, the determination of whether harassment has occurred is made by the ZAB.

The proposed ordinance expands tenant protections to include any no fault eviction within the past five years, not just removal of a rental unit from the market through the Ellis Act. A “no fault eviction” is when the property owner or landlord wants to evict a tenant at no fault of the tenant, for example, when the property owner wants to move into the property.

The Rent Stabilization Board is proposed to be the deciding body for questions regarding harassment and illegal eviction, instead of the ZAB.

#### *Mitigation Fee*

The existing ordinance includes a requirement to pay an in-lieu mitigation fee for every unit demolished, or the option to replace a comparable affordable unit on-site.

State law (SB330) imposes a requirement that any housing development project that requires the demolition of dwelling units must create at least as many residential dwelling units as will be demolished on-site, and requires that the City condition approval on the provision of replacement units. Therefore, an option to “fee out” of the replacement requirement is a violation of State law, because it would not provide replacement units at the sizes and affordability levels required by SB 330. Accordingly, the proposed ordinance removes the mitigation fee section.

#### *Landmarks and Structures of Merit*

While the provisions of BMC Chapter 3.24 (Landmarks Preservation Commission) apply to units proposed for demolition, the existing ordinance does not explicitly refer to this chapter. Accordingly, the proposed ordinance includes specific language referring to Chapter 3.24.

#### *Affordability of Replacement Units*

The existing ordinance includes a requirement that any replacement units must be affordable units, and that the income levels of the qualifying households, and rents for the replacement units, shall be set by a resolution of the City Council. The existing ordinance also includes a requirement that the project applicant enter into a regulatory agreement with the City to provide these units.

The proposed ordinance includes more detailed provisions addressing the affordability levels of replacement units that are in concert with the requirements under State law:

- The proposed ordinance requires that any demolished protected unit shall be replaced with equivalent units and comply with the applicable affordability requirements for Affordable Units included in BMC 23.328 (Affordable Housing Requirements) and BMC 23.330 (Density Bonus). Referencing these sections clarifies the appropriate affordability levels for replacement units,<sup>1</sup> and

---

<sup>1</sup> BMC Section 23.328.030 requires that development projects subject to Inclusionary Zoning requirement include at least 20% of the units as Affordable Units. At least 50% of required Affordable Units must be offered at a rent that is affordable to Very Low Income Households (50% AMI or lower); the balance of units can be offered at rents affordable to Low Income Households (80% AMI).

establishes consistent requirements across a number of affordable housing-related provisions in the BMC.

- The proposed ordinance includes a provision that if a displaced household has an income below 50% AMI, a comparable replacement unit shall be offered at a rent that is affordable to households at 30% of AMI.
- The proposed ordinance also includes a provision that in cases where the household income of a displaced tenant(s) is unknown, households would be presumed to be low income in proportion to households throughout the city, as calculated using the US Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy (CHAS) database.

**Attachment 3** includes illustrations of how these provisions could be applied.

#### *Sitting Tenants' Rights*

The existing ordinance establishes certain rights for sitting tenants. Sitting tenants in demolished units are entitled to a right of first refusal to move into the new building, have a right of first refusal for any BMR units, and retain those rights even if they have incomes that do not qualify for BMR units.

The proposed ordinance clarifies that tenants who do not qualify for BMR replacement units due to income limits above the area median income must still be provided a market-rate replacement unit at their prior rent. Additionally, the rent for the duration of that tenancy would be subject to Berkeley's rent control regulations. This section was added by the 4x4 Committee to provide additional rights to sitting tenants who may not qualify for BMR units.

The proposed ordinance includes additional provisions related to sitting tenants' rights. The revisions clarify that a sitting tenant's right of first refusal extends to a *comparable* unit (not just any unit) in the building, and includes provisions which set the rent levels for those units. These provisions go beyond what is required under State law. The proposed ordinance also includes a specific timeline by which a displaced tenant must indicate interest in returning to a replacement unit.

#### *Elimination of Units through Combination with Other Units*

The existing ordinance includes provisions regulating the elimination of dwelling units through physical combination with other units. This usually occurs in cases where two units are combined to make a single larger unit. The existing ordinance requires a Use Permit, with specific findings, to move forward with such an elimination. It also prohibits



such an elimination if the building was removed from the rental market through the Ellis Act in the past five years, or if there is evidence of tenant harassment or illegal eviction within the past three years, as determined by the ZAB.

The proposed ordinance permits combined units through an Administrative Use Permit (AUP) approval, if such a combination would return the building to, or move it closer towards, its permitted density. This is a provision to make it easier for units in owner-occupied buildings to be combined. The AUP requirement still includes discretionary review, the ability to set conditions, and an appeal option to the ZAB.

Elimination of a unit for a combination would not be approved if the building was vacated through any no-fault eviction, not just due to the Ellis Act, or if the tenant was subject to landlord harassment or an illegal eviction. The determination of whether landlord harassment or a real or attempted illegal eviction occurred would be made by the Rent Board Hearing Examiner, with an appeal option to the Rent Stabilization Board, instead of by the ZAB.

#### *Demolition of Single-Family Homes*

The existing ordinance requires a Use Permit to demolish a single-family home. The adopted Housing Element Update, Program 19—Middle Housing—includes a requirement that the City Council consider permitting the demolition of single-family homes with a Zoning Certificate (ZC) if the demolition is part of a middle housing project that results in a net increase in density.

The proposed ordinance includes a provision to allow the demolition of a single-family home without sitting tenants with an AUP if it is part of a project that results in a net increase in density. While the Planning Commission understood the rationale for streamlining review of projects that increase density, it concluded an AUP was the more appropriate level of discretion, and that the ordinance should specifically indicate that a single-family home with sitting tenants would not be permitted to be demolished with an AUP. The Planning Commission also acknowledged its intent to reconsider this issue later in 2024 as part of the Middle Housing legislative package.

#### *Demolition of Accessory Buildings*

The existing ordinance includes a provision that permits the demolition of an accessory building that does not contain a dwelling unit, such as garages, carports, and sheds, with a ZC. The proposed ordinance includes additional clarifying language that an accessory building that is occupied by a residential tenant shall be considered a residential unit for the purposes of this chapter.

*Residential Hotel Rooms*

The existing ordinance includes a section regulating the elimination of Residential Hotel Rooms. These provisions include requirements related to monthly and weekly charges, and permit Residential Hotel Rooms to be removed for the purpose of providing common use facilities (such as a kitchen, lounge, or recreation room) for remaining residents or to undertake seismic upgrades or meet the requirements of the Americans with Disabilities Act. They also include a provision allowing an owner to meet the replacement requirements through a payment to the Housing Trust Fund, which, as noted above, is not permitted under State law.

The proposed ordinance removes the Residential Hotel Rooms section entirely. Residential Hotel Rooms would therefore receive the same treatment under the proposed ordinance as other residential units

*Technical Edits, Reorganization and Renumbering*

The proposed ordinance also includes a variety of purely technical edits, and reorganization, retitling, and renumbering of some sections and subsections.

**Table 1. Summary of Revisions to Demolition Ordinance**

| <b>Policy Area</b>                        | <b>Current Ordinance</b>  | <b>Proposed Ordinance</b>                                                    | <b>Rationale</b>                                                             |
|-------------------------------------------|---------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| <b>Applicable Unit</b>                    | “Dwelling unit or units.” | Dwelling Unit, GLA, ADU, JADU, and units built without permits               | Clarification of the types of units covered.                                 |
| <b>Protected Unit</b>                     | No definition.            | BMR unit, rent controlled unit, or unit occupied by household at 50% AMI.    | State Law: protected units are subject to specific replacement requirements. |
| <b>Comparable Unit</b>                    | No definition.            | “Similar size, amenities and location within the city.”                      | Clarification by providing a definition.                                     |
| <b>Units Built Without Proper Permits</b> | Not mentioned.            | Includes units built without proper permits if registered with Rent Board or | Clarification of the types of units covered.                                 |

| Policy Area                                      | Current Ordinance                                                                                                                                                                                                              | Proposed Ordinance                                                                                                                                                                                                                                | Rationale                                                                                         |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
|                                                  |                                                                                                                                                                                                                                | landlord-tenant relationship has existed in past five years.                                                                                                                                                                                      |                                                                                                   |
| <b>Demolition Prohibition: Ellis Act</b>         | Prohibition applies to any unit removed via Ellis Act within the past 5 years                                                                                                                                                  | Prohibition applies to any “no-fault” eviction.                                                                                                                                                                                                   | Expansion of tenant protections beyond just one type of no-fault eviction (Ellis Act).            |
| <b>Demolition Prohibition: Tenant Harassment</b> | Determination made by ZAB.                                                                                                                                                                                                     | Determination made by Rent Board.                                                                                                                                                                                                                 | For tenant-landlord issues, the Rent Board is the subject-expert body.                            |
| <b>Mitigation Fee</b>                            | Includes mitigation fee option.                                                                                                                                                                                                | Removes mitigation fee option.                                                                                                                                                                                                                    | State Law: Demolished units must be replaced (SB 330).                                            |
| <b>Landmarks and Structures of Merit</b>         | No reference to Landmarks Preservation Commission (LPC) procedures.                                                                                                                                                            | Includes reference to LPC procedures.                                                                                                                                                                                                             | Clarification that LPC procedures apply.                                                          |
| <b>Replacement Units -- Affordability</b>        | <ul style="list-style-type: none"> <li>• Replacement unit must be affordable in perpetuity;</li> <li>• Affordability level to be set by Council resolution;</li> <li>• Regulatory agreement with the City required.</li> </ul> | <ul style="list-style-type: none"> <li>• Replacement unit must comply with Chapter 23.328 (Affordability Requirements) and 23.330 (Density Bonus);</li> <li>• For demolished unit with household at 50% AMI or below, replacement unit</li> </ul> | State Law: Existing tenant income levels impact type/affordability of replacement units (SB 330). |



| Policy Area                                                      | Current Ordinance                                                                                                                                                                                | Proposed Ordinance                                                                                                                                                                                                                                                                                                                                                 | Rationale                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                  |                                                                                                                                                                                                  | must be set at 30% AMI; and <ul style="list-style-type: none"> <li>• Allows Zoning Officer and Fire Marshall to waive replacement of illegal units for health and safety</li> </ul>                                                                                                                                                                                |                                                                                                                                                                                                                                                           |
| <b>Sitting Tenants Rights</b>                                    | <ul style="list-style-type: none"> <li>• Right of first refusal to move into the building</li> <li>• Right of first refusal for BMR units</li> <li>• Income restrictions do not apply</li> </ul> | <ul style="list-style-type: none"> <li>• Right of first refusal for a comparable unit</li> <li>• For displaced tenants who rent a comparable unit, rent is controlled for duration of tenancy</li> <li>• For households ineligible for BMR units, a replacement unit shall be offered at prior rent, with increases limited equivalent to rent control.</li> </ul> | State Law: Tenant income levels impact type/affordability of replacement units (SB 330).<br><br>Additional local requirement: Income restrictions do not apply to displaced households upon their return to the property after completion of the project. |
| <b>Elimination of Units through Combination with other Units</b> | Use Permit required in all cases, with findings.                                                                                                                                                 | AUP to combine units when the combination would return the building to, or move it closer towards, its original density.                                                                                                                                                                                                                                           | Simplification: Allow conversion of owner-occupied buildings with a lesser standard.                                                                                                                                                                      |

| Policy Area                                   | Current Ordinance                                                                         | Proposed Ordinance                                                                                                                                 | Rationale                                                                                                  |
|-----------------------------------------------|-------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
|                                               | Combination not allowed if the building was removed via Ellis Act within the past 5 years | Combination not allowed if vacated through no fault eviction within the past 5 years.                                                              | Expansion of tenant protections beyond just one type of no-fault eviction (Ellis Act).                     |
|                                               | Combination not allowed if tenant harassment. Determination made by ZAB                   | Determination made by Rent Board Hearing Examiner, with appeal to Rent Board.                                                                      | For tenant-landlord issues, the Rent Board is the subject-expert body.                                     |
| <b>Demolition of Single Family Homes</b>      | Requires a Use Permit.                                                                    | Would be permitted with an AUP if the single family home were not tenant-occupied and the demolition was part of a project that increased density. | Provide streamlined process to encourage middle housing projects.                                          |
| <b>Demolition of Accessory Buildings</b>      | Can be demolished by right.                                                               | Added language to clarify that Accessory Buildings that are occupied by residential tenants are considered Residential Units. <i>23.326.050</i>    | Expansion of demolition controls and tenant protections.                                                   |
| <b>Elimination of Residential Hotel Rooms</b> | Section 23.326.060 provides specific procedures for removal of residential hotel rooms    | Section removed.                                                                                                                                   | Residential Hotel Rooms are considered Residential Units for purpose of ordinance. <i>23.326.010(A)(1)</i> |

## BACKGROUND

The impetus for these revisions is recent changes in State law that provide additional requirements for new housing development projects that involve the demolition of existing residential units. These provisions of SB 330 (Housing Crisis Act of 2019), which modified Government Code sections relating to zoning and density bonus, require all new housing development projects to provide replacement units of equivalent size, defined as having the same number of bedrooms as the demolished units.

In early 2022, Planning & Development staff, in consultation with the City Attorney's Office, drafted revisions to the Demolition Ordinance to reflect these changes to State law. The 4x4 Joint Task Force Committee on Housing considered the draft at its meetings in April 2022 and December 2022, and made recommendations pertaining primarily to replacement unit requirements and expanded tenant protections. Staff revised the draft ordinance to incorporate that feedback and advanced the ordinance to Planning Commission for review.

At its meeting of February 1, 2023, the Planning Commission scheduled a public hearing to adopt a recommendation for the City Council of changes to the Demo Ordinance. The Planning Commission deferred a final recommendation pending recommendations from the 4x4 Joint Task Force Committee on Housing. Staff returned to the 4x4 Joint Task Force Committee in September and October 2023 for discussion and recommendations. The Planning Commission conducted a public hearing at its December 6, 2023 meeting and moved to create a Subcommittee to review the proposed ordinance in detail, and to consider suggestions and recommendations made by Commissioners at that meeting. The Subcommittee met on December 20, 2023 and recommended a number of changes to the ordinance. At its meeting of January 17, 2024, the Planning Commission held a public hearing and made a recommendation to the City Council.

## ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

California Public Resource Code Section 21065 defines a "project" under CEQA as "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The proposed ordinance amendments relate only to the requirements to demolish existing structures, and would not result in any physical changes to the environment. The proposed ordinance does not consist of a discretionary action that would permit or cause any direct or indirect change in the environment. The proposed ordinance is therefore not a project under CEQA.



### RATIONALE FOR RECOMMENDATION

The proposed ordinance includes changes required by state law, as well as policy changes recommended by the 4x4 Joint Committee Task Force on Housing and the Planning Commission.

### ALTERNATIVE ACTIONS CONSIDERED

The December 9, 2023 and January 17, 2024 Planning Commission agenda reports include rationales for the provisions included in the proposed ordinance, and note some of the alternative policies considered. Most notable among these alternative suggestions were the treatment of ADUs similarly to any other residential unit, and permitting the demolition of single-family dwellings with a ZC.

A notable difference between the recommendations from the 4x4 Committee and the Planning Commission was the definition of Comparable Unit. The 4x4 Committee had recommended a definition which included a unit of similar size, in a similar location within the city, with similar amenities, notably private open space. The Planning Commission opted for a slightly different recommendation that included similar shared *indoor* amenities and did not include private open space. The Planning Commission felt that offering comparable private open space after the demolition of, for example, an existing single-family dwelling with a large back yard, could limit the redevelopment potential of single-family parcels.

### CONTACT PERSON

Justin Horner, Associate Planner, Planning and Development Department, 510-981-5754.

#### Attachments:

- 1: Proposed Ordinance, redlined version.
- 2: Proposed Ordinance, clean version.
- 3: Replacement Unit Provisions, Examples
- 4: Existing Demolition Ordinance (BMC 23.326)
- 5: Planning Commission Reports: December 9, 2023 and January 17, 2024.
- 6: Public Hearing Notice

ORDINANCE NO.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 23.326, DEMOLITION AND DWELLING UNIT CONTROLS

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

Section 1. That Berkeley Municipal Code Chapter 23.326 is hereby amended to read as follows:

**23.326 DEMOLITION AND DWELLING UNIT CONTROL**

**Sections:**

- 23.326.010– Chapter Purpose.
- 23.326.020– General Requirements.
- ~~23.326.030– Eliminating Dwelling Units through Demolition of Residential Units.~~
- ~~23.326.040– Eliminating Dwelling Units through Combination with Other Units.~~
- ~~23.326.050– Conversion and Change of Use~~
- ~~23.326.050– Demolition of Accessory Buildings.~~
- 23.326.0560 – Private Right of Action.
- ~~23.326.060– Elimination of Residential Hotel Rooms~~
- 23.326.070– Demolitions of Non-Residential Buildings.
- 23.326.080– Building Relocations.
- 23.326.090– Limitations.
- ~~23.326.100– Severability.~~

**23.326.010 – Chapter Purpose**

This chapter establishes demolition and dwelling unit control standards that promote the affordable housing, aesthetic, and safety goals of the City.

**23.326.020 – General Requirements**

A. **Applicability.** ~~No dwelling-unit-Residential Unit(s) or units may be eliminated or demolished except as authorized by this chapter.~~

- ~~1. “Residential Unit” means, for purposes of this Chapter, any Dwelling Unit, any Live-Work Unit, any Residential Hotel unit, or any bedroom of a Group Living Accommodation (GLA), except a GLA in a University-recognized fraternity, sorority or co-op, or any lawfully-permitted Accessory Dwelling Unit (“ADU”) of Junior Accessory Dwelling Unit (“JADU”).~~
- ~~2. “Residential Unit” includes Dwelling Units, ADUs, or JADUs created without proper zoning approvals or Building Permit(s) if they have been registered~~

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with the Rent Stabilization Board, or the Rent Stabilization Board has otherwise determined that a tenant-landlord relationship existed during the preceding five years.

3. “Residential Unit” does not include a lawfully-permitted ADU or JADU on a residential property containing only a Single-Family Dwelling and one lawfully established and fully permitted ADU or JADU, as defined in BMC Chapter 23.306, where the landlord also occupies a unit in the same property as their principal residence. This shall only apply to properties containing a single ADU or JADU, shall only apply to units compliant with all applicable requirements of BMC Chapter 23.306 (“Accessory Dwelling Units”), and shall only apply to tenancies created after November 7, 2018.
4. “Comparable Unit” means a Residential Unit of similar size (square footage and number of bedrooms), common interior amenities, and location within the city (neighborhood and school attendance area). In the case of a Single-Family Dwelling being replaced, a Comparable Unit is not required to have the same or similar square footage or the same number of total rooms, but must provide the same number of bedrooms if the Single-Family Dwelling includes three or fewer bedrooms, or three bedrooms if the Single-Family Dwelling contains four or more bedrooms.
5. “Protected Unit” includes a Residential Unit:
  - a. Subject to a low-income deed restriction for any of the previous five years;
  - b. Subject to rent or price control under BMC Chapter 13.76; or  
Rented by a household at 50% Area Median Income or lower within the previous five years.

~~B. **Findings.** In addition to the requirements below, the Zoning Adjustments Board (ZAB) may approve a Use Permit to eliminate or demolish a dwelling unit only upon finding that eliminating the dwelling unit would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley.~~

### **23.326.030 – Eliminating Dwelling Units through Demolition of Residential Units**

#### **~~A. Buildings with Two or More Units Constructed Before June 1980.~~**

- ~~1. **Applicability.** This subsection only applies to building with two or more units constructed before June 1980.~~
- ~~2. **Limitation.**~~

~~(a) **A.** Demolition is not allowed if:~~



1. The ~~building~~ Residential Unit(s) was removed from the rental market under the Ellis Act through a no-fault eviction during the preceding five years; or
2. There ~~have been verified cases~~ is substantial evidence of harassment or threatened or actual illegal eviction during the immediately preceding three years. Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner, whose determination may be appealed to the Rent Stabilization Board.

~~(b) Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.~~

### 3B. Procedure and Findings.

~~1. The ZAB may approve a~~ A Use Permit is required to eliminate or demolish one or more Residential Units, except where otherwise provided by the Zoning Ordinance. a building constructed before June 1980 on a property containing two or more dwelling units ~~The ZAB shall only approve the Use Permit if any one of the following are~~ is true:

- (a) The building containing the ~~units~~ Residential Unit(s) is hazardous or unusable and is infeasible to repair.
- (b) The building containing the ~~units~~ Residential Units(s) will be moved to a different location within Berkeley with no net loss of units and no change in the affordability levels of the unit(s).
- ~~(c) The demolition is necessary to permit construction of special housing needs facilities such as, but not limited to, childcare centers and affordable housing developments that serve the greater good of the entire community.~~
- ~~(d)~~ (c) The demolition is necessary to permit construction approved pursuant to this chapter of at least the same number of dwelling units.

2. A Single-Family Dwelling without sitting tenants can be demolished with an AUP, if the demolition is part of a development project that would result in a net increase in residential density.

3. In the event of a demolition of a Protected Unit created without proper Use Permit(s) or Building Permit(s), as defined in 23.326.020(A)(2), the Building Official, Zoning Officer or Fire Marshal may determine that the replacement of such a unit is infeasible and not required under this Chapter. Such a

determination shall include a finding that the replacement of the unit could not occur in compliance with Zoning Code, Building Code, Fire Code or other regulations related to public health and safety

C. Landmarks and Structures of Merit. Demolition of a designated landmark or structure of merit, or of a structure in a designated historical district, must be approved by the Landmarks Preservation Commission, pursuant to Chapter 3.24.

**4. Fee Required.**

~~(a) The applicant shall pay a fee for each unit demolished to mitigate the impact of the loss of affordable housing in Berkeley.~~

~~(b) The amount of the fee shall be set by resolution of the City Council.~~

~~(c) In Lieu of a Fee.~~

~~1. In lieu of paying the impact fee, the applicant may provide a designated unit in the new project at a below market rate to a qualifying household in perpetuity.~~

~~2. The affordability level of the below market rent and the income level of the qualifying household shall be set by resolution of the City Council.~~

~~3. The applicant shall enter into a regulatory agreement with the City of Berkeley to provide the in lieu units.~~

D. Conditions of Approval. Any Protected Unit that is demolished shall be replaced with a Comparable Unit that shall comply with the affordability requirements in Chapter 23.328 [Affordable Housing Requirements] and Chapter 23.330 [Density Bonus] as they may be amended from time to time.

1. In the event that a displaced household has an income below 50% AMI, a Comparable Unit shall be offered at a rent that is affordable to households at 30% of AMI, and the displaced household shall have the first right of refusal for that unit. Such a Comparable Unit shall be counted as a Very Low-Income unit for applicable affordability requirements in Chapter 23.328.

2. In the event that a demolished Residential Unit is not a Protected Unit and the income of the displaced household is unknown, the Residential Unit shall be presumed to have been occupied by Low- or Lower-Income households in the same proportion as Residential Units throughout the City. The City shall rely upon US Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy (CHAS) data to determine the number of such Residential Units that must be replaced with Affordable Units as defined in Chapter 23.328.

3. In the event that a Protected Unit was subject to rent or price controls under BMC Chapter 13.76, and the income level of the displaced household is unknown, the unit shall be replaced with an Affordable Unit as defined in Chapter 23.328.

E. Requirements for Occupied Units.

~~(a)1. **Applicability.** These requirements do not apply to tenants who move in after the application for demolition is submitted to the City if the owner informs each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.~~

~~1. The requirements in this subsection apply if units to be demolished are occupied.~~

~~2. These requirements do not apply to tenants who move in after the application for demolition is submitted to the City if the owner informs each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.~~

~~(b)2. **Notice.** The applicant shall provide all sitting tenants notice of the application to demolish the building no later than the date it is submitted to the City, including notice of their rights under Municipal Code Section 13.76 (Rent Stabilization and Eviction for Good Cause Program), Chapter 13.77 (Requirements, Procedures, Restrictions and Mitigations Concerning the Withdrawal of Residential Rental Accommodations from Rent or Lease), 13.79 (Tenant Protections: Automatically Renewing Leases and Buyout Agreements) and 13.84 (Relocation Services and Payments for Residential Tenant Households).~~

~~(c)3. **General Requirements.** The applicant shall provide moving and relocation assistance equivalent to the requirements set forth in Municipal Code Chapter 13.84 (Relocation Services and Payments for Residential Tenant Households) or Government Code section 66300.6(b)(4)(A), whichever requires greater relocation assistance to displaced tenants, and shall not be subject to the limitations in section 13.84.070.B.3(a). The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. Within five days of the issuance of the Certificate of Occupancy, tenants shall be notified in writing that the units will be ready for move-in on a date specified. Tenants shall confirm in writing their intent to lease the available unit at any time before 20 days after the issuance of the Certificate of Occupancy. Funding for the rent differential shall be guaranteed in a manner approved by City Council Resolution; provided, however, that any project that is carried out or funded by the state or federal government shall be subject to applicable provisions of the California Relocation Act (Government Code section 7260 et seq.) and/or~~

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the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. sections 4601- 4655).

~~The applicant shall provide assistance with moving expenses equivalent to in Chapter 13.84 (Relocation Services and Payments for Residential Tenant Households).~~

~~3. The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. Funding for the rent differential shall be guaranteed in a manner approved by the City.~~

~~3.(a) *Exception.* An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with this subsection but must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended and the California Relocation Act (Government Code sections 7260 et seq.).~~

~~(b) *Exception for Tenants in ADUs and Unpermitted Units that Cannot Be Replaced.* Applicants are required to provide moving and relocation assistance, in an amount provided in BMC Section 13.76.130(A)(9)(g), to the following groups of tenants: (i) tenants who occupy a lawfully-permitted ADU or JADU on a residential property containing only a Single-Family Dwelling and one lawfully established and fully permitted ADU or JADU, where the landlord also occupies a unit in the same property as his/her principal residence; and (ii) tenants who occupy a unit created without proper zoning approvals that cannot be replaced for public health or safety reasons, pursuant to BMC Section 23.326.030(B)(3). However, applicants are not required to (i) provide such tenants with a temporary replacement unit while a new unit is being constructed, (ii) notify such tenants when a new unit is ready for occupancy; or (iii) provide such tenants with a right for first refusal for the new unit.~~

~~(d)4. *Sitting Tenants Rights.*~~

~~(a) Sitting Any tenants of a Protected Unit that is permitted to be demolished under this section who are displaced as a result of demolition shall be provided have the right of first refusal to move interest a Comparable Unit in the new building project.~~

~~(b) In the event that a displaced household is ineligible for below-market rate replacement units, a market rate Comparable Unit shall be made available to that household at the same rent as had been previously charged, or a lesser rent if that is the market rate. Tenants of units that are demolished shall have the right of first refusal to rent new below-market rate units designated to replace the units that were demolished,~~



~~at the rent that would have applied if they had remained in place, as long as their tenancy continues.~~

~~(c) Where a displaced tenant exercises the right to rent a Comparable Unit, any increase in rent for the Comparable Unit for the duration of their tenancy shall be no greater than the lesser of 65% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region (as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics for the twelve-month period ending the previous December 31) or 65% of the corresponding increase in Area Median Income (AMI) for the same calendar year. Income restrictions do not apply to displaced tenants.~~

~~(d) Exceptions.~~

- ~~i. An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with 23.326.030.A.4.a, b, and c, the preceding requirements but must comply with the following requirement.~~
- ~~ii. Sitting tenants who are displaced as a result of demolition and who desire to return to the newly constructed building will be granted a right of first refusal subject to their ability to meet income qualifications and other applicable eligibility requirements when the new units are ready for occupancy.~~

## ~~B. Buildings with a Single Dwelling Unit.~~

~~1. Applicability. This subsection only applies to buildings with a single dwelling unit.~~

### ~~2. Limitation.~~

~~(a) Demolition is not allowed if:~~

- ~~i. The building was removed from the rental market under the Ellis Act during the preceding five years; or~~
- ~~ii. There have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.~~

~~(b) Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.~~

~~C. **Accessory Buildings.** Notwithstanding anything in Municipal Code Title 23 (Zoning Ordinance) to the contrary, but subject to any applicable requirements in Municipal Code Section 3.24 (Landmarks Preservation Ordinance), accessory buildings of any size, including, but not limited to, garages, carports, and sheds, but not including any structure containing a lawfully established dwelling unit, which serves and is located on the same lot as a lawful residential use, may be demolished by right.~~

**23.326.040 – Eliminating Dwelling Units through ~~Conversion and Change of Use~~ Combination with Other Units**

A. ~~*Process for Projects Where Density Exceeds Current Allowance*~~ **General.** ~~The ZAB may approve a A Use Permit is required to eliminate one or more Residential Units by combing with another unit when the existing development exceeds currently-allowable density. for the elimination of a dwelling unit in combination with another dwelling unit used for occupancy by a single household. The ZAB shall approve a Use Permit for the elimination of one or more Residential Units by combining with another unit only if it finds that:~~

1. The existing number of ~~dwelling units~~Residential Units exceeds ~~the current~~ maximum allowed residential density in the district where the building is located; and
2. One of the following is true:
  - (a) One of the affected dwelling units has been owner-occupied ~~by the applicant's household~~ as it's a principal place of residence for no less than two years before the date of the application and none of the affected units are currently occupied by a tenant.
  - (b) All of the affected ~~dwelling units~~Residential Units are being sold by an estate and the decedent occupied the units as their principal residence for no less than two years before the date of their death.

B. *Limitations.* ~~Demolition-Combination~~ is not allowed if:

1. The building was removed from the rental market ~~under the Ellis Act~~through a no-fault eviction during the preceding five years; or
2. There ~~have been verified cases~~ is substantial evidence of harassment or threatened or actual illegal eviction during the immediately preceding three years. Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner, whose determination may be appealed to the Rent Stabilization Board. ~~The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The~~

~~ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.~~

C. ~~Effect of Noncompliance with the~~ Two-Year Occupancy Requirement Following Elimination.

1. ~~In a unit eliminated under Subsection A (General)~~ If a Residential Unit that is eliminated through combination is not owner-occupied by the applicant's household for at least two consecutive years from the date of elimination, the affected ~~unit~~ Residential Unit must be restored to separate status.
2. This requirement shall be implemented by a condition of approval and a notice of limitation on the property, acceptable to the City of Berkeley.
3. The condition and notice will provide that if the ~~owner's household does not occupy the unit~~ Residential Unit is not owner-occupied for at least two years from the date of elimination the affected units must either be restored as separate dwelling units and the vacant unit(s) offered for rent within six months or the owner must pay a fee of \$75,000 in 2013 dollars, adjusted in May of each year according to the Consumer Price Index for the San Francisco Bay Area. The fee shall be deposited into the City of Berkeley's Housing Trust Fund.
4. The City of Berkeley may exempt an applicant from the two-year residency requirement if of an unforeseeable life change that requires relocation.

D. *Effect of Eliminating a Dwelling Unit.*

1. If eliminating a ~~dwelling unit~~ Residential Unit reduces the number of units in a building to four or fewer, the applicant shall record a notice of limitation against the subject property that the limitation on eviction of tenants under Chapter 13 (Public Peace, Morals and Welfare) shall continue to apply until:
  - (a) The building is demolished; or
  - (b) Sufficient units are added or restored such that the building contains at least five units.
2. The Zoning Officer may issue an AUP for a building conversion which eliminates a ~~dwelling unit~~ Residential Unit upon finding that the conversion will restore or bring the building closer to the original number of dwelling units that was present at the time it was first constructed, provided the conversion meets the requirements 23.326.040.A.1 and 2 and 23.326.040.B and C.

E. *Exceptions.* The ZAB may approve a Use Permit to eliminate a dwelling unit through combination with another dwelling unit for the purpose of providing private bathrooms, kitchenettes, accessibility upgrades, and/or seismic safety upgrades, or other elements required by funding sources or programmatic needs to single-

residential occupancy rooms in residential developments undergoing a publicly-funded rehabilitation.

- ~~1. The ZAB may approve a Use Permit for a change of use to a community care or a child care facility which eliminates a dwelling unit if it finds that such use is in conformance with the regulations of the district in which it is located.~~
- ~~2. The ZAB may approve a Use Permit to eliminate a dwelling unit through combination with another dwelling unit for the purpose of providing private bathrooms, kitchenettes, accessibility upgrades, and/or seismic safety upgrades to single-residential occupancy rooms in residential developments undergoing a publicly-funded rehabilitation.~~
- ~~3. Notwithstanding the general Use Permit requirement under 23.326.020 (General Requirements), a lawfully established accessory dwelling unit that is not a controlled rental unit may be eliminated with a Zoning Certificate if:
 
  - ~~(a) The re-conversion restores the original single-family use of the main building or lot; and~~
  - ~~(b) No tenant is evicted.~~~~

**23.326.050 – Private Right of Action Demolition of Accessory Buildings.**

A. Notwithstanding anything in Municipal Code Title 23 (Zoning Ordinance) to the contrary, but subject to any applicable requirements in Municipal Code Section 3.24 (Landmarks Preservation Ordinance), Accessory Buildings of any size, including, but not limited to, garages, carports, and sheds may be demolished by right except where the Accessory Building is occupied by a residential tenant (regardless of whether it is lawfully permitted) or otherwise contains a lawfully established Residential Unit, which serves and is located on the same lot as a lawful residential use. Such Accessory Buildings are considered Residential Units for the purposes of this Chapter.

**23.326.060 – ~~Elimination of Residential Hotel Rooms~~ Private Right of Action**

A. Any affected tenant may bring a private action for injunctive and/or compensatory relief against any applicant and/or owner to prevent or remedy a violation of Sections 23.326.030 (Eliminating Dwelling Units through Demolition) and 23.326.040 (Eliminating Dwelling Units through Conversion and Change of Use). In any such action a prevailing plaintiff shall recover reasonable attorney's fees.

~~A. **General Requirements.** Before removal, the following requirements must be met for the ZAB to approve a Use Permit for the elimination of residential hotel rooms:~~

- ~~1. The residential hotel owner shall provide or cause to be provided standard housing of at least comparable size and quality, at comparable rents and total monthly or weekly charges to each affected tenant~~



~~2. One of the following three requirements shall be met:~~

- ~~(a) The residential hotel rooms being removed are replaced by a common-use facility, including, but not limited to, a shared kitchen, lounge, or recreation room, that will be available to and primarily of benefit to the existing residents of the residential hotel and that a majority of existing residents give their consent to the removal of the rooms.~~
- ~~(b) Before the date on which the residential hotel rooms are removed, one-for-one replacement of each room to be removed is made, with a comparable room, in one of the methods set forth in this section.~~
- ~~(c) Residential hotel rooms are removed because of building alterations related to seismic upgrade to the building or to improve access to meet the requirements of the American Disabilities Act (ADA).~~

~~**B. Criteria for Replacement Rooms.** For purposes of this section, replacement rooms must be:~~

- ~~1. Substantially comparable in size, location, quality, and amenities;~~
- ~~2. Subject to rent and eviction controls substantially equivalent to those provided by the Rent Stabilization Ordinance or those that applied to the original rooms which are being replaced; and~~
- ~~3. Available at comparable rents and total monthly or weekly charges to those being removed. Comparable rooms may be provided by:~~
  - ~~(a) Offering the existing tenants of the affected rooms the right of first refusal to occupy the replacement rooms;~~
  - ~~(b) Making available comparable rooms, which are not already classified as residential hotel rooms to replace each of the rooms to be removed; or~~
  - ~~(c) Paying to the City of Berkeley's Housing Trust Fund an amount sufficient to provide replacement rooms.~~
    - ~~1. The amount to be paid to the City of Berkeley shall be the difference between the replacement cost, including land cost, for the rooms and the amount which the City of Berkeley can obtain by getting a mortgage on the anticipated rents from the newly constructed rooms.~~
    - ~~2. The calculations shall assume that rents in the newly constructed rooms shall not exceed the greater of either a level comparable to the weekly or monthly charges for the replaced rooms or the level which would be charged if no current tenant paid more than 30 percent of such tenant's gross income for rent.~~

~~**C. Exception for Non-Profit Ownership.** In a residential hotel owned and operated by a non-profit organization, recognized as tax-exempt by either the Franchise Tax~~

~~Board and/or the Internal Revenue Service, residential hotel rooms may be changed to non-residential hotel room uses if the average number of residential hotel rooms per day in each calendar year is at least 95 percent of residential hotel rooms established for that particular residential hotel.~~

### **23.326.070 – Demolitions of Non-Residential Buildings**

- A. **Main Non-Residential Buildings.** A Use Permit is required to demolish a main building used for non-residential purposes ~~may be demolished with a Use Permit on any lot.~~
- B. **Accessory Buildings.**
1. Demolishing an accessory building with less than 300 square feet of floor area is permitted as of right.
  2. An accessory building with 300 square feet or more of floor area may be demolished with an AUP.
- C. **Landmarks Preservation Commission Review.**
1. Any application for a Use Permit or AUP to demolish a non-residential building or structure which is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review before consideration of the Use Permit or AUP.
  2. The LPC may initiate a landmark or structure-of-merit designation or may choose solely to forward to the ZAB its comments on the application.
  3. The ZAB or Zoning Officer shall consider the recommendations of the LPC ~~in~~ when acting on the application.
- D. **Findings.** A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the ZAB or the Zoning Officer finds that:
1. The demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City of Berkeley; and
  2. The demolition:
    - (a) Is required to allow a proposed new building or other proposed new use;
    - (b) Will remove a building which is unusable for activities which are compatible with the purposes of the district in which it is located or which is infeasible to modify for such uses;
    - (c) Will remove a structure which represents an inhabitable attractive nuisance to the public; or
    - (d) Is required for the furtherance of specific plans or projects sponsored by the City of Berkeley or other local district or authority upon a

demonstration that it is infeasible to obtain prior or concurrent approval for the new construction or new use ~~which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project.~~

### 23.326.080 – Building Relocations

#### A. Treatment of Building Relocation.

1. Relocating a building from a lot is considered a demolition for purposes of this chapter.
2. Relocating a building to a lot is considered new construction and is subject to all requirements applicable to new construction.
3. When a building is relocated to a different lot within ~~in~~ Berkeley, the lot from which the building is removed shall be known as the source lot and the lot on which the building is to be sited shall be known as the receiving lot. In such cases all notification requirements apply to both the source and receiving lots.

#### B. Findings. The ZAB may approve a Use Permit to relocate a building upon finding that:

5. The building to be relocated is not in conflict with the architectural character, or the building scale of the neighborhood or area to which it will be relocated; and
6. The receiving lot provides adequate separation of buildings, privacy, yards, and usable open space.

### 23.326.090 – Limitations

#### A. Unsafe, Hazard, or Danger.

1. Notwithstanding anything to the contrary, if a building or structure is unsafe, presents a public hazard, and is not securable and/or is in imminent danger of collapse so as to endanger persons or property, as determined by the city's ~~building official~~ Building Official, it may be demolished without a Use Permit.
2. The Building Official's determination in this matter shall be governed by the standards and criteria in the most recent edition of the California Building Code that is in effect in the City of Berkeley.

#### B. Ellis Act. This chapter shall be applied only to the extent permitted by state law as to buildings which have been entirely withdrawn from the rental market pursuant to the Ellis Act (California Government Code Chapter 12.75).

**23.326.100 Severability.**

A. If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



ORDINANCE NO.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 23.326, DEMOLITION AND DWELLING UNIT CONTROLS

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

Section 1. That Berkeley Municipal Code Chapter 23.326 is hereby amended to read as follows:

Chapter 23.326 DEMOLITION AND DWELLING UNIT CONTROLS

Sections:

- 23.326.010 Chapter Purpose.
- 23.326.020 General Requirements.
- 23.326.030 Demolition of Residential Units.
- 23.326.040 Eliminating Dwelling Units through Combination with Other Units.
- 23.326.050 Demolition of Accessory Buildings.
- 23.326.060 Private Right of Action.
- 23.326.070 Demolitions of Non-Residential Buildings.
- 23.326.080 Building Relocations.
- 23.326.090 Limitations.
- 23.326.100 Severability

**23.326.010 Chapter Purpose.**

This chapter establishes demolition and dwelling unit control standards that promote the affordable housing, and safety goals of the City.

**23.326.020 General Requirements.**

A. No Residential Unit(s) may be eliminated or demolished except as authorized by this chapter.

1. "Residential Unit" means, for purposes of this Chapter, any Dwelling Unit, any Live-Work Unit, any Residential Hotel unit, any bedroom of a Group Living Accommodation (GLA), except a GLA in a University-

recognized fraternity, sorority or co-op, or any lawfully-permitted Accessory Dwelling Unit (“ADU”) or Junior Accessory Dwelling Unit (“JADU”).

2. “Residential Unit” includes Dwelling Units, ADUs, or JADUs created without proper zoning approvals or Building Permit(s) if they have been registered with the Rent Stabilization Board, or the Rent Stabilization Board has otherwise determined that a tenant-landlord relationship existed during the preceding five years.
3. “Residential Unit” does not include a lawfully-permitted ADU or JADU on a residential property containing only a Single-Family Dwelling and one lawfully established and fully permitted ADU or JADU, as defined in BMC Chapter 23.306, where the landlord also occupies a unit in the same property as their principal residence. This shall only apply to properties containing a single ADU or JADU, shall only apply to units compliant with all applicable requirements of BMC Chapter 23.306 (“Accessory Dwelling Units”), and shall only apply to tenancies created after November 7, 2018.
4. “Comparable Unit” means a Residential Unit of similar size (square footage and number of bedrooms), common interior amenities, and location within the city (neighborhood and school attendance area). In the case of a Single-Family Dwelling being replaced, a Comparable Unit is not required to have the same or similar square footage or the same number of total rooms, but must provide the same number of bedrooms if the Single-Family Dwelling includes three or fewer bedrooms, or at least three bedrooms if the Single-Family Dwelling contains four or more bedrooms.
5. “Protected Unit” includes a Residential Unit:
  - a. Subject to a low-income deed restriction for any of the previous five years;
  - b. Subject to rent or price control under BMC Chapter 13.76; or
  - c. Rented by a household at 50% Area Median Income or lower within the previous five years.

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**23.326.030 Demolition of Residential Units.**

A. Demolition is not allowed if:

1. The Residential Unit(s) was removed from the rental market through a no-fault eviction during the preceding five years; or
2. There is substantial evidence of harassment or threatened or actual illegal eviction during the immediately preceding three years. Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner, whose determination may be appealed to the Rent Stabilization Board.

B. Procedure and Findings.

1. A Use Permit is required to eliminate or demolish one or more Residential Units, except where otherwise provided by the Zoning Ordinance. The ZAB shall only approve the Use Permit if one of the following is true:
  - (a) The building containing the Residential Unit(s) is hazardous or unusable and is infeasible to repair.
  - (b) The building containing the Residential Unit(s) will be moved to a different location within Berkeley with no net loss of units and no change in the rent levels of the unit(s).
  - (c) The demolition is necessary to permit construction approved pursuant to this Chapter of at least the same number of Dwelling Units.
2. A Single-Family Dwelling without sitting tenants can be demolished with an AUP, if the demolition is part of a development project that would result in a net increase in residential density.
3. In the event of a demolition of a Residential Unit created without proper zoning approvals or Building Permit(s), as defined in 23.326.020(A)(2), the Building Official, Zoning Officer or Fire Marshal may determine that the replacement of such a unit is infeasible and not required under this Chapter. Such a determination shall include a finding that the replacement of the unit could not

occur in compliance with Zoning Code, Building Code, Fire Code or other regulations related to public health and safety.

C. *Landmarks and Structures of Merit.* Demolition of a designated landmark or structure of merit, or of a structure in a designated historic district, must be approved by the Landmarks Preservation Commission, pursuant to Chapter 3.24.

D. *Conditions of Approval.* Any Protected Unit that is demolished shall be replaced with a Comparable Unit that shall comply with the maximum allowable rent requirements for Affordable Units in Chapter 23.328 [Affordable Housing Requirements] and Chapter 23.330 [Density Bonus] as they may be amended from time to time.

1. In the event that a displaced household has an income below 50% AMI, a Comparable Unit shall be offered at a rent that is affordable to households at 30% of AMI, and the displaced household shall have the first right of refusal for that unit. Such a Comparable Unit shall be counted as a Very Low-Income unit for applicable affordability requirements in Chapter 23.328.
2. In the event that a demolished Residential Unit is not a Protected Unit and the income of the displaced household is unknown, the Residential Unit shall be presumed to have been occupied by Low- or Lower-Income households in the same proportion as Residential Units throughout the City. The City shall rely upon US Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy (CHAS) data to determine the number of such Residential Units that must be replaced with Affordable Units as defined in Chapter 23.328.
3. In the event that a Protected Unit was subject to rent or price controls under BMC Chapter 13.76, and the income level of the displaced household is unknown, the unit shall be replaced with an Affordable Unit as defined in Chapter 23.328.



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E. *Requirements for Occupied Units.*

1. *Applicability.* The following requirements do not apply to tenants who move in after the application for demolition is submitted to the City if the owner informs each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.
2. *Notice.* The applicant shall provide all sitting tenants and the Rent Stabilization Board notice of the application to demolish the Residential Unit(s) no later than the date the application is submitted to the City, including notice of their rights under Municipal Code Chapter 13.76 (Rent Stabilization and Eviction for Good Cause Program), Chapter 13.77 (Requirements, Procedures, Restrictions and Mitigations Concerning the Withdrawal of Residential Rental Accommodations from Rent or Lease), 13.79 (Tenant Protections: Automatically Renewing Leases and Buyout Agreements) and 13.84 (Relocation Services and Payments for Residential Tenant Households).
3. *General Requirements.* The applicant shall provide moving and relocation assistance equivalent to the requirements set forth in Municipal Code Chapter 13.84 (Relocation Services and Payments for Residential Tenant Households) or Government Code section 66300.6(b)(4)(A), whichever requires greater relocation assistance to displaced tenants, and shall not be subject to the limitations in section 13.84.070.B.3(a). The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. Within five days of the issuance of the Certificate of Occupancy, tenants shall be notified in writing that the units will be ready for move-in on a date specified. Tenants shall confirm in writing their intent to lease the available unit at any time before 20 days after the issuance of the Certificate of Occupancy. Funding for the rent differential shall be guaranteed in a manner approved by City Council Resolution; provided, however, that any project that is carried out or funded by the state or federal government shall be subject to applicable provisions of the California Relocation Act (Government Code section 7260 *et seq.*) and/or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. sections 4601- 4655).

(a) *Exception.* An applicant who proposes to construct a 100-percent affordable housing project is not required to comply with this subsection but must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended and the California Relocation Act (Government Code sections 7260 et seq.).

(b) *Exception for Tenants in ADUs and Unpermitted Units that Cannot Be Replaced.* Applicants are required to provide moving and relocation assistance, in an amount provided in BMC Section 13.76.130(A)(9)(g), to the following groups of tenants: (i) tenants who occupy a lawfully-permitted ADU or JADU on a residential property containing only a Single-Family Dwelling and one lawfully established and fully permitted ADU or JADU, where the landlord also occupies a unit in the same property as his/her principal residence; and (ii) tenants who occupy a unit created without proper zoning approvals that cannot be replaced for public health or safety reasons, pursuant to BMC Section 23.326.030(B)(3). However, applicants are not required to (i) provide such tenants with a temporary replacement unit while a new unit is being constructed, (ii) notify such tenants when a new unit is ready for occupancy; or (iii) provide such tenants with a right for first refusal for the new unit.

#### 4. *Sitting Tenants Rights.*

(a) Any tenant of a Protected Unit that is permitted to be demolished under this section shall have the right of first refusal to rent a Comparable Unit in the new project.

(b) In the event that a displaced household is ineligible for below-market rate replacement units, a market rate Comparable Unit shall be made available to that household at the same rent as had been previously charged, or a lesser rent if that is the market rate.

(c) Where a displaced tenant exercises the right to rent a Comparable Unit, any increase in rent for the Comparable Unit for the duration of their tenancy shall be no greater than the lesser of 65% of the increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San

Francisco-Oakland-San Jose region (as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics for the twelve-month period ending the previous December 31) or 65% of the corresponding increase in Area Median Income (AMI) for the same calendar year.

(d) *Exceptions.*

- i. An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with the preceding requirements but must comply with the following requirement.
- ii. Sitting tenants who are displaced as a result of demolition and who desire to return to the newly constructed affordable housing project will be granted a right of first refusal subject to their ability to meet income qualifications and other applicable eligibility requirements.

**23.326.040 Eliminating Dwelling Units through Combination with Other Units.**

A. *Process for Projects Where Density Exceeds Current Allowance.* A Use Permit is required to eliminate one or more Residential Units by combining with another unit when the existing development exceeds currently-allowable density. The ZAB shall approve a Use Permit for the elimination of one or more Residential Units by combining with another unit only if it finds that:

1. The existing number of Residential Units exceeds the current maximum allowed residential density in the zoning district where the units are located; and
2. One of the following is true:
  - (a) One of the affected Residential Units has been owner-occupied as a principal place of residence for no less than two years before the date of the application and none of the affected units are currently occupied by a tenant.
  - (b) All of the affected Residential Units are being sold by an estate and the decedent occupied the Residential Units as their principal

residence for no less than two years before the date of their death.

*B. Limitations.* Combination is not allowed if:

1. The building was removed from the rental market through a no-fault eviction during the preceding five years; or
2. There is substantial evidence of harassment or threatened or actual illegal eviction during the immediately preceding three years. Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner, whose determination may be appealed to the Rent Stabilization Board.

*C. Two-Year Occupancy Requirement Following Elimination*

1. If a Residential Unit that is eliminated through combination is not owner-occupied for at least two consecutive years from the date of elimination, the affected Residential Unit must be restored to separate status.
2. This requirement shall be implemented by a condition of approval and a notice of limitation on the property, acceptable to the City of Berkeley.
3. The condition of approval and notice will provide that if the Residential Unit is not owner-occupied for at least two years from the date of elimination then the affected Residential Unit(s) must either be restored as separate Residential Unit(s) and the vacant Residential Unit(s) offered for rent within six months or the owner must pay a fee of \$75,000 in 2013 dollars, adjusted in May of each year according to the Consumer Price Index for the San Francisco Bay Area. The fee shall be deposited into the City of Berkeley's Housing Trust Fund.
4. The City of Berkeley may exempt an applicant from the two-year residency requirement if there is an unforeseeable life change that requires relocation.

*D. Effect of Eliminating a Residential Unit.*



1. If eliminating a Residential Unit reduces the number of Residential Units in a building to four or fewer, the applicant shall record a notice of limitation against the subject property that the limitation on eviction of tenants under Chapter 13 (Public Peace, Morals and Welfare) shall continue to apply until:
  - (a) The building is demolished; or
  - (b) Sufficient Residential Units are added or restored such that the building contains at least five Residential Units.
2. The Zoning Officer may issue an AUP for a building conversion which eliminates a Residential Unit upon finding that the conversion will restore or bring the building closer to the original number of Residential Units that was present at the time it was first constructed, provided the conversion meets the requirements of 23.326.040.A.1 and 2 and 23.326.040.B and C.

E. *Exception.* The ZAB may approve a Use Permit to eliminate a Residential Unit through combination with another Residential Unit for the purpose of providing private bathrooms, kitchenettes, accessibility upgrades, and/or seismic safety upgrades, or other elements required by funding sources or programmatic needs to single resident occupancy rooms in residential developments undergoing a publicly-funded rehabilitation.

### **23.326.050 Demolition of Accessory Buildings.**

A. Notwithstanding anything in Municipal Code Title 23 (Zoning Ordinance) to the contrary, but subject to any applicable requirements in Municipal Code Section 3.24 (Landmarks Preservation Ordinance), Accessory Buildings of any size, including, but not limited to, garages, carports, and sheds may be demolished by right except where the Accessory Building is occupied by a residential tenant (regardless of whether it is lawfully permitted) or otherwise contains a lawfully established Residential Unit, which serves and is located on the same lot as a lawful residential use. Such Accessory Buildings are considered Residential Units for the purposes of this Chapter.

### **23.326.060 Private Right of Action.**

A. Any affected tenant may bring a private action for injunctive and/or compensatory relief

against any applicant and/or owner to prevent or remedy a violation of Sections 23.326.030 (Eliminating Dwelling Units through Demolition) and 23.326.040 (Eliminating Dwelling Units through Conversion and Change of Use). In any such action a prevailing plaintiff shall recover reasonable attorney's fees.

**23.326.070 Demolitions of Non-Residential Buildings.**

A. *Main Non-Residential Buildings.* A Use Permit is required to demolish a main building used for non-residential purposes on any lot.

B. *Accessory Buildings.* For any lot located in a non-residential zoning district, Accessory Buildings may be demolished as follows:

1. Demolishing an accessory building with less than 300 square feet of floor area is permitted as of right.
2. An accessory building with 300 square feet or more of floor area may be demolished with an AUP.

C. *Landmarks Preservation Commission Review.*

1. Any application for a Use Permit or AUP to demolish a non-residential building or structure that is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review before consideration of the Use Permit or AUP.
2. The LPC may initiate a landmark or structure-of-merit designation or may choose solely to forward to the ZAB or Zoning Officer its comments on the application.
3. The ZAB or Zoning Officer shall consider the recommendations of the LPC when acting on the application.

D. *Findings.* A Use Permit or an AUP for demolition of a main building used for non-residential purposes on any lot or an accessory building located on a lot in a non-residential district may be approved only if the ZAB or the Zoning Officer finds that:

1. The demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City of Berkeley;

and

2. The demolition:

- (a) Is required to allow a proposed new building or other proposed new use;
- (b) Will remove a building which is unusable for activities which are compatible with the purposes of the district in which it is located or which is infeasible to modify for such uses;
- (c) Will remove a structure which represents an uninhabitable attractive nuisance to the public; or
- (d) Is required for the furtherance of specific plans or projects sponsored by the City of Berkeley or other local district or authority upon a demonstration by the applicant that it would be infeasible to obtain prior or concurrent approval for the new construction or new use.

**23.326.080 Building Relocations.**

*A. Treatment of Building Relocation.*

- 1. Relocating a building from a lot is considered a demolition for purposes of this chapter.
- 2. Relocating a building to a lot within the city is subject to all requirements applicable to new construction.
- 3. When a building is relocated to a different lot within Berkeley, the lot from which the building is removed shall be known as the source lot and the lot on which the building is to be sited shall be known as the receiving lot.
- 4. Nothing in this subsection shall exempt Residential Units relocated to the receiving lot from the provisions of BMC Section 13.76 after a building relocation if the Residential Units located within a building were otherwise subject to BMC Chapter 13.76 in the source lot.

*B. Findings.* The Zoning Officer shall approve Zoning Certificate to relocate a building

upon finding that: the resulting development on the receiving lot is in conformance with applicable zoning code development standards.

**23.326.090 Limitations.**

A. *Unsafe, Hazard, or Danger.*

1. Notwithstanding anything to the contrary, if a building or structure is unsafe, presents a public hazard, and is not securable and/or is in imminent danger of collapse so as to endanger persons or property, as determined by the city's Building Official, it may be demolished without a Use Permit.
2. The Building Official's determination in this matter shall be governed by the standards and criteria in the most recent edition of the California Building Code that is in effect in the City of Berkeley.

B. *Ellis Act.* This chapter shall be applied only to the extent permitted by state law as to buildings which have been entirely withdrawn from the rental market pursuant to the Ellis Act (California Government Code Chapter 12.75).

**23.326.100 Severability.**

A. If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



# Demolition of SFH for Fourplex

Household  
Above 50% AMI



Market  
Rate

Market  
Rate

Market  
Rate

Market  
Rate

Right of first refusal  
Rent at prior rent  
Rent controlled for  
*sitting tenancy*

Household  
50% AMI or Below



Market  
Rate

**30%  
AMI  
BMR**

Market  
Rate

Market  
Rate

Right of first refusal  
Permanent BMR unit

- Affordability Requirement
- 30% AMI for each protected unit with 50% AMI household
  - Permanently Affordable

# Demolition of SFH + ADU for Fourplex

Households  
Above 50% AMI



Four Market Rate Units

Right of first refusal for SFH tenant only  
Rent at prior rent  
Rent controlled for sitting tenancy

Households  
50% AMI or  
Below



Three Market Rate Units

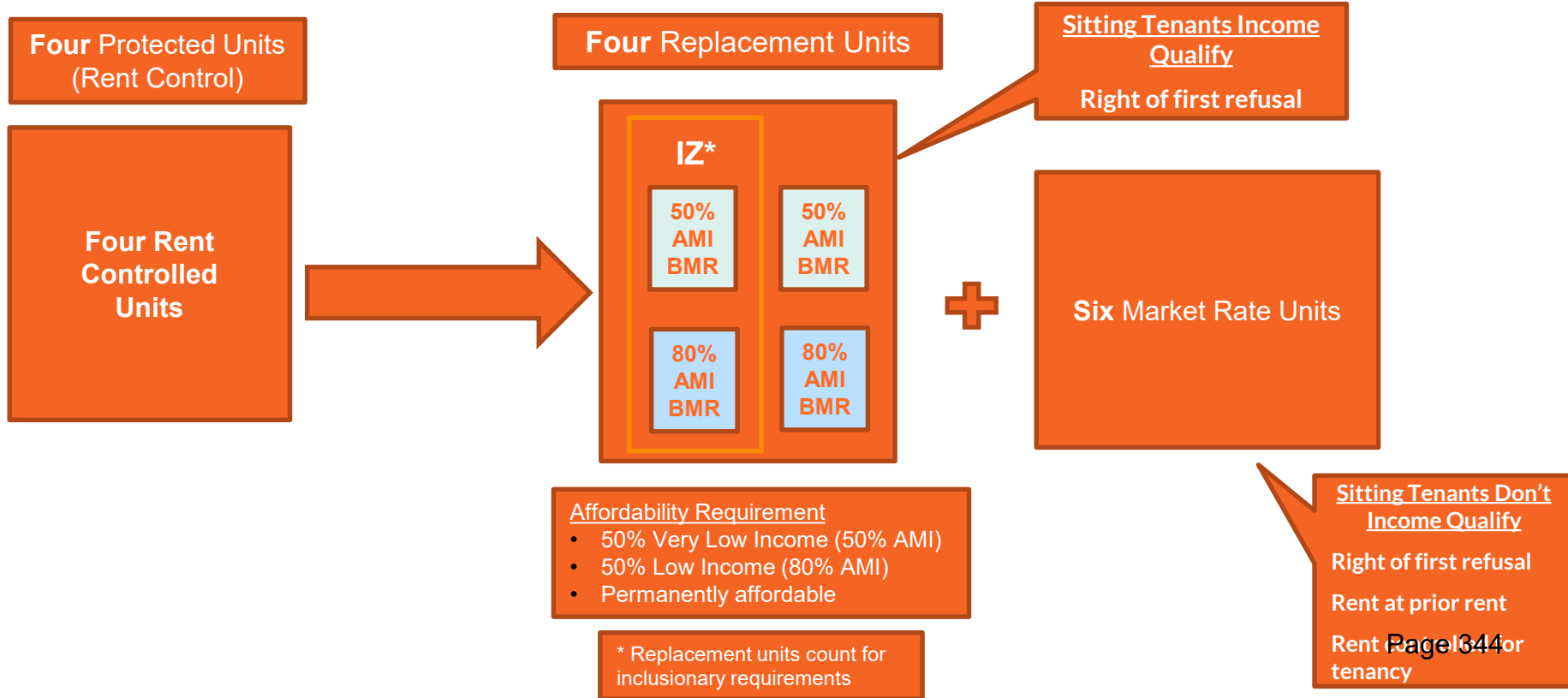
30% AMI BMR

Right of first refusal for SFH tenant only  
Permanent BMR unit

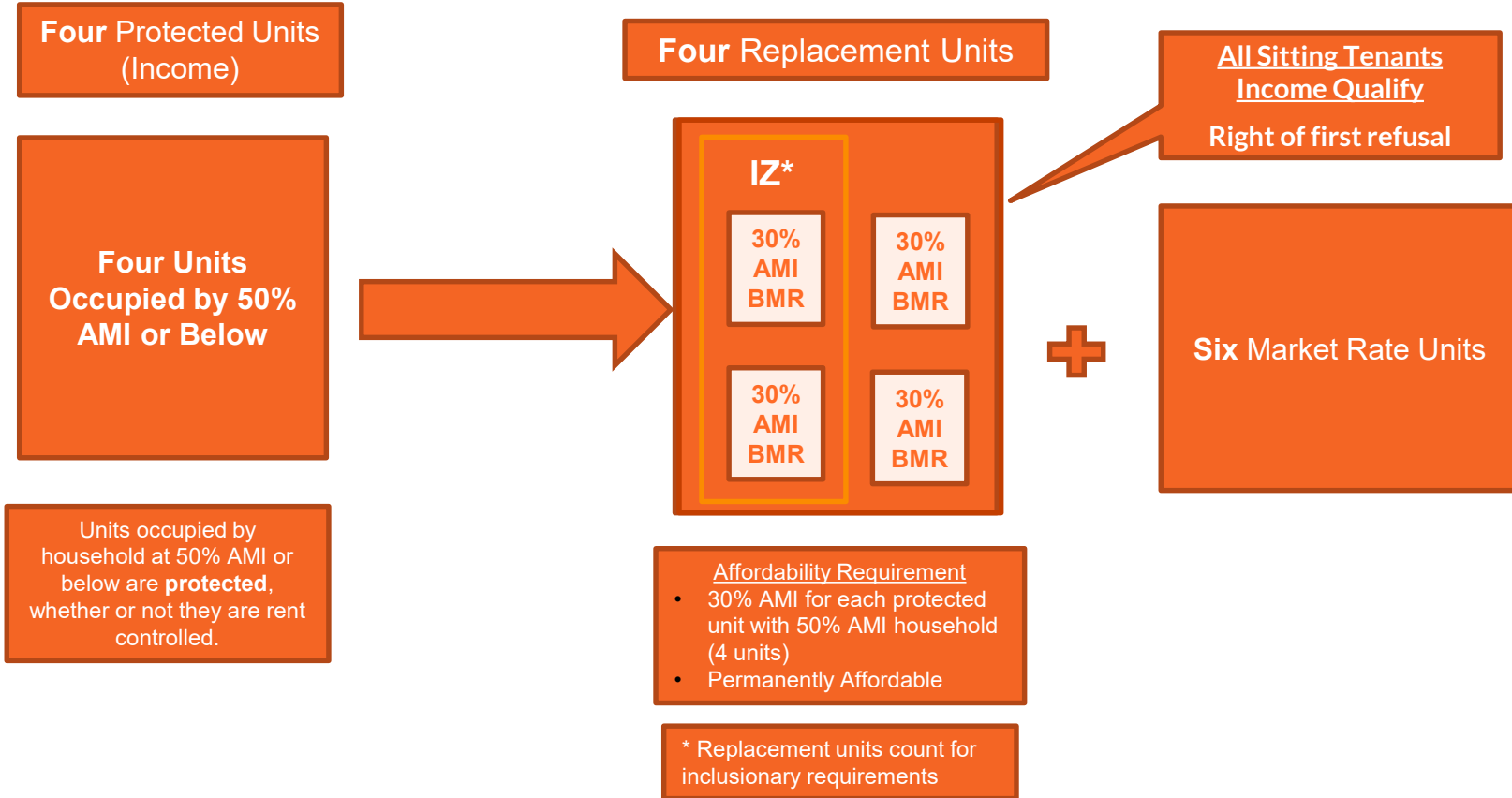
ADUs are not replaced when there is one SFH and one ADU on a lot

- Affordability Requirement
- 30% AMI for each protected unit with 50% AMI household
  - Permanently Affordable

# Demolition of Fourplex for Ten Units

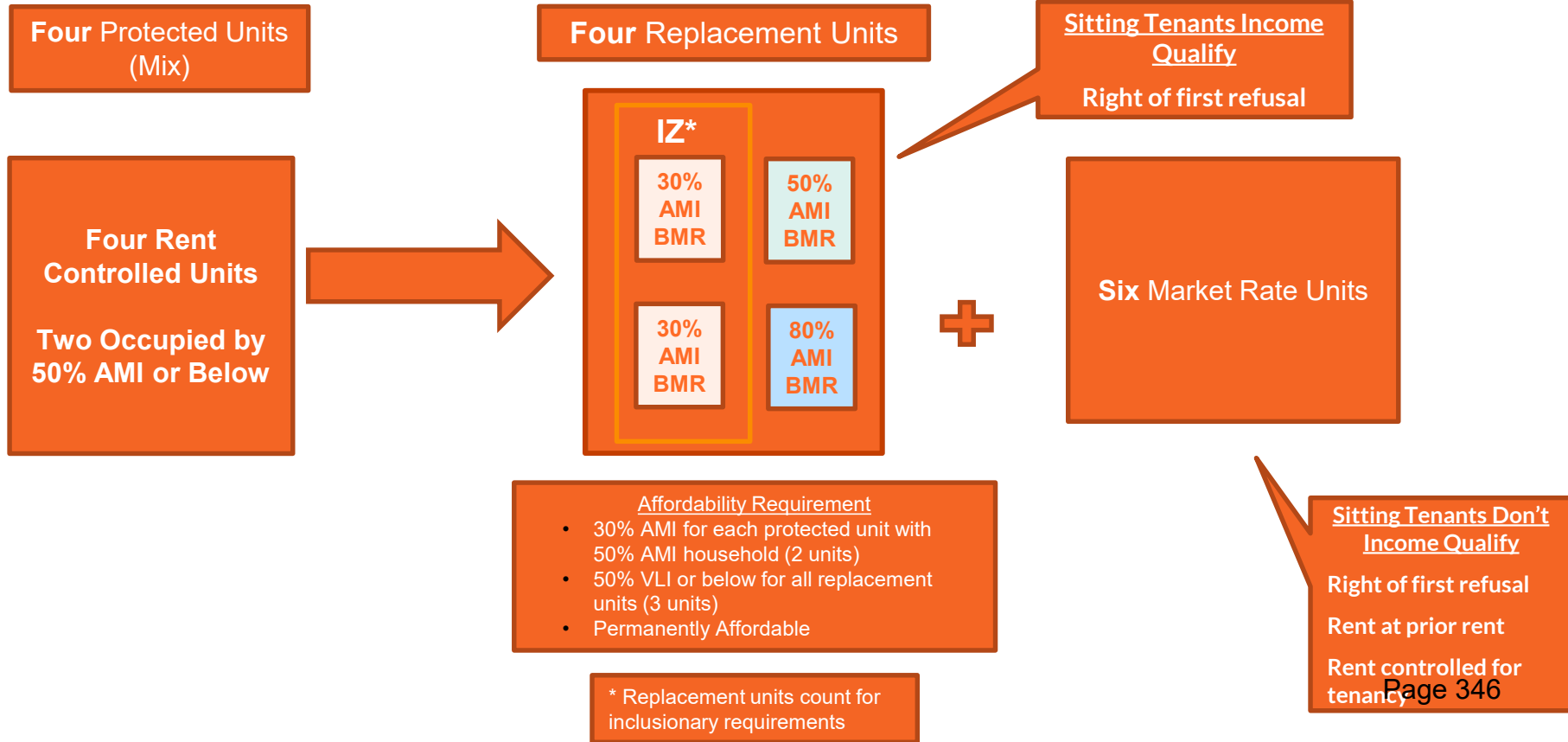


# Demolition of Rent-Controlled Fourplex for Ten Units





# Demolition of Fourplex for Ten Units

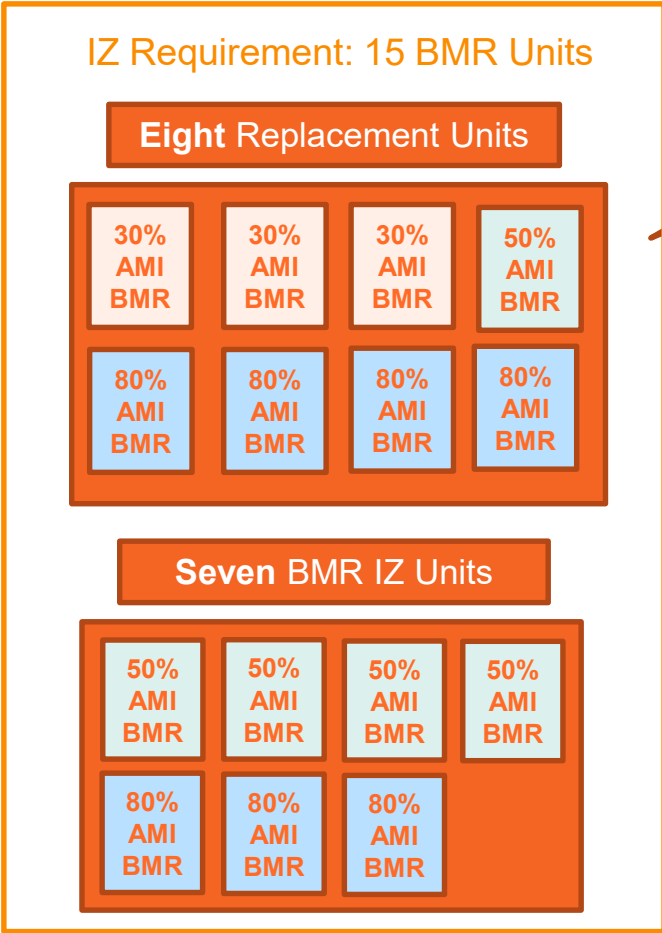


# Demolition of 8 Unit Building for 75 Unit Building

**Eight Protected Units**

**Eight Rent Controlled Units**

**Three Occupied by 50% AMI or Below**



Sitting Tenants Income Qualify  
Right of first refusal



**60 Market Rate Units**

Sitting Tenants Don't Income Qualify  
Right of first refusal  
Rent at prior rent  
Rent controlled for tenancy

- Affordability Requirement
- 30% AMI for each protected unit with 50% AMI household (3 units)
  - 50% AMI or lower for half of all IZ units (8 units)
  - Permanently Affordable

Attachment 4 – Existing Demolition Ordinance

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Chapter 23.326  
DEMOLITION AND DWELLING UNIT CONTROL

Sections:

|            |                                                                  |
|------------|------------------------------------------------------------------|
| 23.326.010 | Chapter Purpose.                                                 |
| 23.326.020 | General Requirements.                                            |
| 23.326.030 | Eliminating Dwelling Units through Demolition.                   |
| 23.326.040 | Eliminating Dwelling Units through Conversion and Change of Use. |
| 23.326.050 | Private Right of Action.                                         |
| 23.326.060 | Elimination of Residential Hotel Rooms.                          |
| 23.326.070 | Demolitions of Non-Residential Buildings.                        |
| 23.326.080 | Building Relocations.                                            |
| 23.326.090 | Limitations.                                                     |

23.326.010 Chapter Purpose.

This chapter establishes demolition and dwelling unit control standards that promote the affordable housing, aesthetic, and safety goals of the City.

23.326.020 General Requirements.

A. *Applicability.* No dwelling unit or units may be eliminated or demolished except as authorized by this chapter.

B. *Findings.* In addition to the requirements below, the Zoning Adjustments Board (ZAB) may approve a Use Permit to eliminate or demolish a dwelling unit only upon finding that eliminating the dwelling unit would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley.

23.326.030 Eliminating Dwelling Units through Demolition.

A. *Buildings with Two or More Units Constructed Before June 1980.*

1. *Applicability.* This subsection only applies to building with two or more units constructed before June 1980.

2. *Limitation.*

Attachment 4 – Existing Demolition Ordinance

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(a) Demolition is not allowed if:

- i. The building was removed from the rental market under the Ellis Act during the preceding five years; or
- ii. There have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

(b) Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.

3. *Findings.* The ZAB may approve a Use Permit to demolish a building constructed before June 1980 on a property containing two or more dwelling units if any of the following are true:

- (a) The building containing the units is hazardous or unusable and is infeasible to repair.
- (b) The building containing the units will be moved to a different location within Berkeley with no net loss of units and no change in the affordability levels of the units.
- (c) The demolition is necessary to permit construction of special housing needs facilities such as, but not limited to, childcare centers and affordable housing developments that serve the greater good of the entire community.
- (d) The demolition is necessary to permit construction approved pursuant to this chapter of at least the same number of dwelling units.

4. *Fee Required.*

- (a) The applicant shall pay a fee for each unit demolished to mitigate the impact of the loss of affordable housing in Berkeley.
- (b) The amount of the fee shall be set by resolution of the City Council.
- (c) *In Lieu of a Fee.*



Attachment 4 – Existing Demolition Ordinance

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- i. In lieu of paying the impact fee, the applicant may provide a designated unit in the new project at a below market rate to a qualifying household in perpetuity.
- ii. The affordability level of the below market rent and the income level of the qualifying household shall be set by resolution of the City Council.
- iii. The applicant shall enter into a regulatory agreement with the City of Berkeley to provide the in lieu units.

5. *Occupied Units.*

(a) *Applicability.*

- i. The requirements in this subsection apply if units to be demolished are occupied.
- ii. These requirements do not apply to tenants who move in after the application for demolition is submitted to the City if the owner informs each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.

(b) *Notice.* The applicant shall provide all sitting tenants notice of the application to demolish the building no later than the date it is submitted to the City, including notice of their rights under Municipal Code Section 13.76 (Rent Stabilization and Eviction for Good Cause Program).

(c) *General Requirements.*

- i. The applicant shall provide assistance with moving expenses equivalent to in Chapter 13.84 (Relocation Services and Payments for Residential Tenant Households).
- ii. The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are ready for occupancy. Funding for the rent differential shall be guaranteed in a manner approved by the City.

Attachment 4 – Existing Demolition Ordinance

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iii. *Exception.* An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with this subsection but must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended and the California Relocation Act (Government Code sections 7260 et seq.).

(d) *Sitting Tenants Rights.*

i. Sitting tenants who are displaced as a result of demolition shall be provided the right of first refusal to move into the new building.

ii. Tenants of units that are demolished shall have the right of first refusal to rent new below-market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues.

iii. Income restrictions do not apply to displaced tenants.

iv. *Exception.*

(1) An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with 23.326.030.A.5.a, b, and c, but must comply with the following requirement.

(2) Sitting tenants who are displaced as a result of demolition and who desire to return to the newly constructed building will be granted a right of first refusal subject to their ability to meet income qualifications and other applicable eligibility requirements when the new units are ready for occupancy.

B. *Buildings with a Single Dwelling Unit.*

1. *Applicability.* This subsection only applies to buildings with a single dwelling unit.

2. *Limitation.*

(a) Demolition is not allowed if:

i. The building was removed from the rental market under the Ellis Act during the preceding five years; or

Attachment 4 – Existing Demolition Ordinance

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ii. There have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

(b) Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.

C. *Accessory Buildings.* Notwithstanding anything in Municipal Code Title 23 (Zoning Ordinance) to the contrary, but subject to any applicable requirements in Municipal Code Section 3.24 (Landmarks Preservation Ordinance), accessory buildings of any size, including, but not limited to, garages, carports, and sheds, but not including any structure containing a lawfully established dwelling unit, which serves and is located on the same lot as a lawful residential use, may be demolished by right.

23.326.040 Eliminating Dwelling Units through Conversion and Change of Use.

A. *General.* The ZAB may approve a Use Permit for the elimination of a dwelling unit in combination with another dwelling unit used for occupancy by a single household if it finds that:

1. The existing number of dwelling units exceeds maximum residential density in the district where the building is located; and
2. One of the following is true:
  - (a) One of the affected dwelling units has been occupied by the applicant's household as its principal place of residence for no less than two years before the date of the application and none of the affected units are currently occupied by a tenant.
  - (b) All of the affected dwelling units are being sold by an estate and the decedent occupied the units as their principal residence for no less than two years before the date of their death.

B. *Limitations.*

1. Demolition is not allowed if:

Attachment 4 – Existing Demolition Ordinance

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(a) The building was removed from the rental market under the Ellis Act during the preceding five years; or

(b) There have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

2. Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.

C. *Effect of Noncompliance with the Two-Year Requirement.*

1. If a unit eliminated under Subsection A (General) is not occupied by the applicant's household for at least two consecutive years from the date of elimination, the affected unit must be restored to separate status.

2. This requirement shall be implemented by a condition of approval and a notice of limitation on the property, acceptable to the City of Berkeley.

3. The condition and notice will provide that if the owner's household does not occupy the unit for at least two years from the date of elimination the affected units must either be restored as separate dwelling units and the vacant unit(s) offered for rent within six months or the owner must pay a fee of \$75,000 in 2013 dollars, adjusted in May of each year according to the Consumer Price Index for the San Francisco Bay Area. The fee shall be deposited into the City of Berkeley's Housing Trust Fund.

4. The City of Berkeley may exempt an applicant from the two-year residency requirement if of an unforeseeable life change that requires relocation.

D. *Effect of Eliminating a Dwelling Unit.*

1. If eliminating a dwelling unit reduces the number of units in a building to four, the applicant shall record a notice of limitation against the subject property that the limitation on eviction of tenants under Chapter 13 (Public Peace, Morals and Welfare) shall continue to apply until:



Attachment 4 – Existing Demolition Ordinance

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- (a) The building is demolished; or
- (b) Sufficient units are added or restored such that the building contains at least five units.

2. The Zoning Officer may issue an AUP for a building conversion which eliminates a dwelling unit upon finding that the conversion will restore or bring the building closer to the original number of dwelling units that was present at the time it was first constructed, provided the conversion meets the requirements 23.326.040.A.1 and 2 and 23.326.040.B and C.

E. *Exceptions.*

1. The ZAB may approve a Use Permit for a change of use to a community care or a child care facility which eliminates a dwelling unit if it finds that such use is in conformance with the regulations of the district in which it is located.

2. The ZAB may approve a Use Permit to eliminate a dwelling unit through combination with another dwelling unit for the purpose of providing private bathrooms, kitchenettes, accessibility upgrades, and/or seismic safety upgrades to single-residential occupancy rooms in residential developments undergoing a publicly-funded rehabilitation.

3. Notwithstanding the general Use Permit requirement under 23.326.020 (General Requirements), a lawfully established accessory dwelling unit that is not a controlled rental unit may be eliminated with a Zoning Certificate if:

- (a) The re-conversion restores the original single-family use of the main building or lot; and
- (b) No tenant is evicted.

23.326.050 Private Right of Action.

Any affected tenant may bring a private action for injunctive and/or compensatory relief against any applicant and/or owner to prevent or remedy a violation of Sections 23.326.030 (Eliminating Dwelling Units through Demolition) and 23.326.040 (Eliminating Dwelling Units through Conversion and Change of Use). In any such action a prevailing plaintiff may recover reasonable attorney's fees.

Attachment 4 – Existing Demolition Ordinance

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23.326.060 Elimination of Residential Hotel Rooms.

A. *General Requirements.* Before removal, the following requirements must be met for the ZAB to approve a Use Permit for the elimination of residential hotel rooms:

1. The residential hotel owner shall provide or cause to be provided standard housing of at least comparable size and quality, at comparable rents and total monthly or weekly charges to each affected tenant.
2. One of the following three requirements shall be met:
  - (a) The residential hotel rooms being removed are replaced by a common use facility, including, but not limited to, a shared kitchen, lounge, or recreation room, that will be available to and primarily of benefit to the existing residents of the residential hotel and that a majority of existing residents give their consent to the removal of the rooms.
  - (b) Before the date on which the residential hotel rooms are removed, one-for-one replacement of each room to be removed is made, with a comparable room, in one of the methods set forth in this section.
  - (c) Residential hotel rooms are removed because of building alterations related to seismic upgrade to the building or to improve access to meet the requirements of the American Disabilities Act (ADA).

B. *Criteria for Replacement Rooms.* For purposes of this section, replacement rooms must be:

1. Substantially comparable in size, location, quality, and amenities;
2. Subject to rent and eviction controls substantially equivalent to those provided by the Rent Stabilization Ordinance or those that applied to the original rooms which are being replaced; and
3. Available at comparable rents and total monthly or weekly charges to those being removed. Comparable rooms may be provided by:
  - (a) Offering the existing tenants of the affected rooms the right of first refusal to occupy the replacement rooms;

Attachment 4 – Existing Demolition Ordinance

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(b) Making available comparable rooms, which are not already classified as residential hotel rooms to replace each of the rooms to be removed; or

(c) Paying to the City of Berkeley's Housing Trust Fund an amount sufficient to provide replacement rooms.

i. The amount to be paid to the City of Berkeley shall be the difference between the replacement cost, including land cost, for the rooms and the amount which the City of Berkeley can obtain by getting a mortgage on the anticipated rents from the newly constructed rooms.

ii. The calculations shall assume that rents in the newly constructed rooms shall not exceed the greater of either a level comparable to the weekly or monthly charges for the replaced rooms or the level which would be charged if no current tenant paid more than 30 percent of such tenant's gross income for rent.

C. *Exception for Non-Profit Ownership.* In a residential hotel owned and operated by a non-profit organization, recognized as tax-exempt by either the Franchise Tax Board and/or the Internal Revenue Service, residential hotel rooms may be changed to non-residential hotel room uses if the average number of residential hotel rooms per day in each calendar year is at least 95 percent of residential hotel rooms established for that particular residential hotel.

23.326.070 Demolitions of Non-Residential Buildings.

A. *Main Non-Residential Buildings.* A main building used for non-residential purposes may be demolished with a Use Permit.

B. *Accessory Buildings.*

1. Demolishing an accessory building with less than 300 square feet of floor area is permitted as of right.

2. An accessory building with 300 square feet or more of floor area may be demolished with an AUP.

C. *Landmarks Preservation Commission Review.*

Attachment 4 – Existing Demolition Ordinance

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1. Any application for a Use Permit or AUP to demolish a non-residential building or structure which is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review before consideration of the Use Permit or AUP.
2. The LPC may initiate a landmark or structure-of-merit designation or may choose solely to forward to the ZAB its comments on the application.
3. The ZAB shall consider the recommendations of the LPC in when acting on the application.

D. *Findings.* A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the ZAB or the Zoning Officer finds that:

1. The demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City of Berkeley; and
2. The demolition:
  - (a) Is required to allow a proposed new building or other proposed new use;
  - (b) Will remove a building which is unusable for activities which are compatible with the purposes of the district in which it is located or which is infeasible to modify for such uses;
  - (c) Will remove a structure which represents an inhabitable attractive nuisance to the public; or
  - (d) Is required for the furtherance of specific plans or projects sponsored by the City of Berkeley or other local district or authority upon a demonstration that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project.

23.326.080 Building Relocations.

A. *Treatment of Building Relocation.*



Attachment 4 – Existing Demolition Ordinance

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1. Relocating a building from a lot is considered a demolition for purposes of this chapter.
2. Relocating a building to a lot is considered new construction and is subject to all requirements applicable to new construction.
3. When a building is relocated to a different lot within in Berkeley, the lot from which the building is removed shall be known as the source lot and the lot on which the building is to be sited shall be known as the receiving lot. In such cases all notification requirements apply to both the source and receiving lots.

B. *Findings.* The ZAB may approve a Use Permit to relocate a building upon finding that:

1. The building to be relocated is not in conflict with the architectural character, or the building scale of the neighborhood or area to which it will be relocated; and
2. The receiving lot provides adequate separation of buildings, privacy, yards, and usable open space.

23.326.090 Limitations.

A. *Unsafe, Hazard, or Danger.*

1. Notwithstanding anything to the contrary, if a building or structure is unsafe, presents a public hazard, and is not securable and/or is in imminent danger of collapse so as to endanger persons or property, as determined by the city's building official, it may be demolished without a Use Permit.
2. The Building Official's determination in this matter shall be governed by the standards and criteria in the most recent edition of the California Building Code that is in effect in the City of Berkeley.

B. *Ellis Act.* This chapter shall be applied only to the extent permitted by state law as to buildings which have been entirely withdrawn from the rental market pursuant to the Ellis Act (California Government Code Chapter 12.75).



Planning and Development Department  
Land Use Planning Division

STAFF REPORT  
December 6, 2023

TO: Members of the Planning Commission

FROM: Justin Horner, Associate Planner

SUBJECT: Zoning Ordinance Amendments to Berkeley Municipal Code Chapter 23.326 (Demolition and Dwelling Unit Controls)

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#### RECOMMENDATION

Make a recommendation to the City Council regarding amendments to Berkeley Municipal Code Chapter 23.326 (Demo Ordinance). The existing and proposed redlined ordinances are presented in **Attachments 1** and **2**, respectively.

#### SUMMARY

State law SB 330 (Housing Crisis Act of 2019) includes new provisions related to demolition of residential units. SB 330 provides optional ways to comply with these requirements, based on whether the units are occupied or vacant, whether existing tenants are low income, whether the units are subject to local rent control (in Berkeley, this would be most properties with more than two units built before 1980), or whether the units were removed from the rental market pursuant to the Ellis Act.<sup>1</sup> In particular, replacement units required by SB 330 may be deed restricted to low income households or they may be subject to local rent control. The law also addresses the rights of existing tenants that would be displaced by demolition, including relocation benefits and a right of first refusal to return to the new units at below market rate (BMR) rent. Density bonus law now mirrors these requirements.

The proposed ordinance (**Attachment 2**) includes provisions to bring the Demo Ordinance into conformance with State law, and includes a number of new Berkeley-specific provisions as recommended by the 4x4 Joint Task Force Committee on

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<sup>1</sup> Under a state law called the Ellis Act (CA Gov. Code Sec. 7060 et seq.), an owner can evict tenants in order to withdraw a rental property from the rental housing market. A local ordinance, Berkeley Municipal Code Chapter 13.77, establishes specific procedures under the state law.

Housing. The proposed ordinance also includes a number of text edits, including grammatical corrections and renumbering.

#### CURRENT SITUATION AND ITS EFFECTS

The existing Demo Ordinance (Attachment 1) requires a Use Permit for the demolition or elimination of one or more dwelling units in Berkeley. The Zoning Adjustments Board (ZAB) may issue a Use Permit for the demolition of a dwelling unit for specific enumerated reasons:

- A building is “hazardous or unusable and is infeasible to repair”;
- “Demolition is necessary to permit construction... of at least the same number of dwelling units.”
- “The elimination of the dwelling units would not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City.”

The existing ordinance includes provisions for unit replacement and the rights of sitting tenants, as well as additional situations such as:

- When housing units are demolished and no new housing units are being developed at the site (e.g., commercial development);
- When tenants have been unlawfully evicted, such as forcing a tenant out of a unit without a court order; and
- When units are being merged or converted within an existing building rather than physically demolished.

The existing ordinance includes a provision whereby applicants may pay a fee rather than provide below-market-rate replacement units, however the amount of the fee has never been established.

Demolition of dwelling units is prohibited where a building has been removed from the rental market under the Ellis Act during the preceding five years or where there have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years. Applicants are generally required to provide relocation benefits, including moving expenses and differential rent payments. In addition, displaced tenants are provided a right of first refusal to rent new units after the lot has been redeveloped.

#### Proposed Demolition Ordinance Provisions

The proposed ordinance (**Attachment 2**) includes provisions to bring the Demo Ordinance into conformance with State law, and includes a number of new Berkeley-specific provisions as recommended by the 4x4 Joint Task Force Committee on Housing. The proposed ordinance also includes a number of text edits, including grammatical corrections and renumbering.

The most significant changes are summarized below in Table 1, and discussed in more detail below. The primary rationales for the proposed changes include clarifying the applicability of the ordinance, expanding tenant protections, bringing the ordinance into conformance with State law, and assigning the Rent Stabilization Board (Rent Board) to administer some aspects of the ordinance rather than the ZAB.

*Applicable Unit.*

The existing ordinance indicates that it applies to a “dwelling unit or units.” The proposed ordinance includes clarifications that it applies to dwelling units, group living accommodations, residential hotel rooms, accessory dwelling units (ADUs), junior accessory dwelling (JADUs) units, and units built without permits.

*Comparable Unit.*

The existing ordinance refers to a “comparable unit” when referring to replacement units, but does not define “comparable unit.” The proposed ordinance includes an explicit definition of “comparable unit”, indicating that it should be of a comparable size, include similar amenities, and be located in a similar area of the city as the demolished unit.

*Prohibited Demolitions.*

The existing ordinance indicates that demolition is prohibited for units that have been removed from the rental stock through the Ellis Act within the past five years, or in cases where there has been substantial evidence of tenant harassment by a rental property owner, or an attempted or actual illegal eviction, within the past three years. In the latter case, the determination of whether harassment has occurred is made by the ZAB.

The proposed ordinance expands tenant protections to include any no fault eviction within the past five years, not just removal of a rental unit from the market through the Ellis Act. A “no fault eviction” is when the property owner or landlord wants to evict a tenant at no fault of the tenant, for example, when the property owner wants to move into the property.

The Rent Stabilization Board is proposed to be the deciding body for questions regarding harassment and illegal eviction, instead of the ZAB.

*Mitigation Fee.*

The existing ordinance includes a requirement to pay an in-lieu mitigation fee for every unit demolished, or the option to replace a comparable BMR unit on-site.

State law (SB330) imposes a requirement that any housing development project that requires the demolition of dwelling units must create at least as many residential dwelling units as will be demolished on-site, and requires that the City condition



approval on the provision of replacement units. Therefore, an option to “fee out” of the replacement requirement is a violation of State law, because it would not provide replacement units at the sizes and affordability levels required by SB 330. Accordingly, the proposed ordinance removes the mitigation fee section.

*Landmarks and Structures of Merit.*

While the provisions of BMC Chapter 3.24 (Landmarks Preservation Commission) apply to units proposed for demolition, the existing ordinance does not explicitly refer to this chapter. Accordingly, the proposed ordinance includes specific language referring to Chapter 3.24.

*Affordability of Replacement Units.*

The existing ordinance includes a requirement that any replacement units must be BMR units, and that the income levels of the qualifying households, and rents for the replacement units, shall be set by a resolution of the City Council. The existing ordinance also includes a requirement that the project applicant enter into a regulatory agreement with the city to provide these units.

The proposed ordinance includes more detailed provisions addressing the affordability levels of replacement units:

- The proposed ordinance requires that any demolished unit shall be replaced with equivalent units and comply with the applicable affordability requirements included in BMC 23.328 (Affordable Housing Requirements) and BMC 23.330 (Density Bonus). Referencing these sections clarifies the appropriate affordability levels for replacement units, and establishes consistent requirements across a number of affordable housing-related provisions in the BMC.
- The proposed ordinance also includes a provision that if a displaced household has an income below 50% AMI, a comparable replacement unit shall be offered at a rent that is affordable to households at 30% of AMI.

*Sitting Tenants' Rights.*

The existing ordinance establishes certain rights for sitting tenants. Sitting tenants in demolished units are entitled to a right of first refusal to move into the new building, have a right of first refusal for any BMR units, and retain those rights even if they have incomes that do not qualify for BMR units.

The proposed ordinance clarifies that tenants who do not qualify for BMR replacement units due to income limits above the area median income must still be provided a market-rate replacement unit at their prior rent. Additionally, the rent for the duration of that tenancy would be subject to Berkeley's rent control regulations. This section was added by the 4x4 Committee to provide additional rights to sitting tenants who may not qualify for BMR units.

The proposed ordinance includes additional provisions related to sitting tenants' rights. The revisions clarify that a sitting tenant's right of first refusal extends to a *comparable* unit (not just any unit) in the building, and sets the initial rent and subsequent rents for sitting tenant households that are ineligible for BMR units. These provisions go beyond what is required under State law.

*Elimination of Units through Combination with Other Units.*

The existing ordinance includes provisions regulating the elimination of dwelling units through physical combination with other units. This is usually done in cases where two units are combined to make a single larger unit. The existing ordinance requires a Use Permit, with specific findings, to move forward with such an elimination. It also prohibits such an elimination if the building was removed from the rental market through the Ellis Act in the past five years, or if there is evidence of tenant harassment or illegal eviction within the past three years, as determined by the ZAB.

The proposed ordinance permits combined units through an AUP approval if such a combination would return the building to, or move it closer towards, its permitted density. This is a provision to make it easier for units in owner-occupied buildings to be combined. The AUP requirement still includes discretionary review, the ability to set conditions, and an appeal option to the ZAB.

Elimination of a unit for a combination would not be approved if the building was vacated through any no-fault eviction, not just due to the Ellis Act, or if the tenant was subject to landlord harassment or an illegal eviction. The determination of whether landlord harassment or a real or attempted illegal eviction occurred would be made by the Rent Board Hearing Examiner, with an appeal option to the Rent Stabilization Board, instead of by the ZAB.

*Demolition of ADUs that are not Controlled.*

The existing ordinance includes a provision that allows the demolition, with a Zoning Certificate (ZC), of ADUs that are not rent controlled. The proposed ordinance removes this section, and clarifies that ADUs and JADUs are considered residential units for the purposes of the ordinance, and therefore require a Use Permit for demolition or elimination.

*Demolition of Accessory Buildings*

The existing ordinance includes a provision that permits the demolition of an accessory building that does not contain a dwelling unit, such as garages, carports, and sheds, with a ZC. The proposed ordinance includes additional clarifying language that an accessory building that is occupied by a residential tenant shall be considered a residential unit for the purposes of this chapter.

*Residential Hotel Rooms*

The existing ordinance includes a section specifically regulating the elimination of residential hotel rooms. These provisions include specific requirements related to monthly and weekly charges, and permit residential hotel rooms to be removed for the purpose of providing common use facilities (such as a kitchen, lounge, or recreation room) for remaining residents or to undertake seismic upgrades or meet the requirements of the Americans with Disabilities Act. They also include a provision allowing an owner to meet the replacement requirements through a payment to the Housing Trust Fund, which, as noted above, is not permitted under State law. The proposed ordinance removes this section, and includes language indicating that residential hotel rooms are treated as residential units for the purpose of this ordinance.

*Technical Edits, Reorganization and Renumbering*

The proposed ordinance also includes a variety of purely technical edits, and reorganization, retitling, and renumbering of some sections and subsections.

**Table 1. Summary of Revisions to Demolition Ordinance**

| <b>Policy Area</b>                               | <b>Current Ordinance</b>                                                                        | <b>Proposed Ordinance</b>                                                                                                           | <b>Rationale</b>                                                                                  |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <b>Applicable unit</b>                           | “Dwelling unit or units.”                                                                       | Dwelling Unit, GLA, ADU, JADU, and units built without permits<br><i>23.326.010(A)(1) – (3)</i>                                     | Clarification of the types of units covered.                                                      |
| <b>Comparable unit</b>                           | No definition.                                                                                  | “Similar size, amenities and location within the city.”<br><i>23.326.010(A)(4)</i>                                                  | Clarification by providing a definition.                                                          |
| <b>Demolition Prohibition: Ellis Act</b>         | Prohibition applies to any unit removed via Ellis Act within the past 5 years                   | Prohibition applies to any “no-fault” eviction.<br><i>23.326.030(A)</i>                                                             | Expansion of tenant protections beyond just one type of no-fault eviction (Ellis Act).            |
| <b>Demolition Prohibition: Tenant Harassment</b> | Determination made by ZAB.                                                                      | Determination made by Rent Board.<br><i>23.326.030(A)(2)</i>                                                                        | For tenant-landlord issues, the Rent Board is the subject-expert body.                            |
| <b>Mitigation Fee</b>                            | Includes mitigation fee option.                                                                 | Removes mitigation fee option.                                                                                                      | State Law: Demolished units must be replaced (SB 330).                                            |
| <b>Landmarks and Structures of Merit</b>         | No reference to Landmarks Preservation Commission (LPC) procedures.                             | Includes reference to LPC procedures.<br><i>23.326.030(C)</i>                                                                       | Clarification that LPC procedures apply.                                                          |
| <b>Replacement Units -- Affordability</b>        | <ul style="list-style-type: none"> <li>Replacement unit must be “BMR” in perpetuity;</li> </ul> | <ul style="list-style-type: none"> <li>Replacement unit must comply with Chapter 23.328 (Affordability Requirements) and</li> </ul> | State Law: Existing tenant income levels impact type/affordability of replacement units (SB 330). |

| Policy Area                                                      | Current Ordinance                                                                                                                                                                          | Proposed Ordinance                                                                                                                                                                                                                                                                                                        | Rationale                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                  | <ul style="list-style-type: none"> <li>Affordability level to be set by Council resolution;</li> <li>Regulatory agreement with the City required.</li> </ul>                               | 23.330 (Density Bonus); <ul style="list-style-type: none"> <li>For demolished unit with household at 50% AMI or below, replacement unit must be set at 30% AMI; and</li> <li>Allows Zoning Officer and Fire Marshall to waive replacement for health and safety</li> </ul> 23.326.030(C)                                  |                                                                                                                                                                                                                                                           |
| <b>Sitting Tenants Rights</b>                                    | <ul style="list-style-type: none"> <li>Right of first refusal to move into the building</li> <li>Right of first refusal for BMR units</li> <li>Income restrictions do not apply</li> </ul> | <ul style="list-style-type: none"> <li>Right of first refusal for a comparable unit</li> <li>For displaced tenants who rent a comparable unit, rent is controlled for duration of tenancy</li> <li>For households ineligible for BMR units, a replacement unit shall be offered at prior rent</li> </ul> 23.326.030(E)(4) | State Law: Tenant income levels impact type/affordability of replacement units (SB 330).<br><br>Additional local requirement: Income restrictions do not apply to displaced households upon their return to the property after completion of the project. |
| <b>Elimination of Units through Combination with other Units</b> | Use Permit required in all cases, with findings.                                                                                                                                           | AUP to combine units when the combination would return the building to, or move it closer towards, its original density<br>23.326.040(B)                                                                                                                                                                                  | Simplification: Allow conversion of owner-occupied buildings with a lesser standard.                                                                                                                                                                      |
|                                                                  | Combination not allowed if the building was removed via Ellis Act within the past 5 years                                                                                                  | Combination not allowed if vacated through no fault eviction within the past 5 years<br>23.326.040(C)                                                                                                                                                                                                                     | Expansion of tenant protections beyond just one type of no-fault eviction (Ellis Act).                                                                                                                                                                    |
|                                                                  | Combination not allowed if tenant harassment. Determination made by ZAB                                                                                                                    | Determination made by Rent Board Hearing Examiner, with appeal to Rent Board<br>23.326.040(C)                                                                                                                                                                                                                             | For tenant-landlord issues, the Rent Board is the subject-expert body.                                                                                                                                                                                    |



| <b>Policy Area</b>                            | <b>Current Ordinance</b>                                                               | <b>Proposed Ordinance</b>                                                                                                                          | <b>Rationale</b>                                                                                              |
|-----------------------------------------------|----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <b>Demolition of ADUs</b>                     | Provides path to demolition with ZC for ADUs that are not rent controlled.             | Section removed. All ADUs and JADUs, regardless of rent control status, are regulated as a residential unit.                                       | ADUs and JADUs are considered Residential Units for purpose of ordinance.<br><i>23.326.010(A)(2)</i>          |
| <b>Demolition of Accessory Buildings</b>      | Can be demolished by right.                                                            | Added language to clarify that Accessory Buildings that are occupied by residential tenants are considered Residential Units.<br><i>23.326.050</i> | Expansion of demolition controls and tenant protections.                                                      |
| <b>Elimination of Residential Hotel Rooms</b> | Section 23.326.060 provides specific procedures for removal of residential hotel rooms | Section removed.                                                                                                                                   | Residential Hotel Rooms are considered Residential Units for purpose of ordinance.<br><i>23.326.010(A)(1)</i> |

**BACKGROUND**

The impetus for these revisions is recent changes in State law that provide additional requirements for new housing development projects that involve the demolition of existing residential units. These provisions of SB 330 (Housing Crisis Act of 2019), which modified Government Code sections relating to zoning and density bonus, require all new housing development projects to provide replacement units of equivalent size, defined as having the same number of bedrooms as the demolished units.

At its meeting of February 1, 2023, the Planning Commission scheduled a public hearing to adopt a recommendation for the City Council of changes to the Demo Ordinance (**Attachment 3**). The Planning Commission deferred a final recommendation pending recommendations from the 4x4 Joint Task Force Committee on Housing. Staff returned to the 4x4 Joint Task Force Committee in September and October of 2023 for discussion and recommendations, which are reflected in **Attachment 2**. The proposed amendments do not include changes in permit requirement for by-right demolition of single-family homes, which will be considered in the future as part of a larger package of ‘middle housing’ zoning amendments.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

California Public Resource Code Section 21065 defines a “project” under CEQA as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed ordinance amendments relate only to the requirements to demolish existing structures, and would not result in any physical changes to the environment. The proposed ordinance does not consist of a discretionary action that would permit or cause any

direct or indirect change in the environment. The proposed ordinance is therefore not a project under CEQA.

#### RATIONALE FOR RECOMMENDATION

The proposed ordinance includes changes required by state law, as well as policy changes recommended by the 4x4 Joint Committee Task Force on Housing.

#### NEXT STEPS

After the Planning Commission holds a public hearing and makes a recommendation to the City Council, the City Council shall hold a public hearing and vote to adopt the proposed ordinance amendments

#### CONTACT PERSON

Justin Horner, Associate Planner, Planning and Development, [jhorner@berkeleyca.gov](mailto:jhorner@berkeleyca.gov); 510-981-7476

#### Attachments:

1. Existing Demolition Ordinance (BMC Chapter 23.326)
2. Proposed Demolition Ordinance – Redlined (BMC Chapter 23.326)
3. Planning Commission Staff Report – Feb 1, 2023.
4. Public Hearing Notice



Planning and Development Department  
Land Use Planning Division

STAFF REPORT  
January 17, 2024

TO: Members of the Planning Commission

FROM: Justin Horner, Associate Planner

SUBJECT: Zoning Ordinance Amendments to Berkeley Municipal Code Chapter 23.326 (Demolition and Dwelling Unit Controls)

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#### RECOMMENDATION

Conduct a public hearing and make a recommendation to the City Council regarding amendments to Berkeley Municipal Code Chapter 23.326 (Demolition and Dwelling Unit Control Ordinance). The existing and proposed redlined ordinances are presented in **Attachments 1** and **2**, respectively.

#### SUMMARY

State law SB 330 (Housing Crisis Act of 2019) established new provisions related to demolition of residential units. SB 330 provides optional ways to comply with these requirements. These include unit occupancy or vacancy, existing tenant income status (ex. low income), local rent control applicability (in Berkeley, this would be most properties with more than two units built before 1980), or if units were removed from the rental market pursuant to the Ellis Act.<sup>1</sup> In particular, replacement units required by SB 330 may be deed restricted to low income households or subject to local rent control. The law also addresses the rights of existing tenants that would be displaced by demolition, including relocation benefits and a right of first refusal to return to the new units at below market rate (BMR) rent. Density bonus law now reflects these requirements.

The proposed ordinance (**Attachment 2**) includes provisions to bring the Demolition Ordinance into conformance with State law, and includes a number of new Berkeley-specific provisions as recommended by the 4x4 Joint Task Force Committee on Housing and the Planning Commission's Subcommittee meeting of December 20, 2023. The proposed ordinance also includes a number of text edits, including grammatical corrections and renumbering.

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<sup>1</sup> Under a state law called the Ellis Act (CA Gov. Code Sec. 7060 et seq.), an owner can evict tenants in order to withdraw a rental property from the rental housing market. A local ordinance, Berkeley Municipal Code Chapter 13.77, establishes specific procedures under the State law.

## REVISIONS TO DECEMBER 6, 2023 PROPOSED ORDINANCE

The proposed ordinance presented to the Planning Commission at its December 2, 2023 meeting was prepared based on multiple Planning Commission meetings and meetings of the 4x4 Joint Task Force Committee on Housing. The staff report for the December 6th 2023 Planning Commission meeting (**Attachment 3**) includes detailed discussion of those meetings, as well as the rationale for the development of the proposed ordinance.

At its December 6, 2023 meeting, the Planning Commission moved to create a Subcommittee to review the proposed ordinance in detail, and to consider suggestions and recommendations made by Commissioners at that meeting. The Subcommittee met on December 20, 2023 and recommended a number of changes to the ordinance presented to the Planning Commission at the December 6, 2023 meeting. These changes are detailed below.

- **Demolition of Single-Family Dwellings with a Zoning Certificate.** The ordinance presented on December 6, 2023 included a provision that requires a Use Permit (UP) to demolish any dwelling unit. *Program 29-Middle Housing* of the recently-adopted Housing Element includes a provision requiring the City Council to consider by-right demolition of single-family homes to encourage the development of middle housing.

**Proposed Modification:** The proposed ordinance includes a provision to allow the demolition of a single-family dwelling with a Zoning Certificate if the demolition is part of a development project that would result in a net increase in residential density. This provision changes the required permit for the demolition from a Use Permit to a Zoning Certificate. All other aspects of the ordinance, including tenant notice, tenant protections, unit replacement requirements and other provisions, would continue to apply to the demolition of single-family dwellings.

- **Demolition of Residential Units for Non-Residential Projects.** The ordinance presented on December 6, 2023 included a provision which would allow the Zoning Adjustments Board (ZAB) to approve the demolition of residential units with a finding that the demolition is necessary to permit construction of “economically beneficial uses;” that is, projects that are non-residential. Residential units demolished under this finding would not have been required to be replaced.

**Proposed Modification:** The Subcommittee recommended removal of this provision. AB 1218,<sup>2</sup> recently signed into law, applies SB 330 residential unit replacement requirements to proposed projects that do not include residential units.

- **“Equivalent” vs. “Comparable” Units.** The ordinance presented to the Planning Commission on December 6, 2023 included a requirement that residential units that are demolished shall be replaced with “equivalent” units.

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<sup>2</sup> <https://legiscan.com/CA/text/AB1218/id/2845253>



**Proposed Modification:** Neither the ordinance, nor Title 23, includes a definition of “equivalent,” for this context. The Subcommittee therefore replaced “equivalent” with “comparable,” which is defined in the proposed ordinance.

- **Tenants’ Intent to Return.** The ordinance presented to the Planning Commission on December 6, 2023 included a provision that “tenants shall have until the date that the new units *are ready* for occupancy to decide whether to move into the newly constructed building.” [emphasis added]

**Proposed Modification:** The Subcommittee recommended more precise language to indicate the timeline by which a tenant should inform an owner of their intent to return to a unit. The proposed ordinance includes new provisions that:

- a) an owner must inform a tenant within five days of the issuance of a Certificate of Occupancy that a new unit will be ready for move in on a specific date; and
- b) tenants are to confirm in writing their intent to lease a replacement unit at any time between learning of a demolition and twenty days after the issuance of a Certificate of Occupancy for a new unit.

- **Combination of Units, Findings.** The ordinance presented to the Planning Commission on December 6, 2023 included a provision that allows the ZAB to approve a UP to eliminate a unit within a single-resident occupancy residential development undergoing a publicly-funded rehabilitation through combination with another unit, for the purposes of providing private bathrooms, kitchenettes, accessibility upgrades, or seismic safety upgrades.

**Proposed Modification:** The Subcommittee recommended additional language to broaden the acceptable purposes to include “other elements required by funding sources or programmatic needs.”

- **Combination of Units, Applicant Requirements.** The ordinance presented to the Planning Commission on December 6, 2023 includes two requirements relating to applicants intending to demolish units through combination. One requirement is that the ZAB must find that the applicant’s household has occupied the affected unit for no less than two years, and the other is that an applicant’s household must occupy the combined unit for at least two years after its completion.

**Proposed Modification:** The proposed ordinance changes this requirement from applying to the “applicant,” to applying to an “owner.” This revision would still require owner-occupancy, maintaining prohibitions on evicting tenants to combine units or immediately renting combined units, but would permit an owner-to-owner sale of a property.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

California Public Resource Code Section 21065 defines a “project” under CEQA as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed ordinance amendments relate only to the requirements to demolish existing structures, and would not result in any physical changes to the environment. The proposed ordinance does not consist of a discretionary action that would permit or cause any direct or indirect change in the environment. The proposed ordinance is therefore not a project under CEQA.

### RATIONALE FOR RECOMMENDATION

The proposed ordinance includes changes required by state law, as well as policy changes recommended by the 4x4 Joint Committee Task Force on Housing and the Planning Commission’s Subcommittee.

### NEXT STEPS

After the Planning Commission holds a public hearing and makes a recommendation to the City Council, the City Council shall hold a public hearing and vote to adopt the proposed ordinance amendments.

### CONTACT PERSON

Justin Horner, Associate Planner, Planning and Development, [jhorner@berkeleyca.gov](mailto:jhorner@berkeleyca.gov); 510-981-7476

### Attachments:

1. Existing Demolition Ordinance (BMC Chapter 23.326)
2. Proposed Demolition Ordinance – Redlined (BMC Chapter 23.326)
3. Planning Commission Staff Report – December 6, 2023.
4. Public Hearing Notice

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL**

**Zoning Ordinance Amendments to Berkeley Municipal Code  
Section 23.326 (Demolition and Dwelling Unit Controls)**

**The public may participate in this hearing by remote video or in-person.**

The Department of Planning and Development is proposing amendments to the Demolition Ordinance, Berkeley Municipal Code Chapter 23.326, that are required or permitted pursuant to recent changes in State law that provide additional requirements for new housing development projects that involve the demolition of existing residential units. The proposed amendments would also detail additional tenant protections and affordability requirements for replacement of demolished units.

The hearing will be held on, **March 26, 2024 at 6:00 p.m.** in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City’s website at <https://berkeleyca.gov/> as of March 14, 2024. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact Justin Horner, Associate Planner at 510-981-7476. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to [council@berkeleyca.gov](mailto:council@berkeleyca.gov) 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@berkeleyca.gov](mailto:clerk@berkeleyca.gov) for further information.

**Published:** March 15, 2024

**Public Hearing required by BMC 23.412.050 and Govt Code 65853; notice provided according to Govt Code 65090 and BMC 23.404.040.**



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 March 14, 2026.

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Mark Numainville, City Clerk







Office of the City Manager

ACTION CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Margot Ernst, Manager, Health, Housing, and Community Services,  
Community Services Division

Subject: Dissolution of the Human Welfare and Community Action Commission and the Peace and Justice Commission; and, establishment of the Human Welfare, Peace and Justice Commission Berkeley Community Action Agency Commission

RECOMMENDATION

Adopt first reading of an Ordinance to:

1. Repeal Chapter 3.68, Peace and Justice Commission; and,
2. Repeal Chapter 3.78, Human Welfare and Community Action Commission; and,
3. Establish the Human Welfare, Peace and Justice Berkeley Community Action Agency Commission with Commission with Chapter 3.70

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley receives approximately \$300,000 of CSBG funding per calendar year to support programs and services that combat poverty for Berkeley residents. Currently, the Human Welfare and Community Action Commission (HWCAC) acts as the federally mandated tripartite board for CSBG funding and advises the Council on how to use these funds. The duties associated with CSBG funding will be transferred to the newly-established Human Welfare, Peace and Justice Commission Berkeley Community Action Agency Commission (HWPJBCAA), which will take on the advisory responsibilities previously held by the HWCAC. The City Council will continue to be the decision-making body and will be responsible for all final CSBG funding decisions.

The dissolution of two commissions and establishment of one commission may will reduce staffing and operating costs associated with running commission meetings, because the total number of commissions will be decreased by one. This staff cost saving was identified in the June 15, 2021 Council item, "Commission Reorganization for Post-COVID19 Budget Recovery" (Attachment 2).

CURRENT SITUATION AND ITS EFFECTS

In order to sustain civic engagement and remain fiscally responsible, in June 2021 the City Council directed the City Manager to consolidate several City commissions,

including the HWCAC and Peace and Justice Commission (PJC). Additionally, tThe HWCAC has struggled to maintain a full commission since 2012 (Attachment 2). In 2023, the HWCAC did not meet for a total of six regular meetings due to a lack of quorum. The inability of the HWCAC to achieve a meeting quorum can be partially attributed to the high number of vacancies on the commission; from July to December of 2023, the HWCAC never had more than three commissioners at any given time. Additionally, as of this writing, the HWCAC has two commissioners and has not achieved a commission meeting quorum since June 21, 2023. This is a significant problem for both the City commission meeting requirements as well as CSBG funding requirements, for which the HWCAC serves as an advisory board to Council. Without regular meetings of the HWCAC, the City is in violation of the contract requirements for CSBG funding, which include approval of CSBG revenue contracts, regular review of community agency performance reports, public hearings on community needs, and funding recommendations to City Council. With over half of the seats currently vacant, the PJC has also struggled to maintain its membership of 15 seats. In fact, on February 16, 2024, the Chair of the HWCAC and the Health, Housing and Community Services Department received a letter from the State of California's Department of Community Services and Development, notifying the City that it would be considered "high risk" for losing CSBG funding unless demonstrable progress was made to address these issues within 45 days (see Attachment 2).

The proposed Human Welfare, Peace and Justice Commission (HWPJ) Berkeley Community Action Agency Commission (BCAA) would adopt all CSBG-related requirements, ensuring contract compliance and preservation of the approximate \$300,000 per calendar year that the City receives in CSBG funding for anti-poverty programs and services for Berkeley residents.

The proposed change from 15 members of the HWCAC to a nine-member structure for the HWPJ BCAA would achieve a balance between the strict federal funding requirement to have a tripartite board, and the ability to keep the seats on the commission filled. The three parts of the tripartite board are one-third elected public officials (or their designees), at least one-third elected low-income individuals residing in the CSBG agency's designated service area (in this case, the City of Berkeley), and the remaining members from the private sector (such as representatives from business, industry, labor, religious, human services, education, or other groups with interest in the community). City staff received technical assistance from the California Community Action Partnership Association (CalCAPA), which supports Community Action Agencies and CSBG funding recipients with HUD compliance, to ensure that the new commission structure will be CSBG compliant. The revised ordinance presented in this report has been reviewed for compliance by CalCAPA.

The new HWPJ BCAA municipal code chapter will include the key responsibilities and requirements from both the HWCAC and PJC.

BACKGROUND

On June 15, 2021, City Council directed the City Manager to examine a multi-phased approach to the consolidation of City commissions, including a merger of the HWCAC and the PJC. The merging of these two commissions was delayed due to conflicting municipal code requirements, as well as challenges to ensuring CSBG funding compliance. City staff have now determined that the commissions are able to be merged without disrupting the responsibilities of each respective commission. ~~City staff shared a memo with both commissions that included a description and timeline for the merger, as well as staff contact information for any questions, concerns, or feedback.~~

~~In November 2023, City staff shared a memo with both commissions that included a description and timeline for the commission consolidations, as well as staff contact information for any questions, concerns, or feedback. Staff met with representatives of each commission to discuss their concerns about the merger, both individually and during commission meetings. Staff received clear feedback from HWCAC and PJC commissioners that the consolidation should not move forward, including letters from each respective commission to Council detailing their concerns. Ultimately, the commission merger Council ordinance scheduled for the February 13, 2024 Council meeting was sent back to the Agenda and Rules Committee for future scheduling.~~

~~On February 16, 2024, the Chair of the HWCAC and the Health, Housing and Community Services Department received a letter from the State of California's Department of Community Services and Development, notifying the City that it would be considered "high risk" for losing CSBG funding unless demonstrable progress was made to address these issues within 45 days (see Attachment 2).~~

~~Since then, staff have taken the input received from the HWCAC and PJC commissions into consideration and have incorporated changes to the proposed HWPJ ordinance as allowable under the requirements of CSBG funding. Staff heard three main categories of concerns from the commissions and have made strides to revise the ordinance to incorporate these concerns:~~

- ~~1. Concerns about the name of the commission, and specifically losing "peace" and "justice" from the name. To address this concern, the attached ordinance changes the name to the "Human Welfare, Peace, and Justice Commission."~~
- ~~2. A concern from the PJC that staff's original ordinance dropped some of the PJC's main and most important charges from their enabling legislation, such as (among other things) holding public hearings and community forums. To address this concern, the attached ordinance adds back a number of original items from PJC's enabling legislation. It is important to note that, in order to maintain CSBG funding and be in compliance with federal regulatory requirements, the main charge of this Commission must be primarily poverty-related issues.~~
- ~~3. Concerns about the drop in membership (from 15 seats to 9 seats) and the loss of BUSD-appointed seats. Unfortunately, this is not something staff recommend accommodating. Federal regulations on the tripartite board structure include specific ratios of membership composition; the more seats there are to fill, the harder it is to find and retain qualified candidates for the Commission. At present,~~



[both the PJC and HWCAC \(15 seats now\) have struggled with participation and ability to meet quorum. Reducing the seats to 9 is not only Council's 2021 direction, but it also helps ensure the City constructs a board that can more reliably meet quorum.](#)

The HWCAC was established to identify social welfare needs of the community and to advise City Council on the use of CSBG funds for services that benefit low-income Berkeley residents, acting as a tripartite board for the City of Berkeley's CSBG funding.

The PJC was established to advise City Council and the Berkeley Unified School Board on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to the issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world, and the reallocation of our national resources so that money now spent on war and preparation of war is spent on fulfilling human needs and the promotion of peace.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental sustainability or climate impacts associated with this report.

#### RATIONALE FOR RECOMMENDATION

The proposal to dissolve the HWCAC and PJC and establish the [HWPJ BCAA](#) is consistent with Council's directive to consolidate those two commissions. The new commission ([HWPJBCAA](#)) will be responsible for all CSBG-related requirements, which are currently not being met by the HWCAC due to ongoing commissioner vacancies and a lack of commission meeting quorum. The formation of the [HWPJ BCAA](#) addresses these issues explicitly, by introducing new strategies and configurations for the tripartite board. In addition, the PJC has struggled to maintain its membership as well with over half of the seats currently vacant. Combining the two commissions will help maintain a more robust membership and public participation, and will support carrying out the assigned duties.

#### ALTERNATIVE ACTIONS CONSIDERED

[Council could choose to adopt an ordinance that restructures only the HWCAC, to bring that commission into CSBG regulatory compliance. Due to the ongoing commission vacancies in the HWCAC and PJC, as well as Council's directive to consolidate the HWCAC and PJC, no alternative actions were considered.](#)

#### CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, HHCS, 981-5414

#### Attachments:

1. Ordinance
2. [Letter from CA State Dept. of Comm. Services and Dev. to City of Berkeley, "RE: 45-Day Notice of Anticipated High-Risk Designation Based on The City of Berkeley's Failure to Maintain Required CSBG Tripartite Board Structure and Failure to Administer](#)

Dissolution of the HWCAC and PJC; and establishment of the [BCAAHWPJ](#)

ACTION CALENDAR

March 26, 2024

[Programs Through Tripartite Board; Required Response and Corrective Action Due by March 18, 2024", 2/16/2024](#)

[32. "Commission Reorganization for Post-COVID19 Budget Recovery", June 15, 2021](#)

ORDINANCE NO. -N.S.

ADDING CHAPTER 7.26 TO THE BERKELEY MUNICIPAL CODE ESTABLISHING THE ~~BERKELEY COMMUNITY ACTION AGENCY COMMISSION~~ HUMAN WELFARE, PEACE AND JUSTICE COMMISSION AND REPEALING CHAPTERS 3.68 AND 3.78

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

Section 1. That a new Chapter 3.70 of the Berkeley Municipal Code is added to read as follows:

**Chapter 3.70**

**HUMAN WELFARE, PEACE AND JUSTICE COMMISSION**  
**~~BERKELEY COMMUNITY ACTION AGENCY COMMISSION~~**

**Sections:**

**3.70.010 Creation of the Human Welfare, Peace and Justice Commission~~Berkeley Community Action Agency Commission~~**

**3.70.020 Membership**

**3.70.030 Term of office**

**3.70.040 Vacancy and removal**

**3.70.050 Temporary vacancies**

**3.70.060 Officers, meetings and procedures**

**3.70.070 Social welfare defined**

**3.70.080 Social justice defined**

**3.70.090 Functions of the commission**

**3.70.100 Elections for low-income representatives**

**3.70.110 Bylaws of the Human Welfare, Peace and Justice Commission~~Berkeley Community Action Agency Commission~~**

**3.70.120 Commission Liaison**

**Section 3.70.010 Creation of the Human Welfare, Peace and Justice Commission~~Berkeley Community Action Agency Commission~~**

The Human Welfare, Peace and Justice Commission ~~Berkeley Community Action Agency Commission~~ is hereby created with an effective date of May 1, 2024.

**Section 3.70.020 Membership**

A. The commission shall consist of nine members. This commission is not subject to BMC Sections 2.04.030–2.04.130, the Fair Representation Ordinance, due to the Community Action Agency membership regulations in state and federal law.

B. Three of the members shall be appointed by the Berkeley City Council by majority vote.

C. Three of the members shall be low-income representatives, subject to the eligibility requirements of this paragraph, and elected to the commission using one of the methods in Section 3.70.100:

- i. An individual who is at or below the federal poverty line, and who resides within the City of Berkeley; or
- ii. An individual from a group(s) or organization(s) composed primarily of low-income persons and representing the interest of the low-income population in the City of Berkeley, whose membership duly select a representative chosen in accordance with a democratic selection procedure.

D. Three of the members shall be members or officials of business, industry, labor, religious, welfare, education, or major groups and interests in the community, as required by California Government Code Sections 12736(e), 12750(a)(2), and 12751 (and its successors), the language of which is incorporated herein by reference. These members should be identified and nominated for Council approval by the existing commissioners.

E. For the purpose of members appointed pursuant to paragraph C and D, the community service block grant (CSBG) target area is within the boundary of the City of Berkeley.

**Section 3.70.030 Term of office.**

For purposes of determining term limits under Section 3.02.040, a commissioner's service on the Human Welfare & Community Action Commission or the Peace & Justice Commission shall be counted toward their service upon their appointment to ~~the the Human Welfare, Peace and Justice Commission Berkeley Community Action Agency Commission.~~

**Section 3.70.040 Vacancy and removal of elected members**

Elected members of the commission are subject to the same membership and attendance requirements as appointed members except as otherwise provided in this chapter.

A. A vacancy shall exist when an elected board member moves and establishes residence outside of their election district or otherwise no longer meets the eligibility requirements of Section 3.70.020.C.

B. Vacancies in any elected commission position shall be filled by a new election pursuant to Section 3.70.100.

**Section 3.70.050 Temporary vacancies**

An elected member of the commission may take a temporary leave of absence of up to three months in duration by notifying the City Clerk and the commission secretary in writing in advance of the absence, during which time a temporary vacancy shall exist. During the period of such temporary vacancy in an elected position, a temporary appointment shall be made by the remaining low-income representatives subject to the eligibility requirements of Section 3.70.020.C.



### **Section 3.70.060 Officers, meetings and procedures**

A. The commission shall elect one of its members chairperson and one of its members vice-chairperson.

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. 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.

D. All subcommittees of this commission should fairly reflect the composition of the commission.

### **Section 3.70.070 Social welfare defined**

"Social Welfare" as used in this chapter, means that endeavor which is concerned with community-wide and group interests rather than with needs of individual residents and embraces such areas, among others, special needs of the family, children, youth and the aged, and the way in which people live and work together.

### **Section 3.70.080 Social justice defined**

"Social justice" shall refer to the goal of creating a world community in which the relations between people are based on equality, respect for human rights, and the abhorrence of exploitation and all forms of oppression.

### **Section 3.70.090 Functions of the commission**

The functions of the commission shall be as follows:

A. The commission shall function as the Board of the Community Action Agency as set forth in California Government Code Sections 12750 - 12763 and its successors, the terms of which are incorporated herein by reference;

B. Identify social welfare needs of the Berkeley community and create awareness of these needs among residents;

C. Review and accept the Community Needs Assessment as outlined in the Community Service Block Grant Organizational Standards and create a citizen awareness of these needs;

D. Encourage the development of programs designed to improve the social welfare of the Berkeley community;

E. Hold public hearings and community forums on issues that fall within the charge of the commission;

F. Provide information to other municipalities on the work of the commission;

D.G. Help develop proposals for the City Council for actions in furtherance of the goals of human welfare, peace and justice;

E.H. Advise the Berkeley City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to the issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world and the reallocation of national resources so that money now spent on war and preparation of war is spent on the promotion of peace and fulfilling human needs, specifically the needs of low-income individuals;

F.I. Create citizen awareness around issues of social justice;

J. Advise the City Council on matters relating to the responsible investment of public funds in accordance with the responsible investment policy established by Resolution No. 55,141A-N.S. and its successors;

G.K. Assist the Director of Finance in the annual evaluation of financial institutions for qualification of City investments; complete development and assist in the implementation of a linked deposit program; encourage target investments; coordinate with City agencies, appropriate community organizations, public and private investors, and the Governor's Public Investment Task Force; and advise the City Council on matters relating to the responsible investment of public funds in accordance with the responsible investment policy established by Resolution No. 55,141A-NS.;

H.L. Act in an advisory role to City Council on Socially Responsible Investment for the City of Berkeley as prescribed in B.M.C. Section 3.68.070.K, including socially responsible procurement policy, Nuclear Free Berkeley Act Waivers, and Oppressive States Contracting Prohibition (per Resolution 59,853-N.S. and its successors);

I.M. Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any ordinance of the City;

J.N. In prescribing the above duties and functions of the commission, it is not the intent of the Council to duplicate or overlap the functions, duties or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities above set forth which are partially or wholly the responsibilities of another board or commission or of a department of the City, the commission will render assistance and advice to such board, commission or department as may be requested.

### **Section 3.70.100 Elections for low-income representatives**

Low-income representatives shall be chosen in accordance with democratic selection procedures adequate to assure that they represent the low-income persons in the geographic service area of the City of Berkeley. Among the selection procedures which may be employed, as determined by the commission secretary, either separately or in combination, are the following: (a) nominations and elections, whether within the neighborhoods, community, or service area as a whole; (b) selection at a meeting or conference of low-income persons such that the date, time, and place of such a meeting or conference have been adequately publicized; (c) selection of a small area basis (such as a neighborhood) of representatives who in turn select members for the commission; (d) the commission may recognize a group(s) or organization(s) composed primarily of low-income persons and representing the interest of the low-income population, whose membership may select one or more representatives to the commission. Persons at or below the federal poverty line shall be permitted to vote in the selection processes. The commission may request a waiver for the federal poverty

line eligibility in order to establish residency or other relevant criteria as a basis for eligibility, which will be provided to and reviewed by the commission secretary for CSBG compliance

**Section 3.70.110 Bylaws of the Human Welfare, Peace and Justice Commission~~the Berkeley Community Action Agency Commission~~**

The commission shall prepare and maintain bylaws for the community action agency. These bylaws and amendments thereto shall be consistent with City, state and federal policies governing community action agencies.

**Section 3.70.120 Commission Liaison representative**

The commission may designate one or more of its members to act as a liaison representative to any other board, commission, or committee of the City. The functions of the liaison representative may include:

- A. Attendance at meetings of such other boards, commissions or committees;
- B. Advising the Peace and Justice Commission on the background behind those recommendations to the City Council of other boards, commissions or committees; and,
- C. On request of any member of such other board, commission or committee giving advice to such other board, commission or committee of policies, and procedures and recommendations to the City Council of the Peace and Justice Commission that may bear upon matters under discussion by such other board, commission or committee.

Section 2. That Chapter 3.68 of the Berkeley Municipal Code is hereby repealed effective May 1, 2024.

Section 3. That Chapter 3.78 of the Berkeley Municipal Code is hereby repealed effective May 1, 2024.

Section 4. 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.



JASON WIMBLEY  
ACTING DIRECTOR

State of California-Health and Human Services Agency  
**DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT**  
 2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833  
 Telephone: (916) 576-7109 | Fax: (916) 263-1406  
[www.csd.ca.gov](http://www.csd.ca.gov)



GAVIN NEWSOM  
GOVERNOR

February 16, 2024

Via email to [mernst@cityofberkeley.info](mailto:mernst@cityofberkeley.info) and [marybehmsteinberg@gmail.com](mailto:marybehmsteinberg@gmail.com) and  
 Overnight Mail to:

Margot Ernst, Manager of Housing and Community Services  
 City of Berkeley  
 Health, Housing, and Community Services Department  
 Housing and Community Services Division  
 2180 Milvia Street, 2nd Floor  
 Berkeley, CA 94704

Mary Behm-Steinberg, Board Chair  
 City of Berkeley  
 Health, Housing, and Community Services Department  
 Housing and Community Services Division  
 1447 Kains Avenue  
 Berkeley, CA 94702

**RE: 45-Day Notice of Anticipated High-Risk Designation Based on The City of Berkeley's Failure to Maintain Required CSBG Tripartite Board Structure and Failure to Administer Programs Through Tripartite Board; Required Response and Corrective Action Due by March 18, 2024.**

Dear Director Ernst:

This letter constitutes written notice that the California Department of Community Services and Development (CSD) intends to designate the City of Berkeley (Berkeley) as a "high risk" Community Services Block Grant (CSBG) agency within forty-five (45) days from the date of this letter, unless there is satisfactory compliance with the requirements specified herein.

The contemplated action is precipitated by the ongoing critical vacancies in Berkeley's CSBG Tripartite Board (Board). Pursuant to the Community Services Block Grant Act, public organizations must administer the CSBG program through a tripartite board or



other approved mechanism.<sup>1</sup> Without sufficient board members who are actively participating, Berkeley cannot administer the CSBG program as required by federal law.

Accordingly, CSD intends to designate the City of Berkeley as a high-risk agency pursuant to Section II of this letter, *Basis for High-Risk Designation*, unless the Required Response(s)/Corrective Action(s) in Section III of this letter, are addressed to CSD's satisfaction by **April 1, 2024**.

**I. Legal Authority**

**A. Federal Law Requires Establishing and Maintaining a Tripartite Board to Administer CSBG Program**

Pursuant to Title 42, US Code Section 9910 of the Community Services Block Grant Act, entities must administer CSBG through tripartite boards as follows:

*In order for a public organization to be considered to be an eligible entity. . . the entity shall administer the community services block grant program through –*

*(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than 1/3 of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members—*

*(A) are representative of low-income individuals and families in the neighborhood served;*

*(B) reside in the neighborhood served; and*

*(C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this subtitle [42 USCS §§ 9901 et seq.]; or*

*(2) another mechanism specified by the State to assure decisionmaking and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this subtitle [42 USCS §§ 9901 et seq].<sup>2</sup>*

"The term 'eligible entity' means an entity. . . that has a tripartite board" or other approved mechanism.<sup>3</sup> As defined by the federal statute, an entity must not only maintain board membership with the specified composition, but the board members must actively participate in the development, planning, implementation, and evaluation of the CSBG program. An entity that does not satisfy each requirement is not considered an eligible entity for administering the CSBG program.

The U.S. Department of Health and Human Services issued CSBG Information Memorandum (IM) #82, *Tripartite Boards*, further clarifies the composition, role, and responsibilities of local community action agency tripartite boards. In accordance with

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<sup>1</sup> 42 USC § 9902(1)(A); 42 USC § 9910(b); CSBG Information Memorandum #82.

<sup>2</sup> 42 USC § 9910(b).

<sup>3</sup> 42 USC § 9902(1)(A).

CSBG IM #82, the public organization's tripartite board must be comprised of the following sectors:

1. Representatives of Low-Income Individuals and Families: "[A] minimum of one-third of tripartite board membership be comprised of representatives of low income individuals and families who reside in areas served";
2. Elected Officials and their Representatives: "One-third must be elected officials, holding office at their time of selection, or their representatives."
3. Major Groups and Interests in the Community Served: "The remaining board members must be chosen from 'business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.'"<sup>4</sup>

Tripartite boards maintain responsibility for oversight and governance of community action agencies and must fully participate in the development, planning, implementation, and evaluation of CSBG-funded programs.<sup>5</sup>

#### **B. State Law Requires Entities to Maintain a Tripartite Board to Administer CSBG Program**

State law requires an eligible entity (or community action agency) to maintain a tripartite board. Where a local political subdivision or government is designated as a community action agency, it must establish a tripartite board that fully participates in the development, planning, implementation, and evaluation of the CSBG-funded programs. A community action agency shall fulfill all the requirements, including having a tripartite board structure (i.e., 1/3 of the members are elected officials or their representatives, at least 1/3 are democratically selected, and the remainder are members reflecting the interests of the community)<sup>6</sup> responsible for appointing the executive director and determining major personnel, fiscal, and program policies.<sup>7</sup> The community action agency must adopt procedures to provide a continuing and effective mechanism for securing broad community involvement in CSBG programs and ensuring board members can participate in program decisions.<sup>8</sup>

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<sup>4</sup> CSBG IM #82, Question 1 – *What does the law require?*

<sup>5</sup> See CSBG IM #82, Question 4. Oversight and governance duties consists of the following: i) program development (including conducting a needs assessment and clarifying the agency mission); ii) planning (including long-range strategic planning, and annual planning); iii) implementation (board members have "fiduciary" responsibility for the overall operation, and members must carry out their duties as any "reasonably prudent person" which includes at a minimum, regular attendance at board and committee meetings; thorough familiarity with core agency information including agency bylaws and CSBG statutes and regulations; careful review of materials provided; decision-making based on sufficient information; ensuring that proper fiscal systems and controls are in place; and maintain knowledge of all major actions taken by the agency); and iv) evaluation (determine agency success by comparing nature and level of outcomes with expectations developed during the agency's planning cycle); see CSBG IM #82, Question 5. The Tripartite Board is charged with the responsibility for directly supervising the agency's Executive Director, recruiting and retaining Executive Directors, and holding this employee responsible for the agency's activities.

<sup>6</sup> Gov. Code § 12750-12751.

<sup>7</sup> Gov. Code § 12752.

<sup>8</sup> Gov. Code § 12753(a).

### C. Remedies for Noncompliance

Berkeley is subject to federal and state statutes and regulations that govern funding status, contract administration, and agency designation, as well as applicable contract provisions regarding enforcement.<sup>9</sup>

Under Title 2 of the Code of Federal Regulations (CFR) Section 200.339, when a subgrantee fails to comply with federal statutes, regulations, or the terms and conditions of a federal award, the awarding agency may impose additional conditions, ranging from requiring additional monitoring, technical or management assistance, or additional prior approvals.<sup>10</sup> If the awarding agency determines noncompliance cannot be remedied by imposing additional conditions, it may take actions ranging from suspending or terminating the award, to initiating suspension or debarment.<sup>11</sup>

The Department is the awarding agency charged with ensuring that all federal requirements of the CSBG Act are met for its subgrantees.<sup>12</sup> These duties include establishing requirements that community action agencies select tripartite boards with democratically selected individuals, establishing standards for the termination or reduction of financial assistance to an eligible entity, or revocation of the designation of a community action agency for failure to comply with the laws and regulations applicable to the CSBG program.<sup>13</sup> To this end, CSBG contracts require subgrantees to administer funds through a tripartite board.<sup>14</sup> The Department's CSBG contracts set forth Remedies for noncompliance. Under Article 8.7 of the CSBG contract, CSD may impose high risk status on a contractor due to material breach<sup>15</sup> or a failure to fulfill contractual obligations and impose special conditions or sanctions. Where an agency materially fails to comply with the contract terms and conditions, CSD may suspend the contract(s) in whole or in part.<sup>16</sup>

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<sup>9</sup> See 42 USC §§ 9901 et seq.; 45 CFR Part 75; Cal. Gov. Code §§ 12085 et seq.; Cal. Gov. Code §§ 16366.1 et seq.; 22 CCR §§ 100601 et seq.; and 22 CCR §§ 100800 et seq.

<sup>10</sup> 2 CFR § 200.339; see 2 CFR § 200.208.

<sup>11</sup> 2 CFR § 200.339.

<sup>12</sup> Gov. Code § 12780.

<sup>13</sup> Gov. Code § 12781(c)(5), (d)(3).

<sup>14</sup> See Definitions and Article 5.1.3.2 for tripartite board requirement; see also Articles 4.1.1.1, Article 4.1.3.

<sup>15</sup> *Material Breach* means any act or omission by Contractor that is in contravention or disregard of Contractor's duties and obligations under the terms of this Agreement and under applicable State and federal law, which act or omission: (a) constitutes fraud or gross negligence by Contractor or its agent(s); (b) is likely to result in significant waste and/or abuse of federal funds; (c) has a significant adverse impact on Contractor's ability to meet its administrative, financial, or programmatic duties and obligations over the term of the contract or a significant portion thereof; (d) violates or otherwise disregards significant program guidance and other requirements of the Federal Government, whether issued directly or through CSD; (e) may have serious adverse effects and consequences on the Contractor's customers, employees, subcontractors, creditors, suppliers, vendors, or other stakeholders; or (f) may otherwise significantly and adversely affect the viability, effectiveness, or integrity of the program. Article 8.7.2.

<sup>16</sup> 22 Cal. Code Regs. § 100780.

## II. Basis for High-Risk Designation

### A. Background of Berkeley's CSBG-Funded Programs

Berkeley uses CSBG funding to help support several programs, including health care services via Lifelong Medical, which provides screening services to the unhoused and low-income communities, and emergency disabled services via Easy Does It (EDI), which provides wheelchair adjustments, transportation services, and assigns an emergency attendant to Berkeley residents who are severely physically disabled. Currently, Berkeley has multiple open CSBG contracts with CSD. (Attachments 2 and 3). As a condition of funding and designation as a CSBG agency, Berkeley is required to meet all applicable federal and state requirements, including maintaining a tripartite board.

Berkeley has been out of compliance with the statutory tripartite board requirement since 2012. Most concerning is since 2012 to present day, the agency has never successfully seated its required full complement of Low-Income board representatives, thus limiting the voice and input of the City's most vulnerable population. In addition, Berkeley has consistently struggled with board member retention, reflected by board member departures every year, as presented in Attachment 8. These constant departures range from a low of at least 13% (in 2016) to a high of 93% (in 2023) of the board members leaving the board each year, which diminishes the board effectiveness and may indicate a lack of opportunity for the members to receive sufficient training, fully engage in the planning, evaluation, and advisory roles assigned to the tripartite board. Berkeley already received multiple opportunities for training, including: an annual monitoring webinar hosted by the CSD Field Operations Unit, one-on-one technical assistance by the CSD Field Representative, and one-on-one assistance from the California Community Action Partnership Association (CalCAPA) to assist with board recruitment. This problem has not been resolved, despite training opportunities provided by multiple parties.

### B. Agency Admission and Ongoing Inability to Maintain a Tripartite Board

Berkeley submitted a formal request to CalCAPA on May 27, 2022, for Training and Technical Assistance (T&TA) for aid in fulfilling all contractual requirements from CSD due to the number of vacancies in all sectors of the board, and the inability to determine which vacancy is assigned to what sector. (Attachment 4). CalCAPA provided T&TA as requested, including assisting Berkeley with recruitment strategies to fill vacancies in the Low Income sector. CSD issued a Notice of Delinquency to Berkeley on March 31, 2023, due to the lack of progress in filling crucial board vacancies despite technical assistance provided by CalCAPA and numerous required corrective actions dating back to 2012.<sup>17</sup> (Attachment 5). In response to CSD's Notice, Berkeley submitted a remediation plan on June 19, 2023, including proposed solutions and goals to fill board vacancies in all three sectors. (Attachment 6). Since submitting the remediation plan,

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<sup>17</sup> Berkeley's current bylaws call for a Tripartite Board of 15 members.



Berkeley has not only failed to fill its vacancies, but the agency lost all board members, except one, as identified in the most recently submitted Board Roster (CSD 188) received on November 1, 2023, with Berkeley's quarterly vacancy report which also confirmed Berkeley made no progress in filling the 14 board vacancies. (Attachment 7).

**C. CSD Determination of Berkeley's Noncompliance with Federal and State Requirements for Governing Board – Tripartite Structure and Active Participation/Administration**

As the awarding agency, CSD has determined that Berkeley, the subrecipient, is noncompliant with federal and state requirements for maintaining a functioning and governing Tripartite Board. Notably, the May 27, 2022, request for CalCAPA technical assistance reflects Berkeley's failure to understand federal and state requirements regarding the composition of its board. Without board members in position comprised of different sectors of the population, no tripartite board exists to perform the oversight and governance duties and assure effective planning, implementation and evaluation of Berkeley's CSBG program, as intended by CSBG laws and regulations and Berkeley's own bylaws. An ongoing inability to recruit and retain board members constitutes noncompliance with federal law and disqualifies Berkeley as an eligible entity for the receipt and administration of the CSBG grant.<sup>18</sup> Berkeley's noncompliance is documented in Monitoring Report #C-22-002, constitutes a breach of the requirements in the 2022 and 2023 CSBG annual contracts, a violation of the CSBG Act<sup>19</sup>, California Government Code § 12752.1, and Organizational Standard 5.5. (See Attachments 1, 2, & 3 for report C-22-002, 2022 Contract Narrative, and open 2023 Berkeley CSBG contracts).

Accordingly, Berkeley has failed to meet the federal and state requirements necessary to retain designation and receive CSBG funding. Based on this failure, CSD will seek to designate Berkeley as a high risk agency on **April 1, 2024**, unless Berkeley complies with the requirements set forth in this letter.

**III. Special Conditions**

To avoid a high-risk designation from CSD, Berkeley must comply with the following special contract conditions:

- **Required Response/Corrective Action 1:** Submit a written response of progress achieved regarding the "Action Steps" identified in Berkeley's response to delinquency submitted on June 19, 2023.
- **Required Response/Corrective Action 2:** Submit requests for T&TA support such as training specifically designed to help Public CAAs to properly seat the appropriate sectors of a tripartite board. CSD will make every effort to prioritize your T&TA requests.

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<sup>18</sup> 42 USC § 9910(b), 9902(1)(A).

<sup>19</sup> 42 USC § 9901 et seq.

- **Required Response/Corrective Action 3:** Provide substantiation that each newly seated board member completes required board training within six months of being seated to understand their role and fiduciary duty as a member of the tripartite board. Identify future or ongoing training(s), if any, scheduled for each new board member.
- **Required Response/Corrective Action 4:** Submit a detailed written workplan describing outreach efforts to remediate the lack of representation in the Low-Income sector and plans to recruit members in the Elected Officials (Public) and Major Community Groups (Private) sectors. This plan should describe:
  - a. Outreach efforts to identify and recruit from the low-income community.
  - b. The number of community members contacted to fill Private and Public seats.
  - c. The affirmative steps Berkeley is taking to maintain a fully functioning Tripartite board (e.g., retention strategies).
  - d. How Berkeley intends to complete the following actions, which can only be fulfilled by a Tripartite Board:
    - i. Review of the agency's mission statement;
    - ii. Participation in strategic planning and the community needs assessment;
    - iii. Receipt of strategic, organizational, and programmatic updates;
    - iv. Receipt of financial and audit reports; and
    - v. Participation in the CSBG budget process, as allowed by local government procedures.

If Berkeley wants to request an extension to respond to any of the Required Response/Corrective Action(s), please contact CSD in writing and identify: 1) the specific Required Response(s)/Corrective Action(s); 2) the reason for the extension; and 3) the amount of additional time needed, by **February 26, 2024**.

Alternatively, Berkeley may provide evidence disputing the bases in Section II and/or propose an alternative corrective action plan by notifying CSD of its intention to do so within ten days of the date of this letter or by **February 26, 2024**, and submitting the aforementioned evidence or alternative corrective action plan by **March 18, 2024**.

**Absent an extension granted by CSD, all responses to the Required Responses/Corrective Action Items must be submitted via email to your CSBG field representative, Jennifer (jennifer.milovina@csd.ca.gov) no later than March 18, 2024.**

#### **IV. Next Steps**

If Berkeley accepts the special conditions specified in this letter or proposes amendments or alterations to them, it shall advise CSD in writing within ten days from issuance of this letter, or by **February 26, 2024**, and submit evidence of completion of the Special Conditions by **March 18, 2024**.

CSD will reevaluate Berkeley's status within 45 days of this letter. If CSD determines Berkeley made significant progress to recruit new board members, implemented a plan to retain the board members, and improved its strategy to fill future board vacancies, CSD will reconsider the issuance of the high-risk designation. However, if Berkeley fails to show progress in these areas, fails to meet the obligations contained herein, submits an insufficient response, or fails to respond, a notice of high-risk designation will be issued on **April 1, 2024**. Further, if Berkeley cannot comply with its contractual obligations, stabilize its tripartite board membership, and implement corrective actions while on high-risk status, CSD may suspend or terminate the contracts listed in Attachment 3 of this letter, *Berkeley Open Service Contracts with CSD*, or pursue other available legal remedies.<sup>20</sup>

Should you need any further information about this matter, please contact CSD Deputy Director of Programs, Daphne Hunt, at (916) 291-8194 or [Daphne.Hunt@csd.ca.gov](mailto:Daphne.Hunt@csd.ca.gov).

Sincerely,

*Jason Wimbley*

JASON WIMBLEY  
Acting Director  
Department of Community Services and Development

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<sup>20</sup> If CSD seeks to suspend, pursuant to 22 CCR § 100780, Berkeley will have the right to submit written material or participate in an informal meeting to show good cause as to why the contracts should not be suspended. If CSD determines termination of funding is proper, Berkeley may request a hearing in accordance with 45 CFR § 96.92.



**Department of Community Services and Development  
Community Services Division  
Monitoring Report (rev. 2/2022)**

**Agency Information**

Agency Name: Berkeley Community Action Agency  
 Agency Type: Community Action Agency-Public  
 Report #: C-22-002  
 CSD/Field Representative: Jennifer Milovina  
 Date Report Completed: May 26, 2022

**Contracts Reviewed**

| Contract # | Program Term     | Amount       | Contract Type      |
|------------|------------------|--------------|--------------------|
| 20F-3640   | 3/27/20- 5/31/22 | \$373,097.00 | CSBG CARES         |
| 20F-3640   | 10/1/20- 5/31/22 | \$40,370.00  | CSBG CARES Disc    |
| 21F-4001   | 1/1/21- 5/31/22  | \$275,106.00 | Annual CSBG        |
| 21F-4403   | 6/1/21- 5/31/22  | \$28,250.00  | CSBG Discretionary |
| 22F-5001   | 1/1/22- 12/31/22 | \$274,202.00 | Annual CSBG        |

**Entrance Conference**

**Purpose of Visit**

The purpose of this review was to monitor statutory and contractual requirements under the Community Services Block Grant (CSBG) for financial accountability and programmatic compliance in accordance with Federal and State laws and the Department of Community Services Development (CSD) policy. Due to the pandemic and COVID-19 restrictions, the 2022 monitoring reviews were conducted virtually in accordance with CSD emergency monitoring procedures.

**Date of Virtual Entrance Conference**

May 5, 2022

**The following persons were present during the Entrance Conference:**

Margot Ernst, Executive Director  
 Mary-Claire Katz, Program Analyst  
 Joshua Oehler, Program Manager  
 Wingyin Wong, Fiscal Analyst  
 Jeffrey Glover, Fiscal Manager  
 Jennifer Milovina, Field Representative  
 Caleb Gendron, Field Representative,  
 Patrick Kane, Field Representative  
 Shiella Marie Rivera Flores, Field Representative



The following items were discussed:

- Virtual Monitoring Overview
- Expenditure Updates
- CSD Updates
- Upcoming Organizational Standards
- CSBG CARES Expenditure
- Board Composition

### **Administrative Review**

#### Board Composition

According to the agency's bylaws, dated July 21, 2010, the Tripartite Board should be composed of 15 members as follows: five (5) from the public sector, four (4) from the private sector, and six (6) from the low-income sector. The CSD 188 board roster dated January 14, 2022 indicates the board is currently comprised of seven (7) board members; five (5) from the public sector, zero (0) from the private sector, and two (2) from the low-income sector and contains eight (8) board vacancies as follows:

| Sector      | Date of Vacancy |
|-------------|-----------------|
| Low Income  | 11/2018         |
| *Low Income | 12/2020         |
| *Low Income | 10/2021         |
| *Low Income | 10/2021         |
| Public      | 4/2017          |
| *Public     | 8/2021          |
| *Public     | 10/2021         |
| *Public     | 12/2021         |

Desk Review C-21-002 assigned a Finding for long-term board vacancies in the Public Sector since 4/1/2017 and the Low-Income Sector since 11/1/2018 but were assigned an "Other" for board vacancies occurring within the pandemic period. Please see chart (above) for reference.

Given the vacancies from 11/2018 and 4/2017 remain, the corrective action requirements for long-term board vacancies occurring prior to the pandemic, including resolution criteria will be transferred and tracked under this report, C-22-002. The agency has submitted vacancy updates to CSD as required by Desk Review C-21-002.

A board consisting of 15 members must have exactly five (5) Public sector members and at least five (5) members from the Low-Income sector. At the time of this review, the agency had an incorrect amount of Public and Private sector seats which is not compliant with 42 U.S.C. § 9910. Please reference CPN-C-21-01 and the flexibilities it allows regarding board composition.

*\*Due to the impact of COVID-19, CSD acknowledges the increased difficulty experienced by agencies attempting to recruit board /council members during the pandemic. Board vacancies occurring during the period from March 2020 through December 2022, will be documented in this report but no new corrective action designation (Observation or Finding) will be assigned. Agencies will be required to submit updates as detailed in the corrective action section below. Starting with the 2023 monitoring session, CSD will return to the regular board/council vacancy monitoring practices. To the extent possible, CSD encourages agencies to engage in recruitment activities to fill vacancies during this period.*

**Board Minutes**

Berkeley Community Action Agency submits approved board minutes to (CSD) no later than thirty days after the minutes are approved as required in the annual contract agreement (2022 CSBG Contract Agreement Article 4.1.4).

A review of the board minutes from November 17, 2021, January 19, 2022, and February 16, 2022 indicates that a quorum was met for each meeting. The information contained within the board minutes provided the Field Representative with sufficient information to determine the board’s involvement in the development, planning, implementation, and evaluation of the program.

**Fiscal Review**

**Advance Payment**

The Field Representative was presented documentation that demonstrates the agency does retain the advance payment in an interest-bearing account. (45CFR 75.305 (b)(8))

**Expenditure Reporting**

A review of the Expenditure Activity Reporting System (EARS) monthly reports indicated the expenditure reports have not been submitted in a timely manner.

Expenditure activity reports were submitted after the due date for the following contract(s):

| Contract # | Expenditure Report Period | Due Date | Certify date | No of days late |
|------------|---------------------------|----------|--------------|-----------------|
| 22F-5001   | 2/1/22-2/28/22            | 3/25/22  | 4/1/22       | 7               |
| 22F-5001   | 3/1/22-3/31/22            | 4/25/22  | 5/5/22       | 10              |

Please note: CPN-C-22-01 published March 7, 2022, requires all expenditure activity reports be submitted on or before the 25th calendar day following the reporting period. (CPN-C-22-01, 1.0 CSBG Reimbursement Policies and Procedures, 1.1 Financial Reporting - EARS Invoice Due Date).

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Expenditure Progress              | During the review, the Field Representative met with Berkeley Representative, Jeffery Glover, (Fiscal Manager), to discuss the status of all open contracts as follows:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| CSBG Contract 21F-4001            | A review of EARS reports from January 2021 through December 2021 indicates 100% or \$275,106.00 of \$275,106.00 has been expended.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| CSBG Disc Contract 21F-4403       | A review of EARS reports from June 2021 through March 2022 indicates 0% or \$0 of \$28,250.00 has been expended. The agency it is not on track to fully expend the contract funds by the end of the contract term. Contract term ends 5/31/2022. Berkeley has not been receiving expenditure submissions from their Discretionary subcontractor. According to Berkeley's Program Analyst, the individual responsible for errors in the reporting of expenditures is no longer an employee with WeHOPE and a new fiscal representative has taken over. Berkeley explained that the new WeHOPE employee has reconciled the missing expenses and they are confident they will fully expend their full contract allocation by May 31, 2022. |
| CSBG CARES Contract 20F-3640      | A review of EARS reports from March 2020 through March 2022 indicates 58.13% or \$216,894.13 of \$373,097.00 has been expended. According to the agency it is on track to fully expend the contract funds by the end of the contract term. Agency has requested an extension through 8/31/2022 and is submitting expenditures according to the spending plan submitted to CSD on 5/5/2022.                                                                                                                                                                                                                                                                                                                                              |
| CSBG CARES Disc Contract 20F-3646 | A review of EARS reports from October 2020 through March 2022 indicates 0% or \$0 of \$40,370.00 has been expended. According to Berkeley's Fiscal Manager, it is not on track to fully expend the contract funds by the end of the contract term. Agency has requested an extension through 8/31/2022 and is submitting expenditures according to the spending plan submitted to CSD on 5/5/2022.                                                                                                                                                                                                                                                                                                                                      |
| CSBG Contract 22F-5001            | A review of EARS reports from January 2022 through March 2022 indicates 6.25% or \$17,132.94 of \$274,202.00 has been expended. According to the agency it is on track to fully expend the contract funds by the end of the contract term. According to the most recent 3 year spending trend report released in April; Berkeley's spending level is within the 15% threshold of their historical spending practices.                                                                                                                                                                                                                                                                                                                   |
| Line-Item Expenditure Review      | <i>Note: Due to the COVID-19 pandemic and the Program flexibilities afforded by Informational Memorandum IM #154, CSD implemented a modified approach and reduced to the number of expenditure transaction that would normally be reviewed.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

The Field Representative sampled three (3) expenditure transactions from costs reported in EARS:

| Contract Number | Report Period    | Section (Program/Admin) | Line Item                         | Amount     |
|-----------------|------------------|-------------------------|-----------------------------------|------------|
| 21F-4001        | 10/1/21-10/31/21 | Program                 | Subcontractor/Consultant Services | \$5698.76  |
| 20F-3640        | 11/1/21-11/30/21 | Program                 | Subcontractor/Consultant Services | \$412.44   |
| 20F-3640        | 10/1/21-10/31/21 | Program                 | Subcontractor/Consultant Services | \$4,110.00 |

The Field Representative reviewed the general ledger, subcontractor invoices, agency invoices, check copies and bank statements and verified the documentation supported the transactions sampled from expenditures reported in (EARS).

Equipment Validation Review

Not Applicable

### **Programmatic Review**

Program Reports

A review of the most recent CSBG Annual Report Modules 2 – 4 indicate the reports have been submitted timely by the agency in accordance with the annual CSBG Contract Agreement Article 7.3.4.

Program Performance

A review of the agency's most recent CSBG Annual Report Modules 2 – 4 shows that the agency achieved the following results:

| Family Domains (Module 4)              | Indicator                                                                                            | Target | Actual |
|----------------------------------------|------------------------------------------------------------------------------------------------------|--------|--------|
| Health and Social/Behavior Development | FNPI 5b. The number of individuals who demonstrated improved physical health and well-being.         | 1200   | 476    |
| Health and Social/Behavior Development | FNPI 5g. The number of individuals with disabilities who maintained an independent living situation. | 50     | 258    |

Performance Target Accuracy



Agency Explanation FNPI 5b: Agency achieved less than 80% of their projected target. The agency explained that this measures LifeLong patients with a diagnosis of hypertension who have demonstrated improved health by having a blood pressure reading equal or less than 140/90, representing a normal blood pressure. With the onset of COVID-19, collecting and recording blood pressure had been a challenge, hence the smaller reported numbers. Currently, LifeLong is using a hybrid model of in-person and virtual telehealth appointments to patients. Due to the high risk for COVID-19 among older adults, LifeLong continues to monitor patients closely and only requires in-person appointments if absolutely necessary.

Agency Explanation FNPI 5g: Agency achieved higher than 120% of their projected target. The need for this service increased greatly due to the larger number of seniors and disabled individuals requiring assistance during the pandemic.

Organizational Standards Review  The agency certified their 2021 Organizational Standards Assessment score is 96%. They have a TAP in Vision and Direction - Category 4: Organizational Leadership. The agency is actively recruiting to fill the vacant seats on their board.

Agency was reminded CSD has ended the administrative relief related to agency Organizational Standards compliance which had been in effect for 2020 and 2021. As a result, all agencies are required to submit updated Organizational Standards documentation in eGov by August 31, 2022. To ensure agency staff is in the strongest position to effectively complete the Organizational Standards process, CSD recommends relevant agency staff attend the upcoming Organizational Standards training hosted by CalCAPA.

Subcontractor Review The Field Representative in accordance with the 2022 CSBG Contract, (Article 4, section 4.21.2) assessed the contractor requirements, which include verification of the Excluded Parties List System (EPLS), submission of the CSD 163 form, Monitoring Policy, Monitoring Reports/Reviews, and a Procurement Policy. The assessment determined that the agency is in compliance.

Child Support The Field Representative determined the agency does not have a written referral policy in place to the local Department of Child Support Services. (Title 42 of the U.S.C. Section 9919 (b)).

Site Visits *Due to COVID-19 CSD did not conduct an agency site visit.*

Client File Review *Note: Due to the COVID 19 pandemic and the Program flexibilities afforded by Informational Memorandum IM #154, CSD implemented a modified approach and reduced the number of client files that would normally be reviewed.*

The Field Representative conducted a client file review of two (2) clients who received services as reported in the National Performance Indicators. The review was a sampling of the clients served for Indicators: FNPI 5b. The number of individuals who demonstrated improved physical health and well-being, and FNPI 5g. The number of individuals with disabilities who maintained an independent living situation. The client files contained documentation which verified the outcomes reported in the 2021 Annual Report were met. The client files contained applicable documentation to demonstrate the clients met the income eligibility requirements for services.

Safeguard of client files

Due to COVID-19 CSD did not conduct an agency site visit. CSD accepts the 2021 results for Organization Standard 8.13, "The Organization has a written policy in place for record retention and destruction" as sufficient verification for this item.

Organization Standard 8.13 was "met" for this review period.

**CSBG CARES Activities**

Two (2) line items were sampled from CARES expenditure submissions to complete this review to satisfy the Quarterly Reconciliation for Quarter 1 of 2022. The expenditures sampled are from Quarter 4 of 2021 since no recent expenditures had been submitted at the time of the initial request. No Issues were discovered during the review of the following expenditures:

**CSBG CARES Quarterly Fiscal Reviews**

| Contract Number | Report Period    | Section (Program/ Admin) | Line Item                          | Amount     |
|-----------------|------------------|--------------------------|------------------------------------|------------|
| 20F-3640        | 11/1/21-11/30/21 | Program                  | Subcontractor/ Consultant Services | \$412.44   |
| 20F-3640        | 10/1/21-10/31/21 | Program                  | Subcontractor/ Consultant Services | \$4,110.00 |

**CSBG CARES Client File Review**

| Family Domains (Module 4)                        | Indicator                                                             | Target | Actual |
|--------------------------------------------------|-----------------------------------------------------------------------|--------|--------|
| FNPI 5. Health and Social/Behavioral Development | SRV 500. Hygiene Facility Utilizations (e.g. showers, toilets, sinks) |        | 121    |

The Field Representative conducted a client file review of 1 client who received services as reported in the National Performance Indicators. The review was a sampling of the clients served for Service Indicator SRV 500. Hygiene Facility Utilizations (e.g., showers, toilets, sinks). The client file contained applicable documentation to demonstrate the clients met the

income eligibility requirements for services. The client files contained documentation verifying the services were provided.

### **Exit Conference**

Date of Exit Conference (Phone Call) May 10, 2022

The following persons were present during the Exit Conference: Mary-Claire Katz, Program Analyst  
Jennifer Milovina, Field Representative

The following items were discussed:

- Highlights of Review
- Monitoring Timeline
- Board Composition
- Subcontractor Monitoring Reports

### Finding(s)

#### **Finding(s):**

##### **Finding (1): Board Composition**

The CSD 188 board roster dated January 14, 2022 indicates the board is currently comprised of seven (7) board members; five (5) from the public sector, zero (0) from the private sector, and two (2) from the low-income sector and contains eight (8) board vacancies.

A board consisting of 15 members must have exactly five (5) Public sector members and at least five (5) members from the Low-Income sector. At the time of this review, the agency had an incorrect amount of Public and Private sector seats which is not compliant with 42 U.S.C. § 9910.

##### **Corrective Action (1):**

To ensure the board configuration aligns with agency by-laws and state regulations, The City of Berkeley must provide a report to CSD describing their efforts to correctly configure board membership. The City of Berkeley will complete a new CSD 188 Board Roster with the correct division of members for the Private and Public Sectors.

##### **Response/Resolution Due Date (1):**

An updated board roster (CSD 188) and a report of the efforts being taken by Berkeley to correctly configure the Board are due according to the schedule below. (This schedule follows the current timeframe for vacancy reports)

- June 30, 2022- first report due
- December 30, 2022- resolution date

##### **Finding (2): Long Term Board Vacancies:**

The City of Berkeley has two long-term board vacancies. One in the Public Sector since 4/1/2017 and one in the Low-Income Sector since 11/1/2018.

##### **Corrective Action (2):**

For long-term board vacancies (vacant seat(s) for more than 12 months prior to March 27, 2020), Agencies will retain their assigned corrective action designation. The corrective action requirements for long-term board vacancies occurring prior to the pandemic, including resolution criteria will be transferred and tracked under this report, C-22-002.

**Response/Resolution Due Date (2):**

Berkeley will continue to submit updates to CSD for all board vacancies according to the schedule below if the vacancies persist:

- June 30, 2022
- December 30, 2022

Observation(s)

**Observation(s):**

The City of Berkeley does not have a child support referral policy. A written child support referral policy helps educate CAA staff on their responsibilities to provide the child support referrals and helps establish the CAA's compliance with the referral requirement identified in Title 42 of the U.S.C. Section 9919(b)

Berkeley submitted a draft for what they hope to adopt as their Child Support Referral policy during their next scheduled Board meeting taking place on May 18, 2022.

**Corrective Action:**

The agency will complete and submit a draft of their policy regarding child support referrals. To help facilitate this corrective action the Field Representative submitted examples of other CAA's Child Support Referral Policies as well as sharing the CAPLAW Q&A on Child Support Referrals released in 2014.

**Response/Resolution Due Date:**

The agency will submit the approved written policy to CSD no later than:

- June 30, 2022

Recommendation(s)

Not Applicable

Other: Board Vacancies:

The board roster dated January 14, 2022, indicates there are currently 8 board vacancies. Due to the impact of COVID-19, CSD acknowledges the increased difficulty experienced by agencies attempting to recruit board /council members during the pandemic, Board vacancies occurring during the period from March 2020 through December 2022, will be documented in this report but no new corrective action designation (Observation or Finding) will be assigned.

**Response/Resolution Due Date:**



The City of Berkeley will continue to provide updates detailing the recruitment efforts to fill Board vacancies. To ensure the importance of this activity, Berkeley’s board minutes should reflect board activities to fill the vacant board seats. The next updates are due to CSD by the following dates:

- June 30, 2022
- December 31, 2022

Please note: new board members are required to complete orientation within six months of being seated per Organizational Standard Category 5 (Vision and Direction) Standard 5.7

|                                  |                                                                                                                                                                                                                                    |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Technical Training Assistance(s) | On May 26, 2022, the Field Representative sent a formal referral (CSD 332) to CalCAPA on behalf of Berkeley to obtain T/TA assistance regarding board vacancy recruitment to assist in filling their 8 identified board vacancies. |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*CSD may request additional information related to meeting/resolving Findings addressed in this report.  
Unresolved Findings may result in additional monitoring or a High Risk designation.*

# ATTACHMENT 2

STATE OF CALIFORNIA  
**AGREEMENT SUMMARY**  
 STD. 215 (Rev. 08/2017)

|                                     |                              |
|-------------------------------------|------------------------------|
| AGREEMENT NUMBER<br><b>22F-5001</b> | AMENDMENT NUMBER<br><b>0</b> |
|-------------------------------------|------------------------------|

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

|                                                                                                                                                                                                                                                                                    |                                                              |                                      |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------|--|
| 1. CONTRACTOR'S NAME<br>Berkeley Community Action Agency                                                                                                                                                                                                                           |                                                              | 2. FEDERAL I.D. NUMBER<br>94-6000299 |  |
| 3. AGENCY TRANSMITTING AGREEMENT<br>Department of Community Services and Development                                                                                                                                                                                               | 4. DIVISION, BUREAU, OR OTHER UNIT<br>Contract Services Unit | 5. AGENCY BILLING CODE<br>031150     |  |
| 6a. CONTRACT ANALYST NAME<br>Shirley Prasad                                                                                                                                                                                                                                        | 6b. EMAIL<br>Shirley.Prasad@csd.ca.gov                       | 6c. PHONE NUMBER<br>916-576-4354     |  |
| 7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?<br><input type="checkbox"/> NO <input checked="" type="checkbox"/> YES (If yes, enter prior contractor name and Agreement Number)                      Community Services Block Grant (CSBG) under a DGS Master Exemption |                                                              |                                      |  |

8. BRIEF DESCRIPTION OF SERVICES - LIMIT 72 CHARACTERS INCLUDING PUNCTUATION AND SPACES  
 Provide CSBG services to low-income population of California

9. AGREEMENT OUTLINE (Include reason for Agreement: Identify specific problem, administrative requirement, program need, or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)  
 Contractor agrees to continue to provide services and activities to eligible participants residing in Contractor's assigned service area, pursuant to California Government Code Section 12725 et seq., and 42 United States Code (USC) 9901 et., as amended, the Community Services Block Grant Act.

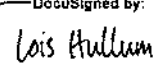
10. PAYMENT TERMS (More than one may apply.)

|                                                |                                                                                                                      |                                                                            |                                           |
|------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> MONTHLY FLAT RATE     | <input type="checkbox"/> QUARTERLY                                                                                   | <input type="checkbox"/> ONE-TIME PAYMENT                                  | <input type="checkbox"/> PROGRESS PAYMENT |
| <input type="checkbox"/> ITEMIZED INVOICE      | <input type="checkbox"/> WITHHOLD _____ %                                                                            | <input type="checkbox"/> ADVANCE PAYMENT NOT TO EXCEED \$ _____ or _____ % |                                           |
| <input type="checkbox"/> REIMBURSEMENT/REVENUE | <input checked="" type="checkbox"/> OTHER (Explain) <u>Reimbursement based upon expenditure and activity reports</u> |                                                                            |                                           |

11. PROJECTED EXPENDITURES

| FUND TITLE | ITEM               | F.Y.  | CHAPTER | STATUTE | PROJECTED EXPENDITURES             |
|------------|--------------------|-------|---------|---------|------------------------------------|
| F.T.F.     | 4700-101-0890-4185 | 21/22 | 21      | 2021    | \$ 274,202.00                      |
|            |                    |       |         |         | AGREEMENT TOTAL      \$ 274,202.00 |

|                                                                                                                                                                        |                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| OBJECT CODE      GRANTS/SUBVENTIONS                                                                                                                                    | AMOUNT ENCUMBERED BY THIS DOCUMENT         |
| OPTIONAL USE      40122                                                                                                                                                | \$ 274,202.00                              |
| I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above. | PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT |
|                                                                                                                                                                        | \$ 0.00                                    |
|                                                                                                                                                                        | TOTAL AMOUNT ENCUMBERED TO DATE            |
|                                                                                                                                                                        | \$ 274,202.00                              |

|                                                                                                                                                        |                                           |             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|-------------|
| ACCOUNTING OFFICER'S SIGNATURE                                                                                                                         | ACCOUNTING OFFICER'S NAME (Print or Type) | DATE SIGNED |
| DocuSigned by:<br><br>Lois Hullum<br><small>00027AA13665476</small> | Lois Hullum                               | 11/9/2021   |



STATE OF CALIFORNIA  
 AGREEMENT SUMMARY  
 STD. 215 (Rev. 08/2017)

|                              |                       |
|------------------------------|-----------------------|
| AGREEMENT NUMBER<br>22F-5001 | AMENDMENT NUMBER<br>0 |
|------------------------------|-----------------------|


JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 547.60

In the space provided below, the undersigned authorized state representative documents, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions set forth in Government Code section 19130(b). Please specify the applicable subsection. Attach extra pages if necessary.

Government Code 19130 (b) (3)

The services being performed under this contract do not cause any displacement of State workers. Federal and/or State law for this program specify the entities that are eligible for these funds.

*The undersigned represents that, based upon his or her personal knowledge, information or belief the above justification correctly reflects the reasons why the contract satisfies Government Code section 19130(b).*

|                                                                                                  |  |                                                                 |  |                           |              |
|--------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------|--|---------------------------|--------------|
| SIGNATURE<br> |  | NAME/TITLE (Type or Print)<br>Shirley Prasad / Contract Analyst |  | DATE SIGNED<br>11/12/2021 |              |
| PHONE NUMBER<br>916-576-4354                                                                     |  | STREET ADDRESS<br>2389 Gateway Oaks Drive, Suite 100            |  |                           |              |
| EMAIL<br>Shirley.Prasad@csd.ca.gov                                                               |  | CITY<br>Sacramento                                              |  | STATE<br>CA               | ZIP<br>95833 |



STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

|                                                                       |                                     |                                             |
|-----------------------------------------------------------------------|-------------------------------------|---------------------------------------------|
| <b>STANDARD AGREEMENT</b><br>STD. 213 (Rev 03/2019) CSD (Rev 07/2019) | AGREEMENT NUMBER<br><b>22F-5001</b> | PURCHASING AUTHORITY NUMBER (if applicable) |
|-----------------------------------------------------------------------|-------------------------------------|---------------------------------------------|

- This Agreement is entered into between the Contracting Agency and the Contractor named below  
 CONTRACTING AGENCY NAME  
**Department of Community Services and Development**  
 CONTRACTOR NAME  
**Berkeley Community Action Agency**
- The term of this Agreement is: **January 1, 2022 through May 31, 2023**
- The maximum amount of this Agreement is: **Total \$274,202.00**
- The parties agree to comply with the terms and conditions of the following exhibits that are by this reference made a part of the Agreement:  
 Preamble  
 Article 1 - Scope of Work  
 Article 2 - Contract, Administration, Procedure  
 Article 3 - Agreement Changes  
 Article 4 - Administrative Policies and Procedures  
 Article 5 - Program Budget Requirements and Payments  
 Article 6 - Financial Reporting  
 Article 7 - CSBG Terms, Conditions, Programmatic Provisions, and Reporting  
 Article 8 - Compliance Policies and Procedures  
 Article 9 - Federal and State Policies and Provisions  
 Definitions  
 Table of Forms and Attachments  
 These documents can be accessed at <https://providers.csd.ca.gov/>.

**IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO**

|                                                                                                                                                                      |  |                                                                                        |                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------|--------------------|
| <b>CONTRACTOR</b>                                                                                                                                                    |  | California<br>Department of General Services<br>Approval (or exemption, if applicable) |                    |
| CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.)<br><b>Berkeley Community Action Agency</b>                             |  |                                                                                        |                    |
| CONTRACTOR BUSINESS ADDRESS, CITY, STATE, ZIP<br>2180 Milvia Street, 2nd Floor, Berkeley, CA 94704                                                                   |  |                                                                                        |                    |
| PRINTED NAME OF PERSON SIGNING<br>Dee Williams-Ridley                                                                                                                |  | TITLE<br>City Manager                                                                  |                    |
| CONTRACTOR AUTHORIZED SIGNATURE<br><br>DocuSigned by:<br>2F00000CA2E144E0         |  | DATE SIGNED<br>4/1/2022                                                                |                    |
| <b>STATE OF CALIFORNIA</b>                                                                                                                                           |  |                                                                                        |                    |
| CONTRACTING AGENCY NAME<br><b>Department of Community Services and Development</b>                                                                                   |  |                                                                                        |                    |
| CONTRACTING AGENCY ADDRESS<br><b>2389 Gateway Oaks Drive, Suite 100</b>                                                                                              |  | CITY<br><b>Sacramento</b>                                                              | STATE<br><b>CA</b> |
| PRINTED NAME OF PERSON SIGNING<br><b>Chris Vail</b>                                                                                                                  |  | TITLE<br><b>Chief Financial Officer</b>                                                |                    |
| CONTRACTING AGENCY AUTHORIZED SIGNATURE<br><br>DocuSigned by:<br>E3300000A1A144E0 |  | DATE SIGNED<br>4/8/2022                                                                |                    |

I hereby certify that all conditions for exemption have been complied with, and the document is exempt from the Department of General Services approval.

CS  
SP

**RESOLUTION NO. 70,155-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.

The foregoing Resolution was adopted by the Berkeley City Council on December 14, 2021 by the following vote:

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

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk





DAVID SCRIBNER  
DIRECTOR

State of California-Health and Human Services Agency  
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833  
Telephone: (916) 576-7109 | Fax: (916) 263-1406  
[www.csd.ca.gov](http://www.csd.ca.gov)



GAVIN NEWSOM  
GOVERNOR

November 3, 2021

Dear Executive Director:

The Department of Community Services and Development (CSD) is pleased to announce the release of the 2022 Community Services Block Grant (CSBG) contract. This cover letter provides information on the release of the CSBG grant award, contract period of performance, 2022 contract allocation, contract submission process, advance payments, and CSD's operation under Continuing Resolution (CR) (H.R. 5305) through December 3, 2021. Also included is information on the contract webinar and available resources on the Local Agencies Portal.

On October 29, 2021, CSD received California's Notice of Grant Award for \$16,379,862, which represents the first quarter release of 2022 CSBG Grant funds under the CR and the amount of the total contract allocation CSBG agencies are authorized to expend.

Attached is the 2022 CSBG contract and allocation spreadsheet for the 2022 program year. The allocation spreadsheet reflects a total 2022 CSBG contract allocation of \$65,519,449 and to be used for the purposes of contract planning and execution. When completing your CSBG fiscal data budget forms, please use the amount identified for your agency on the spreadsheet labeled "Total 2022 Contract."

The 2022 CSBG Contract term encompasses two distinct timeframes: a period of performance from January 1, 2022 through December 31, 2022, and an extension period from January 1, 2023 through May 31, 2023. Agencies are expected to expend 100 percent of their contract amount as referenced in Article 1.3 *Agreement Amount* of the 2022 CSBG contract by the end of the period of performance. The extension period is available upon CSD's approval for agencies who are unable to fully expend their contract amount during the period of performance. Requests for an extension must be submitted to CSD no later than November 16, 2022.

To facilitate the timely execution of your contract, please refer to the checklist for all required documents and due dates for contract deliverables. Agencies are required to execute the CSBG contract electronically via DocuSign. The contract packet, including all deliverables, must be completed and returned to CSD within 30 calendar days for private non-profit agencies and 45 calendar days for public agencies from the date of this contract release. Please refer to Article 2.1, *Required Documents*, for further information.



Executive Director  
Page 2

Please note that all contract documents and deliverables must be received and approved by CSD to receive an advance payment (also referred to as working capital advance) or expenditure reimbursement. Following the approval of contract deliverables, your agency's advance payment will be automatically authorized. If your agency declines to receive an advance payment, please submit a letter with the contract on your organization's letterhead, declining the advance payment.

### **Income Eligibility Threshold Federal Poverty Level (FPL)**

On October 19, 2021, OCS issued a Dear Colleague Letter advising of the CR signed into law by President Biden on September 30, 2021, that allocates CSBG funds and extends the authority for states to revise the eligibility income limit from 125 to 200 percent of the Federal Poverty Level (FPL) through December 3, 2021 for regular CSBG and CARES CSBG funding. Since the effective date of the 2022 CSBG contract is scheduled to occur after the CR deadline, CSD will issue separate guidance on applying the 200 percent of the FPL income eligibility threshold upon notification from OCS. Please note that with the passage of AB 135 (Chapter 85, Statutes of 2021), California's income eligibility threshold aligns with FPL; therefore, if an extension of the 200 percent of FPL is not approved, CSBG eligibility will revert to 125 percent of the FPL.

In mid-November 2021, a recorded contract webinar will be uploaded to CSD's Local Agencies Portal, which will provide guidance on important contract elements and aid the completion of required contract forms. In addition, a live question and answer session will be held in early December 2021 to respond to questions pertinent to the contract and execution process.

The red-lined version of the 2022 CSBG contract language is available on CSD's [Local Agencies Portal](#), under the CSBG Contracts tab. For any questions related to the contract submission, program requirements, or the contract webinar, please contact your designated Field Representative.

CSD looks forward to a continued productive partnership so that, together, we can effectively administer our critical programs and services designed to strengthen the economic security of vulnerable Californians.

Sincerely,



DAVID SCRIBNER  
Director  
Department of Community Services and Development

Attachments

## 2022 Community Services Block Grant (CSBG) Contract Checklist

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### General Comments and Requirements:

Please contact your assigned Field Operations Representative immediately for assistance if this Agreement requires corrections or if you have not yet completed the **DocuSign® Contact Update Form, (CSD 489)** with the California Department of Community Services and Development (CSD). To access the DocuSign form, click on the following link: <https://agencies.csd.ca.gov/home/CSBG/Pages/Forms.aspx#k=#s=16>

### Contract Packet:

The completed contract packet (list of documents/forms below) must be returned to CSD to execute the contract. Please use the checkboxes below to indicate the completed documents/forms are included:

- Submitted contract via DocuSign, which includes the signed Contract Face Sheet (STD 213)** with the name and title of the individual authorized to sign the Agreement
- Federal Funding Accountability and Transparency Act (FFATA) Form**
- Signed Lobbying Form**
- Current insurance documents or Self-Insurance Authority Certification** if not already on file with CSD. New evidence of insurance (ACORD 25) is required if current insurance expires during the contract term, or if the amount of insurance needs to be increased.
- Board resolution.** (Not applicable if a general board resolution has already been submitted and is not specific to the program, program year, or contract number, and does not contain any changes.)

**Please submit your completed contract packet within 30 days (45 days for public agencies) from the release of the contract via DocuSign.**

### Contract Deliverables:

The following **contract deliverables** (as applicable) must be completed and returned to your Field Representative within 30 calendar days for private non-profit agencies and 45 calendar days for public agencies from the date of this contract release. Please use the checkboxes below to indicate the completed documents/forms are included:

**425 Budget Series Forms**, ensuring all numbers match the Allocation Spreadsheet posted to the Local Agencies Portal at:

<https://agencies.csd.ca.gov/home/CSBG/Pages/Forms.aspx#k=#s=16>



- CSD 425.S CSBG Contract Budget Summary**





## 2022 Community Services Block Grant (CSBG) Contract Checklist

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- CSD 425.1.1 CSBG Budget Support Personnel Costs
- CSD 425.1.2 CSBG Budget Support Non-Personnel Costs
- CSD 425.1.3 CSBG Budget Support Other Agency Operating Funds
- CSD 425.1.4 CSBG Contract Budget Narrative
  
- CSBG Annual Work Plan (CSD 641)
- CSD 188 Agency Staff and Board Roster Form
- Board Meeting Schedule
- CSD Public Website Update Form 168
- Updated organizational bylaws. (Not applicable if no changes have occurred in the past calendar year.)
- Submit CSBG Annual Work Plan target projections for Modules 3 and 4 using CSD 641A and 641B (worksheets) available on the Local Agencies Portal.

Please return your completed **contract deliverables** (as applicable) via email to your assigned Field Operations Representative.

All forms are located on the **Forms** page under the **CSBG tab** of the CSD's Local Agencies Portal at:

<https://agencies.csd.ca.gov/home/CSBG/Pages/Forms.aspx#k=#s=16>

Please Note: Per Article 5.2, Advance Payments – Amount, Subsection 5.2.1, Contractor will not be issued an advance or reimbursed for any costs incurred until CSD approves all contract deliverables.

Attachment A

State of California  
 Department of Community Services and Development  
 2022 CSBG Allocation  
 Non-CAAs

**NATIVE AMERICAN INDIANS**

| Agency                                    | Contract Number                    | Total 2022 Contract | 25% Advance    |
|-------------------------------------------|------------------------------------|---------------------|----------------|
| Karuk Tribe (NAI-LPA) (Core Funding)      | 22F-5101                           | 42,000              | 0              |
| Karuk Tribe (NAI-LPA)                     | 22F-5102                           | 81,891              | 0              |
| NCIDC, Inc. (NAI-LPA) (Core Funding)      | 22F-5103                           | 122,000             | 30,500         |
| NCIDC, Inc./LIFE (NAI-LPA) (Core Funding) | <i>(Included with NCIDC below)</i> |                     |                |
| NCIDC, Inc. (NAI-LPA)                     | 22F-5104                           | 2,016,115           | 504,029        |
| Co of LA Workforce Dev, Aging & Com Svcs  | 22F-5105                           | 293,253             | 73,313         |
| <b>TOTAL</b>                              |                                    | <u>2,555,259</u>    | <u>607,842</u> |

**MIGRANT & SEASONAL FARMWORKERS**

| Agency                                   | Contract Number | Total 2022 Contract | 25% Advance      |
|------------------------------------------|-----------------|---------------------|------------------|
| California Human Development Corporation | 22F-5201        | 1,506,947           | 376,737          |
| Proteus, Inc.                            | 22F-5202        | 2,424,220           | 606,055          |
| Central Valley Opportunity Center, Inc.  | 22F-5203        | 589,675             | 147,419          |
| Center for Employment Training           | 22F-5204        | 2,031,103           | 507,776          |
| <b>TOTAL</b>                             |                 | <u>6,551,945</u>    | <u>1,637,987</u> |

**LIMITED PURPOSE AGENCIES  
 (DISCRETIONARY FUNDS)**

| Agency                                 | Contract Number | Total 2022 Contract | 25% Advance   |
|----------------------------------------|-----------------|---------------------|---------------|
| Community Design Center                | 22F-5301        | 174,886             | 43,722        |
| Del Norte Senior Center, Inc.          | 22F-5302        | 141,224             | 35,306        |
| Rural Community Assistance Corporation | 22F-5303        | 189,677             | 0             |
| <b>TOTAL</b>                           |                 | <u>505,787</u>      | <u>79,028</u> |



**Attachment A**  
**State of California**  
**Department of Community Services and Development**  
**2022 CSBG Allocation**  
**CAAs**

| County               | Agency                                                   | Contract Number | Total 2022 Contract | 25% Advance |
|----------------------|----------------------------------------------------------|-----------------|---------------------|-------------|
| Alameda              | Berkeley Community Action Agency                         | 22F-5001        | 274,202             | 68,551      |
| Alameda              | City of Oakland, Human Services Department               | 22F-5002        | 1,391,569           | 347,892     |
| Alpine               | Inyo Mono Advocates for Community Action, Inc.           | 22F-5003        | 1,344               | 336         |
| Amador/Tuolumne      | Amador-Tuolumne Community Action Agency                  | 22F-5004        | 268,469             | 67,117      |
| Butte                | Community Action Agency of Butte County, Inc.            | 22F-5005        | 371,228             | 92,807      |
| Calaveras/Mariposa   | Calaveras-Mariposa Community Action Agency               | 22F-5006        | 267,779             | 66,945      |
| Colusa               | SEE GLENN COUNTY                                         |                 |                     |             |
| Contra Costa         | Contra Costa Employment & Human Services Dept/CSB        | 22F-5007        | 873,970             | 218,493     |
| Del Norte            | Del Norte Senior Center, Inc.                            | 22F-5008        | 52,584              | 13,146      |
| El Dorado            | El Dorado County Health and Human Services Agency        | 22F-5009        | 293,811             | 0           |
| Fresno               | Fresno County Economic Opportunities Commission          | 22F-5010        | 1,905,650           | 476,413     |
| Glenn/Colusa/Trinity | Glenn County Community Action Department                 | 22F-5011        | 269,282             | 67,321      |
| Humboldt             | Redwood Community Action Agency                          | 22F-5012        | 276,589             | 69,147      |
| Imperial             | Campeinos Unidos, Inc.                                   | 22F-5013        | 321,966             | 80,492      |
| Inyo/Mono            | Inyo Mono Advocates for Community Action, Inc.           | 22F-5014        | 265,960             | 66,490      |
| Kern                 | Community Action Partnership of Kern                     | 22F-5015        | 1,530,496           | 382,624     |
| Kings                | Kings Community Action Organization, Inc.                | 22F-5016        | 309,457             | 0           |
| Lake/Mendocino       | North Coast Opportunities, Inc.                          | 22F-5017        | 561,536             | 140,384     |
| Lassen/Plumas/Sierra | Plumas County Community Development Commission           | 22F-5018        | 267,437             | 66,859      |
| Los Angeles          | Foothill Unity Center, Inc.                              | 22F-5019        | 331,185             | 82,796      |
| Los Angeles          | Long Beach Community Action Partnership                  | 22F-5020        | 808,733             | 202,183     |
| Los Angeles          | County of Los Angeles Dept. of Public Social Services    | 22F-5021        | 6,239,069           | 0           |
| Los Angeles          | City of Los Angeles Housing + Community Investment Dept. | 22F-5022        | 6,756,987           | 1,689,247   |
| Madera               | Community Action Partnership of Madera County, Inc.      | 22F-5023        | 286,748             | 71,687      |
| Marin                | Community Action Marin                                   | 22F-5024        | 277,112             | 69,278      |
| Mariposa             | SEE CALAVERAS COUNTY                                     |                 |                     |             |
| Mendocino            | SEE LAKE COUNTY                                          |                 |                     |             |
| Merced               | Merced County Community Action Agency                    | 22F-5025        | 513,137             | 128,284     |
| Modoc/Siskiyou       | Modoc-Siskiyou Community Action Agency                   | 22F-5026        | 269,282             | 67,321      |
| Mono                 | SEE INYO COUNTY                                          |                 |                     |             |
| Monterey             | Monterey County Community Action Partnership             | 22F-5027        | 514,145             | 128,536     |
| Napa                 | Community Action Napa Valley                             | 22F-5028        | 294,879             | 73,720      |
| Nevada               | Nevada County Dept. of Housing & Community Services      | 22F-5029        | 278,748             | 0           |
| Orange               | Community Action Partnership of Orange County            | 22F-5030        | 2,808,423           | 702,106     |

Attachment A

State of California  
 Department of Community Services and Development  
 2022 CSBG Allocation  
 CAAs

| County              | Agency                                                 | Contract Number | Total 2022 Contract | 25% Advance |
|---------------------|--------------------------------------------------------|-----------------|---------------------|-------------|
| Placer              | Project GO, Inc.                                       | 22F-5031        | 343,522             | 85,881      |
| Plumas              | SEE LASSEN COUNTY                                      |                 |                     |             |
| Riverside           | Community Action Partnership of Riverside County       | 22F-5032        | 2,672,059           | 668,015     |
| Sacramento          | Sacramento Employment and Training Agency              | 22F-5033        | 1,815,891           | 453,973     |
| San Benito          | San Benito County H&HSA, CS & WD                       | 22F-5034        | 275,298             | 0           |
| San Bernardino      | Community Action Partnership of San Bernardino County  | 22F-5035        | 2,766,917           | 691,729     |
| San Diego           | County of San Diego, H&HSA, CAP                        | 22F-5036        | 3,427,251           | 856,813     |
| San Francisco       | Urban Services YMCA                                    | 22F-5037        | 878,653             | 219,663     |
| San Joaquin         | San Joaquin County Dept. of Aging & Community Services | 22F-5038        | 1,001,853           | 0           |
| San Luis Obispo     | CAP of San Luis Obispo County, Inc.                    | 22F-5039        | 305,707             | 0           |
| San Mateo           | San Mateo County Human Services Agency                 | 22F-5040        | 465,921             | 0           |
| Santa Barbara       | Community Action Commission of Santa Barbara County    | 22F-5041        | 544,516             | 136,129     |
| Santa Clara         | Sacred Heart Community Service                         | 22F-5042        | 1,454,766           | 363,692     |
| Santa Cruz          | Community Action Board of Santa Cruz County, Inc.      | 22F-5043        | 298,195             | 74,549      |
| Shasta              | Shasta County Community Action Agency                  | 22F-5044        | 307,734             | 0           |
| Sierra              | SEE LASSEN COUNTY                                      |                 |                     |             |
| Siskiyou            | SEE MODOC COUNTY                                       |                 |                     |             |
| Solano              | Community Action Partnership of Solano, JPA            | 22F-5045        | 395,290             | 98,823      |
| Sonoma              | Community Action Partnership of Sonoma County          | 22F-5046        | 461,030             | 115,258     |
| Stanislaus          | Central Valley Opportunity Center, Inc.                | 22F-5047        | 787,054             | 196,764     |
| Sutter              | Sutter County Community Action Agency                  | 22F-5048        | 276,561             | 69,140      |
| Tehama              | Tehama County Community Action Agency                  | 22F-5049        | 293,419             | 73,355      |
| Trinity             | SEE GLENN COUNTY                                       |                 |                     |             |
| Tulare              | Community Services & Employment Training, Inc.         | 22F-5050        | 923,427             | 230,857     |
| Tuolumne            | SEE AMADOR COUNTY                                      |                 |                     |             |
| Ventura             | Community Action of Ventura County, Inc.               | 22F-5051        | 700,758             | 175,190     |
| Yolo                | County of Yolo Health and Human Services Agency        | 22F-5052        | 302,667             | 75,667      |
| Yuba                | Yuba County Community Services Commission              | 22F-5053        | 280,035             | 70,009      |
| TOTAL, all counties |                                                        |                 | 49,860,301          | 10,095,682  |



**CERTIFICATION REGARDING LOBBYING**

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
FAMILY SUPPORT ADMINISTRATION

PROGRAM: 2022 Community Services Block Grant (CSBG)

PERIOD: January 1, 2022 through May 31, 2023

The undersigned certifies, to the best of his or her knowledge and belief, that:

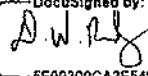
(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award document for subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

City Manager  
\_\_\_\_\_  
Title  
Berkeley Community Action Agency  
\_\_\_\_\_  
Agency/Organization

DocuSigned by:  
  
5E09300CA2E54EC  
\_\_\_\_\_  
Signature  
4/1/2022  
\_\_\_\_\_  
Date





**DISCLOSURE OF LOBBYING ACTIVITIES**  
CONTINUATION SHEET

Approved by OMB  
0348-0046

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

[Empty reporting area]

Authorized for Local Reproduction  
Standard Form - LLL-A

## INSTRUCTION FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and ZIP Code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full name of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budgets. Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Department of Community Services and Development  
CSD 279 (Rev. 1/2015)

**Community Services and Development  
Federal Funding Accountability and Transparency Act Report Form**

## Return with the Contract

As of October 1, 2010, CSD is required to comply with sub-award reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA). CSD must file the FFATA sub-award report by the end of the month following the month in which CSD awards funds greater than or equal to \$25,000 to any agency/service provider. In accordance with terms of the CSD agreement, agencies are required to provide the information requested in this form on or before the above due date. Failure to timely submit the completed form may result in "high-risk" designation and/or imposition of additional special terms and conditions on the agency's eligibility for CSD funds.

Please e-mail completed report forms to your respective program e-mail address listed below:

**Department of Energy Weatherization Assistance Program:** Wx@csd.ca.gov

**Community Services Block Grant:** CSBGDIV@csd.ca.gov

**Lead Hazard Control:** LEADGrants@csd.ca.gov

**Low Income Home Energy Assistance Program:** Wx@csd.ca.gov

**NOTE: If your agency receives multiple Community Services and Development (CSD) awards under various programs (i.e., Community Services Block Grant (CSBG), Weatherization Assistance Program (WX), Lead Hazard Control Program (LHCP), Low-Income Home Energy Assistance Program), complete a separate form for each program.**

### AGENCY/SUB-AWARDEE INFORMATION

|                                                                                           |                                                |                                        |                                 |                                  |
|-------------------------------------------------------------------------------------------|------------------------------------------------|----------------------------------------|---------------------------------|----------------------------------|
| Agency Name                                                                               | Berkeley Community Action Agency               |                                        |                                 |                                  |
| Program Type ( <i>check one</i> )                                                         | <input checked="" type="checkbox"/> CSBG       | <input type="checkbox"/> LEAD          | <input type="checkbox"/> LIHEAP | <input type="checkbox"/> DOE WAP |
| Contract #(s) ( <i>list all active contracts for the selected program</i> )               | 22F-5001                                       |                                        |                                 |                                  |
| Contract Period(s) ( <i>mm/dd/yy - mm/dd/yy</i> )                                         | January 1, 2022 -                              | May 31, 2023                           |                                 |                                  |
| Agency Unique Identifier (DUNS Number)                                                    | 76529924                                       |                                        |                                 |                                  |
| Agency Primary Contact Information ( <i>person responsible for completing this form</i> ) | Name:                                          | Margot Ernst                           |                                 |                                  |
|                                                                                           | Title                                          | Housing and Community Services Manager |                                 |                                  |
|                                                                                           | E-mail:                                        | MErnst@cityofberkeley.info             |                                 |                                  |
|                                                                                           | Phone:                                         | (510)981-5427                          |                                 |                                  |
| Location of Agency                                                                        | Mailing Address:                               | 2180 Milvia Street, 2nd Floor          |                                 |                                  |
|                                                                                           | State:                                         | CA                                     |                                 |                                  |
|                                                                                           | Zip + 4 digits ( <i>+4 digit is required</i> ) | 94704-1122                             |                                 |                                  |
|                                                                                           | U.S. Congressional District:                   | 9                                      |                                 |                                  |
|                                                                                           | State Assembly District:                       | 15                                     |                                 |                                  |
|                                                                                           | State Senate District:                         | 9                                      |                                 |                                  |

Department of Community Services and Development  
CSD 279 (Rev. 1/2015)

|                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                  |                    |
|-------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Place of Performance<br><i>(where program funds are primarily spent, if different from agency location above)</i> | Street Address:                                                                                                                                                                                                                                                                                                                                                                                                  | 2180 Milvia Street |
|                                                                                                                   | State:                                                                                                                                                                                                                                                                                                                                                                                                           | CA                 |
|                                                                                                                   | Zip + 4 digits (+4 digit is required)                                                                                                                                                                                                                                                                                                                                                                            | 94704-1122         |
|                                                                                                                   | U.S. Congressional District:                                                                                                                                                                                                                                                                                                                                                                                     | 9                  |
|                                                                                                                   | State Assembly District:                                                                                                                                                                                                                                                                                                                                                                                         | 15                 |
|                                                                                                                   | State Senate District:                                                                                                                                                                                                                                                                                                                                                                                           | 9                  |
| Agency (Sub-Awardee) Executive Compensation Reporting                                                             | Is more than 80% of your agency's annual gross revenue from the Federal government? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No<br><i>(If YES, continue to the next question. If NO, you are now finished completing this form.)</i>                                                                                                                                                     |                    |
|                                                                                                                   | Does your agency's total annual federal funding exceed \$25 million? <input type="checkbox"/> Yes <input type="checkbox"/> No<br><i>(If YES, continue to the next question. If NO, you are now finished completing this form.)</i>                                                                                                                                                                               |                    |
|                                                                                                                   | Is your agency one of the entities described below? <input type="checkbox"/> Yes <input type="checkbox"/> No<br><ul style="list-style-type: none"> <li>• A tax-exempt nonprofit entity required to file an annual Form 990 return with the Internal Revenue Service (IRS).</li> <li>• A publicly owned corporation required to file annual reports with the Securities and Exchange Commission (SEC).</li> </ul> |                    |
|                                                                                                                   | <i>(If NO, please list the names and compensation of your agency's top five highest compensated employees in the spaces below. If YES, you are now finished completing this form.)</i>                                                                                                                                                                                                                           |                    |
| Five Highest Compensated Executives/Employees                                                                     | Name                                                                                                                                                                                                                                                                                                                                                                                                             |                    |
|                                                                                                                   | Compensation                                                                                                                                                                                                                                                                                                                                                                                                     |                    |
|                                                                                                                   | Name                                                                                                                                                                                                                                                                                                                                                                                                             |                    |
|                                                                                                                   | Compensation                                                                                                                                                                                                                                                                                                                                                                                                     |                    |
|                                                                                                                   | Name                                                                                                                                                                                                                                                                                                                                                                                                             |                    |
|                                                                                                                   | Compensation                                                                                                                                                                                                                                                                                                                                                                                                     |                    |
|                                                                                                                   | Name                                                                                                                                                                                                                                                                                                                                                                                                             |                    |
|                                                                                                                   | Compensation                                                                                                                                                                                                                                                                                                                                                                                                     |                    |
|                                                                                                                   | Name                                                                                                                                                                                                                                                                                                                                                                                                             |                    |
|                                                                                                                   | Compensation                                                                                                                                                                                                                                                                                                                                                                                                     |                    |



Department of Community Services and Development  
CSD 279 (Rev. 1/2015)

## Description of Information Requested

### Place of Performance

Address represents where the prime recipient is performing the majority of work funded. If the award funds multiple projects in different locations, then an address such as a city hall or county seat may be the most appropriate if it represent where the majority of funds are being used.

### Agency/Sub-Awardee Executive Compensation Reporting

Sub-awardees must report the total compensation and names of the top five executives in the organization if:

- a) More than 80% of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and
- b) Compensation information is not readily available through reporting to the IRS on a Form 990 (section 6104 of the Internal Revenue Code of 1986), or through reporting to Securities and Exchange Commission (SEC). SEC reporting is required for publicly owned/traded corporations.

Exemptions: Refer to 2 CFR

Part 170 for exemption <http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-part170.pdf> criteria.

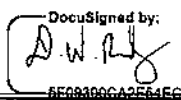
## Additional Resources

| Unique Identifier (DUNS Number)                                                                                                                                                                                                                                  |                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| The Data Universal Numbering System (DUNS) is the widely used system for identifying business entities on a location specific basis. The DUNS number remains with the company location to which it has been assigned even if it closes and goes out of business. | <a href="https://iupdate.dnb.com/i/update/companylookup.htm">https://iupdate.dnb.com/i/update/companylookup.htm</a>                                       |
| Zip Code + 4 Digit Zip                                                                                                                                                                                                                                           |                                                                                                                                                           |
| Use the United States Postal Service website to identify your +4 digit zip                                                                                                                                                                                       | <a href="https://tools.usps.com/go/ZipLookupActionInput.action">https://tools.usps.com/go/ZipLookupActionInput.action</a>                                 |
| Congressional District                                                                                                                                                                                                                                           |                                                                                                                                                           |
| Use the following sites to identify your congressional district                                                                                                                                                                                                  |                                                                                                                                                           |
| U.S. Congressional District                                                                                                                                                                                                                                      | <a href="http://www.house.gov/representatives/find/">http://www.house.gov/representatives/find/</a>                                                       |
| State Assembly and Senate District                                                                                                                                                                                                                               | <a href="http://findyourrep.legislature.ca.gov/">http://findyourrep.legislature.ca.gov/</a>                                                               |
| Reporting Requirement Regulations                                                                                                                                                                                                                                |                                                                                                                                                           |
| The Federal Funding Accountability and Transparency Act of 2006                                                                                                                                                                                                  | <a href="http://www.gpo.gov/fdsys/pkg/PLAW-109publ282/html/PLAW-109publ282.htm">http://www.gpo.gov/fdsys/pkg/PLAW-109publ282/html/PLAW-109publ282.htm</a> |
| FFATA Subaward Reporting System (FSRS) website                                                                                                                                                                                                                   | <a href="https://www.fsrs.gov/">https://www.fsrs.gov/</a>                                                                                                 |

CCC 04/2017

**CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

|                                                                                                                       |                                             |                                        |
|-----------------------------------------------------------------------------------------------------------------------|---------------------------------------------|----------------------------------------|
| <i>Contractor/Bidder Firm Name (Printed)</i><br>City of Berkeley                                                      |                                             | <i>Federal ID Number</i><br>94-6000299 |
| <i>By (Authorized Signature)</i><br> |                                             |                                        |
| <i>Printed Name and Title of Person Signing</i><br>Dee Williams-Ridley                                                |                                             | Dee Williams-Ridley, City Manager      |
| <i>Date Executed</i><br>4/1/2022                                                                                      | <i>Executed in the County of</i><br>Alameda |                                        |

**CONTRACTOR CERTIFICATION CLAUSES**

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))



2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

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**(2022 CSBG Agreement)****SUBVENTION AGREEMENT****PREAMBLE**

This subvention agreement, for the funding of Community Services Block Grant (CSBG) programs in 2022 (“Agreement”), is entered into between the Department of Community Services and Development (“CSD”) and the contractor named on the face sheet of this Agreement, Form STD 213 (“Contractor”), and shall be enforceable on the date last signed.

NOW THEREFORE, in consideration of the promises and of the mutual agreements and covenants hereinafter set forth, the CSD and Contractor hereby agree as follows:

**ARTICLE 1 – SCOPE OF WORK****1.1 General**

Contractor shall administer and/or operate community-based programs designed to reduce poverty, revitalize low-income communities, and empower low-income families and individuals within Contractor’s service area to achieve greater self-sufficiency, pursuant to Title 42 of the United States Code (USC) Sections 9901 et seq. (the Community Services Block Grant Act, as amended) and Government Code Sections 12085 et seq., as amended. Unless otherwise specified in the Contractor’s Community Action Plan or elsewhere in this Agreement, Contractor shall make its services and activities available to the low-income community within its service area throughout the entire performance period of this Agreement. Contractor shall ensure that all services funded in whole or in part through this Agreement will support state and federal policies and goals of the CSBG Act as set forth in the above-referenced statutes. The CSBG Catalog of Federal Domestic Assistance number is 93.569. The award is made available through the United States Department of Health and Human Services (HHS).

**1.2 Agreement Term**

1.2.1 The term of this Agreement shall be as specified on the Agreement face sheet (STD 213) and is divided into two distinct sections: a period of performance from January 1, 2022 through December 31, 2022, and an extension period of January 1, 2023 through May 31, 2023. The Contractor is expected to expend 100 percent of the Agreement amount as referenced in Article 1.3 below, by the end of the period of performance. The extension period is available upon approval by CSD to contractors unable to fully expend the Agreement amount during the period of performance.

1.2.2 *Period of Performance.* The period of performance of this Agreement shall be from January 1, 2022 through December 31, 2022. One hundred percent of the Agreement amount specified in Article 1.3 below is expected to be fully expended by the end of the period of performance.

1.2.3 *Extension Period.* The extension period provided by this Agreement is available upon approval by CSD from January 1, 2023 through May 31, 2023 to those contractors who will not fully expend 100 percent of the Agreement amount by the

**(2022 CSBG Agreement)****SUBVENTION AGREEMENT**

end of the performance period. Requests for extensions must be received no later than November 16, 2022.

**1.3 Agreement Amount**

The maximum amount of this Agreement shall be as specified on the face sheet (STD 213) and is subject to adjustment(s), in accordance with the following terms:

- 1.3.1 The initial amount shall be based on the prior year's grant award of the federal Community Services Block Grant award.
- 1.3.2 Upon notification of the full federal fiscal year grant award amount from the HHS, CSD shall, if necessary, issue an amendment to this Agreement to increase or decrease the maximum amount.
- 1.3.3 If the full amount of the HHS CSBG grant award to CSD is not available for allocation, CSD will notify Contractor in writing of the amount of Contractor's allocation that is available for expenditure and shall advance funds in accordance with Article 5.2 of this Agreement, as appropriate. When additional funds are subsequently made available by HHS, CSD will notify Contractor of the total amount of funds that may be expended. Contractor may not expend funds in excess of the amount available and authorized by CSD for expenditure. Access to funding shall be conferred upon Contractor through written authorization by CSD, and amendment to this Agreement shall not be required for such purpose, except in cases where the maximum amount of the Agreement has been revised.
- 1.3.4 In the event HHS fails to provide sufficient funding to CSD to enable payment of Contractor's maximum amount of the Agreement prior to the end of the contract term, the contract amount shall be deemed to be reduced to the amount actually provided by HHS and the contract shall be closed on that basis without need for amendment.
- 1.3.5 This Agreement may include a specific amount allocated from the annual discretionary allocation. These funds may target a specific purpose and require a separate budget and work plan in accordance with Article 7.1 of this Agreement.

**1.4 Service Area**

The services shall be performed in the Contractor's service area as indicated on CSD's Public Website at <https://www.csd.ca.gov>.

**1.5 Legal Authorities – Program Requirements, Standards, and Guidance**

- 1.5.1 All services and activities are to be provided in accordance with all applicable federal, state, and local laws and regulations, and as those laws and regulations may be amended from time to time, including but not limited to, the following:

**(2022 CSBG Agreement)****SUBVENTION AGREEMENT**

- 1.5.1.1 The Community Services Block Grant Act, as amended, 42 USC § 9901 et seq., and 45 Code of Federal Regulations (CFR) Part 96;
- 1.5.1.2 California laws and regulations applicable to CSBG Programs, Government Code (Gov. Code) § 12085 et seq., as amended, and Title 22, California Code of Regulations (Cal. Code Regs.) §§ 100601-100795;
- 1.5.1.3 The Single Audit Act, 31 USC § 7501 et seq., and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, 45 CFR Part 75;
- 1.5.1.4 California Civil Code §§ 1798 et seq., and the Federal Privacy Act of 1974 (5 USC § 552a); Requirements to Respond to Incidents Involving a Breach of Personal Information, Statewide Information Management Manual (SIMM) 5340-C, California Department of Technology; and
- 1.5.1.5 California Contractor Certification Clauses 04/2017 (CCC 04/2017); and State contracting requirements, "General Terms and Conditions, GTC 04/2017". The provisions in their entirety, can be reviewed and downloaded at the [Department of General Services](https://www.dgs.ca.gov/) website at <https://www.dgs.ca.gov/>.
- 1.5.2 *Conflict of Laws.* Contractor shall comply with all of the requirements, standards, and guidelines contained in the authorities listed within this Agreement, as they may be amended from time to time, with respect to procurement requirements, administrative expenses, and other costs claimed under this Agreement, including those costs incurred pursuant to subcontracts executed by Contractor, notwithstanding any language contained in the following authorities that might otherwise exempt Contractor from their applicability. To the extent that the authorities directly conflict with any State law or regulation, or any provision of this Agreement, then that federal law or regulation shall apply, unless a provision of federal law applicable to block grants, such as 45 CFR § 96.30, specifically allows for the application of state law.
- 1.5.3 CSD shall provide Contractor with specific program guidance which shall be binding on the Contractor as a condition of the Contractor's eligibility to receive CSBG funds, provided:
- 1.5.3.1 That such guidance shall be issued by CSD in writing in the form of "CSD Program Notice (CPN) No. XX-XX" or "CSD Program Advisory (CPA) No. XX-XX";
- 1.5.3.2 That such guidance shall be issued by CSD in the most timely and expeditious manner practicable;
- 1.5.3.3 That such guidance shall be reasonably necessary to realize the intent and purposes of the CSBG Act;



**(2022 CSBG Agreement)****SUBVENTION AGREEMENT**

- 1.5.3.4 That major and material changes in program requirements, which substantially affect the Contractor's and/or CSD's ability to fulfill contractual obligations, or which otherwise create a substantial hardship on either the Contractor or CSD, shall be subject to an amendment to this Agreement;
- 1.5.3.5 That the parties' failure or inability to execute a mutually acceptable amendment within a period of time allowing the parties to reasonably comply with any major change(s) in CSBG requirements, shall result in this Agreement being without force and effect, subject only to such provisions contained herein as are intended to survive the Agreement in accordance with the express and implied provisions of applicable federal and state law;
- 1.5.3.6 That Contractor is duly informed of the risk of de-designation as an eligible entity, based on CSD's obligation to avoid/minimize interruption of CSBG-funded services in any part of the state, in the event that this Agreement terminates due to failure to agree to any necessary amendment; and
- 1.5.3.7 That upon CSD's or Contractor's good faith determination, delivered to the other party by written notice, that agreement to any necessary amendment cannot be achieved, then this contract shall be terminated, and any issues of eligible entity status addressed, in accordance with requirements of federal and state law and established CSD policy and procedure.
- 1.5.4 The federal and state laws, regulations, and other authorities referenced in this Agreement are hereby incorporated by reference. Copies may be accessed for reference on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

**ARTICLE 2 – CONTRACT ADMINISTRATION AND PROCEDURE****2.1 Required Documents**

- 2.1.1 Contractor shall provide the following documents, satisfactory to CSD in form and substance, together with a signed copy of this Agreement before CSD executes and returns the Agreement to Contractor for implementation. The following documents shall be returned to the Budget and Contracts Services Unit at [contracts2@csd.ca.gov](mailto:contracts2@csd.ca.gov) within 30 calendar days of receipt for private agencies or 45 calendar days of receipt for public agencies:
- 2.1.1.1 Federal Funding Accountability and Transparency Act Report (CSD 279);
- 2.1.1.2 Certification Regarding Lobbying/Disclosure of Lobbying Activities;
- 2.1.1.3 Contractor Certification Clauses (CCC 04/2017);



**(2022 CSBG Agreement)****SUBVENTION AGREEMENT**

- 2.1.1.4 Current Insurance or Self-Insurance Authority Certification; and
- 2.1.1.5 Board Resolution authorizing execution of this Agreement.
- 2.1.2 In addition to the documentation requirements set forth in Article 2.1.1, CSD's obligations under this Agreement are expressly contingent upon Contractor providing the supplemental documentation set forth below, and available on the Local Agencies Portal at <https://agencies.csd.ca.gov/>. The following documents shall be returned to the assigned CSD Field Representative within 30 calendar days of receipt for private agencies or 45 calendar days of receipt for public agencies, and shall each be subject to approval by CSD in form and substance:
  - 2.1.2.1 CSBG Contract Budget Summary (CSD 425.S);
  - 2.1.2.2 CSBG Budget Support Personnel Costs (CSD 425.1.1);
  - 2.1.2.3 CSBG Budget Support Non-Personnel Costs (CSD 425.1.2);
  - 2.1.2.4 CSBG Budget Support Other Agency Operating Funds (CSD 425.1.3);
  - 2.1.2.5 CSBG Contract Budget Narrative (CSD 425.1.4);
  - 2.1.2.6 CSBG Annual Report Work Plan (CSD 641)
  - 2.1.2.7 CSBG Annual Report Projections (CSD 641A and or CSD 641B)
  - 2.1.2.8 Agency Staff and Board Roster (CSD 188);
  - 2.1.2.9 Board Meeting Schedule; and
  - 2.1.2.10 Updated Organizational Bylaws (if applicable).
- 2.1.3 *Board Resolution.* Contractor must also submit a governing board resolution with a DocuSign signature or a wet signature of the board's authorized representative, identifying the individual(s) authorized to execute the 2022 CSBG Agreement and any amendments.
- 2.1.4 CSD shall maintain a certified date-stamped copy of this Agreement for inspection by Contractor during normal business hours.
- 2.1.5 This Agreement may not be changed or altered by any party, except by a formal written, fully executed amendment, or as provided in Article 1.5.3 with respect to program guidance, or as provided in Article 3 – Agreement Changes. Upon such amendment of any provision, the amended PDF version shall be date-stamped and posted to the Local Agencies Portal at <https://agencies.csd.ca.gov/> until such time as a subsequent agreement or amendment is executed by the parties.

## SUBVENTION AGREEMENT

- 2.1.6 Contractors that are public or governmental entities with local provisions requiring receipt of a copy of all parts of this Agreement as a prerequisite to execution, as well as other contractors that make special arrangements with CSD, may receive copies for execution and retention.

### 2.2 Contractor's Option of Termination

- 2.2.1 Contractor may, at Contractor's sole option, elect to terminate this Agreement in lieu of adherence to the procedures set out in Article 1.5.3, should Contractor determine that any subsequent program guidance or proposed amendment to the contract is unjustifiably onerous or otherwise adverse to Contractor's legitimate business interests and ability to implement the contract in an effective and reasonable manner, provided:
- 2.2.1.1 Such notice of termination is in writing and will be effective upon receipt by CSD, delivered by U.S. Postal Service Certified Mail, Return Receipt Requested.
- 2.2.1.2 Notice contains a statement of the reasons for termination with reference to the specific provision(s) in the program guidance or proposed amendment in question.
- 2.2.2 Contractor shall be entitled to reimbursement for all allowable costs incurred prior to termination of the contract. Such reimbursement shall be in accordance with the program guidance and contract provisions in effect at the time the cost was incurred.
- 2.2.3 Contractor shall, within 60 calendar days of termination, close out the contract in accordance with contractual closeout procedures as provided in Article 6.2 – Close-Out Report.
- 2.2.4 By executing this Agreement, Contractor acknowledges and understands that voluntary termination prior to the end of the Agreement term may result in Contractor's permanent or temporary de-designation as an eligible entity, due to CSD's obligation to seek replacement CSBG Provider(s) in accordance with state and federal CSBG requirements.

### 2.3 Budget Contingencies

- 2.3.1 *State Budget Contingency.*
- 2.3.1.1 It is mutually agreed that if funds are not appropriated for implementation of CSBG programs through the state budget process or otherwise, whether in the current year and/or any subsequent year covered by this Agreement, this Agreement shall be of no further force and effect. Upon written notice to Contractor by CSD that no funds are available for contract implementation, the Agreement shall be terminated, and the State shall

**(2022 CSBG Agreement)****SUBVENTION AGREEMENT**

have no obligation to pay Contractor or to furnish other consideration under this Agreement and Contractor shall not be obligated for performance.

2.3.1.2 If CSBG funding for any fiscal year is reduced to such degree that CSD reasonably determines that the program cannot be implemented effectively, the State shall at its sole discretion have the option either to terminate this Agreement upon written notice to Contractor or, in the alternative, to offer and negotiate an amendment addressing the reduced funding. If the parties fail to reach agreement on such amendment, CSD may at its option give written notice of termination without further obligation by either party except for contract closeout obligations or final settlement.

2.3.1.3 Pursuant to Cal. Gov. Code §12785, up to 3.5 percent of the discretionary funds is allocated to restore funding to the prior year's funding level for CSBG eligible entities. In the event the appropriation of the federal CSBG funds are significantly reduced, the CSBG discretionary funding may not be sufficient to restore funding to the prior year's funding level.

2.3.2 *Federal Budget Contingency.*

2.3.2.1 The parties agree that because of uncertainty in the federal budget process, this Agreement may be executed before the availability and amounts of federal funding can be ascertained, in order to minimize delays in the provision of services and the distribution of funds. The parties further agree that the obligations of the parties under this Agreement are expressly contingent on adequate funding being made available to the state by the United States Government.

2.3.2.2 If federal funding for any fiscal year is reduced to such degree that CSD reasonably determines that the program cannot be implemented effectively, CSD shall at its sole discretion have the option either to terminate this Agreement upon written notice to Contractor or, in the alternative, to offer and negotiate an amendment addressing the reduced funding. If the parties fail to reach an agreement on such amendment, CSD may at its option give written notice of termination without further obligation by either party except for contract closeout obligations or final settlement.

2.3.2.3 If federal funding authorities condition funding on any obligations, restrictions, limitations, or conditions not existent when this Agreement was executed, this Agreement shall be amended by mutual agreement for compliance with such obligations, restrictions, limitations or conditions. Failure of the parties to reach agreement on such amendment shall render this Agreement without force and effect.

## SUBVENTION AGREEMENT

### 2.4 Miscellaneous Provisions

- 2.4.1 *Assignment.* Neither this Agreement nor any of the rights, interests, or obligations under this Agreement shall be assigned by any party without the prior written consent of the other parties, except in the case where responsibility for program implementation and oversight may be transferred by the State to another State agency. In the event of such transfer, this Agreement is binding on the agency to which the program is assigned.
- 2.4.2 *Merger/Entire Agreement.* This Agreement (including the attachments, documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.
- 2.4.3 *Severability.* If any provision of this Agreement is found to be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement will not be in any way impaired and shall remain in full force and effect.
- 2.4.4 *Notices.* Each party to this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (“CUEA”) (Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. CSD encourages Contractor to adopt the DocuSign platform to facilitate the receipt of this Agreement. Unless otherwise provided herein, notice given by the parties shall be in writing, delivered personally, by United States mail, or by overnight delivery service (with confirmation). Certain reporting and other communications may be delivered electronically as specified by CSD or as is customary between the parties. Notice shall be delivered as follows:

To Contractor’s address of record; and

To CSD at:

California Department of Community Services and Development  
 Field Operations Unit  
 2389 Gateway Oaks Drive, Suite 100  
 Sacramento, CA 95833

## ARTICLE 3 – AGREEMENT CHANGES

### 3.1 Amendment

- 3.1.1 Formal amendments to this Agreement are required for changes to the term, amount, scope of work, and/or formal name changes. No amendment to this



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Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.

3.1.2 If Contractor intends to request a formal amendment to this Agreement, the request must be submitted on CSD Form 425b, *Justification for Contract Amendment/Modification*, no later than 45 calendar days prior to the expiration of the Agreement term.

3.1.3 *Extension Period.* If Contractor identifies that they will not fully expend 100 percent of the Agreement amount by the end of the period of performance, then Contractor shall submit written notification to their assigned Field Representative on CSD Form 425b, *Justification for Contract Amendment/Modification*, no later than 45 calendar days prior to the expiration of the period of performance or no later than November 16, 2022. Refer to Article 1.2.2 for period of performance. The CSD Form 425b shall include:

3.1.3.1 The reason(s) the Contractor will not fully expend 100 percent of the Agreement amount by the end of the performance period; and

3.1.3.2 The date (January 31, February 28, March 31, April 30, or May 31, 2023) in which the Contractor proposes to fully expend 100 percent of the Agreement amount.

3.1.4 CSD Form 425b is located on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

3.1.5 All requests for an Extension Period are subject to CSD approval.

**3.2 Minor Modification**

3.2.1 Any request(s) for modification to CSBG Fiscal Data or Work Plan documents must be submitted on CSD Form 425b, *Justification for Contract Amendment/Modification*, no later than 45 calendar days prior to the expiration date of this Agreement.

3.2.2 Any increase to out-of-state travel costs or equipment purchases will require a request for modification to the budget and must be submitted on CSD Form 425b, *Justification for Contract Amendment/Modification*.

**ARTICLE 4 - ADMINISTRATIVE POLICIES AND PROCEDURES****4.1 Board Roster, Bylaws, Resolution, and Minutes**

4.1.1 Concurrently with Contractor's submission of this Agreement, Contractor shall submit to CSD at [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov) and the Contractor's assigned Field Representative the following:

## SUBVENTION AGREEMENT

- 4.1.1.1 Unless otherwise specified in 4.1.1.3 and 4.1.1.4 below, Contractor shall submit to CSD an Agency Staff and Board Roster form (CSD 188) of the tripartite board including the name and sector (i.e., low-income, public, private) of each board member, contact information for each member including an address at a location other than the office of the eligible entity, vacancy title, and date each board seat was vacated. Contractor is responsible to notify CSD of any changes to the tripartite board within 30 calendar days of such occurrence.
- 4.1.1.2 Contractor must provide updated organizational bylaws if any changes occurred within the past calendar year.
- 4.1.1.3 In the case of Native American Indian (NAI) Contractors that have established another mechanism (in consultation with CSD and subject to CSD approval) to ensure low-income individuals' participation in the management of programs funded by this Agreement, a current roster of the NAI governing council, commission, board, or other body responsible for administration of CSBG-funded programs, and the most recent version of the organizational bylaws. The roster shall include contact information for each member of the governing body at a location other than the office of the NAI Contractor and shall identify how low-income individuals are represented in the organization's governance. NAI Contractors shall also submit the most recent version of the organizational bylaws. NAI Contractor is responsible to notify CSD of any changes to its governing body within 30 calendar days of such occurrence.
- 4.1.1.4 In the case of Limited Purpose Agency (LPA) Contractors, a current roster of Contractor's board, including the name of each board member, contact information for each member at a location other than the office of the LPA, and the most recent version of the organizational bylaws. LPA Contractor is responsible to notify CSD of any changes to its board within 30 calendar days of such occurrence.
- 4.1.2 Contractor's current governing board must authorize the execution of this Agreement. Contractor has the option of demonstrating such authority by either: (a) direct signature of a board member having signing authority; or (b) any lawful delegation of such authority that is consistent with Contractor's bylaws.
- 4.1.3 Where Contractor elects to delegate signing authority to the chief executive officer (CEO) or executive director (ED), CSD will accept either a resolution specific to this Agreement or a resolution approved by the current governing board with general applicability to any CSD program contract or amendment. Where Contractor provides a general resolution, Contractor shall maintain documentation that the CEO or ED provided timely and effective communication of the execution and terms of this Agreement to the board. Either a specific or current general resolution must be on file with CSD prior to CSD's final execution of this Agreement.

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- 4.1.4 Contractor shall submit to CSD the approved minutes of regularly scheduled meetings of its tripartite board, LPA contractor's board, NAI governing council, commission, advisory board, or other body responsible for administration of CSBG-funded programs, no later than 30 calendar days after the minutes are approved. Contractor shall submit board meeting minutes to CSD at [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov) and to the Contractor's assigned Field Representative. Regularly scheduled board meetings shall be held in accordance with Contractor's bylaws.
- 4.1.5 In addition to the minutes referenced in Article 4.14, if Contractor's tripartite board is advisory to the elected officials of a local government, Contractor also shall submit to CSD the minutes from any meeting of the elected officials where matters relating to this Agreement are heard; including, but not limited to, discussions about or decisions affecting the Community Action program. Such minutes shall be submitted to CSD no later than 30 calendar days after the minutes are approved. Contractor shall submit board meeting minutes to CSD at [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov) and to the Contractor's assigned Field Representative.

**4.2 Training and Quarterly CSBG Service Provider (CSP) Meetings**

Contractors shall make every effort to attend all trainings and quarterly CSP meetings associated with CSD.

**4.3 Internal Control Certification**

Contractor shall establish and maintain a system of internal accounting and administrative control. This responsibility includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions. The system of internal accounting and administrative control shall be attested to within the Contractor's independent audit conducted pursuant to this Agreement, and include:

- 4.3.1 Segregation of duties appropriate to safeguard State assets;
- 4.3.2 Access to Contractor assets is limited to authorized personnel who require these assets in the performance of their assigned duties;
- 4.3.3 Authorization and recordkeeping procedures adequate to provide effective accounting controls over assets, liabilities, revenues, and expenditures;
- 4.3.4 Practices to be followed in performance of duties and functions;
- 4.3.5 Personnel of a quality commensurate with their responsibilities; and
- 4.3.6 Effective internal review.



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### 4.4 Record Retention Requirements

- 4.4.1 All records maintained by Contractor shall meet the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.361 through § 75.370).
- 4.4.2 Contractor shall maintain all records pertaining to this Agreement for a minimum of three years after submission of the final report. However, Contractor shall maintain applicable records until CSD resolves all audit and monitoring findings.
- 4.4.3 Contractor ensures that employee and applicant records shall be maintained in a confidential manner to ensure compliance with the Information Practices Act of 1977, as amended (Civ. Code §§ 1798 et seq.), and the Federal Privacy Act of 1974, as amended (5 USC § 552a).

### 4.5 Insurance Requirements

- 4.5.1 By execution of this Agreement, Contractor agrees that required insurance policies and bond shall be in effect at all times during the term of this Agreement.
- 4.5.2 Contractor shall provide CSD with written notice at least 30 calendar days prior to cancellation or reduction of insurance coverage to an amount less than that required in this Agreement.
- 4.5.3 Notices of Insurance must be submitted electronically via email to [BNCS@csd.ca.gov](mailto:BNCS@csd.ca.gov).
- 4.5.4 In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide within 30 calendar days prior to said expiration date, a new Certificate of Insurance (ACORD 25) evidencing insurance coverage as provided for herein for not less than the remainder of the term of this Agreement. The Certificate shall identify and name CSD as the Certificate Holder. New Certificates of Insurance will be reviewed for content and form by CSD.
- 4.5.5 In the event Contractor fails to maintain in effect at all times the specified insurance and bond coverage as herein provided, CSD may, in addition to any other available remedies it may have, suspend this Agreement.
- 4.5.6 With the exception of workers' compensation and fidelity bond, CSD shall be named as additional insured on all Certificates of Insurance required under this Agreement.
- 4.5.7 The issuance of other CSD contracts, to include any cash advances and reimbursement payments, to the Contractor shall be contingent upon required current insurance coverage being on file at CSD for this Agreement.



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4.5.8 Should Contractor utilize a subcontractor(s) to provide services under this Agreement, Contractor shall indemnify and hold the State harmless against any liability incurred by that subcontractor(s).

### 4.6 Specific Insurance Requirements

#### 4.6.1 *Self-Insurance.*

4.6.1.1 When Contractor is a self-insured governmental entity, CSD, upon satisfactory proof, may waive the appropriate insurance requirements. To qualify for a waiver, an appropriate county or city risk manager shall sign a certification that shall contain assurance of the adequacy of the governmental entity's ability to cover any potential losses under this Agreement.

4.6.1.2 Contractor shall specify in writing a list of which coverage(s) will be self-insured under this Agreement and shall list all applicable policy numbers, expiration dates, and coverage amounts.

4.6.1.3 In the event that the Contractor's self-insurance coverage does not contain any changes from the prior year, CSD will accept a certified letter signed by authorized personnel stating that no changes have occurred from last year. This letter is due at the time of Agreement execution or within 30 calendar days of expiration of insurance.

4.6.1.4 In lieu of providing certification of self-insurance, Contractor may provide proof of excess insurance coverage through an insurance carrier who is licensed to underwrite insurance in the State of California.

#### 4.6.2 *Workers' Compensation Insurance.*

4.6.2.1 Contractor shall have and maintain for the term of this Agreement workers' compensation insurance issued by an insurance carrier licensed to underwrite workers' compensation insurance in the State of California.

4.6.2.2 Contractor shall submit either an applicable Certificate of Insurance or a Certificate of Consent to Self-Insure issued by the Director of the California Department of Industrial Relations to CSD as evidence of compliance with the workers' compensation insurance requirement prior to issuance of an initial cash advance.

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### 4.6.3 *Commercial or Government Crime Coverage (Fidelity Bond).*

4.6.3.1 Contractor shall maintain a commercial crime policy. If Contractor is a public entity, Contractor shall maintain a government crime policy. The commercial crime policy or government crime policy (hereinafter "fidelity bond") shall include the following coverages or their substantial equivalents: Employee Dishonesty/Theft, Forgery or Alteration, and Computer Fraud.

4.6.3.2 Contractor's fidelity bond coverage limits shall not be less than a minimum amount of 4 percent of the total amount of consideration set forth under this Agreement.

4.6.3.3 Contractor shall submit an applicable Certificate of Insurance (ACORD 25) to CSD as evidence of compliance with the fidelity bond requirement prior to issuance of an initial cash advance.

### 4.6.4 *General Liability Insurance.*

4.6.4.1 Contractor shall have and maintain for the term of this Agreement general liability and property damage insurance for a combined single limit of not less than \$500,000 per occurrence.

4.6.4.2 Contractor shall submit to CSD an applicable Certificate of Insurance naming CSD as an additional insured, as evidence of compliance with the general liability insurance requirement prior to issuance of an initial cash advance.

### 4.6.5 *Vehicle Insurance.*

4.6.5.1 Contractor shall have and maintain for the term of this Agreement vehicle insurance in the amount of \$500,000 for each person and each accident for bodily injury and in the amount of \$500,000 for each person and each accident for property damage.

4.6.5.2 When employees use their own vehicles to perform duties within the scope of their employment, Contractor shall have and maintain for the term of this Agreement non-owned and hired automobile liability insurance in the amount of \$500,000 for each person and each accident for bodily injury and \$500,000 for each person and each accident for property damage. Driving to and from place of business is not within the scope of employment.

4.6.5.3 Contractor shall submit to CSD an applicable Certificate of Insurance naming CSD as an additional insured as evidence of compliance with the vehicle insurance requirement prior to issuance of an initial cash advance.

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### 4.7 System Security Requirements

Contractor shall, in cooperation with CSD, institute policies, processes, procedures, and security controls designed to ensure the security of data and to protect information in accordance with the Information Practices Act of 1977 (Civ. Code §§ 1798 et seq.), and such other State and federal laws and regulations as may apply. The parties hereto agree to requirements, obligations, and standards in accordance with regulations set in the State Administrative Manual (SAM) and Statewide Information Management Manual (SIMM). In the event there are different system security standards that may be applied to this Article, Contractor shall endeavor to use the strictest security standard that complies with state and federal requirements.

### 4.8 Services Offered

Data exchange between CSD and Contractor shall be handled through one of three methods: (1) a Contractor user must upload data files or perform data entry using credentials provided by CSD; or (2) utilize CSD web applications as configured by the Contractor technology vendor; or (3) via email using security protocols, such as encryption and redaction, for any sensitive data.

### 4.9 Data Protection

- 4.9.1 Data exchanged between CSD and Contractor must be limited to the data fields included on Data Transfer Rules documents posted on the Local Agencies Portal at <https://agencies.csd.ca.gov/>. No personal financial information (e.g., credit card, bank account numbers), shall be stored or exchanged in the data exchange sessions.
- 4.9.2 Data exchanged between CSD and Contractor must be limited to the data fields as requested within the web applications. No personal financial information, (e.g., credit card, bank account numbers), shall be stored or exchanged in the data exchange sessions.
- 4.9.3 Data exchanged between CSD and Contractor via email communication must have all personally identifiable information (PII) and other sensitive information redacted before the document is sent. Alternately, Contractor is to encrypt any attachments that have sensitive data using encryption tools and configurations as required by CSD.
- 4.9.4 Access to the above-mentioned data must only be given to authorized personnel to complete essential duties. Authorized personnel are to log into these systems using their own assigned credentials (i.e., no login account sharing). Upon departure of personnel with assigned credentials, the Contractor will remove the employee's access to the systems as soon as possible.

### 4.10 Contractor Systems Security

- 4.10.1 The physical location of the computing and data storage devices (e.g., servers) shall be within controlled access facilities. Individual users may not have access

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to the data except through their systems that are specifically credentialed for Contractor business. All access will be controlled by appropriate identification, authentication, and authorization methods to validate the approved users.

- 4.10.2 Standards for secure transmission may be accomplished through such means as certificates, secure socket layer, etc., and storage of the data with encryption, if applicable.
- 4.10.3 Contractor shall securely destruct data by sanitizing media prior to disposal.
- 4.10.4 Contractor shall keep security patches, anti-virus, and anti-malware software up to date on all systems on which data may be used.

**4.11 Trusted Behavior Expectations**

CSD's application system and users shall protect Contractor's application system/data, and the Contractor's application system and users shall protect CSD's application system/data, in accordance with the federal Privacy Act of 1974 (5 USC § 552a), Trade Secrets Act (18 USC § 1905) and Unauthorized Access to Stored Communications (18 USC § 2701). Technology and systems code and functionality are owned by the respective parties and may not be shared with anyone else or used without the written consent of the owner.

**4.12 Incident Reporting**

Any party discovering a security incident shall report it in accordance with its incident reporting procedures. Contractor shall, within 24 hours of discovery, report to CSD's Information Security Office at [ISO@csd.ca.gov](mailto:ISO@csd.ca.gov) any security incident contemplated herein. Examples include, but are not limited to, stolen or lost equipment, malware/ransomware detection, suspected hacking, etc. Contractor further agrees CSD shall have the right to participate in the investigation of a security incident involving CSD's data, and to cooperate fully with CSD and other relevant State entities during independent investigation of the security incident.

**4.13 Audit Trail Responsibilities**

Both parties are responsible for auditing application processes and user activities. Activities that will be recorded include event type, date and time of event, user identification, workstation identification, success or failure of access attempts, and actions taken by system administrators.

**4.14 Data Sharing Responsibilities**

Contractor shall ensure that all primary and delegated secondary organizations that share, exchange, or use personal, sensitive, or confidential data, pursuant to this Agreement and subcontracts issued by Contractor, shall adhere to these security requirements and applicable state and federal law, in addition to further data sharing guidance as may be issued by CSD during the term of this Agreement. If data sharing is accomplished via interconnectivity of an application system, then data sharing must be certified to be secure by both parties.



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**SUBVENTION AGREEMENT****4.15 Travel and Per Diem**

- 4.15.1 Contractor's total travel and per diem costs for in-state and/or out-of-state shall be included in the Agreement Budget(s). Out-of-state travel costs that exceed the budgeted amount shall not be reimbursed without prior written authorization from CSD.
- 4.15.2 Contractor's employee travel costs and per diem reimbursement rates shall be reimbursed in accordance with Contractor's written policies and procedures not to exceed federal per diem requirements, and subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.474) or any amendments thereto, as applicable.
- 4.15.3 In the absence of a written travel reimbursement policy, federal per diem limits shall apply.

**4.16 Codes of Conduct**

- 4.16.1 *Written Standards.* Contractor shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts or subcontracts. No employee, officer, or agent of the Contractor shall participate in the selection, award, or administration of a subcontract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the Contractor shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors or parties to sub agreements. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipients.
- 4.16.2 *Self-Dealing Prohibited.* Contractor shall not pay federal funds received from CSD to any entity in which it (or one of its employees, officers, agents, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein) has an interest. As ownership constitutes a financial interest, Contractor shall not subcontract with a subsidiary. Similarly, Contractor shall not subcontract with an entity that employs or is about to employ any person described in 45 CFR § 75.327, or subsequent amendments to these requirements.

**4.17 Conflict of Interest**

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- 4.17.1 Contractor certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who performs any functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit that either directly or indirectly arises from this Agreement.
- 4.17.2 Contractor shall establish written safeguards to prohibit its employees or its officers from using their positions for a purpose that could result in private gain or that gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

### 4.18 Fraud, Waste, and Abuse

- 4.18.1 Contractor shall submit a written report to CSD within 45 days of incidents and activities, or suspected incidents and activities, involving fraud, waste, and abuse of CSBG funds by Contractor's employees, subcontractors, clients, or other parties affiliated with Contractor. Incidents and activities subject to reporting under this section include, but are not limited to, criminal acts and other violations of law constituting a misuse of funds that could result in cost disallowance. Contractor shall, in a timely manner, inform CSD of any reports or complaints submitted to law enforcement officials by Contractor, Contractor's employees, subcontractors, clients or other parties affiliated with Contractor, concerning the misuse of CSBG funds.
- 4.18.2 Contractor shall provide employees, subcontractors, clients, and other parties affiliated with the Contractor the information necessary to report fraud, waste, and abuse to the U.S. Department of Health and Human Services (HHS) Office of Inspector General Fraud hotline.

### 4.19 Procurement Standards

- 4.19.1 *Maintenance of Written Procurement Procedures.* Contractors shall administer this Agreement in accordance with all federal and State rules and regulations governing the CSBG program pertaining to procurement, including the Code of Federal Regulations Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards and amendments thereto, consistent with the general CFR compliance requirement in Article 1 of this Agreement. Contractors shall establish, maintain, and follow written procurement procedures consistent with the procurement standards in 45 CFR § 75.326 through § 75.340, or any subsequent amendments to these standards, and all additional provisions in this Agreement, including but not limited to a code of conduct for the award and administration of contracts and a procedure that provides, to the maximum extent practical, open and free competition.
- 4.19.2 *Eligible Bidders.* Contractor shall not permit any organizational conflicts of interest or noncompetitive practices that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective subcontractor performance

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and eliminate unfair competitive advantage, individuals, or firms that develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals shall be excluded from competing for such procurements. Contractor shall award any subcontract to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to Contractor when considering price, quality, and other factors. Contractor's solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient.

- 4.19.3 Contractor assures that all supplies, materials, vehicles, equipment, or services purchased or leased with funds provided by this Agreement shall be used solely for the activities allowed under this Agreement, unless a fair market value for such use is charged to the benefiting program and credited to this Agreement.
- 4.19.4 Contractor shall provide for open and free competition and adequate cost analysis in all procurement transactions for each purchase order, lease, or subcontract for any articles, supplies, equipment, or services to be obtained from vendors or subcontractors.
- 4.19.5 *Non-Competitive Bid Justification.* If a service or product is of a unique nature, is in response to a public exigency or emergency, or more than one vendor/provider cannot reasonably be identified, Contractor shall maintain adequate justification for the absence of competitive bidding. "Adequate justification" must include, but is not limited to: (a) explanation of why the acquisition of goods or services is limited to one vendor or supplier; (b) description of sole vendor/supplier's unique qualifications to provide the goods or services in question; and (c) analysis of cost(s) to demonstrate reasonableness.
- 4.19.6 *CSD Lease/Purchase Pre-Approval Requirements.* To ensure that significant procurement transactions are conducted in an open and freely competitive manner, Contractor shall obtain prior written approval from CSD of capital expenditures for equipment with a unit cost of \$10,000 or more through the submission of a Request for Purchase/Lease Pre-Approval (form CSD 558) to CSD at least 15 calendar days prior to execution of the transaction. Transactions without CSD's prior written approval may be disallowed.
- 4.19.7 In all procurements, whether requiring CSD pre-approval or not, Contractor is solely responsible for maintenance of adequate procurement records demonstrating compliance with Federal and State requirements.
- 4.19.8 Noncompliance with any of the provisions in this section may result in a disallowance of the costs of the procurement transaction.

### 4.20 Use and Disposition of Vehicles and Equipment

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- 4.20.1 Use of CSBG-funded vehicles and equipment by other programs shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.320 and § 75.439).
- 4.20.1.1 Vehicles and equipment purchased with CSBG funds must be used by Contractor in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by CSBG funds, and Contractor must not encumber the property without prior approval of CSD. When no longer needed for the original program or project, the equipment may be used in other activities supported by CSD, in the following order of priority: (a) activities under a Federal award from CSD; then (b) activities under Federal awards from other HHS awarding agencies.
- 4.20.1.2 During the time that equipment is used on the project or program for which it was acquired, Contractor must also make the equipment available for use on other projects or programs currently or previously supported by the Federal Government. User fees should be considered, if appropriate, in accordance with federal regulations.
- 4.20.1.3 Any user fees shall be treated as “program income” to the CSBG program, as described in 45 CFR § 75.307.
- 4.20.1.4 Contractor may be compensated for the use of its buildings, capital improvements, equipment and software projects capitalized in accordance with generally accepted accounting principles (GAAP), provided they are used, needed in Contractor’s program activities, and properly allocated to the CSBG grant program. Such compensation must be made by allocating and computing depreciation in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.436).
- 4.20.2 Contractor shall comply with all equipment management requirements outlined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.320 (d)), including, but not limited to: (a) property records; (b) physical inventory of the property; (c) a control system to prevent loss, damage, or theft; (d) adequate maintenance procedures; and (e) proper sale procedures.
- 4.20.3 *Sale or Disposition of CSBG-Funded Vehicles and Equipment.*
- 4.20.3.1 If/when Contractor’s CSBG program(s) no longer need(s) items of equipment with a current per unit fair market value of \$5,000 or less, the equipment may be retained, sold, or otherwise disposed in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.320).



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4.20.3.2 Conflict of interest policies and proper sales procedures should be followed to ensure that the best possible value and sale price is realized.

4.20.3.3 Pursuant to 45 CFR 75.307(d), (*see also* 45 CFR § 75.2 “Program Income”), sale proceeds from the sale of real property, equipment, or supplies are not program income. Such proceeds will be handled in accordance with the requirements of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards – *Subpart D–Post Federal Award Requirements* (including 45 CFR §§ 75.318, 75.320 and 75.321).

**4.21 Subcontracts**

4.21.1 Contractor may enter into subcontract(s) to perform part or all of the direct services covered under this Agreement. Prior to the commencement of subcontracted services under this Agreement, Contractor shall obtain board approval, to include but not be limited to, an assurance that the subcontractor agreement(s) shall comply with all terms, conditions, assurances, and certifications of this Agreement for the nonprofit and local governmental agencies performing services in the area(s) described in ARTICLE 1 - SCOPE OF WORK.

4.21.2 *Notification of Subcontract Execution.*

4.21.2.1 Contractor shall provide annual written notification to CSD within 60 calendar days of execution of each subcontractor agreement by completing the CSD 163 Subcontractor List (Form), which can be found on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

4.21.2.2 This annual written notification shall also include a certification that, to the best of Contractor’s knowledge, the subcontractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency. For purposes of this certification of subcontractor eligibility, Contractor may rely on information provided via the Excluded Parties List System (EPLS), available at <https://www.sam.gov>.

4.21.2.3 If CSD determines that Contractor has executed a subcontract with an individual or entity listed as debarred, suspended, or otherwise ineligible on EPLS as of the effective start date of the subcontract, costs Contractor has incurred under the subcontract may be disallowed.

4.21.2.4 Contractor must ensure that funds expended pursuant to this Agreement are allowable and allocable and Contractor must adopt fiscal control and accounting procedures sufficient to enable the tracing of funds paid to any subcontractor to a level of expenditure adequate to establish that such funds have not been used in violation of this Agreement. Contractor shall ensure that any subcontracts under this Agreement

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contain all provisions necessary to ensure adequate substantiation and controls of the expenditure of such funds. Contractor may achieve this through detailed invoices, by periodic monitoring of subcontractor's program activities and fiscal accountability, by retaining a right of reasonable access to the subcontractor's books and records, or by any other method sufficient to meet the Contractor's responsibility to substantiate costs required by the Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards (45 CFR Part 75, Subpart E – Cost Principles).

- 4.21.3 Contractor is solely responsible for performance of the terms, conditions, assurances, and certifications of this Agreement, without recourse to the State, regarding the settlement and satisfaction of all contractual and administrative issues arising out of subcontract agreement(s) entered into in support of this Agreement, including disputes, claims, or other matters of a contractual nature as well as civil liability arising out of negligence or intentional misconduct of the subcontractor(s).
- 4.21.4 Nothing contained in this Agreement shall create any contractual relation between CSD and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. Contractor shall be liable for any acts and omissions of its subcontractors or of persons either directly or indirectly employed by subcontractors in violation of this Agreement. Contractor's obligation to pay subcontractor(s) is independent from CSD's obligation to make payments to Contractor. As a result, CSD shall have no obligation to pay or to enforce payment of any moneys to any subcontractor.
- 4.21.5 In the event CSD suspends, terminates, and/or makes changes to the services to be performed under this Agreement, Contractor shall notify all of its subcontractors in writing within five business days of receipt of notice of such action.

**ARTICLE 5 – PROGRAM BUDGET REQUIREMENTS AND PAYMENTS****5.1.1 Budget**

- 5.1.1 Concurrent with the submission of this Agreement, Contractor shall complete and submit the CSBG Fiscal Data forms [CSBG Contract Budget Summary (CSD 425.S), CSBG Budget Support - Personnel Costs (CSD 425.1.1), CSBG Budget Support - Non-Personnel Costs (CSD 425.1.2), CSBG Budget Support - Other Agency Operating Funds (CSD 425.1.3), and Budget Narrative (CSD 425.1.4)] attached to this Agreement. Contractor must include an itemized list identifying all other funding sources and amounts that make up the total annual operating budget of the community action program(s). Notwithstanding any other provision of this paragraph, Contractor may submit the itemized list of other funding sources by either of the following methods: (a) completing the attached form (CSD 425.1.3); or (b) submitting an internal annual budget document displaying the funding sources and their anticipated revenues.

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5.1.2 Contractor shall submit the CSBG Contract Budget Narrative form (CSD 425.1.4) with a justification for each projected line item reported on the CSD 425.1.1 and CSD 425.1.2.

5.1.3 *Administrative Expenses.* For the purpose of administrative expenditures, and pursuant to Cal. Gov. Code § 12781(D), Contractor shall use funds allocated under this Agreement in an amount not to exceed 12 percent of the total operating budget of its community action program(s) only, including other agency funds used to support CSBG. Contractor shall not use funds provided under this Agreement to cover administrative costs incurred in the Low-Income Home Energy Assistance Program (LIHEAP) and the Low Income Household Water Assistance Program (LIHWAP) in excess of the LIHEAP and LIHWAP contractual limitations by the Contractor's agency.

The budgets of the Contractor's community action programs, not the budget of the organization or the organizational division to which the community action programs are assigned, shall be used in calculating the amount of allowable administrative expenditures under this subparagraph.

5.1.3.1 A qualifying community action program is defined by Cal. Gov. Code § 12750(b) as:

A "locally planned and operated program comprising a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem."

5.1.3.2 Community action programs typically:

5.1.3.2.1 Maintain a tripartite board of directors or advisory board, as defined in Cal. Gov. Code § 12751, which in the case of governmental entities, has operational jurisdiction and oversight or advisory responsibility, and

5.1.3.2.2 Serve the purposes and goals of the federal Community Services Block Grant Act, Section 672 (42 USC § 9901) and Cal. Gov. Code § 12750 with particular reference to the reduction of the causes and conditions of poverty and persistent economic insecurity.

5.1.4 For purposes of allocating indirect costs, contractors may use current negotiated indirect cost rates that have been approved by a cognizant federal agency. Contractor shall submit a copy of the letter of approval from the cognizant agency which includes date of approval and amount of rate. In the absence of a negotiated indirect cost rate, Contractor may elect to use a 10 percent de minimis indirect cost rate as permitted under 45 CFR § 75.414(f) and 2 CFR § 200.414(f).

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5.1.5 *Budget modifications require pre-approval by CSD. No originally approved budget line item may be increased or decreased by more than 10 percent (10%) without prior CSD approval. Contractor shall submit a CSD 425b, Justification for Contract Amendment/Modification and updated budget forms to request a budget modification.*

### 5.2 Advance Payments – Amount

- 5.2.1 Upon approval of all contract deliverables, CSD shall, in accordance with Cal. Gov. Code § 12781(b), issue an advance payment to Contractor in an amount not to exceed 25 percent of the maximum amount of this Agreement.
- 5.2.2 If HIIS does not initially make enough funds available for CSD to pay the advance amount in full, CSD shall provide that portion of the advance amount that is available and pay the remaining portion(s) as funds become available.
- 5.2.3 If HIIS fails to provide sufficient funds to pay the authorized advance amount during the first six months of the contract term, Contractor will not be entitled to additional advance payments thereafter.
- 5.2.4 If, during the first six months of the contract term, CSD amends this Agreement to increase the maximum amount, CSD shall advance up to 25 percent of the increase to Contractor.
- 5.2.5 Contractors who opt not to receive an advance payment must notify CSD in writing on agency letterhead. Written notification must be submitted with the contract.

### 5.3 Advance Payments – Interest on Advances

- 5.3.1 Contractor must deposit all advances in an interest-bearing account in accordance with 45 CFR § 75.305(b)(8), unless one or more of the following apply:
- 5.3.1.1 Contractor receives less than \$120,000 in Federal awards per year.
- 5.3.1.2 The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on CSBG cash balances.
- 5.3.1.3 The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- 5.3.2 Interest earned amounts up to \$500 may be retained by Contractor for administrative expenses. Any additional interest earned on CSBG advance payments deposited in interest-bearing accounts must be remitted annually to the U.S. Department of Health and Human Services at:



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HHS Program Support Center  
P. O. Box 979132  
St. Louis, MO 63197

When returning interest, the refund should include: an explanation stating that the refund is for interest, the name of the awarding agency (CSD), and the grant number for which the interest was earned.

### 5.4 Advance Payments – Liquidation of Advance

5.4.1 Contractor may liquidate the advance at any time through offsets against CSD-approved reimbursement requests; however, CSD shall initiate repayment of the advance through offsets of approved expenditures when the Contractor has expended 75 percent of the maximum amount of this Agreement.

5.4.2 CSD-initiated repayments of the advance shall be accomplished through offsets against subsequent reimbursement of approved expenditures. CSD shall determine the amount to be offset against reimbursements by dividing the unpaid advance amount by the number of remaining expenditure reporting periods in the contract term. In the event that an expenditure request for a reporting period is less than the offset amount as determined above, the entire amount of the expenditure reimbursement request shall be applied against the remaining advance balance.

### 5.5 Advance Payments – Lien Rights

The State retains lien rights on all funds advanced.

### 5.6 Payments

5.6.1 Upon approval of Contractor deliverables CSD shall issue payments (as specified by Contractor on the CSD 425.S) to Contractor upon receipt and approval of a certified CSBG Expenditure/Activity Report. The report shall indicate the actual expenditures being billed to CSD for reimbursement for the specific report period.

5.6.2 Subsequent payments to Contractor shall be contingent on receipt and approval by CSD of the preceding Expenditure/Activity Report. If Contractor owes CSD any outstanding balance(s) for overpayments of any Agreement, current or previous, the balance(s) may be offset after notice to the Contractor providing an opportunity to present any valid objection to the offset.

## ARTICLE 6 – FINANCIAL REPORTING

### 6.1 Fiscal Reports

## (2022 CSBG Agreement)

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6.1.1 Contractor shall request reimbursement for expenditures associated with all contract activities by reporting in the Expenditure Activity Reporting System (EARS) in accordance with CPN-C-19-001, *CSBG Financial Reporting Policies and Procedures*, which is available online at the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

6.1.2 Contractor shall submit adjustments in accordance with CPN-C-19-001.

**6.2 Close-Out Report**

6.2.1 Contractor shall complete and submit all CSD close-out forms when funds are 100 percent expended and according to the timelines below. The close out report must be submitted according to the following Period of Performance timeline:

- Period of Performance: January 1, 2022-December 31, 2022; Closeout due March 30, 2023 (90 calendar day closeout)
- Period of Performance: January 1, 2022-March 31, 2023; Closeout due June 30, 2023 (90 calendar day closeout)
- Period of Performance January 1, 2022-April 30, 2023; Closeout due June 30, 2023 (60 calendar day closeout)
- Period of Performance January 1, 2022-May 31, 2023; Closeout due June 30, 2023 (30 calendar day closeout)

6.2.2 The close-out report shall include the following forms: Close-Out Checklist and Certification of Documents Transmitted (CSD 715), Close-Out Program Income/Interest Earned Expenditure Report (CSD 715C), Close-Out Equipment Inventory Schedule (CSD 715D). The latest versions of the close-out forms are available on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

6.2.3 All close-out forms must be submitted electronically via email to [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov).

6.2.4 Final expenditures must be submitted by entry into EARS by June 20, 2023.

6.2.5 All adjustments must be submitted in accordance with CPN-C-19-001.

6.2.6 Subsequent payments for expenditures under any open CSBG contract and the issuance of other CSD contracts shall be contingent upon timely submission of the closeout report.

6.2.7 If CSD grants Contractor a term extension, regardless of the extension period, Contractor must submit all required close-out documents, without exception, no later than June 30, 2023.

**(2022 CSBG Agreement)****SUBVENTION AGREEMENT****6.3 Transparency Act Reporting**

- 6.3.1 In accordance with requirements of the Federal Funding Accountability and Transparency Act (FFATA), contractors that: (a) are not required by the IRS to annually file a Form 990 federal return; (b) receive at least 80 percent of their annual gross revenues from federal sources (excluding any ARRA funds); and (c) have annual gross revenues totaling \$25,000,000.00 or more from federal grants, contracts, or other federal sources (excluding any ARRA funds), shall provide to CSD a current list of names and total compensation of contractor's top five highly compensated officials/employees. The list shall be provided with the executed copy of the Agreement returned to CSD. This requirement applies only to contractors that fall within all three categories set forth in this paragraph.
- 6.3.2 Pursuant to the FFATA reporting requirements (2 CFR Part 170), CSD is required to report information regarding contractors (sub-awardees) receiving CSBG funds. Contractor must complete CSD Form 279, located on the Local Agencies Portal at <https://agencies.csd.ca.gov/>, and return with the signed contract to ensure compliance.
- 6.3.3 CSD may issue guidance and/or Amendment(s) to this Agreement, establishing additional reporting requirements as necessary to ensure compliance with the FFATA or other Federal and State regulations, as applicable.

**ARTICLE 7 – CSBG TERMS, CONDITIONS, PROGRAMMATIC PROVISIONS, AND REPORTING****7.1 Fair Hearing for Denial of Client Benefits by Contractor**

- 7.1.1 Pursuant to 22 Cal. Code Regs. § 100751, as amended, Contractor shall advise individuals who have been denied assistance under a program funded by this Agreement of their right to appeal to CSD for a fair hearing within 20 calendar days from the denial of assistance.
- 7.1.2 Within five business days of receipt of an appeal from a client, CSD's Fair Hearings Officer shall schedule an administrative hearing to be conducted no later than 30 calendar days from the receipt of the request.
- 7.1.3 The client may withdraw the appeal/request for fair hearing at any time during the appeal process by providing written, email, or telephonic notice to CSD. Telephonic notice of withdrawal must be confirmed in writing by the Fair Hearings Officer or designated CSD staff.

**7.2 Organizational Standards**

To maintain compliance with the Office of Community Services' *CSBG IM 138: State Establishment of Organizational Standards for CSBG Eligible Entities*, each Contractor shall submit the Organizational Standards annually utilizing the eGov ReportHub system no later than



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August 31st. Contractor shall have until January 31, 2023 to address modification requests from CSD and/or complete the technical assistance plan(s) for unmet standards in the 2022 Organizational Standards Assessment.

**7.3 Programmatic Reporting**

- 7.3.1 *Submission of Required Plans/Reports.* Unless otherwise specified by the provisions of this Article, all Community Action Plans and reports required by the provisions of this Article shall be submitted via email to [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov), no later than the date specified.
- 7.3.2 *Community Action Plan.* Contractor shall submit a Community Action Plan meeting the requirements of Government Code § 12747 no later than June 30th of every odd year, unless/until otherwise instructed by CSD.
- 7.3.3 *CSBG Annual Work Plan Modules 3 and 4.* Annual programmatic work plan covers the proposed programmatic activities from January 1, 2022, through December 31, 2022. Contractor must complete and submit the CSBG Annual Work Plan CSD 641 form, and enter the Targets using Work Plan CSD 641A Module 3 Targets and or 641B Module 4 Targets as part of the contract deliverables. Required data for Module 3 and Module 4 will include selecting the appropriate CNPI(s) and or FNPI(s), entering the target, and entering the type of documentation the agency will use to verify the outcome has been met. The Annual Report projections for CY 2022 must be completed and submitted with the contract deliverables. A copy of the forms may be accessed on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.
- 7.3.4 *CSBG Annual Report Modules 2 through 4 and Agency Success Stories.* Annual programmatic reporting covers the programmatic activities from January 1, 2022, through December 31, 2022. As applicable, Modules 2 through 4 and Agency Success Stories must be completed and submitted in the eGov Reporting system no later than February 1, 2023. Access to the eGov system is available at: <https://cacsd.communitysoftwaregroup.com/CsgIdentity/Account/Login>.
- 7.3.5 Contractor shall be required to collect programmatic outcomes associated with services provided under an extended period of performance covering the period January 1, 2022 through the extended period of performance as specified on the STD 213. Contractor must submit the programmatic outcomes through this period in a supplemental report to CSD with the close out packet.

**ARTICLE 8 – COMPLIANCE POLICIES AND PROCEDURES****8.1 Right to Monitor, Audit, and Investigate**

- 8.1.1 Any duly authorized representative of the federal or State government, which includes but is not limited to the State Auditor, CSD Staff, and any entity selected by CSD to perform inspections, shall have the right to monitor and audit



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Contractor and all subcontractors providing services under this Agreement through on-site inspections, audits, and other applicable means the State determines necessary.

- 8.1.2 Contractor shall make available all reasonable information necessary to substantiate that expenditures under this Agreement are allowable and allocable, including, but not limited to books, documents, papers, and records. Contractor shall agree to make such information available to the federal government, the State, or any of their duly authorized representatives including representatives of the entity selected by CSD to perform inspections, for examination, copying, or mechanical reproduction, on or off the premises of the appropriate entity upon a reasonable request.
- 8.1.3 Any duly authorized representative of the federal or State government shall have the right to undertake investigations in accordance with applicable federal and state requirements, with particular reference to 42 USC §§ 9914-9916, and 22 Cal. Code Regs. § 100730, as amended.
- 8.1.4 All agreements entered into by Contractor with audit firms for purposes of conducting independent audits under this Agreement shall contain a clause permitting any duly authorized representative of the federal or State government access to the working papers of said audit firm(s).

### **8.2 Compliance Monitoring – Contractor’s and CSD’s Shared Responsibilities for Federal Funds**

- 8.2.1 As the recipient of federal CSBG funds under this Agreement, Contractor is responsible for substantiating that all costs claimed under this Agreement are allowable and allocable under all applicable federal and State laws, and for tracing all costs to the level of expenditure.
- 8.2.2 As the State CSBG administrator, CSD must conduct onsite and follow-up monitoring, and other audits/reviews as necessary, to ensure that:
  - 8.2.2.1 Contractor meets federal and state performance goals, administrative and financial management standards, and other requirements, including federal organizational standards, as discussed in Article 7.2, applicable to CSBG-funded programs; and
  - 8.2.2.2 Funds allocated to Contractor are expended for the purposes identified in federal and State CSBG law for allowable and allocable costs in accordance with CFR requirements.
- 8.2.3. CSD shall provide Contractor reasonable advance written notice of on-site monitoring reviews of Contractor’s program or fiscal performance. Contractor shall cooperate with CSD program staff and other representatives, and provide access to all programs, records, documents, resources, personnel, inventory, and

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other things reasonably related to the administration and implementation of the services and activities funded directly or indirectly by this Agreement.

- 8.2.4 Except under certain conditions whereby advanced notice may not be feasible such as, a whistleblower or other investigation, CSD shall provide Contractor reasonable advance written notice of on-site audit of Contractor's program or fiscal performance. Contractor shall cooperate with CSD audits and other representatives, and provide access to all programs, records, documents, resources, personnel, inventory, and other things reasonably related to the administration and implementation of the services and activities funded directly or indirectly by this Agreement.
- 8.2.5 In the event CSD determines that Contractor is not in compliance with material or other legal requirements of this Agreement, CSD shall provide Contractor with observations, recommendations, and/or findings of noncompliance in writing, along with specific action plans for correcting the noncompliance. All noncompliance findings must be resolved by the mutually agreed upon corrective action timeframe.

### 8.3 Collection of Disallowed Costs

- 8.3.1 In the event questioned costs are identified in a final decision on cost disallowance issued by CSD, Contractor shall comply with any demand for repayment, as specified in such final report.
- 8.3.2 *Time for Response.* Contractor shall have no less than 30 calendar days from receipt of the final decision to tender payment to CSD or, alternatively, to provide CSD with complete and accurate information or documentary evidence in support of the allowability of questioned costs.
- 8.3.3 *Notice After Review of Further Supporting Evidence.* If Contractor challenges questioned costs and submits complete and accurate information or documentary evidence in support of the allowability of questioned costs as provided above in Article 8.3.2, CSD shall, after consideration of Contractor's submission, accordingly issue a revised Notice of Disallowed Costs, if any, no later than 30 calendar days after receipt of Contractor's information or documentation. Contractor shall have 15 calendar days from receipt of such Notice to tender payment or a repayment plan acceptable to CSD. In the alternative, Contractor may request a hearing in accordance with this Agreement, for CSD's final determination of disallowed costs.
- 8.3.4 All statements, notices, responses and demands issued in accordance with this Article 8.3 shall be in writing.
- 8.3.5 CSD may, at its discretion, reasonably extend the time periods allowed for responses specified in this Article 8.3.

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### 8.4 Auditing Standards

- 8.4.1 *Applicability.* The standards set forth in in 2 CFR § 200.500 et seq. are hereby incorporated by reference.
- 8.4.2 *Supplemental Audit Guide.* In addition to the applicable audit requirements specified in Article 8.4.1, Contractor must follow the most current CSD Supplemental Audit Guide, which is incorporated into this Agreement by reference and may be accessed on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

### 8.5 Audit Reports

- 8.5.1 Funds provided under this Agreement shall be included in an audit conducted in accordance with the provisions of 2 CFR Subpart F – Audit Requirements §§ 200.500-521, standards promulgated by the American Institute of Certified Public Accountants (AICPA), and those standards included in “Government Auditing Standards,” December 2011 Revision, as amended, or the 2018 revision effective for financial audits, attestation engagements, and reviews of financial statements for periods ending on or after June 30, 2021.
- 8.5.2 *Organizations below audit threshold.* Contractors falling below the federal funding threshold, currently \$750,000, that mandates a single audit may be subject to an audit and/or other fiscal or program-specific review conducted by CSD or its agents, upon 30 calendar days written notice.
- 8.5.3 The financial and compliance audit report shall contain a Schedule of Expenditures of Federal Awards (SEFA) in accordance with 2 CFR § 200.510 (45 CFR § 75.510). All CSBG grants shall be reported separately on the SEFA, i.e., CSBG; Discretionary. In addition, a separate Supplemental Statement of Revenues and Expenditures (SSRE) for **each** contract whose **term ends** during the single-audit fiscal year shall be included in that year’s single audit. The SSRE shall report revenue and expenditures for CSD funding by contract line item and fiscal year. The SSRE shall cover the entire contract term as required in CSD’s Supplemental Audit Guide.
- 8.5.4 *Submission of Audit Reports.* Contractor shall submit to CSD one electronic copy of the required audit report(s) and any management letter(s) issued by the accountant, within the earlier of 30 calendar days after receipt of the auditor’s report, or nine months after the end of the Contractor’s fiscal year.
- 8.5.5 The audit report(s) and all supplemental financial information must be submitted to the following addresses:

One Electronic copy:

[audits@csd.ca.gov](mailto:audits@csd.ca.gov)

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Upon receipt of the audit report, CSD's Audit Services Unit (ASU) will send a confirmation email within five to ten calendar days. Contractor should verify receipt of ASU's confirmation email to ensure your single audit was received.

In accordance with the guidelines of the Division of Audits of the California State Controller's Office (SCO), if Contractor is a local government agency, additional copies of the audit report must be submitted to the following address:

State Controller's Office  
Division of Audits  
300 Capitol Mall, Fifth Floor  
Sacramento, CA 95814

### 8.6 Failure to Comply with Audit Requirements

- 8.6.1 In the event that Contractor fails to comply with the audit requirements under this Article, CSD, as appropriate in the circumstances, may take one or more of the following actions, provided in 45 CFR § 75.371 - § 75.375 "Remedies for Noncompliance": (a) temporarily withhold cash payments pending correction of the deficiency by Contractor or more severe enforcement action by CSD; (b) disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance; (c) wholly or partly suspend (suspension of award activities) or terminate the award; (d) recommend that suspension or debarment proceedings be initiated by the HHS awarding agency, as authorized under 2 CFR Part 180 and Federal awarding agency regulations at 2 CFR Part 376; (e) withhold further federal awards for the project or program; and (f) take other remedies that may be legally available.
- 8.6.2 *Collection of Disallowed Costs.* Contractor shall have no less than ten business days from receipt of the draft Audit Transmittal Report (TR) or comparable document to provide acceptance of the disallowed costs or, alternatively, to provide CSD with complete and accurate information or documentary evidence in support of the allowability of questioned costs.
- 8.6.3 If Contractor challenges questioned costs and submits complete and accurate information or documentary evidence in support of the allowability of questioned costs CSD shall, after consideration of Contractor's submission, issue a final TR, no later than 30 calendar days after receipt of Contractor's information or documentation. If questioned costs are determined to be owing, ASU shall notify CSD's Financial Services Unit (FSU) to send an invoice. Contractor will tender payment to FSU or negotiate a repayment plan acceptable to FSU.

### 8.7 Enforcement Actions Resulting from Noncompliance with this Agreement

- 8.7.1 *Legal Authority.* The authority for CSD Enforcement Actions, as defined in Article 8.7.2, for cost disallowances/recovery of misused funds, and for de-designation of eligible entity status (collectively "Enforcement Process") is



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found in the federal CSBG Act (42 USC §§ 9901 et seq.), in the Code of Federal Regulations, and in state regulations, with particular reference to 22 Cal. Code Regs. § 100780. In order to facilitate compliance with the cited authorities, the parties to this Agreement agree that Article 8.7 shall: (a) guide, inform and clarify the Enforcement Process; (b) establish the procedures to be followed; and (c) establish the rights and obligations of the parties with respect to the Enforcement Process, for purposes of implementing the principles set out in the applicable legal authorities.

### 8.7.2 *Definitions.*

*Enforcement Action.* For purposes of this Article, “Enforcement Action” shall refer to official steps taken by CSD in response to material breaches of this Agreement and/or Contractor’s inability to fulfill contractual obligations of the Agreement due to serious financial instability or insolvency. Enforcement Actions may include any of the following: (a) “High-Risk” designation; (b) a determination of cost disallowance; (c) contract suspension; (d) contract termination; or (e) termination of Contractor’s designation as eligible entity.

*High Risk Designation* refers to the status of a Contractor which, due to material breach/failure to fulfill contractual obligations and/or serious financial instability, is subject to Enforcement Action(s) that may include imposition of Special Conditions and/or Sanctions designed to allow for continued performance of the Agreement within the conditions/sanctions imposed, or other actions deemed necessary to safeguard public funds.

*Material Breach* means any act or omission by Contractor that is in contravention or disregard of Contractor’s duties and obligations under the terms of this Agreement and under applicable State and federal law, which act or omission: (a) constitutes fraud or gross negligence by Contractor or its agent(s); (b) is likely to result in significant waste and/or abuse of federal funds; (c) has a significant adverse impact on Contractor’s ability to meet its administrative, financial, or programmatic duties and obligations over the term of the contract or a significant portion thereof; (d) violates or otherwise disregards significant program guidance and other requirements of the Federal Government, whether issued directly or through CSD; (e) may have serious adverse effects and consequences on the Contractor’s customers, employees, subcontractors, creditors, suppliers, vendors, or other stakeholders; or (f) may otherwise significantly and adversely affect the viability, effectiveness, or integrity of the program.

### 8.7.3 *Initiation of Enforcement Action.*

8.7.3.1 *Grounds for Enforcement Action.* If CSD determines that Contractor has not complied with the requirements of this Agreement and that Contractor’s noncompliance constitutes a material breach of the Agreement, or if CSD determines that Contractor’s financial condition is

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so unstable and tenuous that its ability to implement this Agreement is seriously compromised, CSD may initiate an Enforcement Action.

8.7.3.2 *Notice of High-Risk Designation.* To initiate an Enforcement Action, CSD must provide Contractor with written Notice of High Risk designation, setting forth: (a) the factual and legal basis for the determination of noncompliance, upon which the High-Risk designation is based; (b) the corrective action(s) required; and (c) the date by which they must be taken and completed.

### 8.7.4 *Special Conditions and Sanctions.*

8.7.4.1 CSD may impose Special Conditions and/or Sanctions upon a determination that such steps are reasonably necessary to address acute financial instability or a material breach, as defined above. Imposition of Special Condition(s) and/or Sanction(s) shall be in writing and shall become effective on the date specified in the notice. Such notices must contain the following information: (a) the nature of the Special Condition(s) and/or Sanction(s) being imposed; (b) the reason(s) for imposing Special Condition(s) and/or Sanction(s); and (c) the corrective actions that must be taken and the time allowed for completing them before CSD removes the Special Condition(s) and/or Sanction(s).

8.7.4.2 Special Conditions may include, but are not limited to: (a) requiring Contractor to obtain training and/or technical assistance; (b) imposition of special or additional reporting requirements; (c) special or conditional cost reimbursement requirements and procedures; (d) provision of documentation by Contractor; and/or (e) requiring Contractor to amend or modify systems, procedures, and/or policies.

8.7.4.3 Sanctions may include but are not limited to: (a) suspension of advances and/or reimbursements; and/or (b) issuance of notices to suspend operations.

8.7.4.4 Sanctions may not be imposed without a hearing being first held in accordance with applicable regulations, *unless* CSD reasonably determines, based on credible information, that: (a) substantial sums to be paid to Contractor have been or will be used in violation of law or the provisions of this Agreement, and/or (b) associated costs are otherwise very likely to be disallowed; and (c) taxpayer dollars are at significant risk and are unlikely to be recovered if Sanctions are not immediately imposed.

### 8.7.5 *Procedures for Review of Special Conditions and/or Sanctions.*

8.7.5.1 If Contractor wishes to contest the imposition of Special Conditions and/or Sanctions, Contractor shall have five business days following receipt of a

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Notice of Enforcement Action in which to show cause, in writing, why the Special Conditions or Sanctions should not be imposed.

8.7.5.2 CSD shall have five business days following receipt of Contractor's response to accept or reject Contractor's objection and to state in writing the consequences of the decision and Contractor's obligations going forward, if any.

8.7.5.3 *Hearing.* Within five business days of receipt of a Notice of Enforcement Action, Contractor may request a hearing for the parties to consider the matters addressed in the Notice and to discuss alternative courses of action, which meeting CSD may agree to if, in its sole judgment, it determines that the meeting would be helpful to the process, can be held expeditiously, and will not cause undue delay or further jeopardize taxpayer dollars.

8.7.5.4 Contractor may, at any time, request in writing that CSD initiate the contract suspension or contract termination processes, to include the requisite hearings, as set out in applicable federal and State law, with particular reference to 22 Cal. Code Regs. § 100780.

8.7.5.5 Should Contractor fail to show cause as to why the Enforcement Action should not go forward, or should Contractor fail to request that CSD initiate either the contract suspension or termination processes, CSD may initiate such action at its own discretion.

8.7.5.6 Special Conditions and Sanctions shall remain in effect until the hearing procedure is completed, provided, with respect to sanctions, CSD reasonably determines that Article 8.7.5.3 applies.

### 8.7.6 *Enforcement Action Cost Disallowance.*

8.7.6.1 *Statement of Questioned Costs.* If CSD determines that Contractor's non-compliance has resulted in questioned costs, CSD shall provide Contractor with a Statement of Questioned Costs along with the Notice of Enforcement Action, or at such later time in the enforcement process as questioned costs are identified.

8.7.6.2 Statements of Questioned Costs shall include, at minimum: (a) particular item(s) of cost questioned and the specified amount(s) by type or category of costs; (b) factual basis for questioning costs, and the information and/or documentation required to justify payment of the costs; and (c) timeframe and procedures for Contractor's submission of the required information or documentation to CSD.

8.7.6.3 *Investigative Audits and Reports.* If CSD determines that more information is required before a Statement of Questioned Costs can be

## SUBVENTION AGREEMENT

issued or before a final determination of cost disallowance can be made, CSD may conduct an investigative audit of Contractor's records, files and books of account, or retain an audit firm for such purpose. Contractor agrees to cooperate fully in any audit conducted and to ensure that Contractor's agents, accountants and subcontractors cooperate in the performance of such audit. A report of any audit conducted shall be shared with Contractor, who shall be given ample opportunity to respond to findings and to submit information and documentation in support of the response.

- 8.7.6.4 *Effect of Non-Cooperation with Investigative Audits.* If Contractor fails to cooperate in the conduct of an audit initiated pursuant to Article 8.7.6.3, CSD may: (a) impose sanctions as provided in article 8.7.4; and/or (b) issue a Notice of Disallowed Costs as determined appropriate.
- 8.7.6.5 *Notice of Disallowed Costs.* If CSD determines that further information and/or documentation provided by Contractor has not fully addressed or resolved any outstanding issues of questioned costs, CSD shall issue a Notice of Disallowed Costs, which notice shall include: (a) the amount of disallowed costs to be repaid, if any; and (b) the date by which repayment must be made or, in the alternative, (c) the date by which Contractor must submit a proposed repayment plan for consideration by CSD.
- 8.7.6.6 *Right to Dispute Notice.* Not later than five business days after receipt of a Notice of Disallowed Costs, Contractor may request a hearing disputing the Notice or statements made therein. The hearing shall be conducted in accordance with the procedures set out in 22 Cal. Code Regs. § 100780, for the purpose of adjudicating the matter of cost disallowance; however, either Contractor or CSD may opt to adjudicate other pending enforcement action matters, in a combined proceeding.
- 8.7.6.7 *Waiver of Right to Dispute.* If Contractor declines to request a hearing to adjudicate cost disallowance, or neglects to submit a request as provided in Article 8.7.6.6, the Notice of Disallowed Costs shall be deemed final and Contractor shall be obligated to comply with the requirements of the Notice.
- 8.7.6.8 Contractor will be deemed to have complied with a Notice of Disallowed Costs when CSD receives full repayment of outstanding disallowed amount(s), or when CSD formally approves a repayment plan. In reviewing Contractor's repayment plan, CSD shall take into consideration such factors as, but not limited to: (a) federal requirements or conditions applicable to the grant(s) under which the disallowed costs were funded; (b) the exigencies of the grant program and CSD's ability to reallocate the funds repaid or otherwise dispose of the funds in accordance with applicable law; (c) the risk of being unable to recover



## SUBVENTION AGREEMENT

funding and the options for securing Contractor's repayment obligation;  
and (d) Contractor's financial condition and ability to pay.

- 8.7.7 *Removal of High-Risk Designation.* Contractor shall remain on High Risk until CSD reasonably determines that Contractor has complied with the requirements of the Notice of High Risk Designation, including verification by CSD that corrective measures have been implemented, that all conditions have been met and that disallowed costs have been repaid or, alternatively, that CSD has deemed Contractor's repayment plan to be acceptable and Contractor has demonstrated it is in compliance with the plan. Upon determination that Contractor has complied with the requirements of the Notice of High-Risk Designation, CSD shall give Contractor written notice of such determination.
- 8.7.8 *Further Enforcement Action.* In the event Contractor's non-compliance with the terms and conditions of this Agreement are not remedied through imposition of Special Conditions, and/or Sanctions, thereby enabling CSD to remove High Risk designation, CSD may initiate further Enforcement Actions involving Contract Suspension, Contract Termination and Termination of Contractor's designation as eligible entity, which shall be initiated and conducted in accordance with the applicable provisions found in 22 Cal. Code Regs. § 100780 and other applicable State and federal statutes and regulations.
- 8.7.9 *Contractor's Status During Federal Review Period.* The final decision with respect to any enforcement action which involves contract termination, cost disallowance, a denial of refunding, and/or de-designation of an eligible entity shall become effective upon completion of the applicable federal review, if initiated by Contractor, and in compliance with appeal requirements pursuant to Section 678C of the Community Services Block Grant Act, (42 USC § 9915), except that Special Conditions and Sanctions shall remain in force during the course of any federal review and appeal, and no new contracts or amendments will be executed during the federal review and appeal process.

## ARTICLE 9 – FEDERAL AND STATE POLICY PROVISIONS

### 9.1 Federal Certification Regarding Debarment, Suspension, and Related Matters

- 9.1.1 Contractor hereby certifies to the best of its knowledge that it, any of its officers, and any subcontractor(s):
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local)

## SUBVENTION AGREEMENT

transaction or contract under a public transaction; violation of federal or State antitrust statutes; commission of embezzlement, theft, forgery, or bribery; falsification or destruction of records; making false statements; or receiving stolen property;

- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in Article 9.1.1; and
- d. Have not, within a three-year period preceding this Agreement, had one or more public (federal, state, or local) transactions terminated for cause or default.

9.1.2 If any of the above conditions are true for the Contractor, any of its officers, or any subcontractor(s), Contractor shall describe such condition(s) in writing and submit this information to CSD with the other forms Contractor must complete and return prior to CSD's execution of this Agreement. Based on the description, CSD in its discretion may decline to execute this Agreement or set further conditions of this Agreement. In the event any of the above conditions are true and not disclosed by Contractor, it shall be deemed a material breach of this Agreement, and CSD may terminate this Agreement for cause immediately pursuant to the termination provisions of State and federal law governing the CSBG program.

9.1.3 Contractor must certify in writing to the best of its knowledge that any subcontractor(s) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

### 9.2 Affirmative Action Compliance

9.2.1 Each contractor or subcontractor with 50 or more employees and an agreement of \$50,000 or more shall be required to develop a written Affirmative Action Compliance Program.

9.2.2 The written Affirmative Action Compliance Program shall follow the guidelines set forth in 41 CFR § 60-1.40, §§ 60-2.10 through 60-2.32, and §§ 60-741.01 through 60-741.47.

9.2.3 Each contractor or subcontractor with less than 50 employees shall comply with Section 202 of Part II of Executive Order 11246, as amended by Executive Order 11375. Contractor shall ensure that subcontractors falling within the scope of this provision shall fully comply with the requirements thereof.

### 9.3 Nondiscrimination Compliance

9.3.1 Contractor's signature affixed hereon shall constitute a certification that to the

## SUBVENTION AGREEMENT

best of its ability and knowledge will, unless exempted, comply with the nondiscrimination program requirements set forth in this section.

- 9.3.2 Contractor hereby certifies compliance with the following:
- a. Federal Executive Order 11246, as amended by Executive Order 11375, relating to equal employment opportunity;
  - b. Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 USC §§ 2000d et seq. and 2000e et seq.);
  - c. Rehabilitation Act of 1973, as amended (29 USC §§ 701 et seq.);
  - d. Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (41 CFR Subtitle B, Part 60-300);
  - e. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, as amended (41 CFR Chapter 60); and
  - f. Americans with Disabilities Act of 1990, as amended (Pub. L. 101-336; 42 USC §§ 12101 et seq.).

### 9.4 Specific Assurances

- 9.4.1 *Pro-Children Act of 1994.* This Agreement incorporates by reference all provisions set forth in Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994. Contractor further agrees that the above language will be included in any subcontracts that contain provisions for children's services and that all subcontractors shall certify compliance accordingly.
- 9.4.2 This Agreement incorporates by reference all provisions set forth in "Child Support Services and Referrals", under 42 USC § 9919(b).
- 9.4.3 *American-Made Equipment/Products.* Contractor shall assure, pursuant to Public Law 103-333, Section 507, to the extent practicable, that all equipment and products purchased with funds made available under this Agreement shall be American-made.
- 9.4.4 *Federal and State Occupational Safety and Health Statutes.* Contractor assures that it shall be in compliance with the provisions as set forth in Federal and State Occupational Safety and Health Statutes; the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code §§ 25249.5 et seq.); Universal Waste Rule (Hazardous Waste Management System: Modification of the Hazardous Waste Recycling Regulatory Program) (60 FR 25492, codified at 40 CFR Part 273); and California Workers' Compensation laws (Labor Code §§ 3200 et seq.).

## SUBVENTION AGREEMENT

9.4.5 *Political Activities.* Contractor shall refrain from all political activities if such activities involve the use of any funds that are the subject of this Agreement. Contractor is prohibited from any activity that is designed to provide voters or prospective voters with transportation to the polls or to provide similar assistance in connection with an election if such activities involve the use of any funds that are subject to this Agreement.

9.4.6 *Lobbying Activities.* Contractor shall refrain from all lobbying activities if such activities involve the use of any funds that are the subject of this Agreement or any other fund, programs, projects, or activities that flow from this Agreement. If Contractor engages in lobbying activities, Contractor shall complete, sign and date the attached CERTIFICATION REGARDING LOBBYING/DISCLOSURE OF LOBBYING ACTIVITIES, as required by the U.S. Department of Health and Human Services under 45 CFR Part 93 (Appendix A).

### 9.5 **Commercial and Government Entity (CAGE) Identification Code and Data Universal Numbering System (DUNS) Requirements**

Contractor shall provide to CSD proof of an active nine-digit Data Universal Numbering System (DUNS) number and a five-character Commercial and Governmental Entity (CAGE) identification code as a prerequisite to execution of this Agreement. To obtain authentication of the CAGE and DUNS number, print and submit verification from the Systems for Award Management website at <https://www.sam.gov/portal/public/SAM/>.



## SUBVENTION AGREEMENT

### DEFINITIONS

All terms used in this Agreement shall be defined as stated in applicable federal and state statutes and regulations (42 USC § 9902; Cal. Gov. Code § 12730; 45 CFR Part 75 and 22 Cal. Code Regs. § 100601). The following terms shall be more specifically defined for purposes of this Agreement, insofar as the definition accords with federal and state law, as follows:

Agreement: The complete contents of this Agreement entered into by and between the CSD and Contractor, including all rights, duties, and obligations whether expressed or implied required toward the legal performance of the terms hereof, and including all documents expressly incorporated by reference.

Agreement Term: The timeframe of this Agreement as specified on the Agreement face sheet (STD 213) including the established Period of performance and an extended period granted upon approval to the Contractor by CSD.

Amendment: A formal change to the Agreement of a material nature including but not limited to the term, scope of work, or name change of one of the Parties, or a change of the maximum amount of this Agreement.

Authorized Agent: The duly authorized representative of the Board of Directors of Contractor, and the duly elected or appointed, qualified, and acting officer of the State. In the case of Contractor, the State shall be in receipt of a board resolution affirming the agent's representative capacity to bind Contractor to the terms of this Agreement.

Board of Directors: For the purposes of a private nonprofit Community Action Agency, Board of Directors refers to the tripartite board as mandated by 42 USC § 9910 and Government Code § 12751. For the purposes of a publicly governed Community Action Agency, Board of Directors refers to the tripartite advisory/ administering board that is mandated by 42 USC § 9910 and California Government Code § 12752.1 and established by the political subdivision or local government.

Community Action Agency: A public or private nonprofit agency that fulfills all requirements of Government Code § 12750.

Continuing Resolution: An appropriation act that provides budget authority for federal agencies, specific activities, or both to continue in operation when Congress and the President have not completed action on the regular appropriation acts by the beginning of the fiscal year.

## (2022 CSBG Agreement)

**SUBVENTION AGREEMENT**

|                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Contractor:</u>                           | The entity (partnership, corporation, association, agency, or individual) designated on the face sheet (STD 213) of this Agreement.                                                                                                                                                                                                                                                                                                                |
| <u>CSD:</u>                                  | The State of California Department of Community Services and Development.                                                                                                                                                                                                                                                                                                                                                                          |
| <u>Equipment:</u>                            | An article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-profit organization for financial statement purposes, or \$5000.                                                                                                                                                                  |
| <u>Extended Period of Performance:</u>       | An extension to the Period of Performance provided to Contractor upon approval if Contractor does not expect to complete award activities during the Period of Performance.                                                                                                                                                                                                                                                                        |
| <u>Limited Purpose Agency (LPA):</u>         | A community-based nonprofit organization without a tripartite board, as defined in California Government Code § 12775 and 42 USC § 9910(b)(2).                                                                                                                                                                                                                                                                                                     |
| <u>Maximum Amount:</u>                       | The dollar amount reflected on line 3 of the face sheet (STD 213) of this Agreement.                                                                                                                                                                                                                                                                                                                                                               |
| <u>Modification:</u>                         | An immaterial change to this Agreement that does not require an Amendment.                                                                                                                                                                                                                                                                                                                                                                         |
| <u>Native American Indian Program (NAI):</u> | A tribal or other Native American Indian organization in an urban or rural off-reservation area, as defined in Government Code § 12772, such as an Indian nonprofit organization, which meets the criteria of 'eligible entity' as defined in subdivision (g) of § 12730. An NAI may be considered a 'public organization' for purposes of tripartite board requirements or other mechanisms of governance in accordance with 42 USC § 9910(b)(2). |
| <u>Parties:</u>                              | CSID on behalf of the State of California, and the Contractor.                                                                                                                                                                                                                                                                                                                                                                                     |
| <u>Period of Performance:</u>                | Time during which Contractor is expected to complete award activities and expend approved funds.                                                                                                                                                                                                                                                                                                                                                   |
| <u>Program:</u>                              | The Community Services Block Grant (CSBG) Program, 42 USC §§ 9901 et seq., as amended.                                                                                                                                                                                                                                                                                                                                                             |
| <u>State:</u>                                | The State of California Department of Community Services and Development.                                                                                                                                                                                                                                                                                                                                                                          |

**SUBVENTION AGREEMENT**

Subcontractor: An entity (partnership, tribe, corporation, association, agency, or individual) that enters into a separate contract or agreement with Contractor to fulfill direct program or administrative tasks in support of this Agreement.

Subcontract: A separate contract or agreement entered into by and between Contractor and Subcontractor to fulfill direct program or administrative tasks in support of this Agreement.

Total Allocation: The actual amount of funds available to Contractor under this Agreement, as calculated pursuant to Government Code § 12759 after CSD receives the notice of grant award for the full allocation based on the appropriation by Congress for the related federal fiscal year, and as publicly announced by CSD's Director or designee, subsequent to the execution of this Agreement.

## (2022 CSBG Agreement)

## SUBVENTION AGREEMENT

## TABLE OF FORMS AND ATTACHMENTS

Forms (to be returned with signed Agreement):

- A. CSBG Contract Allocation Increase:
1. CSBG Contract Budget Summary (CSD 425.S);
  2. CSBG Budget Support Personnel Costs (CSD 425.1.1);
  3. CSBG Budget Support Non-Personnel Costs (CSD 425.1.2);
  4. CSBG Budget Support Other Agency Operating Funds (CSD 425.1.3);
  5. CSBG Contract Budget Narrative (CSD 425.1.4); and
  6. CSBG Annual Report Work Plan (CSD 641).

- B. CSBG Annual Work Plan Projections Modules 3 and 4 (CSD 641A and CSD 641B)

Annual programmatic work plan covers the proposed programmatic activities from January 1, 2022, through December 31, 2022. Contractor must complete and submit the CSBG Annual Work Plan CSD 641 form, and enter the Targets using Work Plan CSD 641A Module 3 Targets and or 641B Module 4 Targets. Required data for Module 3 and Module 4 will include selecting the appropriate CNPI(s) and or FNPI(s), entering the target, and providing the type of documentation the agency will use to verify the outcome has been met. The Annual Report projections for CY 2022 must be completed and submitted with the contract deliverables. All necessary forms may be accessed on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

- C. Certification Regarding Lobbying/Disclosure of Lobbying Activities
- D. California Contractor Certification Clauses (CCC 04/2017)
- E. CSD Federal Accountability and Transparency Act Report (CSD 279)
- F. Agency Staff and Board Roster (CSD 188)

The following documents are hereby incorporated by reference:

- Attachment A: 2022 CSBG Allocation Spreadsheet
- Attachment B: Supplemental Audit Guide



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 State of California  
 DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 CSBG Budget Support -- Personnel Costs  
 CSD 425.1.1 (Rev. 10/19)

**DISASTER ONLY**

**CSBG BUDGET SUPPORT -- PERSONNEL COSTS**

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: \$274,202                                                               |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

**Section 10 -- ADMINISTRATIVE COSTS -- SALARIES AND WAGES**

| A<br>No. of Positions | B<br>Position Title | C<br>Total Salary for each position | D<br>Percent (%) of CSBG time allocated for each position | E<br>Number of CSBG months allocated for each position | F<br>Total CSBG Funds budgeted for each position |
|-----------------------|---------------------|-------------------------------------|-----------------------------------------------------------|--------------------------------------------------------|--------------------------------------------------|
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| <b>Sub-Total</b>      |                     |                                     |                                                           |                                                        |                                                  |

**SECTION 20 -- PROGRAM COSTS -- SALARIES AND WAGES**

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| <b>Sub-Total</b> |  |  |  |  |  |

**FRINGE BENEFITS**

| Enter description of Fringe Benefits. Please include the percentage of Salaries and Wages paid in Benefits. (Examples: FICA, SSI, Health Ins., Workers Comp. Etc.) | Percentage | Section 10 Administrative Costs<br><small>List CSBG funds Budgeted Line 2</small> | Section 20 Program Costs<br><small>List CSBG funds Budgeted Line 2</small> |
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| <b>Sub-Total</b>                                                                                                                                                   |            |                                                                                   |                                                                            |

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| Hit Alt & Enter at the same time to begin a new line or paragraph within the cell.   |  | <b>Sub-Total</b> |  |
| List of all Operating expenses:                                                      |  |                  |  |
| List all equipment purchase:                                                         |  |                  |  |
| List all contract/consultant services:                                               |  |                  |  |
| List all subcontractor consultant services:                                          |  |                  |  |
| Other costs:                                                                         |  |                  |  |
| <b>Sub-Total</b>                                                                     |  |                  |  |
| <b>TOTAL AMOUNT Will AUTOMATICALLY POPULATE TO CSD TO CSD 425.S (BUDGET SUMMARY)</b> |  |                  |  |



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 State of California  
 DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 CSBG Budget Support -- Personnel Costs  
 CSD 425.1.1 (Rev. 11/21)

**CSBG BUDGET SUPPORT -- PERSONNEL COSTS**

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: \$274,202                                                               |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

**Section 10 -- ADMINISTRATIVE COSTS -- SALARIES AND WAGES**

| <b>A</b><br>No. of Positions                                                                                | <b>B</b><br>Position Title | <b>C</b><br>Total Salary for each position | <b>D</b><br>Percent (%) of CSBG time allocated for each position | <b>E</b><br>Number of CSBG months allocated for each position | <b>F</b><br>Total CSBG Funds budgeted for each position |
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| <b>Total (must match Section 10: Administrative Costs line item 1 on the CSD 425.S Budget Summary form)</b> |                            |                                            |                                                                  |                                                               |                                                         |

**SECTION 20 -- PROGRAM COSTS -- SALARIES AND WAGES**

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| <b>Total (must match Section 20: Program Costs line item 1 on the CSD 425.S Budget Summary form)</b> |  |  |  |  |  |

**FRINGE BENEFITS**

| Enter description of Fringe Benefits. Please include the percentage of Salaries and Wages paid in Benefits. (Examples: FICA, SSI, Health Ins., Workers Comp. Etc.) | Percentage | Section 10 Administrative Costs<br>List CSBG funds Budgeted Line 2 | Section 20 Program Costs<br>List CSBG funds Budgeted Line 2 |
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**TOTAL MUST MATCH THE AMOUNT ENTERED ON CSD 425.S (BUDGET SUMMARY)**



**CSBG BUDGET SUPPORT -- PERSONNEL COSTS**

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: \$274,202                                                               |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

**Section 10 -- ADMINISTRATIVE COSTS -- SALARIES AND WAGES**

| <u>A</u><br>No. of Positions                                                                                | <u>B</u><br>Position Title                       | <u>C</u><br>Total Salary for each position | <u>D</u><br>Percent (%) of CSBG time allocated for each position | <u>E</u><br>Number of CSBG months allocated for each position | <u>F</u><br>Total CSBG Funds budgeted for each position |
|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------|--------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------|
| 1                                                                                                           | Manager of Community Services and Administration | \$164,482                                  | 8.00%                                                            | 12                                                            | \$13,158.56                                             |
| 1                                                                                                           | Senior Management Analyst                        | \$133,951                                  | 5.00%                                                            | 12                                                            | \$6,697.55                                              |
| 1                                                                                                           | Community Services Specialist III                | \$133,951                                  | 6.00%                                                            | 12                                                            | \$8,037.06                                              |
| 1                                                                                                           | Accounting Office Specialist III                 | \$83,085                                   | 5.00%                                                            | 12                                                            | \$4,154.25                                              |
| 1                                                                                                           | Associate Management Analyst                     | \$119,587                                  | 5.00%                                                            | 12                                                            | \$5,979.35                                              |
| 1                                                                                                           | Associate Management Analyst                     | \$119,585                                  | 25.50%                                                           | 12                                                            | \$30,494.18                                             |
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| <b>Total (must match Section 10: Administrative Costs line item 1 on the CSD 425.S Budget Summary form)</b> |                                                  |                                            |                                                                  |                                                               | \$68,521                                                |

**SECTION 20 -- PROGRAM COSTS -- SALARIES AND WAGES**

| <u>A</u><br>No. of Positions                                                                         | <u>B</u><br>Position Title | <u>C</u><br>Total Salary for each position | <u>D</u><br>Percent (%) of CSBG time allocated for each position | <u>E</u><br>Number of CSBG months allocated for each position | <u>F</u><br>Total CSBG Funds budgeted for each position |
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|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
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|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
| <b>Total (must match Section 20: Program Costs line item 1 on the CSD 425.S Budget Summary form)</b> |                            |                                            |                                                                  |                                                               |                                                         |

**FRINGE BENEFITS**

| Enter description of Fringe Benefits. Please include the percentage of Salaries and Wages paid in Benefits. (Examples: FICA, SSI, Health Ins., Workers Comp. Etc.) | Percentage | Section 10 Administrative Costs<br><small>List CSBG funds Budgeted Line 2</small> | Section 20 Program Costs<br><small>List CSBG funds Budgeted Line 2</small> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Insurance (Health, Dental, Life, Medicare)                                                                                                                         | 24.00%     | \$18,074.32                                                                       |                                                                            |
| Worker's Comp                                                                                                                                                      | 2.00%      | \$1,538.44                                                                        |                                                                            |
| Retirement Benefits                                                                                                                                                | 40.00%     | \$24,689.91                                                                       |                                                                            |
| Miscellaneous                                                                                                                                                      | 2.00%      | \$1,378.33                                                                        |                                                                            |
|                                                                                                                                                                    |            |                                                                                   |                                                                            |
| <b>TOTAL MUST MATCH THE AMOUNT ENTERED ON CSD 425.S (BUDGET SUMMARY)</b>                                                                                           |            | \$45,681                                                                          |                                                                            |



State of California  
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
CSBG Contract Budget Summary  
CSD 425.S (Rev.10/19)

### CSBG CONTRACT BUDGET SUMMARY

|                                                                                                                                      |                                                  |                  |                                                                          |                   |                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|------------------|--------------------------------------------------------------------------|-------------------|----------------------------------------------------|
| Contractor Name:                                                                                                                     | Department of Community Services and Development | Contract Number: | 22F-5001                                                                 | Amendment Number: | NA                                                 |
| Prepared By:                                                                                                                         | Mary-Claire Katz                                 | Contract Term:   | January 1, 2022 through May 31, 2023                                     |                   |                                                    |
| Telephone Number:                                                                                                                    | 510-981-5414                                     | Contract Amount: | \$274,202                                                                |                   |                                                    |
| Date:                                                                                                                                | 1/14/2022                                        | E-mail Address:  | <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                   |                                                    |
| <b>SECTION 10: ADMINISTRATIVE COSTS</b>                                                                                              |                                                  |                  |                                                                          |                   |                                                    |
| <b>Line Item</b>                                                                                                                     |                                                  |                  |                                                                          |                   | <b>CSBG Funds</b><br>(round to the nearest dollar) |
| 1                                                                                                                                    | Salaries and Wages                               |                  |                                                                          |                   | \$68,521.00                                        |
| 2                                                                                                                                    | Fringe Benefits                                  |                  |                                                                          |                   | \$45,681.00                                        |
| 3                                                                                                                                    | Operating Expenses                               |                  |                                                                          |                   |                                                    |
| 4                                                                                                                                    | Equipment                                        |                  |                                                                          |                   |                                                    |
| 5                                                                                                                                    | Out-of-State Travel                              |                  |                                                                          |                   |                                                    |
| 6                                                                                                                                    | Contract/Consultant Services                     |                  |                                                                          |                   |                                                    |
| 7                                                                                                                                    | Other Costs                                      |                  |                                                                          |                   |                                                    |
| 8                                                                                                                                    | Disaster                                         |                  |                                                                          |                   |                                                    |
| <b>Subtotal Section 10: Administrative Costs (cannot exceed 12% of the total operating budget in Section 80)</b>                     |                                                  |                  |                                                                          |                   | <b>\$114,202.00</b>                                |
| <b>SECTION 20: PROGRAM COSTS</b>                                                                                                     |                                                  |                  |                                                                          |                   |                                                    |
| <b>Line Item</b>                                                                                                                     |                                                  |                  |                                                                          |                   | <b>CSBG Funds</b><br>(round to the nearest dollar) |
| 1                                                                                                                                    | Salaries and Wages                               |                  |                                                                          |                   |                                                    |
| 2                                                                                                                                    | Fringe Benefits                                  |                  |                                                                          |                   |                                                    |
| 3                                                                                                                                    | Operating Expenses                               |                  |                                                                          |                   |                                                    |
| 4                                                                                                                                    | Equipment                                        |                  |                                                                          |                   |                                                    |
| 5                                                                                                                                    | Out-of-State Travel                              |                  |                                                                          |                   |                                                    |
| 6                                                                                                                                    | Subcontractor/Consultant Services                |                  |                                                                          |                   | \$160,000.00                                       |
| 7                                                                                                                                    | Other Costs                                      |                  |                                                                          |                   |                                                    |
| 8                                                                                                                                    | Disaster                                         |                  |                                                                          |                   |                                                    |
| <b>Subtotal Section 20: Program Costs</b>                                                                                            |                                                  |                  |                                                                          |                   | <b>\$160,000.00</b>                                |
| <b>SECTION 40: Total CSBG Budget Amount (Sum of Subtotal Sections 10 and 20) <b>Note: Total cannot exceed allocation amount.</b></b> |                                                  |                  |                                                                          |                   | <b>\$274,202.00</b>                                |
| <b>SECTION 70: Enter Other Agency Operating Funds Used to Support CSBG</b>                                                           |                                                  |                  |                                                                          |                   | <b>\$1,432,011.00</b>                              |
| <b>SECTION 80: Agency Total Operating Budget (Sum of Sections 40 and 70)</b>                                                         |                                                  |                  |                                                                          |                   | <b>\$1,706,213.00</b>                              |
| <b>SECTION 90: CSBG Funds Administrative Percent (Section 10 divided by Section 80)</b>                                              |                                                  |                  |                                                                          |                   | <b>6.69%</b>                                       |

State of California  
 DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 CSBG Budget Support – Non Personnel Costs  
 CSD 425.1.2 (Rev. 10/19)

**CSBG BUDGET SUPPORT -- NON PERSONNEL COSTS**

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: 274,202                                                                 |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

Hit Alt & Enter at the same time to begin a new line or paragraph within the cell.

| LIST EACH LINE ITEM<br>Totals must match CSD 425.S Budget Summary form<br>Attach additional sheet(s) if necessary     | CSBG                                                                     |                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
|                                                                                                                       | Section 10:<br>Administrative Costs                                      | Section 20:<br>Program Costs                                                          |
| List all Operating Expenses                                                                                           | 3 sum should equal total on line item 3 of CSD 425.S Budget Summary form | 3 sum should equal total on line item 3 of CSD 425.S Budget Summary form              |
| List all Equipment Purchases                                                                                          | 4 sum should equal total on line item 4 of CSD 425.S Budget Summary form | 4 sum should equal total on line item 4 of CSD 425.S Budget Summary form              |
| List all Out-of-State Travel: Name of conference; Specify location; Cost per trip                                     | 5 sum should equal total on line item 5 of CSD 425.S Budget Summary form | 5 sum should equal total on line item 5 of CSD 425.S Budget Summary form              |
| List all Contract/Consultant Services                                                                                 | 6 sum should equal total on line item 6 of CSD 425.S Budget Summary form |                                                                                       |
| List all Subcontractor/Consultant Services<br>LifeLong Medical Care                                                   |                                                                          | 6 sum should equal total on line item 6 of CSD 425.S Budget Summary form<br>\$160,000 |
| <b>Other Costs - List each line item (i - iv): Any additional Other Costs (attach additional sheet if necessary):</b> | <b>Section 10: Administrative Costs</b>                                  | <b>Section 20: Program Cost</b>                                                       |
| i                                                                                                                     |                                                                          |                                                                                       |
| ii                                                                                                                    |                                                                          |                                                                                       |
| iii                                                                                                                   |                                                                          |                                                                                       |
| iv                                                                                                                    |                                                                          |                                                                                       |
| <b>Total Other Costs (Sum of i, ii, iii, iv):</b>                                                                     | 7 sum should equal total on line item 7 of CSD 425.S Budget Summary form | 7 sum should equal total on line item 7 of CSD 425.S Budget Summary form              |







### CSBG Contract Budget Narrative

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: \$274,202                                                               |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

#### Budget Narrative

Section 10 Total \$68,521, Salaries and Wages - Manager of Community Services and Administration: Serves as Executive Director of the Berkeley Community Action Agency and supervises the Associate Management Analyst. Responds to community requests for assistance, and oversees CSBG contract and reporting submissions, \$13,158.56; Community Services Specialist III provides assistance to the Associate Management Analyst in financial reports, \$8,037.06; Associate Management Analyst provides administrative support to the CSBG program, \$5,979.35; Associate Management Analyst completes program reports, completes biennial Community Action Plan, and monitors contracts of CSBG-funded partner agencies. Acts as secretary to the CSBG Tripartite Board (Human Welfare and Community Action Commission), \$30,494.18; Accounting Office Specialist III, provides financial support to the CSBG program; reviews all expenditures and prepares subcontractor payments, \$4,154.25; Senior Management Analyst provides support to CSSIII and AMA in implementing and reporting on CSBG-related activities, \$6,697.55. Insurance (Health, Dental, Life, Medicare): These costs support the medical benefits of the staff listed previously, \$18,074.32; Worker's Comp: These costs represent the cost of worker's compensation insurance for the staff listed previously, \$1,538.44; Retirement Benefits: These costs represent the cost of retirement benefits for the staff listed previously, \$24,689.91; Miscellaneous: These costs represent other benefits offered by the City of Berkeley (Berkeley Community Action Agency): disability insurance, retiree medical, medicare, misc. benefits, \$1,378.33. Section 20 Total Program Costs \$160,000, Subcontractor: LifeLong Medical Care will provide integrated primary care and behavioral health services to low-income, uninsured, and underinsured residents of Berkeley, \$160,000.

**ATTACHMENT 3**

| Contract  | Contract Number | CONTRACT END DATE | Component | Allocated    | Expended     | Remaining   | Percentage Expended | Last EARS Report- Approved as of 11/16/23 | Comments                     |
|-----------|-----------------|-------------------|-----------|--------------|--------------|-------------|---------------------|-------------------------------------------|------------------------------|
| 2023 CS9G | 23F-4001        | 5/31/2024         | REGULAR   | \$299,495.00 | \$209,355.54 | \$90,139.46 | 69.90%              | OCT-2023                                  | ADVANCE OWED: \$73,426.00    |
| 2023 CS9G | 23F-4001        | 5/31/2024         | AJ/DISC   | \$12,807.00  | \$0          | \$12,807.00 | 0.00%               | AUG-2023                                  | 2 MONTHS BEHIND IN REPORTING |



State of California  
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
Training and Technical Assistance Referral  
CSD 332 (Rev.11.21)

## CSBG Training and Technical Assistance Referral

### Referral Guidelines

To refer an agency, please complete this form and return it along with a copy of any supporting documents, (i.e., emails, reference to monitoring finding/observation), to the CSD - CalCAPA Contract Manager.

Agencies being referred must be notified about the referral prior to submission of this form. They must also be made aware of the intent, purpose, and expected outcome of the referral. The agency contact should be provided a copy a copy of the referral form.

### Agency Contact Information

Agency Name: Berkeley Community Action Agency Phone: (510) 981-5414  
Contact Name: Mary-Claire Katz E-Mail Address: mkatz@ci.berkeley.ca.us

### CSD Contact Information

Name: Jennifer Milovina  
E-Mail Address: Jennifer.Milovina@csd.ca.gov  
Phone No: 916-594-2327

### Training/ Technical Assistance Request

1. Provide a detailed description of the training/technical assistance requested.

The City of Berkeley currently has 8 board vacancies. Two of these vacancies are from 2017 and 2018. CSD is recommending CalCAPA assist Berkeley in any manner they can to find a better solution to fill not only the 2 long-term vacancies, but all 8 vacancies.

2. Indicate what type of training/technical assistance you believe would be most beneficial to the agency.

- Training
- Peer-to Peer
- Technical Assistance
- Resources/Materials

3. How was the training and technical assistance need identified?

- Monitoring - (Modified Monitoring Completed 2022)
- Agency Request
- Other – Explain

4. Is the training/technical assistance time sensitive? (i.e., needed in the next 30 days to assist the agency with addressing a monitoring finding)? Yes, CSD requests this assistance is received withing the next 30 days.



State of California  
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
Training and Technical Assistance Referral  
CSD 332 (Rev.11.21)

- Yes
- No

5. If yes, indicate when the training should be completed by. 06 /30/2022

**Request/Submit Date(s)**

Date Requested  
by Agency (if  
applicable): N/A

Date Submitted to  
CalCAPA: 5/27/2022

Coordination of Trainings/Technical Assistance:

*It is the responsibility of both the CSD Field Rep making the referral and CalCAPA to remain in communication throughout the referral and training/technical assistance process to ensure agency needs and requests are met and addressed in a timely manner.*

*Training/technical assistance follow-up will be conducted by both CalCAPA and CSD upon completion to identify if the training/technical assistance met the need, and if additional training is required.*

*CSD is to be notified of all scheduled training and technical assistance offered within 5 days prior to the training date.*



DAVID SCRIBNER  
 DIRECTOR

State of California-Health and Human Services Agency  
**DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT**  
 2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833  
 Telephone: (916) 576-7109 | Fax: (916) 263-1406  
[www.csd.ca.gov](http://www.csd.ca.gov)



GAVIN NEWSOM  
 GOVERNOR

May 26, 2023

**VIA EMAIL TO:**

Margot Ernst, Executive Director  
[Mernst@cityofberkeley.info](mailto:Mernst@cityofberkeley.info)  
 Health, Housing & Community Services Department  
 2180 Milvia Street, 2<sup>nd</sup> Floor  
 Berkeley, CA. 94704

**SUBJECT: CSD response to The City of Berkeley's Quarterly Vacancy update received 3-31-2023**

Dear Ms. Ernst,

This letter is in response to the City of Berkeley's corrective action update which was developed based on the issues identified in Monitoring Report #C-22-002, completed May 26, 2022.

CSD requires corrective action updates and progress reports, specifically board vacancy updates, to be submitted to CSD quarterly. Since the previous monitoring report from May 26, 2022, the most recent vacancy updates from Berkeley (received December 31, 2022, and March 31, 2023), did not include an updated CSD 188 Board Roster. In addition to vacancy reporting, the City of Berkeley is required to submit any changes to the board within 30 days of the change occurring, (CSBG Contract, Article 4.1).

Due to the number of vacancies in all sectors, and the inability to determine which vacancy is assigned to what sector, a formal request was submitted to CalCAPA on May 27, 2022, to provide Training and/or Technical Assistance to aide Berkeley's staff in fulfilling all contractual requirements from CSD. The CSD 188 board roster included in the contract packet from March 2023, indicates the following vacancies:

| Sector             | Date of Vacancy |
|--------------------|-----------------|
| Public             | April, 2017     |
| Public             | October 2021    |
| Private/Public (?) | December 2021   |
| Private/Public(?)  | January, 2022   |
| Private/Public(?)  | July 2022       |
| Private/Public(?)  | February 2023   |
| Low-Income         | November 2018   |
| Low-Income         | December 2020   |
| Low-Income         | October 2021    |
| Low-Income         | October 2021    |

|            |               |
|------------|---------------|
| Low-Income | December 2022 |
| Low-Income | January 2023  |

During the COVID-19 pandemic, CSD acknowledged the increased difficulty experienced by agencies attempting to recruit board /council members. Board vacancies occurring during the period from March 2020 through December 2022, were documented, however, new corrective actions were assigned. CSD encouraged agencies to engage in recruitment activities to fill vacancies during this period and reminded all agencies regular monitoring practices would begin during the 2023 monitoring season.

The City of Berkeley failed to maintain compliance with the terms of Monitoring Report #C-22-002 the 2022 CSBG annual contract, CSBG Act 42 C.F.R §9910, California Government Code § 12752.1, and CSBG Contract Section 4.1.1.1. and Organization Standard 5.5.

Sections 676B of the Community Services Block Grant Reauthorization Act of 1998 requires that, as a condition of designation, private nonprofit entities and public organizations administer their CSBG program through tripartite boards that "fully participate in the development, planning, implementation, and evaluation of the program to serve low-income communities." Board members, especially those who reside in communities to be served and that represent low-income people, should be a primary source of information and insight concerning the conditions in their neighborhoods.

Your Tripartite board cannot and has not been operating in the manner with which a tripartite board is designed to operate for some time. Due to the lack of board members, CSD is concerned about the review and approval of the following upcoming requirements:

- Community Needs Assessment and Community Action Plan due June 30, 2023
- Review of upcoming Contract amendments, released May 15, 2023
- Submission/execution of 2023 Contract Amendment packet and deliverables, due June 30, 2023

To responsibly uphold the values and voices of the individuals and families of whom you serve through funding from the Community Services Block Grant and maintain compliance with all applicable laws and regulations, The City of Berkeley must have an effectively functioning tripartite board.

The Department of Community Services and Development is requiring The City of Berkeley to work with CalCAPA to develop a formal plan to address and resolve the following:

- 1) Recruitment and establishment of Board members in accordance with their bylaws to meet the Tripartite Governance requirement.
- 2) Clearly identify the required Board Sectors on future submissions of the CSD 188 Board Roster; (Private, Public and Low-Income)

This plan must be submitted for review and approval by CSD no later than June 19, 2023.

Failure to submit a formal plan by the required due date will result in escalation and could potentially put your agency at risk for additional corrective action.

Should you require any further information about this matter, please contact Jennifer Milovina at (916) 594-2327 or [jennifer.milovina@csd.ca.gov](mailto:jennifer.milovina@csd.ca.gov).

Sincerely,

Wilmer Brown, Jr.

Mgr. CSBG Field Operations Unit







Health, Housing, and  
Community Services Department  
Housing & Community Services Division

June 19, 2023

Wilmer Brown, Jr., Mgr. CSBG Field Operations Unit  
California Department of Community Services and Development  
2389 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

**Subject: Re: CSD response to The City of Berkeley's Quarterly Vacancy update  
received 3-31-2023**

Dear Mr. Brown,

Thank you for your letter. Please see below for actions recently taken, and the plan for future actions, to maintain compliance with all applicable Community Services Block Grant laws and regulations. Specifically, these actions address challenges with recruitment and the establishment of Board members in accordance with Berkeley Community Action Agency's (BCAA) bylaws to meet the Tripartite Governance requirement, and identifying the required Board Sectors on future submissions of the CSD 188 Board Roster. This plan was developed in collaboration with CalCAPA.

#### **ACTIONS RECENTLY TAKEN**

*Date – April 28, 2023*

BCAA staff and commission chair met and consulted with staff from CalCAPA to develop a plan on how to best address board vacancies and clearly identify the required Board Sectors on future submissions of the CSD 188 Board Roster.

*Date – May 15, 2023*

BCAA staff, CalCAPA staff, and the chair of the BCAA Advisory Board met and discussed the importance of filling the Board vacancies as soon as possible.

#### **REMEDIATION PLAN**

**GOAL: RECRUITMENT AND ESTABLISHMENT OF BOARD MEMBERS IN ACCORDANCE WITH THEIR BYLAWS TO MEET THE TRIPARTITE GOVERNANCE REQUIREMENT.**

*A Vibrant and Healthy Berkeley for All*

2180 Milvia Street, 2<sup>nd</sup> Floor, Berkeley, CA 94704 Tel: 510.981.5400 TDD: 510.981.6903 Fax: 510.981.5450  
E-mail: [HHCS@berkeleyca.gov](mailto:HHCS@berkeleyca.gov)

Wilmer Brown, Jr., Mgr. CSBG Field Operations Unit  
 June 19, 2023  
 Page 2 of 4

### 1) Challenge – Filling Low-Income vacancies on the HWCAC.

A) *Cause* – Current bylaws restrict nominations to low-income districts, resulting in few candidates willing and able to serve.

*Proposed Solution* – (Contingent on Advisory Board's and Council's input) Revise bylaws to eliminate low-income districts and allow low-income representatives to reside anywhere within the City, as long as they are persons chosen in accordance with democratic selection procedures outlined in regulations promulgated by the department to assure that the low-income elected are either low-income and/or reside in the City.

#### Action Steps

1. Action: BCAA staff to work with current Advisory Board to revise the bylaws.

Dates: July 19<sup>th</sup> and September 20<sup>th</sup> Human Welfare and Community Action (HWCAC) regular commission meetings.

*If Advisory Board agrees to changes:*

2. Action: BCAA staff to send proposed bylaw changes to CalCAPA for their review

Due: September 25, 2023

3. Action: BCAA staff and Advisory Board to finalize bylaws for proposed adoption by City Council.

Due: The next regular HWCAC commission meeting after receiving feedback from CalCAPA

4. Action: City Council to consider revised bylaws for recommended adoption.

Due: 6 weeks after step 3 is complete.

Note: Process for getting items on Council agenda, takes about six weeks after first draft of item (i.e. final proposed bylaw changes) is submitted for review.

B) *Cause* – Lack of outreach to Low-Income persons residing within the City of Berkeley

*Proposed Solution* - Develop relationships with area nonprofits, such as Head Start, to identify Low-Income representatives.

#### Action Steps

Action: BCAA staff to develop list of appropriate agencies to contact

Wimer Brown, Jr., Mgr. CSBG Field Operations Unit  
 June 19, 2023  
 Page 3 of 4

Due: June 23, 2023

Action: BCAA staff to meet with agencies and develop plan for outreach

Due: July 10, 2023 to September 29, 2023

Note: Due to people's limited availability during the summer months, we're providing a range of dates for when we anticipate the meetings to take place.

## 2) Challenge - Public Sector vacancies on Board.

*Cause* – City Council not appointing representatives.

*Proposed Solution* – City Manager and CalCAPA to send letter to City Council asking them to appoint representatives as soon as possible.

### Action Steps

Action: City Manager to send letter to City Council.

Due: July 3, 2023

Action: CalCAPA to send letter to City Council

Due: July 3, 2023

## 3) Challenge –Private sector vacancies.

*Cause* - Lack of clarity in bylaws in distinction between Public and Private representation.

*Proposed Solution:* Revise bylaws to clarify this distinction.

### Action Steps

1. Action: BCAA staff to work with current Advisory Board to revise the bylaws.

Dates: July 19<sup>th</sup> and September 20<sup>th</sup> Human Welfare and Community Action (HWCAC) regular commission meetings.

*If Advisory Board agrees to changes:*

2. Action: BCAA staff to send proposed bylaw changes to CalCAPA for their review

Due: September 25, 2023

3. Action: BCAA staff and Advisory Board to finalize bylaws for proposed adoption by City Council.

Due: The next regular HWCAC commission meeting after receiving feedback from CalCAPA



Wilmer Brown, Jr., Mgr. CSBG Field Operations Unit  
June 19, 2023  
Page 4 of 4

4. Action: City Council to consider revised bylaws for recommended adoption.

Due: 6 weeks after step 3 is complete.

Note: Process for getting items on Council agenda, takes about six weeks after first draft of item (i.e. final proposed bylaw changes) is submitted for review.

**GOAL: CLEARLY IDENTIFY THE REQUIRED BOARD SECTORS ON FUTURE SUBMISSIONS OF THE CSD 188 BOARD ROSTER.**

*See Challenge #3 for Goal: Recruitment and establishment of Board members in accordance with their bylaws to meet the Tripartite Governance requirement.*

We will continuously monitor for progress towards these goals and inform CSD of any additional challenges BCAA may encounter in attempting to reach these goals, accompanied by plans to address them.

Sincerely,



Margot Ernst, Manager  
Housing & Community Services Division

cc:

Jennifer Milovina, Associate Governmental Program Analyst, California Department of Community Services and Development

Mary-Claire Katz, Associate Management Analyst, City of Berkeley

Joshua Oehler, Community Services Specialist III, City of Berkeley

David Knight, Executive Director, California Community Action Partnership Association

Lawrence Hiner, Director of Training & Technical Assistance, California Community Action Partnership Association

# ATTACHMENT 7

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 Agency Staff and Board Roster  
 CSD 188 (Rev 08/2016)

## Agency Staff and Board Roster

Programs Administered: CSBG  Energy

|                       |                                  |                              |                           |
|-----------------------|----------------------------------|------------------------------|---------------------------|
| Agency Name:          | Berkeley Community Action Agency | Contact Email Address:       | MKatz@cityofberkeley.info |
| Contact Person:       | Mary-Claire Katz                 | Date Submitted:              | 11/1/23                   |
| Contact Phone Number: | 510-981-5414                     | Total Number of Board Seats: | 15                        |

List the name of each program manager for CSBG and Energy Programs. If there is more than one manager please list them as well i.e. Utility Assistance Program Manager.

This document must be updated within 30 days of any changes to the Executive Director, Program Manager, Chief Financial Officer and board roster.

### Agency Key Staff

|   | Name                | Title/Position (include date of vacancy if applicable) | Address                                                                                           | Phone Number | Email                       |
|---|---------------------|--------------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------|-----------------------------|
| 1 | Margot Ernst        | Executive Director                                     | Health, Housing & Community Services Department, 2180 Milvia Street, 2nd Floor, Berkeley CA 94704 | 510.981.5427 | MErnst@cityofberkeley.info  |
| 2 | Dee Williams-Ridley | Additional Authorized signer of the Contract           | Health, Housing & Community Services Department, 2180 Milvia Street, 2nd Floor, Berkeley CA 94704 | 510.981.7000 | manager@cityofberkeley.info |
| 3 |                     | Chief Financial Officer                                |                                                                                                   |              |                             |
| 4 |                     | CSBG Program Manager                                   |                                                                                                   |              |                             |
| 5 |                     | Weatherization Program Manager                         |                                                                                                   |              |                             |
| 6 |                     | Utility Assistance Program Manager                     |                                                                                                   |              |                             |
| 7 |                     | Other                                                  |                                                                                                   |              |                             |

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 Executive Director and Board Roster  
 CSD 188 (Rev 08/2016)

List the name of each board member and identify any board vacancies. In the "Title/Position" field identify the date the seat became vacant and specify the sector represented in the "Sector" field.

Sector: Please indicate P=Public, PR= Private, L= Low Income (Energy only agencies are not required to identify the sector.)

Board Roster

|   | Name                | Title/Position (Include date of vacancy if applicable) | Address                              | Sector | Phone Number | Email                       |
|---|---------------------|--------------------------------------------------------|--------------------------------------|--------|--------------|-----------------------------|
| 1 | Vacant, April 2017  | Mayor                                                  |                                      | Pr     |              |                             |
| 2 | Vacant, 1/19/22     |                                                        |                                      | Pr     |              |                             |
| 3 | Vacant, 2/17/23     |                                                        |                                      | Pr     |              |                             |
| 4 | Mary Behm-Steinberg | Chair                                                  | 1447 Kains Avenue Berkeley, CA 94702 | P      |              | marybehmsteinberg@gmail.com |
| 5 | Vacant, 7/21/22     |                                                        |                                      | P      |              |                             |
| 6 | Vacant, 10/20/21    |                                                        |                                      | Pr     |              |                             |
| 7 | Vacant, 10/2/23     |                                                        |                                      | P      |              |                             |
| 8 | Vacant, 12/31/21    |                                                        |                                      | P      |              |                             |

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 Executive Director and Board Roster  
 CSD 188 (Rev 08/2016)

|    | Name             | Title/Position (Include date of vacancy if applicable) | Address | Sector | Phone Number | Email |
|----|------------------|--------------------------------------------------------|---------|--------|--------------|-------|
| 9  | Vacant, 2/10/23  |                                                        |         | P      |              |       |
| 10 | Vacant, 12/19/22 |                                                        |         | L      |              |       |
| 11 | Vacant, 1/30/23  |                                                        |         | L      |              |       |
| 12 | Vacant, 12/2020  |                                                        |         | L      |              |       |
| 13 | Vacant, 11/2018  |                                                        |         | L      |              |       |
| 14 | Vacant, 10/3/21  |                                                        |         | L      |              |       |
| 15 | Vacant, 10/21/21 |                                                        |         | L      |              |       |
| 16 |                  |                                                        |         |        |              |       |
| 17 |                  |                                                        |         |        |              |       |
| 18 |                  |                                                        |         |        |              |       |
| 19 |                  |                                                        |         |        |              |       |



DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
Executive Director and Board Roster  
CSD 188 (Rev 09/2016)

|    | Name | Title/Position (include date of vacancy if applicable) | Address | Sector | Phone Number | Email |
|----|------|--------------------------------------------------------|---------|--------|--------------|-------|
| 20 |      |                                                        |         |        |              |       |
| 21 |      |                                                        |         |        |              |       |
| 22 |      |                                                        |         |        |              |       |
| 23 |      |                                                        |         |        |              |       |
| 24 |      |                                                        |         |        |              |       |
| 25 |      |                                                        |         |        |              |       |
| 26 |      |                                                        |         |        |              |       |
| 27 |      |                                                        |         |        |              |       |
| 28 |      |                                                        |         |        |              |       |
| 29 |      |                                                        |         |        |              |       |
| 30 |      |                                                        |         |        |              |       |

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
Executive Director and Board Roster  
CSD 188 (Rev 08/2016)

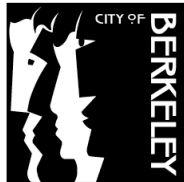
Instructions: Agency Staff and Board Roster (CSD 188)

- Agency Name:** Legal entity title as stated on Federal Tax ID Form (STD 204)
- Contact Person:** Name, phone number and email of person completing the form
- Programs Administered:** Please check each box that applies. For example, if your agency administers both CSBG and Energy, please check both boxes; however, if your agency administers one, check the applicable program box.
- Date Submitted:** Enter the date the Agency Staff and Board Roster (CSD 188) form is submitted to CSD.
- Total Number of Board Seats:** Enter the total number of Board seats required under your agency Bylaws.
- Table 1: Agency Staff**
- Chief Financial Officer and Program Manager(s) Information:** Enter the Chief Financial Officers and Program Manager's information, as well as the executive director's information. If applicable, enter the name of the additional authorized signer of the contract. If applicable, enter additional managers if your Agency has a Program Manager for CSBG, Weatherization or Utility Assistance. For each agency staff provide an address and a contact phone number.
- Table 2: Board Roster Board Member Information:** Enter the current Board Chair and board member names, title and sector\*. For each board member provide an address other than the Agency's and a contact phone number for each member.

Agency must submit any changes/updates to the Executive Director, Chief Financial Officer, Program Managers and Board Roster (CSD 188) within thirty days of such occurrence(s). The updated form identifying the changes should be submitted electronically to the Contract Services Unit at:

[contracts2@cso.ca.gov](mailto:contracts2@cso.ca.gov)





## PROCLAMATION CALLING A SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

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

**Tuesday, June 15, 2021  
4:00 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/87908681987>. 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: 879 0868 1987. 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.*



## Preliminary Matters

### Roll Call:

### Action Calendar

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

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

### Action Calendar – Old Business

1. **Commission Reorganization for Post-COVID19 Budget Recovery**  
**From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Mayor Arreguin (Co-Sponsor)** (Reviewed by the Agenda & Rules Committee) (Continued from May 25, 2021)

#### **Recommendation:**

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.
2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
5. Refer to City Manager and Commissions the following additional considerations:
  - Federal, state or other external mandates that might be impacted, and determine how to handle.
  - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted.
  - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter.
  - Whether the merged Commission might include 9, or a greater number of members.
  - The possibility of requiring specific qualifications for

## Action Calendar – Old Business

appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission. - Volunteer workload and capacity given scope of Commission's charter

*Policy Committee Recommendation: Make a Qualified Positive Recommendation to City Council to: 1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one. 2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions. 3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes. 4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions. 5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees. 6. Refer Councilmember Hahn questions to City Manager and Commissions: "Commissions to Combine/Merge - Suggested Considerations" - Federal, state or other external mandates that might be impacted, and determine how to handle. - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted. - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter. - Whether the merged Commission might include 9, or a greater number of members. - The possibility of requiring specific qualifications for appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission - Volunteer workload and capacity given scope of Commission's charter.*

**Financial Implications:** See report

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

## Public Comment - Items on this agenda only

## Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 3<sup>rd</sup> day of June, 2021.

Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:

Date: June 3, 2021  
Mark Numainville, City Clerk

**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.

## Communications

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

### **Item #1: Commission Reorganization for Post-COVID19 Budget Recovery**

1. Holly Scheider







Lori Droste  
Berkeley Vice Mayor

**ACTION CALENDAR**

June 15, 2021

*(Continued from May 25, 2021)*

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Lori Droste (Author), Councilmembers Rigel Robinson (Co-Sponsor), Rashi Kesarwani (Co-Sponsor) and Mayor Jesse Arreguín (Co-Sponsor)

**Subject:** Commission Reorganization for Post-COVID19 Budget Recovery

**RECOMMENDATION**

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

*Phase 1:* Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

*Phase 2:* All other Commissions as proposed below.  
As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

| New Commission Name                       | Former Commissions to be Reorganized                                  |
|-------------------------------------------|-----------------------------------------------------------------------|
| Commission on Climate and the Environment | Zero Waste, Energy, Community Environmental Advisory, and Animal Care |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Parks, Recreation, Waterfront (special Marina subcommittee)                                                                                                                                                                                                                                                                                                                                                                                                                          | Children, Youth, and Recreation and Parks and Waterfront                  |
| Peace, Justice, and Human Welfare <sup>1</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                       | Peace and Justice and Human Welfare, Community Action Commissions         |
| Public Health Commission & Sugar Sweetened Beverage Panel of Experts                                                                                                                                                                                                                                                                                                                                                                                                                 | Community Health Commission and Sugar Sweetened Beverage Panel of Experts |
| Housing Advisory Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Measure O and Housing Advisory Commission                                 |
| Homeless Services Panel of Experts                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Homeless Commission and Measure P Homeless Services Panel of Experts      |
| Public Works and Transportation                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Public Works and Transportation                                           |
| Planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Planning and Cannabis                                                     |
| <p><b>All other commissions will maintain their current structure:</b> Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p> |                                                                           |

2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
  
3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
  
4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
  
5. Refer to City Manager and Commissions the following additional considerations:
  - Federal, state or other external mandates that might be impacted, and determine how to handle.
  - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted

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<sup>1</sup> Members will be appointed by Council and membership should adhere to Government Code Section 12736(e); 12750(a)(2) and 12751.

- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter.
- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission's charter

| Policy Committee Oversight <sup>2</sup>                        | Commissions                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Agenda and Rules                                               | <ol style="list-style-type: none"> <li>1. Fair Campaign Practices/Open Government Commission</li> <li>2. Personnel Board</li> </ol>                                                                                                                                                                                                                |
| Budget and Finance                                             | (Any legislation that requires funding)                                                                                                                                                                                                                                                                                                            |
| Public Safety                                                  | <ol style="list-style-type: none"> <li>1. Disaster and Fire Safety Commission</li> <li>2. Police Accountability Board/Police Review Commission</li> <li>3. Reimagining Public Safety Task Force</li> </ol>                                                                                                                                         |
| Facilities, Infrastructure, Transportation and the Environment | <ol style="list-style-type: none"> <li>1. Commission on the Environment</li> <li>2. Parks, Recreation and Waterfront with Marina subcommittee</li> <li>3. Public Works and Transportation</li> </ol>                                                                                                                                               |
| Land Use and Economic Development                              | <ol style="list-style-type: none"> <li>1. Measure O Housing Commission</li> <li>2. Planning Commission</li> <li>3. Labor</li> <li>4. Civic Arts Commission</li> </ol>                                                                                                                                                                              |
| Health, Equity, Life Enrichment, and Community                 | <ol style="list-style-type: none"> <li>1. Peace, Justice, and Civil Rights</li> <li>2. Health and Sugar Sweetened Beverage Panel of Experts</li> <li>3. Homeless Services Panel of Experts</li> <li>4. Mental Health Commission (state/federal mandate)</li> <li>5. Commission on the Status of Women</li> <li>6. Disability Commission</li> </ol> |

<sup>2</sup> Primary policy committee oversight but legislation may be referred to multiple policy committees.



**Other Commissions:** Zoning Adjustments Board (DRC), Landmarks Preservation, Board of Library Trustees, BIDs, Independent Redistricting Commission, Loan Administration Board

**POLICY COMMITTEE RECOMMENDATION**

On April 5, 2021, the Agenda and Rules Committee made a qualified positive recommendation to City Council to:

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

Phase 2: All other Commissions as proposed below.  
As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

| <b>New Commission Name (suggested)</b>                               | <b>Former Commissions to be Reorganized</b>                                    |
|----------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Commission on Climate and the Environment                            | Zero Waste, Energy, Community Environmental Advisory, and Animal Care          |
| Parks, Recreation, Waterfront (special Marina subcommittee)          | Children, Youth, and Recreation and Parks and Waterfront                       |
| Peace, Justice, and Human Welfare                                    | Peace and Justice Commission and Human Welfare and Community Action Commission |
| Public Health Commission & Sugar Sweetened Beverage Panel of Experts | Community Health Commission and Sugar Sweetened Beverage Panel of Experts      |
| Housing Advisory Commission                                          | Measure O and Housing Advisory Commission                                      |
| Homeless Services Panel of Experts                                   | Homeless Commission and Measure P Homeless Services Panel of Experts           |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| Public Works and Transportation                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Public Works and Transportation |
| Planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Planning and Cannabis           |
| <p><b>All other commissions will maintain their current structure:</b> Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p> |                                 |

2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions.
3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees.
6. Refer Councilmember Hahn questions to City Manager and Commissions:
 

“Commissions to Combine/Merge - Suggested Considerations”

  - Federal, state or other external mandates that might be impacted, and determine how to handle
  - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted
  - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter.
  - Whether the merged Commission might include 9, or a greater number of members.
  - The possibility of requiring specific qualifications for appointment to the merged Commission.
  - The possibility of recommended or required Standing Committees of the Merged Commission
  - Volunteer workload and capacity given scope of Commission’s charter

### **PROBLEM/SUMMARY STATEMENT**

Commissions provide an important mechanism for residents to shape public policy and provide input on City business. However, the City of Berkeley maintains far more commissions than other cities of similar size, with a significant investment of City resources to staff all 37 commissions. Some commission secretaries report spending upwards of 20+ hours per week on commission business, which takes valuable time away from addressing other pressing City priorities. The local public health emergency created by the global COVID-19 pandemic has required City staff to shift to new roles and maintain an Emergency Operations Center since January 2020; recovery from the pandemic will continue to demand the full attention of our City staff for the foreseeable future. Given the uncertainties that our City faces in recovering from the COVID-19 pandemic and the demands that this recovery places on our City staff, it is an appropriate time to consider how best to consolidate our commissions in a manner that helps the City to achieve its core mission.

### **REITERATION OF PRINCIPLES**

Commissions are a fundamental part of the City's policymaking process. Members of boards and commissions provide an invaluable service to our City. They advise the City Council on a wide variety of subjects by making recommendations on important policy matters. Without the assistance of the various boards and commissions, the City Council could give many complex and significant matters only a perfunctory review. The detailed studies and considered advice of boards and commissions are often catalysts for innovative programs and improved services. Serving on a board or commission can be a rewarding experience for community service-minded residents. It is an excellent way to participate in the functioning of local government and to make a personal contribution to the improvement of our community. Making local government effective and responsive is everybody's responsibility.

- The Public Works Commission, for example, develops the City's five year paving plan which they then present to City Council for approval. Through extensive community outreach and research, the Commission identifies the streets most in need of repaving.
- With the passage of Measure D in 2014, a Panel of Experts on Sugar-Sweetened Beverages has guided the City's spending of over \$5 million in revenue generated from the Measure. Those dollars have bolstered local public campaigns and education initiatives.

These are merely two examples of the powerful role that Commissions play in City policymaking.

## **CURRENT SITUATION AND ITS EFFECTS**

### *Current Commission Structure*

The City of Berkeley has approximately thirty-seven commissions overseen by city administration, most of which have at least nine members and who are appointed by individual councilmembers. These commissions were intended to be a forum for public participation beyond what is feasible at the City Council, so that issues that come before the City Council can be adequately vetted.

Some commissions are required by charter or mandated by voter approval or state/federal mandate. Those commissions are the following:

1. Board of Library Trustees (charter)
2. Business Improvement Districts (state mandate)
3. Civic Arts Commission (charter)
4. Community Environmental Advisory Commission (state/federal mandate--CUPA)
5. Fair Campaign Practices Commission/Open Government (ballot measure)
6. Homeless Services Panel of Experts (ballot measure)
7. Housing Advisory Commission (state/federal mandate)
8. Human Welfare and Community Action (state/federal mandate)
9. Measure O Bond Oversight Committee (ballot measure)
10. Mental Health Commission (state/federal mandate)
11. Personnel (charter) Police Review Commission (ballot measure)
12. Sugar-Sweetened Beverages (ballot measure)

Berkeley must have its own mental health commission because of its independent Mental Health Division. In order to receive services, the City needs to have to have an advisory board. Additionally, Berkeley's Community Environmental Advisory Commission is a required commission in order to oversee Certified Unified Program Agency (CUPA) under California's Environmental Protection Agency. Additionally, some commissions serve other purposes beyond policy advisories. The Children, Youth and Recreation Commission, Housing Advisory Commission, and the Human Welfare and Community Action Commission advise Council on community agency funding. However, some of the aforementioned quasi-judicial and state/federal mandated commissions do not need to stand independently and can be combined to meet mandated goals.

### *The Importance of Commissions*



Commissions serve a vital role in the City of Berkeley's rich process of resident engagement. An analysis of agendas over the past several years shows that the commissions have created policy that have benefited the community in meaningful and important ways. In 2020, 14 of the 16 commission items submitted to Council passed. From 2016-2020, an average of 34 items were submitted by commissions to Council for consideration.

The City's Health, Housing and Community Development department serves an important role in addressing COVID-19, racial disparities, inequitable health outcomes, affordable housing, and other important community programs. Additionally, Health, Housing, and Community Development also staffs ten commissions, more than many cities of Berkeley's size. Council needs to wrestle with these tradeoffs to ensure that we seek the maximum benefit for *all* of the Berkeley community, particularly our most vulnerable.

#### *Commission Structures in Neighboring Jurisdictions*

In comparison to neighboring jurisdictions of similar size, Berkeley has significantly more commissions. The median number of commissions for these cities is 12 and the average is 15.

| Comparable Bay Area City | Population (est.) | Number of Commissions | Links                                                                                                                                                                                                         |
|--------------------------|-------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Berkeley                 | 121,000           | 37                    | <a href="https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf">https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf</a> |
| Antioch                  | 112,000           | 6                     | <a href="https://www.antiochca.gov/government/boards-commissions/">https://www.antiochca.gov/government/boards-commissions/</a>                                                                               |
| Concord                  | 130,000           | 14                    | <a href="https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Commi">https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Commi</a>                                           |
| Daly City                | 107,000           | 7                     | <a href="http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm">http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm</a>         |
| Fairfield                | 117,000           | 7                     | <a href="https://www.fairfield.ca.gov/gov/comms/default.asp">https://www.fairfield.ca.gov/gov/comms/default.asp</a>                                                                                           |
| Fremont                  | 238,000           | 15                    | <a href="https://www.fremont.gov/76/Boards-Commissions-Committees">https://www.fremont.gov/76/Boards-Commissions-Committees</a>                                                                               |
| Hayward                  | 160,000           | 12                    | <a href="https://www.hayward-ca.gov/your-government/boards-commissions">https://www.hayward-ca.gov/your-government/boards-commissions</a>                                                                     |

|           |         |    |                                                                                                                                                           |
|-----------|---------|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Richmond  | 110,000 | 29 | <a href="https://www.ci.richmond.ca.us/256/Boards-and-Commissions">https://www.ci.richmond.ca.us/256/Boards-and-Commissions</a>                           |
| San Mateo | 105,000 | 7  | <a href="https://www.cityofsanmateo.org/60/Commissions-Boards">https://www.cityofsanmateo.org/60/Commissions-Boards</a>                                   |
| Sunnyvale | 153,000 | 10 | <a href="https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804">https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804</a> |
| Vallejo   | 122,000 | 17 | <a href="http://www.ci.vallejo.ca.us/cms/one.aspx?pagelid=22192">http://www.ci.vallejo.ca.us/cms/one.aspx?pagelid=22192</a>                               |

To understand the impact on various departments and staffing capacity, the following table shows which departments are responsible for overseeing various commissions.

### *Staffing and Resources Supporting Berkeley's Current Commission Structure*

| Commission Name                             | Overseeing Department (Total Commissions in Department) |
|---------------------------------------------|---------------------------------------------------------|
| Animal Care Commission                      | City Manager (8)                                        |
| Civic Arts Commission                       | City Manager (8)                                        |
| Commission on the Status of Women           | City Manager (8)                                        |
| Elmwood BID Advisory Board                  | City Manager (8)                                        |
| Loan Administration Board                   | City Manager (8)                                        |
| Peace and Justice Commission                | City Manager (8)                                        |
| Solano Ave BID Advisory Board               | City Manager (8)                                        |
| Cannabis Commission                         | Planning (7)                                            |
| Community Environmental Advisory Commission | Planning (7)                                            |
| Design Review Committee                     | Planning (7)                                            |
| Energy Commission                           | Planning (7)                                            |
| Landmarks Preservation Commission           | Planning (7)                                            |
| Planning Commission                         | Planning (7)                                            |
| Zoning Adjustments Board                    | Planning (7)                                            |

|                                                               |                                                        |
|---------------------------------------------------------------|--------------------------------------------------------|
| Children, Youth, and Recreation Commission                    | Parks (3)                                              |
| Parks and Waterfront Commission                               | Parks (3)                                              |
| Youth Commission                                              | Parks (3)                                              |
| Commission on Aging                                           | Health, Housing, and Community Services (HHCS)<br>(10) |
| Commission on Labor                                           | HHCS (10)                                              |
| Community Health Commission                                   | HHCS (10)                                              |
| Homeless Commission                                           | HHCS (10)                                              |
| Homeless Services Panel of Experts                            | HHCS(10)                                               |
| Housing Advisory Commission                                   | HHCS (10)                                              |
| Human Welfare & Community Action Commission                   | HHCS (10)                                              |
| Measure O Bond Oversight Committee                            | HHCS (10)                                              |
| Mental Health Commission                                      | HHCS (10)                                              |
| Sugar-Sweetened Beverage Product Panel of Experts             | HHCS (10)                                              |
| Disaster and Fire Safety Commission                           | Fire (1)                                               |
| Commission on Disability                                      | Public Works (4)                                       |
| Public Works Commission                                       | Public Works (4)                                       |
| Transportation Commission                                     | Public Works (4)                                       |
| Zero Waste Commission                                         | Public Works (4)                                       |
| Fair Campaign Practices Commission/Open Government Commission | City Attorney (1)                                      |
| Personnel Board                                               | Human Resources (1)                                    |

|                                                      |                                                            |
|------------------------------------------------------|------------------------------------------------------------|
| Police Review Commission/Police Accountability Board | Police Review Commission/Police Accountability Board Staff |
| Reimagining Public Safety Task Force                 | City Manager *(8) and BPD (2)                              |
| Board of Library Trustees                            | Library (1)                                                |

Gray=charter  
 Red=state/federal mandate  
 Yellow=quasi-judicial  
 Blue=ballot initiative  
 Orange=state/federal mandate and quasi-judicial  
 Green=quasi-judicial and ballot initiative

The departments that staff more than five commissions are Health, Housing, and Community Services (10 commissions), Planning (7 commissions), and the City Manager’s department (8 commissions). At the same time, some smaller departments (e.g. the City Attorney’s office) may be impacted just as meaningfully if they have fewer staff and larger individual commission workloads.

*Policy Committee Structure Expands Opportunities for Public Input*

With the recent addition of policy committees, proposed legislation is now vetted by councilmembers in these forums. Each policy committee is focused on a particular content area aligned with the City of Berkeley’s strategic plan and is staffed and an advisory policy body to certain city departments. Members of the public are able to provide input at these committees as well. The policy committees currently have the following department alignment:

**Department and Policy Committee alignment**

1. **Agenda and Rules**—all departments
2. **Budget and Finance**—City Manager, Clerk, Budget, and Finance
3. **Land Use and Economic Development**—Clerk, Planning, HHCS, City Attorney, and City Manager (OED)
4. **Public Safety**—Clerk, City Manager, Police, and Fire
5. **Facilities, Infrastructure, Transportation, Environment and Sustainability** (Clerk, City Manager, Planning, Public Works, and Parks)
6. **Health, Equity, Life Enrichment, and Community** (Clerk, City Manager, HHCS)

*Staffing Costs*

Based upon preliminary calculations of staff titles and salary classifications, the average commission staff secretary makes roughly \$60-\$65/hour. Based upon recent interviews with secretaries and department heads, individual commission secretaries work



anywhere from 8-80 hours a month staffing and preparing for commission meetings. To illustrate this example, a few examples are listed below.

| Commission                        | Step 5 Rate of Pay | Reported Hours a Month | Total <b>Direct</b> Cost of Commission <b>per Month</b> |
|-----------------------------------|--------------------|------------------------|---------------------------------------------------------|
| Animal Care                       | \$70.90            | 8                      | \$567.20                                                |
| Landmarks Preservation Commission | \$57.96            | 80                     | \$4,636.80                                              |
| Design Review Commission          | \$52.76            | 60                     | \$3,165.60                                              |
| Peace and Justice                 | \$60.82            | 32                     | \$1,946.24                                              |

It is extremely challenging to estimate a specific cost of commissions in the aggregate because of the varying workload but a safe estimate of salary costs dedicated to commissions would be in the six-figure range.

Many commissions--particularly quasi-judicial and land use commissions-- require more than one staff member to be present and prepare reports for commissions. For example, Zoning Adjustment Board meetings often last five hours or more and multiple staff members spend hours preparing for hearings. The Planning Department indicates that *in addition* to direct hours, additional commission-related staff time adds an extra 33% staff time. Using the previous examples, this means that the Landmarks Preservation Commission would cost the city over \$6,000 in productivity while the Design Review Commission would cost the City over \$4,000 a month.

#### *Productivity Losses and Administrative Burden*

Current productivity losses are stark because of the sheer amount of hours of staffing time dedicated to commissions. As an example, in 2019 one of the City of Berkeley's main homeless outreach workers staffed a commission within the City Manager's department. She spent approximately 32 hours a month working directly on commission work. While this is not a commentary on a particular commission, this work directly impacted her ability to conduct homeless outreach.

### **RATIONALE FOR RECOMMENDATION**

At a time when the City needs to demonstrate efficiency and fiscal restraint, the current commission structure is costly and duplicative. At the same time, civic engagement and commission work absolutely deserve an important role in Berkeley. Consequently, this legislation retains commissions but centers on overall community benefit, staff productivity, and associated costs. This is imperative to address, especially in light of COVID-19 and community demands for reinvestment in important social services.

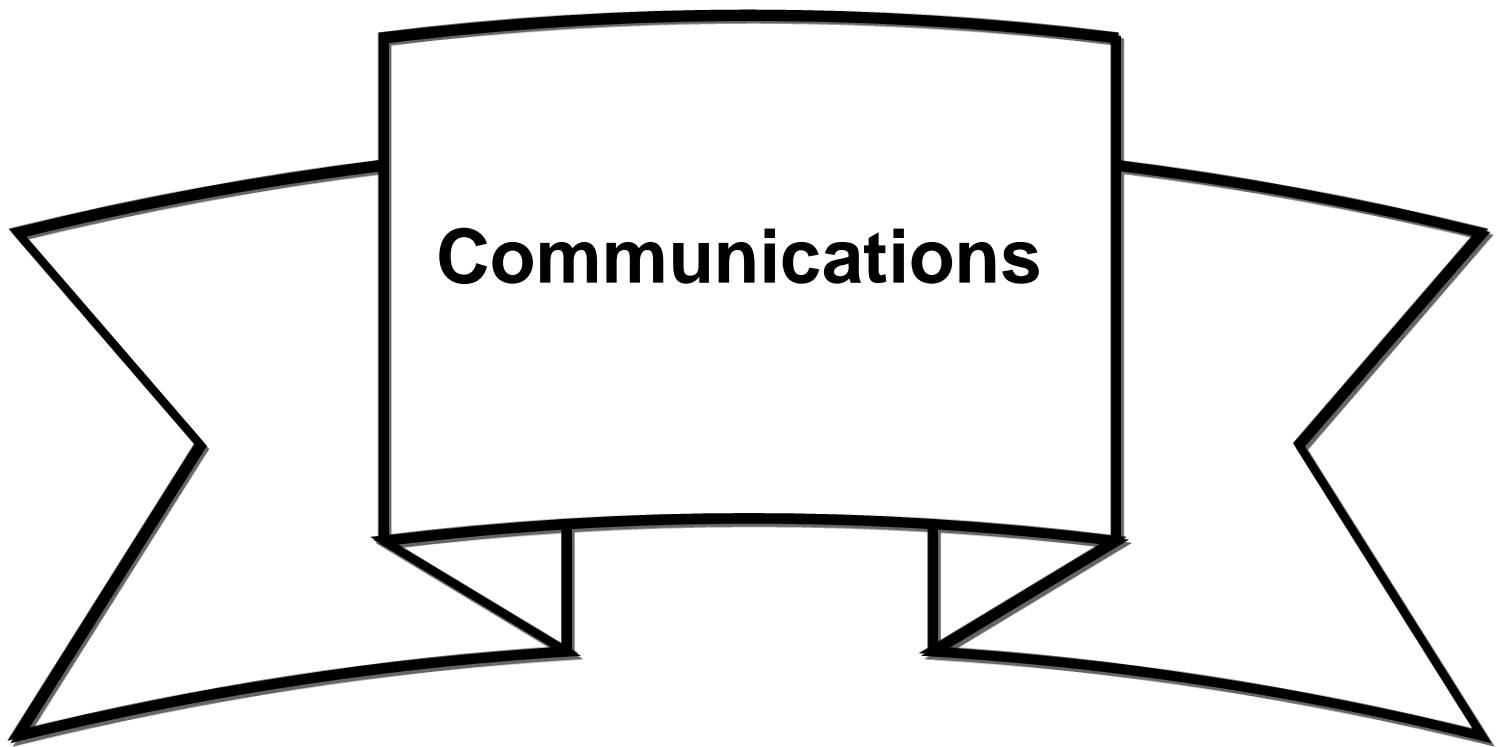
**FISCAL IMPACTS**

Significant savings associated with reduced staffing.

**CONTACT**

Vice Mayor Lori Droste 510-981-7180





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



Office of the City Manager

ACTION CALENDAR

March 26, 2024

*(Continued from February 13, 2024)*

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: Dissolution of the Human Welfare and Community Action Commission and the Peace and Justice Commission; and, establishment of the Berkeley Community Action Agency Commission

RECOMMENDATION

Adopt first reading of an Ordinance to:

1. Repeal Chapter 3.68, Peace and Justice Commission; and,
2. Repeal Chapter 3.78, Human Welfare and Community Action Commission; and,
3. Establish the Berkeley Community Action Agency Commission with Chapter 3.70

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley receives approximately \$300,000 of CSBG funding per calendar year to support programs and services that combat poverty for Berkeley residents. Currently, the Human Welfare and Community Action Commission (HWCAC) acts as the federally mandated tripartite board for CSBG funding and advises the Council on how to use these funds. The duties associated with CSBG funding will be transferred to the newly-established Berkeley Community Action Agency Commission (BCAA), which will take on the advisory responsibilities previously held by the HWCAC. The City Council will continue to be the decision-making body and will be responsible for all final CSBG funding decisions.

The dissolution of two commissions and establishment of one commission may reduce staffing and operating costs associated with running commission meetings, because the total number of commissions will be decreased by one. This staff cost saving was identified in the June 15, 2021 Council item, "Commission Reorganization for Post-COVID19 Budget Recovery" (Attachment 2).

CURRENT SITUATION AND ITS EFFECTS

In order to sustain civic engagement and remain fiscally responsible, in June 2021 the City Council directed the City Manager to consolidate several City commissions, including the HWCAC and Peace and Justice Commission (PJC). Additionally, as of this writing, the HWCAC has two commissioners and has not achieved a commission

meeting quorum since June 21, 2023. This is a significant problem for both the City commission meeting requirements as well as CSBG funding requirements, for which the HWCAC serves as an advisory board to Council. Without regular meetings of the HWCAC, the City is in violation of the contract requirements for CSBG funding, which include approval of CSBG revenue contracts, regular review of community agency performance reports, public hearings on community needs, and funding recommendations to City Council. With over half of the seats currently vacant, the PJC has also struggled to maintain its membership.

The proposed Berkeley Community Action Agency Commission (BCAA) would adopt all CSBG-related requirements, ensuring contract compliance and preservation of the approximate \$300,000 per calendar year that the City receives in CSBG funding for anti-poverty programs and services for Berkeley residents.

The proposed change from 15 members of the HWCAC to a nine-member structure for the BCAA would achieve a balance between the strict federal funding requirement to have a tripartite board, and the ability to keep the seats on the commission filled. The three parts of the tripartite board are one-third elected public officials (or their designees), at least one-third elected low-income individuals residing in the CSBG agency's designated service area (in this case, the City of Berkeley), and the remaining members from the private sector (such as representatives from business, industry, labor, religious, human services, education, or other groups with interest in the community). City staff received technical assistance from the California Community Action Partnership Association (CalCAPA), which supports Community Action Agencies and CSBG funding recipients with HUD compliance, to ensure that the new commission structure will be CSBG compliant.

The new BCAA municipal code chapter will include the key responsibilities and requirements from both the HWCAC and PJC.

### BACKGROUND

On June 15, 2021, City Council directed the City Manager to examine a multi-phased approach to the consolidation of City commissions, including a merger of the HWCAC and the PJC. The merging of these two commissions was delayed due to conflicting municipal code requirements, as well as challenges to ensuring CSBG funding compliance. City staff have now determined that the commissions are able to be merged without disrupting the responsibilities of each respective commission. City staff shared a memo with both commissions that included a description and timeline for the merger, as well as staff contact information for any questions, concerns, or feedback.

The HWCAC was established to identify social welfare needs of the community and to advise City Council on the use of CSBG funds for services that benefit low-income Berkeley residents, acting as a tripartite board for the City of Berkeley's CSBG funding.

The PJC was established to advise City Council and the Berkeley Unified School Board on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to the issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world, and the reallocation of our national resources so that money now spent on war and preparation of war is spent on fulfilling human needs and the promotion of peace.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no environmental sustainability or climate impacts associated with this report.

#### RATIONALE FOR RECOMMENDATION

The proposal to dissolve the HWCAC and PJC and establish the BCAA is consistent with Council's directive to consolidate those two commissions. The new commission (BCAA) will be responsible for all CSBG-related requirements, which are currently not being met by the HWCAC due to ongoing commissioner vacancies and a lack of commission meeting quorum. The formation of the BCAA addresses these issues explicitly, by introducing new strategies and configurations for the tripartite board. In addition, the PJC has struggled to maintain its membership as well with over half of the seats currently vacant. Combining the two commissions will help maintain a more robust membership and public participation, and will support carrying out the assigned duties.

#### ALTERNATIVE ACTIONS CONSIDERED

Due to the ongoing commission vacancies in the HWCAC and PJC, as well as Council's directive to consolidate the HWCAC and PJC, no alternative actions were considered.

#### CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, HHCS, 981-5414

#### Attachments:

- 1: Ordinance
2. "Commission Reorganization for Post-COVID19 Budget Recovery", June 15, 2021



ORDINANCE NO. -N.S.

ADDING CHAPTER 7.26 TO THE BERKELEY MUNICIPAL CODE ESTABLISHING THE BERKELEY COMMUNITY ACTION AGENCY COMMISSION AND REPEALING CHAPTERS 3.68 AND 3.78

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

Section 1. That a new Chapter 3.70 of the Berkeley Municipal Code is added to read as follows:

**Chapter 3.70**

**BERKELEY COMMUNITY ACTION AGENCY COMMISSION**

**Sections:**

**3.70.010 Creation of the Berkeley Community Action Agency Commission**

**3.70.020 Membership**

**3.70.030 Term of office**

**3.70.040 Vacancy and removal**

**3.70.050 Temporary vacancies**

**3.70.060 Officers, meetings and procedures**

**3.70.070 Social welfare defined**

**3.70.080 Social justice defined**

**3.70.090 Functions of the commission**

**3.70.100 Elections for low-income representatives**

**3.70.110 Bylaws of the Berkeley Community Action Agency Commission**

**Section 3.70.010 Creation of the Berkeley Community Action Agency Commission**

The Berkeley Community Action Agency Commission is hereby created with an effective date of May 1, 2024.

**Section 3.70.020 Membership**

A. The commission shall consist of nine members. This commission is not subject to BMC Sections 2.04.030–2.04.130, the Fair Representation Ordinance, due to the Community Action Agency membership regulations in state and federal law.

B. Three of the members shall be appointed by the Berkeley City Council by majority vote.

C. Three of the members shall be low-income representatives, subject to the eligibility requirements of this paragraph, and elected to the commission using one of the methods in Section 3.70.100:

i. An individual who is at or below the federal poverty line, and who resides within the City of Berkeley; or

ii. An individual from a group(s) or organization(s) composed primarily of low-income persons and representing the interest of the low-income population in the City of

Berkeley, whose membership duly select a representative chosen in accordance with a democratic selection procedure.

D. Three of the members shall be members or officials of business, industry, labor, religious, welfare, education, or major groups and interests in the community, as required by California Government Code Sections 12736(e), 12750(a)(2), and 12751 (and its successors), the language of which is incorporated herein by reference. These members should be identified and nominated for Council approval by the existing commissioners.

E. For the purpose of members appointed pursuant to paragraph C and D, the community service block grant (CSBG) target area is within the boundary of the City of Berkeley.

### **Section 3.70.030 Term of office.**

For purposes of determining term limits under Section 3.02.040, a commissioner's service on the Human Welfare & Community Action Commission or the Peace & Justice Commission shall be counted toward their service upon their appointment to the Berkeley Community Action Agency Commission.

### **Section 3.70.040 Vacancy and removal of elected members**

Elected members of the commission are subject to the same membership and attendance requirements as appointed members except as otherwise provided in this chapter.

A. A vacancy shall exist when an elected board member moves and establishes residence outside of their election district or otherwise no longer meets the eligibility requirements of Section 3.70.020.C.

B. Vacancies in any elected commission position shall be filled by a new election pursuant to Section 3.70.100.

### **Section 3.70.050 Temporary vacancies**

An elected member of the commission may take a temporary leave of absence of up to three months in duration by notifying the City Clerk and the commission secretary in writing in advance of the absence, during which time a temporary vacancy shall exist. During the period of such temporary vacancy in an elected position, a temporary appointment shall be made by the remaining low-income representatives subject to the eligibility requirements of Section 3.70.020.C.

### **Section 3.70.060 Officers, meetings and procedures**

A. The commission shall elect one of its members chairperson and one of its members vice-chairperson.

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. 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.

D. All subcommittees of this commission should fairly reflect the composition of the commission.

### **Section 3.70.070 Social welfare defined**

"Social Welfare" as used in this chapter, means that endeavor which is concerned with community-wide and group interests rather than with needs of individual residents and embraces such areas, among others, special needs of the family, children, youth and the aged, and the way in which people live and work together.

### **Section 3.70.080 Social justice defined**

"Social justice" shall refer to the goal of creating a world community in which the relations between people are based on equality, respect for human rights, and the abhorrence of exploitation and all forms of oppression.

### **Section 3.70.090 Functions of the commission**

The functions of the commission shall be as follows:

A. The commission shall function as the Board of the Community Action Agency as set forth in California Government Code Sections 12750 - 12763 and its successors, the terms of which are incorporated herein by reference;

B. Identify social welfare needs of the Berkeley community and create awareness of these needs among residents;

C. Review and accept the Community Needs Assessment as outlined in the Community Service Block Grant Organizational Standards and create a citizen awareness of these needs;

D. Encourage the development of programs designed to improve the social welfare of the Berkeley community;

E. Advise the Berkeley City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice, including, but not limited to the issues of ending the arms race, abolishing nuclear weapons, support for human rights and self-determination throughout the world;

F. Create citizen awareness around issues of social justice;

G. Advise the City Council on matters relating to the responsible investment of public funds in accordance with the responsible investment policy established by Resolution No. 55,141A-N.S. and its successors.

H. Act in an advisory role to City Council on Socially Responsible Investment for the City of Berkeley as prescribed in B.M.C. Section 3.68.070.K, including socially responsible procurement policy, Nuclear Free Berkeley Act Waivers, and Oppressive States Contracting Prohibition (per Resolution 59,853-N.S. and its successors);

I. Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any ordinance of the City;

J. In prescribing the above duties and functions of the commission, it is not the intent of the Council to duplicate or overlap the functions, duties or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities above set forth which are partially or wholly the responsibilities of another board or commission or of a department of the City, the commission will render assistance and advice to such board, commission or department as may be requested.

### **Section 3.70.100 Elections for low-income representatives**

Low-income representatives shall be chosen in accordance with democratic selection procedures adequate to assure that they represent the low-income persons in the geographic service area of the City of Berkeley. Among the selection procedures which may be employed, as determined by the commission secretary, either separately or in combination, are the following: (a) nominations and elections, whether within the neighborhoods, community, or service area as a whole; (b) selection at a meeting or conference of low-income persons such that the date, time, and place of such a meeting or conference have been adequately publicized; (c) selection of a small area basis (such as a neighborhood) of representatives who in turn select members for the commission; (d) the commission may recognize a group(s) or organization(s) composed primarily of low-income persons and representing the interest of the low-income population, whose membership may select one or more representatives to the commission. Persons at or below the federal poverty line shall be permitted to vote in the selection processes. The commission may request a waiver for the federal poverty line eligibility in order to establish residency or other relevant criteria as a basis for eligibility, which will be provided to and reviewed by the commission secretary for CSBG compliance

### **Section 3.70.110 Bylaws of the Berkeley Community Action Agency Commission**

The commission shall prepare and maintain bylaws for the community action agency. These bylaws and amendments thereto shall be consistent with City, state and federal policies governing community action agencies.

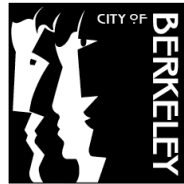
Section 2. That Chapter 3.68 of the Berkeley Municipal Code is hereby repealed effective May 1, 2024.

Section 3. That Chapter 3.78 of the Berkeley Municipal Code is hereby repealed effective May 1, 2024.

### Section 4. 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.





**PROCLAMATION  
CALLING A SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

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

**Tuesday, June 15, 2021  
4:00 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/87908681987>. 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: 879 0868 1987. 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.*

## Preliminary Matters

### Roll Call:

### Action Calendar

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

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

### Action Calendar – Old Business

1. **Commission Reorganization for Post-COVID19 Budget Recovery**  
**From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Mayor Arreguin (Co-Sponsor)** (Reviewed by the Agenda & Rules Committee) (Continued from May 25, 2021)

#### **Recommendation:**

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.
2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
5. Refer to City Manager and Commissions the following additional considerations:
  - Federal, state or other external mandates that might be impacted, and determine how to handle.
  - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted.
  - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter.
  - Whether the merged Commission might include 9, or a greater number of members.
  - The possibility of requiring specific qualifications for

## Action Calendar – Old Business

appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission. - Volunteer workload and capacity given scope of Commission's charter

*Policy Committee Recommendation: Make a Qualified Positive Recommendation to City Council to: 1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one. 2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions. 3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes. 4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions. 5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees. 6. Refer Councilmember Hahn questions to City Manager and Commissions: "Commissions to Combine/Merge - Suggested Considerations" - Federal, state or other external mandates that might be impacted, and determine how to handle. - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted. - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter. - Whether the merged Commission might include 9, or a greater number of members. - The possibility of requiring specific qualifications for appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission - Volunteer workload and capacity given scope of Commission's charter.*

**Financial Implications:** See report

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

## Public Comment - Items on this agenda only

## Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 3<sup>rd</sup> day of June, 2021.



Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Date: June 3, 2021  
Mark Numainville, City Clerk

**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.*

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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>.

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**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.

## Communications

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

### **Item #1: Commission Reorganization for Post-COVID19 Budget Recovery**

1. Holly Scheider







Lori Droste  
Berkeley Vice Mayor

**ACTION CALENDAR**

June 15, 2021

*(Continued from May 25, 2021)*

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Lori Droste (Author), Councilmembers Rigel Robinson (Co-Sponsor), Rashi Kesarwani (Co-Sponsor) and Mayor Jesse Arreguín (Co-Sponsor)

**Subject:** Commission Reorganization for Post-COVID19 Budget Recovery

**RECOMMENDATION**

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

*Phase 1:* Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

*Phase 2:* All other Commissions as proposed below.  
As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

| New Commission Name                       | Former Commissions to be Reorganized                                  |
|-------------------------------------------|-----------------------------------------------------------------------|
| Commission on Climate and the Environment | Zero Waste, Energy, Community Environmental Advisory, and Animal Care |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Parks, Recreation, Waterfront (special Marina subcommittee)                                                                                                                                                                                                                                                                                                                                                                                                                          | Children, Youth, and Recreation and Parks and Waterfront                  |
| Peace, Justice, and Human Welfare <sup>1</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                       | Peace and Justice and Human Welfare, Community Action Commissions         |
| Public Health Commission & Sugar Sweetened Beverage Panel of Experts                                                                                                                                                                                                                                                                                                                                                                                                                 | Community Health Commission and Sugar Sweetened Beverage Panel of Experts |
| Housing Advisory Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Measure O and Housing Advisory Commission                                 |
| Homeless Services Panel of Experts                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Homeless Commission and Measure P Homeless Services Panel of Experts      |
| Public Works and Transportation                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Public Works and Transportation                                           |
| Planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Planning and Cannabis                                                     |
| <p><b>All other commissions will maintain their current structure:</b> Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p> |                                                                           |

2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
5. Refer to City Manager and Commissions the following additional considerations:
  - Federal, state or other external mandates that might be impacted, and determine how to handle.
  - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted

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<sup>1</sup> Members will be appointed by Council and membership should adhere to Government Code Section 12736(e); 12750(a)(2) and 12751.

- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter.
- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission's charter

| Policy Committee Oversight <sup>2</sup>                        | Commissions                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Agenda and Rules                                               | <ol style="list-style-type: none"> <li>1. Fair Campaign Practices/Open Government Commission</li> <li>2. Personnel Board</li> </ol>                                                                                                                                                                                                                |
| Budget and Finance                                             | (Any legislation that requires funding)                                                                                                                                                                                                                                                                                                            |
| Public Safety                                                  | <ol style="list-style-type: none"> <li>1. Disaster and Fire Safety Commission</li> <li>2. Police Accountability Board/Police Review Commission</li> <li>3. Reimagining Public Safety Task Force</li> </ol>                                                                                                                                         |
| Facilities, Infrastructure, Transportation and the Environment | <ol style="list-style-type: none"> <li>1. Commission on the Environment</li> <li>2. Parks, Recreation and Waterfront with Marina subcommittee</li> <li>3. Public Works and Transportation</li> </ol>                                                                                                                                               |
| Land Use and Economic Development                              | <ol style="list-style-type: none"> <li>1. Measure O Housing Commission</li> <li>2. Planning Commission</li> <li>3. Labor</li> <li>4. Civic Arts Commission</li> </ol>                                                                                                                                                                              |
| Health, Equity, Life Enrichment, and Community                 | <ol style="list-style-type: none"> <li>1. Peace, Justice, and Civil Rights</li> <li>2. Health and Sugar Sweetened Beverage Panel of Experts</li> <li>3. Homeless Services Panel of Experts</li> <li>4. Mental Health Commission (state/federal mandate)</li> <li>5. Commission on the Status of Women</li> <li>6. Disability Commission</li> </ol> |

<sup>2</sup> Primary policy committee oversight but legislation may be referred to multiple policy committees.

**Other Commissions:** Zoning Adjustments Board (DRC), Landmarks Preservation, Board of Library Trustees, BIDs, Independent Redistricting Commission, Loan Administration Board

**POLICY COMMITTEE RECOMMENDATION**

On April 5, 2021, the Agenda and Rules Committee made a qualified positive recommendation to City Council to:

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

Phase 2: All other Commissions as proposed below.  
As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

| <b>New Commission Name (suggested)</b>                               | <b>Former Commissions to be Reorganized</b>                                    |
|----------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Commission on Climate and the Environment                            | Zero Waste, Energy, Community Environmental Advisory, and Animal Care          |
| Parks, Recreation, Waterfront (special Marina subcommittee)          | Children, Youth, and Recreation and Parks and Waterfront                       |
| Peace, Justice, and Human Welfare                                    | Peace and Justice Commission and Human Welfare and Community Action Commission |
| Public Health Commission & Sugar Sweetened Beverage Panel of Experts | Community Health Commission and Sugar Sweetened Beverage Panel of Experts      |
| Housing Advisory Commission                                          | Measure O and Housing Advisory Commission                                      |
| Homeless Services Panel of Experts                                   | Homeless Commission and Measure P Homeless Services Panel of Experts           |



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| Public Works and Transportation                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Public Works and Transportation |
| Planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Planning and Cannabis           |
| <p><b>All other commissions will maintain their current structure:</b> Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p> |                                 |

2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions.

3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.

4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.

5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees.

6. Refer Councilmember Hahn questions to City Manager and Commissions: “Commissions to Combine/Merge - Suggested Considerations”

- Federal, state or other external mandates that might be impacted, and determine how to handle
- Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted
- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter.
- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission’s charter

## **PROBLEM/SUMMARY STATEMENT**

Commissions provide an important mechanism for residents to shape public policy and provide input on City business. However, the City of Berkeley maintains far more commissions than other cities of similar size, with a significant investment of City resources to staff all 37 commissions. Some commission secretaries report spending upwards of 20+ hours per week on commission business, which takes valuable time away from addressing other pressing City priorities. The local public health emergency created by the global COVID-19 pandemic has required City staff to shift to new roles and maintain an Emergency Operations Center since January 2020; recovery from the pandemic will continue to demand the full attention of our City staff for the foreseeable future. Given the uncertainties that our City faces in recovering from the COVID-19 pandemic and the demands that this recovery places on our City staff, it is an appropriate time to consider how best to consolidate our commissions in a manner that helps the City to achieve its core mission.

## **REITERATION OF PRINCIPLES**

Commissions are a fundamental part of the City's policymaking process. Members of boards and commissions provide an invaluable service to our City. They advise the City Council on a wide variety of subjects by making recommendations on important policy matters. Without the assistance of the various boards and commissions, the City Council could give many complex and significant matters only a perfunctory review. The detailed studies and considered advice of boards and commissions are often catalysts for innovative programs and improved services. Serving on a board or commission can be a rewarding experience for community service-minded residents. It is an excellent way to participate in the functioning of local government and to make a personal contribution to the improvement of our community. Making local government effective and responsive is everybody's responsibility.

- The Public Works Commission, for example, develops the City's five year paving plan which they then present to City Council for approval. Through extensive community outreach and research, the Commission identifies the streets most in need of repaving.
- With the passage of Measure D in 2014, a Panel of Experts on Sugar-Sweetened Beverages has guided the City's spending of over \$5 million in revenue generated from the Measure. Those dollars have bolstered local public campaigns and education initiatives.

These are merely two examples of the powerful role that Commissions play in City policymaking.

## **CURRENT SITUATION AND ITS EFFECTS**

### *Current Commission Structure*

The City of Berkeley has approximately thirty-seven commissions overseen by city administration, most of which have at least nine members and who are appointed by individual councilmembers. These commissions were intended to be a forum for public participation beyond what is feasible at the City Council, so that issues that come before the City Council can be adequately vetted.

Some commissions are required by charter or mandated by voter approval or state/federal mandate. Those commissions are the following:

1. Board of Library Trustees (charter)
2. Business Improvement Districts (state mandate)
3. Civic Arts Commission (charter)
4. Community Environmental Advisory Commission (state/federal mandate--CUPA)
5. Fair Campaign Practices Commission/Open Government (ballot measure)
6. Homeless Services Panel of Experts (ballot measure)
7. Housing Advisory Commission (state/federal mandate)
8. Human Welfare and Community Action (state/federal mandate)
9. Measure O Bond Oversight Committee (ballot measure)
10. Mental Health Commission (state/federal mandate)
11. Personnel (charter) Police Review Commission (ballot measure)
12. Sugar-Sweetened Beverages (ballot measure)

Berkeley must have its own mental health commission because of its independent Mental Health Division. In order to receive services, the City needs to have to have an advisory board. Additionally, Berkeley's Community Environmental Advisory Commission is a required commission in order to oversee Certified Unified Program Agency (CUPA) under California's Environmental Protection Agency. Additionally, some commissions serve other purposes beyond policy advisories. The Children, Youth and Recreation Commission, Housing Advisory Commission, and the Human Welfare and Community Action Commission advise Council on community agency funding. However, some of the aforementioned quasi-judicial and state/federal mandated commissions do not need to stand independently and can be combined to meet mandated goals.

### *The Importance of Commissions*

Commissions serve a vital role in the City of Berkeley's rich process of resident engagement. An analysis of agendas over the past several years shows that the commissions have created policy that have benefited the community in meaningful and important ways. In 2020, 14 of the 16 commission items submitted to Council passed. From 2016-2020, an average of 34 items were submitted by commissions to Council for consideration.

The City's Health, Housing and Community Development department serves an important role in addressing COVID-19, racial disparities, inequitable health outcomes, affordable housing, and other important community programs. Additionally, Health, Housing, and Community Development also staffs ten commissions, more than many cities of Berkeley's size. Council needs to wrestle with these tradeoffs to ensure that we seek the maximum benefit for *all* of the Berkeley community, particularly our most vulnerable.

#### *Commission Structures in Neighboring Jurisdictions*

In comparison to neighboring jurisdictions of similar size, Berkeley has significantly more commissions. The median number of commissions for these cities is 12 and the average is 15.

| Comparable Bay Area City | Population (est.) | Number of Commissions | Links                                                                                                                                                                                                         |
|--------------------------|-------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Berkeley                 | 121,000           | 37                    | <a href="https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf">https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf</a> |
| Antioch                  | 112,000           | 6                     | <a href="https://www.antiochca.gov/government/boards-commissions/">https://www.antiochca.gov/government/boards-commissions/</a>                                                                               |
| Concord                  | 130,000           | 14                    | <a href="https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Commi">https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Commi</a>                                           |
| Daly City                | 107,000           | 7                     | <a href="http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm">http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm</a>         |
| Fairfield                | 117,000           | 7                     | <a href="https://www.fairfield.ca.gov/gov/comms/default.asp">https://www.fairfield.ca.gov/gov/comms/default.asp</a>                                                                                           |
| Fremont                  | 238,000           | 15                    | <a href="https://www.fremont.gov/76/Boards-Commissions-Committees">https://www.fremont.gov/76/Boards-Commissions-Committees</a>                                                                               |
| Hayward                  | 160,000           | 12                    | <a href="https://www.hayward-ca.gov/your-government/boards-commissions">https://www.hayward-ca.gov/your-government/boards-commissions</a>                                                                     |

|           |         |    |                                                                                                                                                           |
|-----------|---------|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Richmond  | 110,000 | 29 | <a href="https://www.ci.richmond.ca.us/256/Boards-and-Commissions">https://www.ci.richmond.ca.us/256/Boards-and-Commissions</a>                           |
| San Mateo | 105,000 | 7  | <a href="https://www.cityofsanmateo.org/60/Commissions-Boards">https://www.cityofsanmateo.org/60/Commissions-Boards</a>                                   |
| Sunnyvale | 153,000 | 10 | <a href="https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804">https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804</a> |
| Vallejo   | 122,000 | 17 | <a href="http://www.ci.vallejo.ca.us/cms/one.aspx?pagelid=22192">http://www.ci.vallejo.ca.us/cms/one.aspx?pagelid=22192</a>                               |

To understand the impact on various departments and staffing capacity, the following table shows which departments are responsible for overseeing various commissions.

*Staffing and Resources Supporting Berkeley's Current Commission Structure*

| Commission Name                             | Overseeing Department (Total Commissions in Department) |
|---------------------------------------------|---------------------------------------------------------|
| Animal Care Commission                      | City Manager (8)                                        |
| Civic Arts Commission                       | City Manager (8)                                        |
| Commission on the Status of Women           | City Manager (8)                                        |
| Elmwood BID Advisory Board                  | City Manager (8)                                        |
| Loan Administration Board                   | City Manager (8)                                        |
| Peace and Justice Commission                | City Manager (8)                                        |
| Solano Ave BID Advisory Board               | City Manager (8)                                        |
| Cannabis Commission                         | Planning (7)                                            |
| Community Environmental Advisory Commission | Planning (7)                                            |
| Design Review Committee                     | Planning (7)                                            |
| Energy Commission                           | Planning (7)                                            |
| Landmarks Preservation Commission           | Planning (7)                                            |
| Planning Commission                         | Planning (7)                                            |
| Zoning Adjustments Board                    | Planning (7)                                            |



|                                                               |                                                        |
|---------------------------------------------------------------|--------------------------------------------------------|
| Children, Youth, and Recreation Commission                    | Parks (3)                                              |
| Parks and Waterfront Commission                               | Parks (3)                                              |
| Youth Commission                                              | Parks (3)                                              |
| Commission on Aging                                           | Health, Housing, and Community Services (HHCS)<br>(10) |
| Commission on Labor                                           | HHCS (10)                                              |
| Community Health Commission                                   | HHCS (10)                                              |
| Homeless Commission                                           | HHCS (10)                                              |
| Homeless Services Panel of Experts                            | HHCS(10)                                               |
| Housing Advisory Commission                                   | HHCS (10)                                              |
| Human Welfare & Community Action Commission                   | HHCS (10)                                              |
| Measure O Bond Oversight Committee                            | HHCS (10)                                              |
| Mental Health Commission                                      | HHCS (10)                                              |
| Sugar-Sweetened Beverage Product Panel of Experts             | HHCS (10)                                              |
| Disaster and Fire Safety Commission                           | Fire (1)                                               |
| Commission on Disability                                      | Public Works (4)                                       |
| Public Works Commission                                       | Public Works (4)                                       |
| Transportation Commission                                     | Public Works (4)                                       |
| Zero Waste Commission                                         | Public Works (4)                                       |
| Fair Campaign Practices Commission/Open Government Commission | City Attorney (1)                                      |
| Personnel Board                                               | Human Resources (1)                                    |

|                                                      |                                                            |
|------------------------------------------------------|------------------------------------------------------------|
| Police Review Commission/Police Accountability Board | Police Review Commission/Police Accountability Board Staff |
| Reimagining Public Safety Task Force                 | City Manager *(8) and BPD (2)                              |
| Board of Library Trustees                            | Library (1)                                                |

Gray=charter  
 Red=state/federal mandate  
 Yellow=quasi-judicial  
 Blue=ballot initiative  
 Orange=state/federal mandate and quasi-judicial  
 Green=quasi-judicial and ballot initiative

The departments that staff more than five commissions are Health, Housing, and Community Services (10 commissions), Planning (7 commissions), and the City Manager’s department (8 commissions). At the same time, some smaller departments (e.g. the City Attorney’s office) may be impacted just as meaningfully if they have fewer staff and larger individual commission workloads.

*Policy Committee Structure Expands Opportunities for Public Input*

With the recent addition of policy committees, proposed legislation is now vetted by councilmembers in these forums. Each policy committee is focused on a particular content area aligned with the City of Berkeley’s strategic plan and is staffed and an advisory policy body to certain city departments. Members of the public are able to provide input at these committees as well. The policy committees currently have the following department alignment:

**Department and Policy Committee alignment**

1. **Agenda and Rules**—all departments
2. **Budget and Finance**—City Manager, Clerk, Budget, and Finance
3. **Land Use and Economic Development**—Clerk, Planning, HHCS, City Attorney, and City Manager (OED)
4. **Public Safety**—Clerk, City Manager, Police, and Fire
5. **Facilities, Infrastructure, Transportation, Environment and Sustainability** (Clerk, City Manager, Planning, Public Works, and Parks)
6. **Health, Equity, Life Enrichment, and Community** (Clerk, City Manager, HHCS)

*Staffing Costs*

Based upon preliminary calculations of staff titles and salary classifications, the average commission staff secretary makes roughly \$60-\$65/hour. Based upon recent interviews with secretaries and department heads, individual commission secretaries work

anywhere from 8-80 hours a month staffing and preparing for commission meetings. To illustrate this example, a few examples are listed below.

| Commission                        | Step 5 Rate of Pay | Reported Hours a Month | Total <b>Direct</b> Cost of Commission <b>per Month</b> |
|-----------------------------------|--------------------|------------------------|---------------------------------------------------------|
| Animal Care                       | \$70.90            | 8                      | \$567.20                                                |
| Landmarks Preservation Commission | \$57.96            | 80                     | \$4,636.80                                              |
| Design Review Commission          | \$52.76            | 60                     | \$3,165.60                                              |
| Peace and Justice                 | \$60.82            | 32                     | \$1,946.24                                              |

It is extremely challenging to estimate a specific cost of commissions in the aggregate because of the varying workload but a safe estimate of salary costs dedicated to commissions would be in the six-figure range.

Many commissions--particularly quasi-judicial and land use commissions-- require more than one staff member to be present and prepare reports for commissions. For example, Zoning Adjustment Board meetings often last five hours or more and multiple staff members spend hours preparing for hearings. The Planning Department indicates that *in addition* to direct hours, additional commission-related staff time adds an extra 33% staff time. Using the previous examples, this means that the Landmarks Preservation Commission would cost the city over \$6,000 in productivity while the Design Review Commission would cost the City over \$4,000 a month.

#### *Productivity Losses and Administrative Burden*

Current productivity losses are stark because of the sheer amount of hours of staffing time dedicated to commissions. As an example, in 2019 one of the City of Berkeley's main homeless outreach workers staffed a commission within the City Manager's department. She spent approximately 32 hours a month working directly on commission work. While this is not a commentary on a particular commission, this work directly impacted her ability to conduct homeless outreach.

### **RATIONALE FOR RECOMMENDATION**

At a time when the City needs to demonstrate efficiency and fiscal restraint, the current commission structure is costly and duplicative. At the same time, civic engagement and commission work absolutely deserve an important role in Berkeley. Consequently, this legislation retains commissions but centers on overall community benefit, staff productivity, and associated costs. This is imperative to address, especially in light of COVID-19 and community demands for reinvestment in important social services.

**FISCAL IMPACTS**

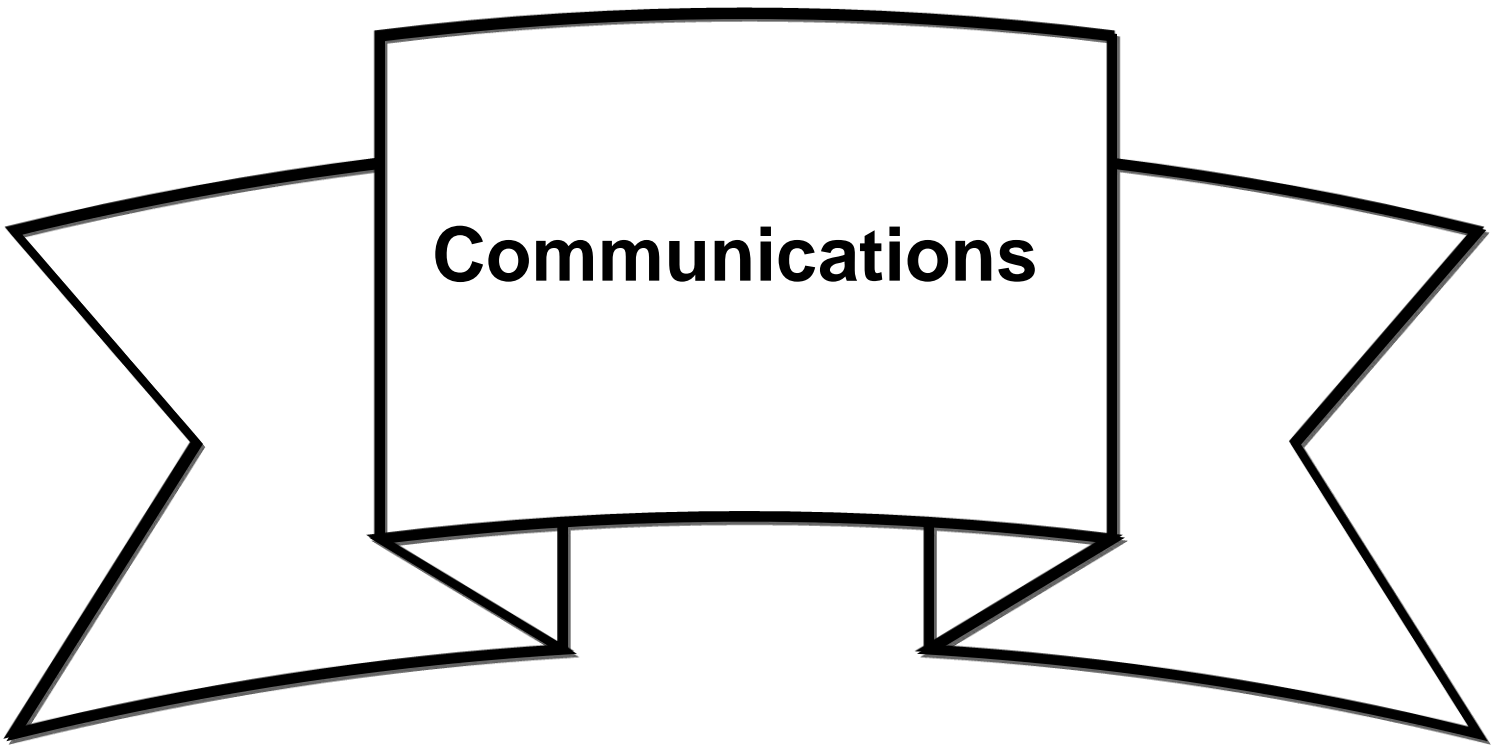
Significant savings associated with reduced staffing.

**CONTACT**

Vice Mayor Lori Droste 510-981-7180







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**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<http://www.cityofberkeley.info/recordsonline>

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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





Office of the City Manager

ACTION CALENDAR

March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Margot Ernst, Interim Deputy Director, Health, Housing, and Community Services

Subject: Reform the Human Welfare and Community Action Commission by amending rules regarding the Commission's composition, number of members, filling of vacancies, election of low-income representatives, enumerated functions, and other changes

RECOMMENDATION

Adopt first reading of an Ordinance to reform the Human Welfare and Community Action Commission (HWCAC)

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley receives approximately \$300,000 of CSBG funding per calendar year to support programs and services that combat poverty for Berkeley residents. Currently, the HWCAC acts as the federally mandated tripartite board for CSBG funding and advises the Council on how to use these funds.

On February 16, 2024, the State of California's Department of Community Services and Development (CSD) sent the City of Berkeley a 45-Day notice of anticipated high-risk designation based on the City's failure to maintain the CSBG-required tripartite board structure. Should the HWCAC continue to have long-term vacancies that impact the tripartite board structure, CSD may suspend or terminate the CSBG contract, resulting in the loss of approximately \$300,000 per year for anti-poverty programs.

CURRENT SITUATION AND ITS EFFECTS

Maintaining a full commission that serves as a tripartite advisory board to City Council is a requirement of the City's CSBG funding, which is used to fund anti-poverty programs in the amount of approximately \$300,000 per year. However, the HWCAC has struggled to maintain a full commission since 2012 (Attachment 2), and, as such, staff recommend the reduction of the total membership of the HWCAC from 15 to nine members. In 2023, the HWCAC did not meet for a total of six regular meetings due to a lack of quorum. The inability of the HWCAC to achieve a meeting quorum can be partially attributed to the high number of vacancies on the commission; from July to

December of 2023, the HWCAC never had more than three commissioners at any given time.

Without regular meetings of the HWCAC and a full tripartite board, the City is in violation of the contract requirements for CSBG funding, which include approval of CSBG revenue contracts, regular review of community agency performance reports, public hearings on community needs, and funding recommendations to City Council.

The three parts of the tripartite board are one-third elected public officials (or their designees), at least one-third elected low-income individuals residing in the CSBG agency's designated service area (in this case, the City of Berkeley), and the remaining members from the private sector (such as representatives from business, industry, labor, religious, human services, education, or other groups with interest in the community). City staff received technical assistance from the California Community Action Partnership Association (CalCAPA), which supports Community Action Agencies and CSBG funding recipients with CSBG compliance, to ensure that the new nine-member commission structure will be CSBG compliant.

### BACKGROUND

On June 15, 2021, City Council directed the City Manager to examine a multi-phased approach to the consolidation of City commissions, including a merger of the HWCAC and the PJC. The merging of these two commissions was delayed due to conflicting municipal code requirements, as well as challenges to ensuring CSBG funding compliance. It has now been determined that the commissions are able to be dissolved and the creation of an entirely new commission could be developed that would incorporate the key elements and responsibilities of each respective commission.

In November 2023, City staff shared a memo with both commissions that included a description and timeline for the commission consolidations, as well as staff contact information for any questions, concerns, or feedback. Staff met with representatives of each commission to discuss their concerns about the merger. After receiving strong feedback from HWCAC and PJC commissioners that the consolidation should not move forward, including letters from each respective commission to Council detailing their concerns, the commission merger Council item that was to be discussed at the February 13, 2024 Council meeting was pulled for further review and possible revisions based on HWCAC and PJC commissioner feedback. At the February 26<sup>th</sup> Agenda and Rules Committee meeting, staff was directed to bring forward a second alternative to the merger that would allow for the necessary reform of the HWCAC and ensure expeditious compliance with the CSBG Tripartite Board requirements.

### 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 proposed changes to Chapter 3.78 will significantly increase the likelihood that the commission will consistently maintain a full tripartite board, and be in compliance with CSBG funding, by reducing the total membership from 15 to nine commissioners. The new commission (BCAA) will be responsible for all CSBG-related requirements, which are currently not being met by the HWCAC due to ongoing commissioner vacancies and a lack of commission meeting quorum. The formation of the BCAA addresses these issues explicitly, by introducing new strategies and configurations for the tripartite board.

### ALTERNATIVE ACTIONS CONSIDERED

Due to the ongoing commission vacancies in the HWCAC, and the notice of anticipated high-risk designation from CSD based on the City's failure to maintain the CSBG-required tripartite board structure, no alternative actions were considered.

### CONTACT PERSON

Mary-Claire Katz, Associate Management Analyst, HHCS, 981-5414

#### Attachments:

- 1: Ordinance
2. Letter from CA State Dept. of Comm. Services and Dev. to City of Berkeley, "RE: 45-Day Notice of Anticipated High-Risk Designation Based on The City of Berkeley's Failure to Maintain Required CSBG Tripartite Board Structure and Failure to Administer Programs Through Tripartite Board; Required Response and Corrective Action Due by March 18, 2024", 2/16/2024
3. "Commission Reorganization for Post-COVID19 Budget Recovery", June 15, 2021

ORDINANCE NO. -N.S.

REPEALING AND REENACTING CHAPTER 3.78 OF THE BERKELEY MUNICIPAL CODE ESTABLISHING THE HUMAN WELFARE AND COMMUNITY ACTION COMMISSION

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

Section 1. That Chapter 3.78 of the Berkeley Municipal Code is repealed and reenacted to read as follows:

**Chapter 3.78**

**HUMAN WELFARE AND COMMUNITY ACTION COMMISSION**

**Sections:**

**3.78.010 Creation of the Human Welfare and Community Action Commission**

**3.78.020 Membership**

**3.78.030 Term of office**

**3.78.040 Vacancy and removal**

**3.78.050 Temporary vacancies**

**3.78.060 Officers, meetings and procedures**

**3.78.070 Social welfare defined**

**3.78.080 Functions of the commission**

**3.78.090 Elections for low-income representatives**

**3.78.100 Bylaws of the Human Welfare and Community Action Commission**

**Section 3.78.010 Creation of the Human Welfare and Community Action Commission.**

The Human Welfare and Community Action Commission is hereby created.

**Section 3.78.020 Membership**

A. The commission shall consist of nine members. This commission is not subject to BMC Sections 2.04.030–2.04.130, the Fair Representation Ordinance, due to the Community Action Agency membership regulations in state and federal law.

B. Three of the members shall be appointed by the Berkeley City Council by majority vote.

C. Three of the members shall be low-income representatives, subject to the eligibility requirements of this paragraph, and elected to the commission using one of the methods in Section 3.78.090:

i. An individual who is at or below the federal poverty line, and who resides within the City of Berkeley; or

ii. An individual from a group(s) or organization(s) composed primarily of low-income persons and representing the interest of the low-income population in the City of Berkeley, whose membership duly select a representative chosen in accordance with a democratic selection procedure.

D. Three of the members shall be members or officials of business, industry, labor, religious, welfare, education, or major groups and interests in the community, as required by California Government Code Sections 12736(e), 12750(a)(2), and 12751 (and its successors), the language of which is incorporated herein by reference. These members should be identified and nominated for Council approval by the existing commissioners.

E. For the purpose of members appointed pursuant to paragraph C and D, the community service block grant (CSBG) target area is within the boundary of the City of Berkeley.

**Section 3.78.030 Term of office.**

The term of office of each elected member, other than specifically provided herein, shall be four years from the date of the elections; no person shall serve for more than two full elected terms, or eight years.

The term of office of each appointed member shall be as provided in B.M.C. Section 3.02.040.

**Section 3.78.040 Vacancy and removal of elected members**

Elected members of the commission are subject to the same membership and attendance requirements as appointed members except as otherwise provided in this chapter.

A. A vacancy shall exist when an elected board member moves and establishes residence outside of their election district or otherwise no longer meets the eligibility requirements of Section 3.78.020.C.

B. Vacancies in any elected commission position shall be filled by a new election pursuant to Section 3.78.090.

**Section 3.78.050 Temporary vacancies**

An elected member of the commission may take a temporary leave of absence of up to three months in duration by notifying the City Clerk and the commission secretary in writing in advance of the absence, during which time a temporary vacancy shall exist. During the period of such temporary vacancy in an elected position, a temporary appointment shall be made by the remaining low-income representatives subject to the eligibility requirements of Section 3.78.020.C.

**Section 3.78.060 Officers, meetings and procedures**

A. The commission shall elect one of its members chairperson and one of its members vice-chairperson.

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. 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.

D. All subcommittees of this commission should fairly reflect the composition of the commission.

### **Section 3.78.070 Social welfare defined**

"Social Welfare" as used in this chapter, means that endeavor which is concerned with community-wide and group interests rather than with needs of individual residents and embraces such areas, among others, special needs of the family, children, youth and the aged, and the way in which people live and work together.

### **Section 3.78.080 Functions of the commission**

The functions of the commission shall be as follows:

A. The commission shall function as the Board of the Community Action Agency as set forth in California Government Code Sections 12750 - 12763 and its successors, the terms of which are incorporated herein by reference;

B. Review and accept the Community Action Plan and the accompanying Community Needs Assessment as outlined in the Community Service Block Grant Organizational Standards and create a citizen awareness of these needs;

C. Fulfill all duties and meet all requirements as detailed in the annual Community Service Block Grant Organizational Standards report;

D. Identify social welfare needs of the Berkeley community and create awareness of these needs among residents;

E. Identify social welfare standards made available by other social welfare agencies and provide the public information with reference to such services;

F. Encourage the development of programs designed to improve the social welfare of the Berkeley community;

G. Render advice and assistance to other City boards and commissions, to City departments and to private agencies on matters of social welfare;

H. Advise the City Council on all matters affecting the social welfare of the community and its citizens;

I. Perform such other functions and duties as may be directed by the City Council or prescribed or authorized by any ordinance of the City;

J. In prescribing the above duties and functions of the commission, it is not the intent of the Council to duplicate or overlap the functions, duties or responsibilities heretofore or hereafter assigned to any other City board or commission or to a City department. As to such functions or responsibilities above set forth which are partially or wholly the responsibilities of another board or commission or of a department of the City, the commission will render assistance and advice to such board, commission or department as may be requested.

### **Section 3.78.090 Elections for low-income representatives**

Low-income representatives shall be chosen in accordance with democratic selection procedures adequate to assure that they represent the low-income persons in the geographic service area of the City of Berkeley. Among the selection procedures which

may be employed, as determined by the commission secretary, either separately or in combination, are the following: (a) nominations and elections, whether within the neighborhoods, community, or service area as a whole; (b) selection at a meeting or conference of low-income persons such that the date, time, and place of such a meeting or conference have been adequately publicized; (c) selection of a small area basis (such as a neighborhood) of representatives who in turn select members for the commission; (d) the commission may recognize a group(s) or organization(s) composed primarily of low-income persons and representing the interest of the low-income population, whose membership may select one or more representatives to the commission. Persons at or below the federal poverty line shall be permitted to vote in the selection processes. The commission may request a waiver for the federal poverty line eligibility in order to establish residency or other relevant criteria as a basis for eligibility, which will be provided to and reviewed by the commission secretary for CSBG compliance

**Section 3.78.100 Bylaws of the Human Welfare and Community Action Commission is hereby created.**

The commission shall prepare and maintain bylaws for the community action agency. These bylaws and amendments thereto shall be consistent with City, state and federal policies governing community action agencies.

Section 2. 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.





JASON WIMBLEY  
ACTING DIRECTOR

State of California-Health and Human Services Agency  
**DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT**  
 2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833  
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GAVIN NEWSOM  
GOVERNOR

February 16, 2024

Via email to [mernst@cityofberkeley.info](mailto:mernst@cityofberkeley.info) and [marybehmsteinberg@gmail.com](mailto:marybehmsteinberg@gmail.com) and  
 Overnight Mail to:

Margot Ernst, Manager of Housing and Community Services  
 City of Berkeley  
 Health, Housing, and Community Services Department  
 Housing and Community Services Division  
 2180 Milvia Street, 2nd Floor  
 Berkeley, CA 94704

Mary Behm-Steinberg, Board Chair  
 City of Berkeley  
 Health, Housing, and Community Services Department  
 Housing and Community Services Division  
 1447 Kains Avenue  
 Berkeley, CA 94702

**RE: 45-Day Notice of Anticipated High-Risk Designation Based on The City of Berkeley's Failure to Maintain Required CSBG Tripartite Board Structure and Failure to Administer Programs Through Tripartite Board; Required Response and Corrective Action Due by March 18, 2024.**

Dear Director Ernst:

This letter constitutes written notice that the California Department of Community Services and Development (CSD) intends to designate the City of Berkeley (Berkeley) as a "high risk" Community Services Block Grant (CSBG) agency within forty-five (45) days from the date of this letter, unless there is satisfactory compliance with the requirements specified herein.

The contemplated action is precipitated by the ongoing critical vacancies in Berkeley's CSBG Tripartite Board (Board). Pursuant to the Community Services Block Grant Act, public organizations must administer the CSBG program through a tripartite board or

other approved mechanism.<sup>1</sup> Without sufficient board members who are actively participating, Berkeley cannot administer the CSBG program as required by federal law.

Accordingly, CSD intends to designate the City of Berkeley as a high-risk agency pursuant to Section II of this letter, *Basis for High-Risk Designation*, unless the Required Response(s)/Corrective Action(s) in Section III of this letter, are addressed to CSD's satisfaction by **April 1, 2024**.

**I. Legal Authority**

**A. Federal Law Requires Establishing and Maintaining a Tripartite Board to Administer CSBG Program**

Pursuant to Title 42, US Code Section 9910 of the Community Services Block Grant Act, entities must administer CSBG through tripartite boards as follows:

*In order for a public organization to be considered to be an eligible entity. . . the entity shall administer the community services block grant program through –*

*(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than 1/3 of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members—*

*(A) are representative of low-income individuals and families in the neighborhood served;*

*(B) reside in the neighborhood served; and*

*(C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this subtitle [42 USCS §§ 9901 et seq.]; or*

*(2) another mechanism specified by the State to assure decisionmaking and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this subtitle [42 USCS §§ 9901 et seq.].<sup>2</sup>*

"The term 'eligible entity' means an entity. . . that has a tripartite board" or other approved mechanism.<sup>3</sup> As defined by the federal statute, an entity must not only maintain board membership with the specified composition, but the board members must actively participate in the development, planning, implementation, and evaluation of the CSBG program. An entity that does not satisfy each requirement is not considered an eligible entity for administering the CSBG program.

The U.S. Department of Health and Human Services issued CSBG Information Memorandum (IM) #82, *Tripartite Boards*, further clarifies the composition, role, and responsibilities of local community action agency tripartite boards. In accordance with

<sup>1</sup> 42 USC § 9902(1)(A); 42 USC § 9910(b); CSBG Information Memorandum #82.

<sup>2</sup> 42 USC § 9910(b).

<sup>3</sup> 42 USC § 9902(1)(A).

CSBG IM #82, the public organization's tripartite board must be comprised of the following sectors:

1. Representatives of Low-Income Individuals and Families: "[A] minimum of one-third of tripartite board membership be comprised of representatives of low income individuals and families who reside in areas served";
2. Elected Officials and their Representatives: "One-third must be elected officials, holding office at their time of selection, or their representatives."
3. Major Groups and Interests in the Community Served: "The remaining board members must be chosen from 'business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.'"<sup>4</sup>

Tripartite boards maintain responsibility for oversight and governance of community action agencies and must fully participate in the development, planning, implementation, and evaluation of CSBG-funded programs.<sup>5</sup>

#### **B. State Law Requires Entities to Maintain a Tripartite Board to Administer CSBG Program**

State law requires an eligible entity (or community action agency) to maintain a tripartite board. Where a local political subdivision or government is designated as a community action agency, it must establish a tripartite board that fully participates in the development, planning, implementation, and evaluation of the CSBG-funded programs. A community action agency shall fulfill all the requirements, including having a tripartite board structure (i.e., 1/3 of the members are elected officials or their representatives, at least 1/3 are democratically selected, and the remainder are members reflecting the interests of the community)<sup>6</sup> responsible for appointing the executive director and determining major personnel, fiscal, and program policies.<sup>7</sup> The community action agency must adopt procedures to provide a continuing and effective mechanism for securing broad community involvement in CSBG programs and ensuring board members can participate in program decisions.<sup>8</sup>

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<sup>4</sup> CSBG IM #82, Question 1 – *What does the law require?*

<sup>5</sup> See CSBG IM #82, Question 4. Oversight and governance duties consists of the following: i) program development (including conducting a needs assessment and clarifying the agency mission); ii) planning (including long-range strategic planning, and annual planning); iii) implementation (board members have "fiduciary" responsibility for the overall operation, and members must carry out their duties as any "reasonably prudent person" which includes at a minimum, regular attendance at board and committee meetings; thorough familiarity with core agency information including agency bylaws and CSBG statutes and regulations; careful review of materials provided; decision-making based on sufficient information; ensuring that proper fiscal systems and controls are in place; and maintain knowledge of all major actions taken by the agency); and iv) evaluation (determine agency success by comparing nature and level of outcomes with expectations developed during the agency's planning cycle); see CSBG IM #82, Question 5. The Tripartite Board is charged with the responsibility for directly supervising the agency's Executive Director, recruiting and retaining Executive Directors, and holding this employee responsible for the agency's activities.

<sup>6</sup> Gov. Code § 12750-12751.

<sup>7</sup> Gov. Code § 12752.

<sup>8</sup> Gov. Code § 12753(a).

### C. Remedies for Noncompliance

Berkeley is subject to federal and state statutes and regulations that govern funding status, contract administration, and agency designation, as well as applicable contract provisions regarding enforcement.<sup>9</sup>

Under Title 2 of the Code of Federal Regulations (CFR) Section 200.339, when a subgrantee fails to comply with federal statutes, regulations, or the terms and conditions of a federal award, the awarding agency may impose additional conditions, ranging from requiring additional monitoring, technical or management assistance, or additional prior approvals.<sup>10</sup> If the awarding agency determines noncompliance cannot be remedied by imposing additional conditions, it may take actions ranging from suspending or terminating the award, to initiating suspension or debarment.<sup>11</sup>

The Department is the awarding agency charged with ensuring that all federal requirements of the CSBG Act are met for its subgrantees.<sup>12</sup> These duties include establishing requirements that community action agencies select tripartite boards with democratically selected individuals, establishing standards for the termination or reduction of financial assistance to an eligible entity, or revocation of the designation of a community action agency for failure to comply with the laws and regulations applicable to the CSBG program.<sup>13</sup> To this end, CSBG contracts require subgrantees to administer funds through a tripartite board.<sup>14</sup> The Department's CSBG contracts set forth Remedies for noncompliance. Under Article 8.7 of the CSBG contract, CSD may impose high risk status on a contractor due to material breach<sup>15</sup> or a failure to fulfill contractual obligations and impose special conditions or sanctions. Where an agency materially fails to comply with the contract terms and conditions, CSD may suspend the contract(s) in whole or in part.<sup>16</sup>

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<sup>9</sup> See 42 USC §§ 9901 et seq.; 45 CFR Part 75; Cal. Gov. Code §§ 12085 et seq.; Cal. Gov. Code §§ 16366.1 et seq.; 22 CCR §§ 100601 et seq.; and 22 CCR §§ 100800 et seq.

<sup>10</sup> 2 CFR § 200.339; see 2 CFR § 200.208.

<sup>11</sup> 2 CFR § 200.339.

<sup>12</sup> Gov. Code § 12780.

<sup>13</sup> Gov. Code § 12781(c)(5), (d)(3).

<sup>14</sup> See Definitions and Article 5.1.3.2 for tripartite board requirement; see also Articles 4.1.1.1, Article 4.1.3.

<sup>15</sup> *Material Breach* means any act or omission by Contractor that is in contravention or disregard of Contractor's duties and obligations under the terms of this Agreement and under applicable State and federal law, which act or omission: (a) constitutes fraud or gross negligence by Contractor or its agent(s); (b) is likely to result in significant waste and/or abuse of federal funds; (c) has a significant adverse impact on Contractor's ability to meet its administrative, financial, or programmatic duties and obligations over the term of the contract or a significant portion thereof; (d) violates or otherwise disregards significant program guidance and other requirements of the Federal Government, whether issued directly or through CSD; (e) may have serious adverse effects and consequences on the Contractor's customers, employees, subcontractors, creditors, suppliers, vendors, or other stakeholders; or (f) may otherwise significantly and adversely affect the viability, effectiveness, or integrity of the program. Article 8.7.2.

<sup>16</sup> 22 Cal. Code Regs. § 100780.

## II. Basis for High-Risk Designation

### A. Background of Berkeley's CSBG-Funded Programs

Berkeley uses CSBG funding to help support several programs, including health care services via Lifelong Medical, which provides screening services to the unhoused and low-income communities, and emergency disabled services via Easy Does It (EDI), which provides wheelchair adjustments, transportation services, and assigns an emergency attendant to Berkeley residents who are severely physically disabled. Currently, Berkeley has multiple open CSBG contracts with CSD. (Attachments 2 and 3). As a condition of funding and designation as a CSBG agency, Berkeley is required to meet all applicable federal and state requirements, including maintaining a tripartite board.

Berkeley has been out of compliance with the statutory tripartite board requirement since 2012. Most concerning is since 2012 to present day, the agency has never successfully seated its required full complement of Low-Income board representatives, thus limiting the voice and input of the City's most vulnerable population. In addition, Berkeley has consistently struggled with board member retention, reflected by board member departures every year, as presented in Attachment 8. These constant departures range from a low of at least 13% (in 2016) to a high of 93% (in 2023) of the board members leaving the board each year, which diminishes the board effectiveness and may indicate a lack of opportunity for the members to receive sufficient training, fully engage in the planning, evaluation, and advisory roles assigned to the tripartite board. Berkeley already received multiple opportunities for training, including: an annual monitoring webinar hosted by the CSD Field Operations Unit, one-on-one technical assistance by the CSD Field Representative, and one-on-one assistance from the California Community Action Partnership Association (CalCAPA) to assist with board recruitment. This problem has not been resolved, despite training opportunities provided by multiple parties.

### B. Agency Admission and Ongoing Inability to Maintain a Tripartite Board

Berkeley submitted a formal request to CalCAPA on May 27, 2022, for Training and Technical Assistance (T&TA) for aid in fulfilling all contractual requirements from CSD due to the number of vacancies in all sectors of the board, and the inability to determine which vacancy is assigned to what sector. (Attachment 4). CalCAPA provided T&TA as requested, including assisting Berkeley with recruitment strategies to fill vacancies in the Low Income sector. CSD issued a Notice of Delinquency to Berkeley on March 31, 2023, due to the lack of progress in filling crucial board vacancies despite technical assistance provided by CalCAPA and numerous required corrective actions dating back to 2012.<sup>17</sup> (Attachment 5). In response to CSD's Notice, Berkeley submitted a remediation plan on June 19, 2023, including proposed solutions and goals to fill board vacancies in all three sectors. (Attachment 6). Since submitting the remediation plan,

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<sup>17</sup> Berkeley's current bylaws call for a Tripartite Board of 15 members.



Berkeley has not only failed to fill its vacancies, but the agency lost all board members, except one, as identified in the most recently submitted Board Roster (CSD 188) received on November 1, 2023, with Berkeley's quarterly vacancy report which also confirmed Berkeley made no progress in filling the 14 board vacancies. (Attachment 7).

**C. CSD Determination of Berkeley's Noncompliance with Federal and State Requirements for Governing Board – Tripartite Structure and Active Participation/Administration**

As the awarding agency, CSD has determined that Berkeley, the subrecipient, is noncompliant with federal and state requirements for maintaining a functioning and governing Tripartite Board. Notably, the May 27, 2022, request for CalCAPA technical assistance reflects Berkeley's failure to understand federal and state requirements regarding the composition of its board. Without board members in position comprised of different sectors of the population, no tripartite board exists to perform the oversight and governance duties and assure effective planning, implementation and evaluation of Berkeley's CSBG program, as intended by CSBG laws and regulations and Berkeley's own bylaws. An ongoing inability to recruit and retain board members constitutes noncompliance with federal law and disqualifies Berkeley as an eligible entity for the receipt and administration of the CSBG grant.<sup>18</sup> Berkeley's noncompliance is documented in Monitoring Report #C-22-002, constitutes a breach of the requirements in the 2022 and 2023 CSBG annual contracts, a violation of the CSBG Act<sup>19</sup>, California Government Code § 12752.1, and Organizational Standard 5.5. (See Attachments 1, 2, & 3 for report C-22-002, 2022 Contract Narrative, and open 2023 Berkeley CSBG contracts).

Accordingly, Berkeley has failed to meet the federal and state requirements necessary to retain designation and receive CSBG funding. Based on this failure, CSD will seek to designate Berkeley as a high risk agency on **April 1, 2024**, unless Berkeley complies with the requirements set forth in this letter.

**III. Special Conditions**

To avoid a high-risk designation from CSD, Berkeley must comply with the following special contract conditions:

- **Required Response/Corrective Action 1:** Submit a written response of progress achieved regarding the "Action Steps" identified in Berkeley's response to delinquency submitted on June 19, 2023.
- **Required Response/Corrective Action 2:** Submit requests for T&TA support such as training specifically designed to help Public CAAs to properly seat the appropriate sectors of a tripartite board. CSD will make every effort to prioritize your T&TA requests.

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<sup>18</sup> 42 USC § 9910(b), 9902(1)(A).

<sup>19</sup> 42 USC § 9901 et seq.

- **Required Response/Corrective Action 3:** Provide substantiation that each newly seated board member completes required board training within six months of being seated to understand their role and fiduciary duty as a member of the tripartite board. Identify future or ongoing training(s), if any, scheduled for each new board member.
- **Required Response/Corrective Action 4:** Submit a detailed written workplan describing outreach efforts to remediate the lack of representation in the Low-Income sector and plans to recruit members in the Elected Officials (Public) and Major Community Groups (Private) sectors. This plan should describe:
  - a. Outreach efforts to identify and recruit from the low-income community.
  - b. The number of community members contacted to fill Private and Public seats.
  - c. The affirmative steps Berkeley is taking to maintain a fully functioning Tripartite board (e.g., retention strategies).
  - d. How Berkeley intends to complete the following actions, which can only be fulfilled by a Tripartite Board:
    - i. Review of the agency's mission statement;
    - ii. Participation in strategic planning and the community needs assessment;
    - iii. Receipt of strategic, organizational, and programmatic updates;
    - iv. Receipt of financial and audit reports; and
    - v. Participation in the CSBG budget process, as allowed by local government procedures.

If Berkeley wants to request an extension to respond to any of the Required Response/Corrective Action(s), please contact CSD in writing and identify: 1) the specific Required Response(s)/Corrective Action(s); 2) the reason for the extension; and 3) the amount of additional time needed, by **February 26, 2024**.

Alternatively, Berkeley may provide evidence disputing the bases in Section II and/or propose an alternative corrective action plan by notifying CSD of its intention to do so within ten days of the date of this letter or by **February 26, 2024**, and submitting the aforementioned evidence or alternative corrective action plan by **March 18, 2024**.

**Absent an extension granted by CSD, all responses to the Required Responses/Corrective Action Items must be submitted via email to your CSBG field representative, Jennifer (jennifer.milovina@csd.ca.gov) no later than March 18, 2024.**

#### **IV. Next Steps**

If Berkeley accepts the special conditions specified in this letter or proposes amendments or alterations to them, it shall advise CSD in writing within ten days from issuance of this letter, or by **February 26, 2024**, and submit evidence of completion of the Special Conditions by **March 18, 2024**.

CSD will reevaluate Berkeley's status within 45 days of this letter. If CSD determines Berkeley made significant progress to recruit new board members, implemented a plan to retain the board members, and improved its strategy to fill future board vacancies, CSD will reconsider the issuance of the high-risk designation. However, if Berkeley fails to show progress in these areas, fails to meet the obligations contained herein, submits an insufficient response, or fails to respond, a notice of high-risk designation will be issued on **April 1, 2024**. Further, if Berkeley cannot comply with its contractual obligations, stabilize its tripartite board membership, and implement corrective actions while on high-risk status, CSD may suspend or terminate the contracts listed in Attachment 3 of this letter, *Berkeley Open Service Contracts with CSD*, or pursue other available legal remedies.<sup>20</sup>

Should you need any further information about this matter, please contact CSD Deputy Director of Programs, Daphne Hunt, at (916) 291-8194 or [Daphne.Hunt@csd.ca.gov](mailto:Daphne.Hunt@csd.ca.gov).

Sincerely,

*Jason Wimbley*

JASON WIMBLEY  
Acting Director  
Department of Community Services and Development

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<sup>20</sup> If CSD seeks to suspend, pursuant to 22 CCR § 100780, Berkeley will have the right to submit written material or participate in an informal meeting to show good cause as to why the contracts should not be suspended. If CSD determines termination of funding is proper, Berkeley may request a hearing in accordance with 45 CFR § 96.92.



**Department of Community Services and Development  
Community Services Division  
Monitoring Report (rev. 2/2022)**

**Agency Information**

Agency Name: Berkeley Community Action Agency  
 Agency Type: Community Action Agency-Public  
 Report #: C-22-002  
 CSD/Field Representative: Jennifer Milovina  
 Date Report Completed: May 26, 2022

**Contracts Reviewed**

| Contract # | Program Term     | Amount       | Contract Type      |
|------------|------------------|--------------|--------------------|
| 20F-3640   | 3/27/20- 5/31/22 | \$373,097.00 | CSBG CARES         |
| 20F-3640   | 10/1/20- 5/31/22 | \$40,370.00  | CSBG CARES Disc    |
| 21F-4001   | 1/1/21- 5/31/22  | \$275,106.00 | Annual CSBG        |
| 21F-4403   | 6/1/21- 5/31/22  | \$28,250.00  | CSBG Discretionary |
| 22F-5001   | 1/1/22- 12/31/22 | \$274,202.00 | Annual CSBG        |

**Entrance Conference**

**Purpose of Visit**

The purpose of this review was to monitor statutory and contractual requirements under the Community Services Block Grant (CSBG) for financial accountability and programmatic compliance in accordance with Federal and State laws and the Department of Community Services Development (CSD) policy. Due to the pandemic and COVID-19 restrictions, the 2022 monitoring reviews were conducted virtually in accordance with CSD emergency monitoring procedures.

**Date of Virtual Entrance Conference**

May 5, 2022

**The following persons were present during the Entrance Conference:**

Margot Ernst, Executive Director  
 Mary-Claire Katz, Program Analyst  
 Joshua Oehler, Program Manager  
 Wingyin Wong, Fiscal Analyst  
 Jeffrey Glover, Fiscal Manager  
 Jennifer Milovina, Field Representative  
 Caleb Gendron, Field Representative,  
 Patrick Kane, Field Representative  
 Shiella Marie Rivera Flores, Field Representative

The following items were discussed:

- Virtual Monitoring Overview
- Expenditure Updates
- CSD Updates
- Upcoming Organizational Standards
- CSBG CARES Expenditure
- Board Composition

### **Administrative Review**

#### Board Composition

According to the agency's bylaws, dated July 21, 2010, the Tripartite Board should be composed of 15 members as follows: five (5) from the public sector, four (4) from the private sector, and six (6) from the low-income sector. The CSD 188 board roster dated January 14, 2022 indicates the board is currently comprised of seven (7) board members; five (5) from the public sector, zero (0) from the private sector, and two (2) from the low-income sector and contains eight (8) board vacancies as follows:

| Sector      | Date of Vacancy |
|-------------|-----------------|
| Low Income  | 11/2018         |
| *Low Income | 12/2020         |
| *Low Income | 10/2021         |
| *Low Income | 10/2021         |
| Public      | 4/2017          |
| *Public     | 8/2021          |
| *Public     | 10/2021         |
| *Public     | 12/2021         |

Desk Review C-21-002 assigned a Finding for long-term board vacancies in the Public Sector since 4/1/2017 and the Low-Income Sector since 11/1/2018 but were assigned an "Other" for board vacancies occurring within the pandemic period. Please see chart (above) for reference.

Given the vacancies from 11/2018 and 4/2017 remain, the corrective action requirements for long-term board vacancies occurring prior to the pandemic, including resolution criteria will be transferred and tracked under this report, C-22-002. The agency has submitted vacancy updates to CSD as required by Desk Review C-21-002.

A board consisting of 15 members must have exactly five (5) Public sector members and at least five (5) members from the Low-Income sector. At the time of this review, the agency had an incorrect amount of Public and Private sector seats which is not compliant with 42 U.S.C. § 9910. Please reference CPN-C-21-01 and the flexibilities it allows regarding board composition.



*\*Due to the impact of COVID-19, CSD acknowledges the increased difficulty experienced by agencies attempting to recruit board /council members during the pandemic. Board vacancies occurring during the period from March 2020 through December 2022, will be documented in this report but no new corrective action designation (Observation or Finding) will be assigned. Agencies will be required to submit updates as detailed in the corrective action section below. Starting with the 2023 monitoring session, CSD will return to the regular board/council vacancy monitoring practices. To the extent possible, CSD encourages agencies to engage in recruitment activities to fill vacancies during this period.*

**Board Minutes**

Berkeley Community Action Agency submits approved board minutes to (CSD) no later than thirty days after the minutes are approved as required in the annual contract agreement (2022 CSBG Contract Agreement Article 4.1.4).

A review of the board minutes from November 17, 2021, January 19, 2022, and February 16, 2022 indicates that a quorum was met for each meeting. The information contained within the board minutes provided the Field Representative with sufficient information to determine the board’s involvement in the development, planning, implementation, and evaluation of the program.

**Fiscal Review**

**Advance Payment**

The Field Representative was presented documentation that demonstrates the agency does retain the advance payment in an interest-bearing account. (45CFR 75.305 (b)(8))

**Expenditure Reporting**

A review of the Expenditure Activity Reporting System (EARS) monthly reports indicated the expenditure reports have not been submitted in a timely manner.

Expenditure activity reports were submitted after the due date for the following contract(s):

| Contract # | Expenditure Report Period | Due Date | Certify date | No of days late |
|------------|---------------------------|----------|--------------|-----------------|
| 22F-5001   | 2/1/22-2/28/22            | 3/25/22  | 4/1/22       | 7               |
| 22F-5001   | 3/1/22-3/31/22            | 4/25/22  | 5/5/22       | 10              |

Please note: CPN-C-22-01 published March 7, 2022, requires all expenditure activity reports be submitted on or before the 25th calendar day following the reporting period. (CPN-C-22-01, 1.0 CSBG Reimbursement Policies and Procedures, 1.1 Financial Reporting - EARS Invoice Due Date).

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Expenditure Progress              | During the review, the Field Representative met with Berkeley Representative, Jeffery Glover, (Fiscal Manager), to discuss the status of all open contracts as follows:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| CSBG Contract 21F-4001            | A review of EARS reports from January 2021 through December 2021 indicates 100% or \$275,106.00 of \$275,106.00 has been expended.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| CSBG Disc Contract 21F-4403       | A review of EARS reports from June 2021 through March 2022 indicates 0% or \$0 of \$28,250.00 has been expended. The agency it is not on track to fully expend the contract funds by the end of the contract term. Contract term ends 5/31/2022. Berkeley has not been receiving expenditure submissions from their Discretionary subcontractor. According to Berkeley's Program Analyst, the individual responsible for errors in the reporting of expenditures is no longer an employee with WeHOPE and a new fiscal representative has taken over. Berkeley explained that the new WeHOPE employee has reconciled the missing expenses and they are confident they will fully expend their full contract allocation by May 31, 2022. |
| CSBG CARES Contract 20F-3640      | A review of EARS reports from March 2020 through March 2022 indicates 58.13% or \$216,894.13 of \$373,097.00 has been expended. According to the agency it is on track to fully expend the contract funds by the end of the contract term. Agency has requested an extension through 8/31/2022 and is submitting expenditures according to the spending plan submitted to CSD on 5/5/2022.                                                                                                                                                                                                                                                                                                                                              |
| CSBG CARES Disc Contract 20F-3646 | A review of EARS reports from October 2020 through March 2022 indicates 0% or \$0 of \$40,370.00 has been expended. According to Berkeley's Fiscal Manager, it is not on track to fully expend the contract funds by the end of the contract term. Agency has requested an extension through 8/31/2022 and is submitting expenditures according to the spending plan submitted to CSD on 5/5/2022.                                                                                                                                                                                                                                                                                                                                      |
| CSBG Contract 22F-5001            | A review of EARS reports from January 2022 through March 2022 indicates 6.25% or \$17,132.94 of \$274,202.00 has been expended. According to the agency it is on track to fully expend the contract funds by the end of the contract term. According to the most recent 3 year spending trend report released in April; Berkeley's spending level is within the 15% threshold of their historical spending practices.                                                                                                                                                                                                                                                                                                                   |
| Line-Item Expenditure Review      | <i>Note: Due to the COVID-19 pandemic and the Program flexibilities afforded by Informational Memorandum IM #154, CSD implemented a modified approach and reduced to the number of expenditure transaction that would normally be reviewed.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

The Field Representative sampled three (3) expenditure transactions from costs reported in EARS:

| Contract Number | Report Period    | Section (Program/Admin) | Line Item                         | Amount     |
|-----------------|------------------|-------------------------|-----------------------------------|------------|
| 21F-4001        | 10/1/21-10/31/21 | Program                 | Subcontractor/Consultant Services | \$5698.76  |
| 20F-3640        | 11/1/21-11/30/21 | Program                 | Subcontractor/Consultant Services | \$412.44   |
| 20F-3640        | 10/1/21-10/31/21 | Program                 | Subcontractor/Consultant Services | \$4,110.00 |

The Field Representative reviewed the general ledger, subcontractor invoices, agency invoices, check copies and bank statements and verified the documentation supported the transactions sampled from expenditures reported in (EARS).

Equipment Validation Review

Not Applicable

### **Programmatic Review**

Program Reports

A review of the most recent CSBG Annual Report Modules 2 – 4 indicate the reports have been submitted timely by the agency in accordance with the annual CSBG Contract Agreement Article 7.3.4.

Program Performance

A review of the agency's most recent CSBG Annual Report Modules 2 – 4 shows that the agency achieved the following results:

| Family Domains (Module 4)              | Indicator                                                                                            | Target | Actual |
|----------------------------------------|------------------------------------------------------------------------------------------------------|--------|--------|
| Health and Social/Behavior Development | FNPI 5b. The number of individuals who demonstrated improved physical health and well-being.         | 1200   | 476    |
| Health and Social/Behavior Development | FNPI 5g. The number of individuals with disabilities who maintained an independent living situation. | 50     | 258    |

Performance Target Accuracy

Agency Explanation FNPI 5b: Agency achieved less than 80% of their projected target. The agency explained that this measures LifeLong patients with a diagnosis of hypertension who have demonstrated improved health by having a blood pressure reading equal or less than 140/90, representing a normal blood pressure. With the onset of COVID-19, collecting and recording blood pressure had been a challenge, hence the smaller reported numbers. Currently, LifeLong is using a hybrid model of in-person and virtual telehealth appointments to patients. Due to the high risk for COVID-19 among older adults, LifeLong continues to monitor patients closely and only requires in-person appointments if absolutely necessary.

Agency Explanation FNPI 5g: Agency achieved higher than 120% of their projected target. The need for this service increased greatly due to the larger number of seniors and disabled individuals requiring assistance during the pandemic.

Organizational Standards Review  The agency certified their 2021 Organizational Standards Assessment score is 96%. They have a TAP in Vision and Direction - Category 4: Organizational Leadership. The agency is actively recruiting to fill the vacant seats on their board.

Agency was reminded CSD has ended the administrative relief related to agency Organizational Standards compliance which had been in effect for 2020 and 2021. As a result, all agencies are required to submit updated Organizational Standards documentation in eGov by August 31, 2022. To ensure agency staff is in the strongest position to effectively complete the Organizational Standards process, CSD recommends relevant agency staff attend the upcoming Organizational Standards training hosted by CalCAPA.

Subcontractor Review The Field Representative in accordance with the 2022 CSBG Contract, (Article 4, section 4.21.2) assessed the contractor requirements, which include verification of the Excluded Parties List System (EPLS), submission of the CSD 163 form, Monitoring Policy, Monitoring Reports/Reviews, and a Procurement Policy. The assessment determined that the agency is in compliance.

Child Support The Field Representative determined the agency does not have a written referral policy in place to the local Department of Child Support Services. (Title 42 of the U.S.C. Section 9919 (b)).

Site Visits *Due to COVID-19 CSD did not conduct an agency site visit.*

Client File Review *Note: Due to the COVID 19 pandemic and the Program flexibilities afforded by Informational Memorandum IM #154, CSD implemented a modified approach and reduced the number of client files that would normally be reviewed.*

The Field Representative conducted a client file review of two (2) clients who received services as reported in the National Performance Indicators. The review was a sampling of the clients served for Indicators: FNPI 5b. The number of individuals who demonstrated improved physical health and well-being, and FNPI 5g. The number of individuals with disabilities who maintained an independent living situation. The client files contained documentation which verified the outcomes reported in the 2021 Annual Report were met. The client files contained applicable documentation to demonstrate the clients met the income eligibility requirements for services.

Safeguard of client files

Due to COVID-19 CSD did not conduct an agency site visit. CSD accepts the 2021 results for Organization Standard 8.13, "The Organization has a written policy in place for record retention and destruction" as sufficient verification for this item.

Organization Standard 8.13 was "met" for this review period.

**CSBG CARES Activities**

Two (2) line items were sampled from CARES expenditure submissions to complete this review to satisfy the Quarterly Reconciliation for Quarter 1 of 2022. The expenditures sampled are from Quarter 4 of 2021 since no recent expenditures had been submitted at the time of the initial request. No Issues were discovered during the review of the following expenditures:

**CSBG CARES Quarterly Fiscal Reviews**

| Contract Number | Report Period    | Section (Program/ Admin) | Line Item                          | Amount     |
|-----------------|------------------|--------------------------|------------------------------------|------------|
| 20F-3640        | 11/1/21-11/30/21 | Program                  | Subcontractor/ Consultant Services | \$412.44   |
| 20F-3640        | 10/1/21-10/31/21 | Program                  | Subcontractor/ Consultant Services | \$4,110.00 |

**CSBG CARES Client File Review**

| Family Domains (Module 4)                        | Indicator                                                             | Target | Actual |
|--------------------------------------------------|-----------------------------------------------------------------------|--------|--------|
| FNPI 5. Health and Social/Behavioral Development | SRV 500. Hygiene Facility Utilizations (e.g. showers, toilets, sinks) |        | 121    |

The Field Representative conducted a client file review of 1 client who received services as reported in the National Performance Indicators. The review was a sampling of the clients served for Service Indicator SRV 500. Hygiene Facility Utilizations (e.g., showers, toilets, sinks). The client file contained applicable documentation to demonstrate the clients met the



income eligibility requirements for services. The client files contained documentation verifying the services were provided.

### **Exit Conference**

Date of Exit Conference (Phone Call)

May 10, 2022

The following persons were present during the Exit Conference:

Mary-Claire Katz, Program Analyst  
Jennifer Milovina, Field Representative

The following items were discussed:

- Highlights of Review
- Monitoring Timeline
- Board Composition
- Subcontractor Monitoring Reports

Finding(s)

#### **Finding(s):**

##### **Finding (1): Board Composition**

The CSD 188 board roster dated January 14, 2022 indicates the board is currently comprised of seven (7) board members; five (5) from the public sector, zero (0) from the private sector, and two (2) from the low-income sector and contains eight (8) board vacancies.

A board consisting of 15 members must have exactly five (5) Public sector members and at least five (5) members from the Low-Income sector. At the time of this review, the agency had an incorrect amount of Public and Private sector seats which is not compliant with 42 U.S.C. § 9910.

##### **Corrective Action (1):**

To ensure the board configuration aligns with agency by-laws and state regulations, The City of Berkeley must provide a report to CSD describing their efforts to correctly configure board membership. The City of Berkeley will complete a new CSD 188 Board Roster with the correct division of members for the Private and Public Sectors.

##### **Response/Resolution Due Date (1):**

An updated board roster (CSD 188) and a report of the efforts being taken by Berkeley to correctly configure the Board are due according to the schedule below. (This schedule follows the current timeframe for vacancy reports)

- June 30, 2022- first report due
- December 30, 2022- resolution date

##### **Finding (2): Long Term Board Vacancies:**

The City of Berkeley has two long-term board vacancies. One in the Public Sector since 4/1/2017 and one in the Low-Income Sector since 11/1/2018.

##### **Corrective Action (2):**

For long-term board vacancies (vacant seat(s) for more than 12 months prior to March 27, 2020), Agencies will retain their assigned corrective action designation. The corrective action requirements for long-term board vacancies occurring prior to the pandemic, including resolution criteria will be transferred and tracked under this report, C-22-002.

**Response/Resolution Due Date (2):**

Berkeley will continue to submit updates to CSD for all board vacancies according to the schedule below if the vacancies persist:

- June 30, 2022
- December 30, 2022

Observation(s)

**Observation(s):**

The City of Berkeley does not have a child support referral policy. A written child support referral policy helps educate CAA staff on their responsibilities to provide the child support referrals and helps establish the CAA's compliance with the referral requirement identified in Title 42 of the U.S.C. Section 9919(b)

Berkeley submitted a draft for what they hope to adopt as their Child Support Referral policy during their next scheduled Board meeting taking place on May 18, 2022.

**Corrective Action:**

The agency will complete and submit a draft of their policy regarding child support referrals. To help facilitate this corrective action the Field Representative submitted examples of other CAA's Child Support Referral Policies as well as sharing the CAPLAW Q&A on Child Support Referrals released in 2014.

**Response/Resolution Due Date:**

The agency will submit the approved written policy to CSD no later than:

- June 30, 2022

Recommendation(s)

Not Applicable

Other: Board Vacancies:

The board roster dated January 14, 2022, indicates there are currently 8 board vacancies. Due to the impact of COVID-19, CSD acknowledges the increased difficulty experienced by agencies attempting to recruit board /council members during the pandemic, Board vacancies occurring during the period from March 2020 through December 2022, will be documented in this report but no new corrective action designation (Observation or Finding) will be assigned.

**Response/Resolution Due Date:**

The City of Berkeley will continue to provide updates detailing the recruitment efforts to fill Board vacancies. To ensure the importance of this activity, Berkeley’s board minutes should reflect board activities to fill the vacant board seats. The next updates are due to CSD by the following dates:

- June 30, 2022
- December 31, 2022

Please note: new board members are required to complete orientation within six months of being seated per Organizational Standard Category 5 (Vision and Direction) Standard 5.7

|                                  |                                                                                                                                                                                                                                    |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Technical Training Assistance(s) | On May 26, 2022, the Field Representative sent a formal referral (CSD 332) to CalCAPA on behalf of Berkeley to obtain T/TA assistance regarding board vacancy recruitment to assist in filling their 8 identified board vacancies. |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*CSD may request additional information related to meeting/resolving Findings addressed in this report.  
Unresolved Findings may result in additional monitoring or a High Risk designation.*

# ATTACHMENT 2

STATE OF CALIFORNIA  
**AGREEMENT SUMMARY**  
 STD. 215 (Rev. 08/2017)

|                                     |                              |
|-------------------------------------|------------------------------|
| AGREEMENT NUMBER<br><b>22F-5001</b> | AMENDMENT NUMBER<br><b>0</b> |
|-------------------------------------|------------------------------|

CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED

|                                                                                      |                                                              |                                      |  |
|--------------------------------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------|--|
| 1. CONTRACTOR'S NAME<br>Berkeley Community Action Agency                             |                                                              | 2. FEDERAL I.D. NUMBER<br>94-6000299 |  |
| 3. AGENCY TRANSMITTING AGREEMENT<br>Department of Community Services and Development | 4. DIVISION, BUREAU, OR OTHER UNIT<br>Contract Services Unit | 5. AGENCY BILLING CODE<br>031150     |  |
| 6a. CONTRACT ANALYST NAME<br>Shirley Prasad                                          | 6b. EMAIL<br>Shirley.Prasad@csd.ca.gov                       | 6c. PHONE NUMBER<br>916-576-4354     |  |

7. HAS YOUR AGENCY CONTRACTED FOR THESE SERVICES BEFORE?  
 NO                       YES (If yes, enter prior contractor name and Agreement Number)                      Community Services Block Grant (CSBG) under a DGS Master Exemption

8. BRIEF DESCRIPTION OF SERVICES - LIMIT 72 CHARACTERS INCLUDING PUNCTUATION AND SPACES  
 Provide CSBG services to low-income population of California

9. AGREEMENT OUTLINE (Include reason for Agreement: Identify specific problem, administrative requirement, program need, or other circumstances making the Agreement necessary; include special or unusual terms and conditions.)  
 Contractor agrees to continue to provide services and activities to eligible participants residing in Contractor's assigned service area, pursuant to California Government Code Section 12725 et seq., and 42 United States Code (USC) 9901 et., as amended, the Community Services Block Grant Act.

10. PAYMENT TERMS (More than one may apply.)

|                                                     |                                                           |                                                                            |                                           |
|-----------------------------------------------------|-----------------------------------------------------------|----------------------------------------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> MONTHLY FLAT RATE          | <input type="checkbox"/> QUARTERLY                        | <input type="checkbox"/> ONE-TIME PAYMENT                                  | <input type="checkbox"/> PROGRESS PAYMENT |
| <input type="checkbox"/> ITEMIZED INVOICE           | <input type="checkbox"/> WITHHOLD _____ %                 | <input type="checkbox"/> ADVANCE PAYMENT NOT TO EXCEED \$ _____ or _____ % |                                           |
| <input type="checkbox"/> REIMBURSEMENT/REVENUE      |                                                           |                                                                            |                                           |
| <input checked="" type="checkbox"/> OTHER (Explain) | Reimbursement based upon expenditure and activity reports |                                                                            |                                           |

11. PROJECTED EXPENDITURES

| FUND TITLE | ITEM               | F.Y.  | CHAPTER | STATUTE | PROJECTED EXPENDITURES        |
|------------|--------------------|-------|---------|---------|-------------------------------|
| F.T.F.     | 4700-101-0890-4185 | 21/22 | 21      | 2021    | \$ 274,202.00                 |
|            |                    |       |         |         | AGREEMENT TOTAL \$ 274,202.00 |

|                                     |                                            |
|-------------------------------------|--------------------------------------------|
| OBJECT CODE      GRANTS/SUBVENTIONS | AGREEMENT TOTAL                            |
| OPTIONAL USE      40122             | AMOUNT ENCUMBERED BY THIS DOCUMENT         |
|                                     | \$ 274,202.00                              |
|                                     | PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT |
|                                     | \$ 0.00                                    |
|                                     | TOTAL AMOUNT ENCUMBERED TO DATE            |
|                                     | \$ 274,202.00                              |

I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.

|                                |                                                         |                                                          |                          |
|--------------------------------|---------------------------------------------------------|----------------------------------------------------------|--------------------------|
| ACCOUNTING OFFICER'S SIGNATURE | DocuSigned by:<br><i>Lois Hullum</i><br>00027AA13665476 | ACCOUNTING OFFICER'S NAME (Print or Type)<br>Lois Hullum | DATE SIGNED<br>11/9/2021 |
|--------------------------------|---------------------------------------------------------|----------------------------------------------------------|--------------------------|





STATE OF CALIFORNIA  
 AGREEMENT SUMMARY  
 STD. 215 (Rev. 08/2017)

|                              |                       |
|------------------------------|-----------------------|
| AGREEMENT NUMBER<br>22F-5001 | AMENDMENT NUMBER<br>0 |
|------------------------------|-----------------------|


JUSTIFICATION - CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 547.60

In the space provided below, the undersigned authorized state representative documents, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions set forth in Government Code section 19130(b). Please specify the applicable subsection. Attach extra pages if necessary.

Government Code 19130 (b) (3)

The services being performed under this contract do not cause any displacement of State workers. Federal and/or State law for this program specify the entities that are eligible for these funds.

*The undersigned represents that, based upon his or her personal knowledge, information or belief the above justification correctly reflects the reasons why the contract satisfies Government Code section 19130(b).*

|                                                                                                  |  |                                                                 |             |                           |
|--------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------|-------------|---------------------------|
| SIGNATURE<br> |  | NAME/TITLE (Type or Print)<br>Shirley Prasad / Contract Analyst |             | DATE SIGNED<br>11/12/2021 |
| PHONE NUMBER<br>916-576-4354                                                                     |  | STREET ADDRESS<br>2389 Gateway Oaks Drive, Suite 100            |             |                           |
| EMAIL<br>Shirley.Prasad@csd.ca.gov                                                               |  | CITY<br>Sacramento                                              | STATE<br>CA | ZIP<br>95833              |

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

|                                                                       |                                     |                                             |
|-----------------------------------------------------------------------|-------------------------------------|---------------------------------------------|
| <b>STANDARD AGREEMENT</b><br>STD. 213 (Rev 03/2019) CSD (Rev 07/2019) | AGREEMENT NUMBER<br><b>22F-5001</b> | PURCHASING AUTHORITY NUMBER (if applicable) |
|-----------------------------------------------------------------------|-------------------------------------|---------------------------------------------|

- This Agreement is entered into between the Contracting Agency and the Contractor named below  
 CONTRACTING AGENCY NAME  
**Department of Community Services and Development**  
 CONTRACTOR NAME  
**Berkeley Community Action Agency**
- The term of this Agreement is: **January 1, 2022 through May 31, 2023**
- The maximum amount of this Agreement is: **Total \$274,202.00**
- The parties agree to comply with the terms and conditions of the following exhibits that are by this reference made a part of the Agreement:  
 Preamble  
 Article 1 - Scope of Work  
 Article 2 - Contract, Administration, Procedure  
 Article 3 - Agreement Changes  
 Article 4 - Administrative Policies and Procedures  
 Article 5 - Program Budget Requirements and Payments  
 Article 6 - Financial Reporting  
 Article 7 - CSBG Terms, Conditions, Programmatic Provisions, and Reporting  
 Article 8 - Compliance Policies and Procedures  
 Article 9 - Federal and State Policies and Provisions  
 Definitions  
 Table of Forms and Attachments  
 These documents can be accessed at <https://providers.csd.ca.gov/>.

**IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO**

|                                                                                                                                                                    |  |                                         |                         |                                                                                        |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------|-------------------------|----------------------------------------------------------------------------------------|--|
| <b>CONTRACTOR</b>                                                                                                                                                  |  |                                         |                         | California<br>Department of General Services<br>Approval (or exemption, if applicable) |  |
| CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.)<br><b>Berkeley Community Action Agency</b>                           |  |                                         |                         |                                                                                        |  |
| CONTRACTOR BUSINESS ADDRESS, CITY, STATE, ZIP<br>2180 Milvia Street, 2nd Floor, Berkeley, CA 94704                                                                 |  |                                         |                         |                                                                                        |  |
| PRINTED NAME OF PERSON SIGNING<br>Dee Williams-Ridley                                                                                                              |  |                                         | TITLE<br>City Manager   |                                                                                        |  |
| CONTRACTOR AUTHORIZED SIGNATURE<br><br>DocuSigned by:<br>2F00000CA2E144E0       |  |                                         | DATE SIGNED<br>4/1/2022 |                                                                                        |  |
| <b>STATE OF CALIFORNIA</b>                                                                                                                                         |  |                                         |                         |                                                                                        |  |
| CONTRACTING AGENCY NAME<br><b>Department of Community Services and Development</b>                                                                                 |  |                                         |                         |                                                                                        |  |
| CONTRACTING AGENCY ADDRESS<br><b>2389 Gateway Oaks Drive, Suite 100</b>                                                                                            |  | CITY<br><b>Sacramento</b>               | STATE<br><b>CA</b>      | ZIP<br><b>95833</b>                                                                    |  |
| PRINTED NAME OF PERSON SIGNING<br><b>Chris Vail</b>                                                                                                                |  | TITLE<br><b>Chief Financial Officer</b> |                         |                                                                                        |  |
| CONTRACTING AGENCY AUTHORIZED SIGNATURE<br><br>DocuSigned by:<br>E330000A1A14E0 |  | DATE SIGNED<br>4/8/2022                 |                         |                                                                                        |  |

I hereby certify that all conditions for exemption have been complied with, and the document is exempt from the Department of General Services approval.

CS  
SP

**RESOLUTION NO. 70,155-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.

The foregoing Resolution was adopted by the Berkeley City Council on December 14, 2021 by the following vote:

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

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk





DAVID SCRIBNER  
DIRECTOR

State of California-Health and Human Services Agency  
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833  
Telephone: (916) 576-7109 | Fax: (916) 263-1406  
[www.csd.ca.gov](http://www.csd.ca.gov)



GAVIN NEWSOM  
GOVERNOR

November 3, 2021

Dear Executive Director:

The Department of Community Services and Development (CSD) is pleased to announce the release of the 2022 Community Services Block Grant (CSBG) contract. This cover letter provides information on the release of the CSBG grant award, contract period of performance, 2022 contract allocation, contract submission process, advance payments, and CSD's operation under Continuing Resolution (CR) (H.R. 5305) through December 3, 2021. Also included is information on the contract webinar and available resources on the Local Agencies Portal.

On October 29, 2021, CSD received California's Notice of Grant Award for \$16,379,862, which represents the first quarter release of 2022 CSBG Grant funds under the CR and the amount of the total contract allocation CSBG agencies are authorized to expend.

Attached is the 2022 CSBG contract and allocation spreadsheet for the 2022 program year. The allocation spreadsheet reflects a total 2022 CSBG contract allocation of \$65,519,449 and to be used for the purposes of contract planning and execution. When completing your CSBG fiscal data budget forms, please use the amount identified for your agency on the spreadsheet labeled "Total 2022 Contract."

The 2022 CSBG Contract term encompasses two distinct timeframes: a period of performance from January 1, 2022 through December 31, 2022, and an extension period from January 1, 2023 through May 31, 2023. Agencies are expected to expend 100 percent of their contract amount as referenced in Article 1.3 *Agreement Amount* of the 2022 CSBG contract by the end of the period of performance. The extension period is available upon CSD's approval for agencies who are unable to fully expend their contract amount during the period of performance. Requests for an extension must be submitted to CSD no later than November 16, 2022.

To facilitate the timely execution of your contract, please refer to the checklist for all required documents and due dates for contract deliverables. Agencies are required to execute the CSBG contract electronically via DocuSign. The contract packet, including all deliverables, must be completed and returned to CSD within 30 calendar days for private non-profit agencies and 45 calendar days for public agencies from the date of this contract release. Please refer to Article 2.1, *Required Documents*, for further information.



Executive Director  
Page 2

Please note that all contract documents and deliverables must be received and approved by CSD to receive an advance payment (also referred to as working capital advance) or expenditure reimbursement. Following the approval of contract deliverables, your agency's advance payment will be automatically authorized. If your agency declines to receive an advance payment, please submit a letter with the contract on your organization's letterhead, declining the advance payment.

### **Income Eligibility Threshold Federal Poverty Level (FPL)**

On October 19, 2021, OCS issued a Dear Colleague Letter advising of the CR signed into law by President Biden on September 30, 2021, that allocates CSBG funds and extends the authority for states to revise the eligibility income limit from 125 to 200 percent of the Federal Poverty Level (FPL) through December 3, 2021 for regular CSBG and CARES CSBG funding. Since the effective date of the 2022 CSBG contract is scheduled to occur after the CR deadline, CSD will issue separate guidance on applying the 200 percent of the FPL income eligibility threshold upon notification from OCS. Please note that with the passage of AB 135 (Chapter 85, Statutes of 2021), California's income eligibility threshold aligns with FPL; therefore, if an extension of the 200 percent of FPL is not approved, CSBG eligibility will revert to 125 percent of the FPL.

In mid-November 2021, a recorded contract webinar will be uploaded to CSD's Local Agencies Portal, which will provide guidance on important contract elements and aid the completion of required contract forms. In addition, a live question and answer session will be held in early December 2021 to respond to questions pertinent to the contract and execution process.

The red-lined version of the 2022 CSBG contract language is available on CSD's [Local Agencies Portal](#), under the CSBG Contracts tab. For any questions related to the contract submission, program requirements, or the contract webinar, please contact your designated Field Representative.

CSD looks forward to a continued productive partnership so that, together, we can effectively administer our critical programs and services designed to strengthen the economic security of vulnerable Californians.

Sincerely,



DAVID SCRIBNER  
Director  
Department of Community Services and Development

Attachments

## 2022 Community Services Block Grant (CSBG) Contract Checklist

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### General Comments and Requirements:

Please contact your assigned Field Operations Representative immediately for assistance if this Agreement requires corrections or if you have not yet completed the **DocuSign® Contact Update Form, (CSD 489)** with the California Department of Community Services and Development (CSD). To access the DocuSign form, click on the following link: <https://agencies.csd.ca.gov/home/CSBG/Pages/Forms.aspx#k=#s=16>

### Contract Packet:

The completed contract packet (list of documents/forms below) must be returned to CSD to execute the contract. Please use the checkboxes below to indicate the completed documents/forms are included:

- Submitted contract via DocuSign, which includes the signed Contract Face Sheet (STD 213)** with the name and title of the individual authorized to sign the Agreement
- Federal Funding Accountability and Transparency Act (FFATA) Form**
- Signed Lobbying Form**
- Current insurance documents or Self-Insurance Authority Certification** if not already on file with CSD. New evidence of insurance (ACORD 25) is required if current insurance expires during the contract term, or if the amount of insurance needs to be increased.
- Board resolution.** (Not applicable if a general board resolution has already been submitted and is not specific to the program, program year, or contract number, and does not contain any changes.)

**Please submit your completed contract packet within 30 days (45 days for public agencies) from the release of the contract via DocuSign.**

### Contract Deliverables:

The following **contract deliverables** (as applicable) must be completed and returned to your Field Representative within 30 calendar days for private non-profit agencies and 45 calendar days for public agencies from the date of this contract release. Please use the checkboxes below to indicate the completed documents/forms are included:

**425 Budget Series Forms**, ensuring all numbers match the Allocation Spreadsheet posted to the Local Agencies Portal at:

<https://agencies.csd.ca.gov/home/CSBG/Pages/Forms.aspx#k=#s=16>



- CSD 425.S CSBG Contract Budget Summary**





## 2022 Community Services Block Grant (CSBG) Contract Checklist

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- CSD 425.1.1 CSBG Budget Support Personnel Costs
- CSD 425.1.2 CSBG Budget Support Non-Personnel Costs
- CSD 425.1.3 CSBG Budget Support Other Agency Operating Funds
- CSD 425.1.4 CSBG Contract Budget Narrative
  
- CSBG Annual Work Plan (CSD 641)
- CSD 188 Agency Staff and Board Roster Form
- Board Meeting Schedule
- CSD Public Website Update Form 168
- Updated organizational bylaws. (Not applicable if no changes have occurred in the past calendar year.)
- Submit CSBG Annual Work Plan target projections for Modules 3 and 4 using CSD 641A and 641B (worksheets) available on the Local Agencies Portal.

Please return your completed **contract deliverables** (as applicable) via email to your assigned Field Operations Representative.

All forms are located on the **Forms** page under the **CSBG tab** of the CSD's Local Agencies Portal at:

<https://agencies.csd.ca.gov/home/CSBG/Pages/Forms.aspx#k=#s=16>

Please Note: Per Article 5.2, Advance Payments – Amount, Subsection 5.2.1, Contractor will not be issued an advance or reimbursed for any costs incurred until CSD approves all contract deliverables.

State of California  
 Department of Community Services and Development  
 2022 CSBG Allocation  
 Non-CAAs

**NATIVE AMERICAN INDIANS**

| Agency                                    | Contract Number                    | Total 2022 Contract | 25% Advance    |
|-------------------------------------------|------------------------------------|---------------------|----------------|
| Karuk Tribe (NAI-LPA) (Core Funding)      | 22F-5101                           | 42,000              | 0              |
| Karuk Tribe (NAI-LPA)                     | 22F-5102                           | 81,891              | 0              |
| NCIDC, Inc. (NAI-LPA) (Core Funding)      | 22F-5103                           | 122,000             | 30,500         |
| NCIDC, Inc./LIFE (NAI-LPA) (Core Funding) | <i>(Included with NCIDC below)</i> |                     |                |
| NCIDC, Inc. (NAI-LPA)                     | 22F-5104                           | 2,016,115           | 504,029        |
| Co of LA Workforce Dev, Aging & Com Svcs  | 22F-5105                           | 293,253             | 73,313         |
| <b>TOTAL</b>                              |                                    | <u>2,555,259</u>    | <u>607,842</u> |

**MIGRANT & SEASONAL FARMWORKERS**

| Agency                                   | Contract Number | Total 2022 Contract | 25% Advance      |
|------------------------------------------|-----------------|---------------------|------------------|
| California Human Development Corporation | 22F-5201        | 1,506,947           | 376,737          |
| Proteus, Inc.                            | 22F-5202        | 2,424,220           | 606,055          |
| Central Valley Opportunity Center, Inc.  | 22F-5203        | 589,675             | 147,419          |
| Center for Employment Training           | 22F-5204        | 2,031,103           | 507,776          |
| <b>TOTAL</b>                             |                 | <u>6,551,945</u>    | <u>1,637,987</u> |

**LIMITED PURPOSE AGENCIES  
 (DISCRETIONARY FUNDS)**

| Agency                                 | Contract Number | Total 2022 Contract | 25% Advance   |
|----------------------------------------|-----------------|---------------------|---------------|
| Community Design Center                | 22F-5301        | 174,886             | 43,722        |
| Del Norte Senior Center, Inc.          | 22F-5302        | 141,224             | 35,306        |
| Rural Community Assistance Corporation | 22F-5303        | 189,677             | 0             |
| <b>TOTAL</b>                           |                 | <u>505,787</u>      | <u>79,028</u> |

**Attachment A**  
**State of California**  
**Department of Community Services and Development**  
**2022 CSBG Allocation**  
**CAAs**

| County               | Agency                                                   | Contract Number | Total 2022 Contract | 25% Advance |
|----------------------|----------------------------------------------------------|-----------------|---------------------|-------------|
| Alameda              | Berkeley Community Action Agency                         | 22F-5001        | 274,202             | 68,551      |
| Alameda              | City of Oakland, Human Services Department               | 22F-5002        | 1,391,569           | 347,892     |
| Alpine               | Inyo Mono Advocates for Community Action, Inc.           | 22F-5003        | 1,344               | 336         |
| Amador/Tuolumne      | Amador-Tuolumne Community Action Agency                  | 22F-5004        | 268,469             | 67,117      |
| Butte                | Community Action Agency of Butte County, Inc.            | 22F-5005        | 371,228             | 92,807      |
| Calaveras/Mariposa   | Calaveras-Mariposa Community Action Agency               | 22F-5006        | 267,779             | 66,945      |
| Colusa               | SEE GLENN COUNTY                                         |                 |                     |             |
| Contra Costa         | Contra Costa Employment & Human Services Dept/CSB        | 22F-5007        | 873,970             | 218,493     |
| Del Norte            | Del Norte Senior Center, Inc.                            | 22F-5008        | 52,584              | 13,146      |
| El Dorado            | El Dorado County Health and Human Services Agency        | 22F-5009        | 293,811             | 0           |
| Fresno               | Fresno County Economic Opportunities Commission          | 22F-5010        | 1,905,650           | 476,413     |
| Glenn/Colusa/Trinity | Glenn County Community Action Department                 | 22F-5011        | 269,282             | 67,321      |
| Humboldt             | Redwood Community Action Agency                          | 22F-5012        | 276,589             | 69,147      |
| Imperial             | Campesinos Unidos, Inc.                                  | 22F-5013        | 321,966             | 80,492      |
| Inyo/Mono            | Inyo Mono Advocates for Community Action, Inc.           | 22F-5014        | 265,960             | 66,490      |
| Kern                 | Community Action Partnership of Kern                     | 22F-5015        | 1,530,496           | 382,624     |
| Kings                | Kings Community Action Organization, Inc.                | 22F-5016        | 309,457             | 0           |
| Lake/Mendocino       | North Coast Opportunities, Inc.                          | 22F-5017        | 561,536             | 140,384     |
| Lassen/Plumas/Sierra | Plumas County Community Development Commission           | 22F-5018        | 267,437             | 66,859      |
| Los Angeles          | Foothill Unity Center, Inc.                              | 22F-5019        | 331,185             | 82,796      |
| Los Angeles          | Long Beach Community Action Partnership                  | 22F-5020        | 808,733             | 202,183     |
| Los Angeles          | County of Los Angeles Dept. of Public Social Services    | 22F-5021        | 6,239,069           | 0           |
| Los Angeles          | City of Los Angeles Housing + Community Investment Dept. | 22F-5022        | 6,756,987           | 1,689,247   |
| Madera               | Community Action Partnership of Madera County, Inc.      | 22F-5023        | 286,748             | 71,687      |
| Marin                | Community Action Marin                                   | 22F-5024        | 277,112             | 69,278      |
| Mariposa             | SEE CALAVERAS COUNTY                                     |                 |                     |             |
| Mendocino            | SEE LAKE COUNTY                                          |                 |                     |             |
| Merced               | Merced County Community Action Agency                    | 22F-5025        | 513,137             | 128,284     |
| Modoc/Siskiyou       | Modoc-Siskiyou Community Action Agency                   | 22F-5026        | 269,282             | 67,321      |
| Mono                 | SEE INYO COUNTY                                          |                 |                     |             |
| Monterey             | Monterey County Community Action Partnership             | 22F-5027        | 514,145             | 128,536     |
| Napa                 | Community Action Napa Valley                             | 22F-5028        | 294,879             | 73,720      |
| Nevada               | Nevada County Dept. of Housing & Community Services      | 22F-5029        | 278,748             | 0           |
| Orange               | Community Action Partnership of Orange County            | 22F-5030        | 2,808,423           | 702,106     |



Attachment A

State of California  
 Department of Community Services and Development  
 2022 CSBG Allocation  
 CAAs

| County              | Agency                                                 | Contract Number | Total 2022 Contract | 25% Advance |
|---------------------|--------------------------------------------------------|-----------------|---------------------|-------------|
| Placer              | Project GO, Inc.                                       | 22F-5031        | 343,522             | 85,881      |
| Plumas              | SEE LASSEN COUNTY                                      |                 |                     |             |
| Riverside           | Community Action Partnership of Riverside County       | 22F-5032        | 2,672,059           | 668,015     |
| Sacramento          | Sacramento Employment and Training Agency              | 22F-5033        | 1,815,891           | 453,973     |
| San Benito          | San Benito County H&HSA, CS & WD                       | 22F-5034        | 275,298             | 0           |
| San Bernardino      | Community Action Partnership of San Bernardino County  | 22F-5035        | 2,766,917           | 691,729     |
| San Diego           | County of San Diego, H&HSA, CAP                        | 22F-5036        | 3,427,251           | 856,813     |
| San Francisco       | Urban Services YMCA                                    | 22F-5037        | 878,653             | 219,663     |
| San Joaquin         | San Joaquin County Dept. of Aging & Community Services | 22F-5038        | 1,001,853           | 0           |
| San Luis Obispo     | CAP of San Luis Obispo County, Inc.                    | 22F-5039        | 305,707             | 0           |
| San Mateo           | San Mateo County Human Services Agency                 | 22F-5040        | 465,921             | 0           |
| Santa Barbara       | Community Action Commission of Santa Barbara County    | 22F-5041        | 544,516             | 136,129     |
| Santa Clara         | Sacred Heart Community Service                         | 22F-5042        | 1,454,766           | 363,692     |
| Santa Cruz          | Community Action Board of Santa Cruz County, Inc.      | 22F-5043        | 298,195             | 74,549      |
| Shasta              | Shasta County Community Action Agency                  | 22F-5044        | 307,734             | 0           |
| Sierra              | SEE LASSEN COUNTY                                      |                 |                     |             |
| Siskiyou            | SEE MODOC COUNTY                                       |                 |                     |             |
| Solano              | Community Action Partnership of Solano, JPA            | 22F-5045        | 395,290             | 98,823      |
| Sonoma              | Community Action Partnership of Sonoma County          | 22F-5046        | 461,030             | 115,258     |
| Stanislaus          | Central Valley Opportunity Center, Inc.                | 22F-5047        | 787,054             | 196,764     |
| Sutter              | Sutter County Community Action Agency                  | 22F-5048        | 276,561             | 69,140      |
| Tehama              | Tehama County Community Action Agency                  | 22F-5049        | 293,419             | 73,355      |
| Trinity             | SEE GLENN COUNTY                                       |                 |                     |             |
| Tulare              | Community Services & Employment Training, Inc.         | 22F-5050        | 923,427             | 230,857     |
| Tuolumne            | SEE AMADOR COUNTY                                      |                 |                     |             |
| Ventura             | Community Action of Ventura County, Inc.               | 22F-5051        | 700,758             | 175,190     |
| Yolo                | County of Yolo Health and Human Services Agency        | 22F-5052        | 302,667             | 75,667      |
| Yuba                | Yuba County Community Services Commission              | 22F-5053        | 280,035             | 70,009      |
| TOTAL, all counties |                                                        |                 | 49,860,301          | 10,095,682  |



**CERTIFICATION REGARDING LOBBYING**

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
FAMILY SUPPORT ADMINISTRATION

PROGRAM: 2022 Community Services Block Grant (CSBG)

PERIOD: January 1, 2022 through May 31, 2023

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award document for subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

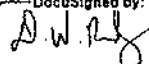
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

City Manager

Title

Berkeley Community Action Agency

Agency/Organization

DocuSigned by:  
  
5E09300CA2E54EC

Signature

4/1/2022

Date

### DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB  
0348-0046

Complete the form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure.)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>1. Type of Federal Action:</b></p> <p><input type="checkbox"/> a. contract<br/> <input type="checkbox"/> b. grant<br/> <input type="checkbox"/> c. cooperative agreement<br/> <input type="checkbox"/> d. loan<br/> <input type="checkbox"/> e. loan guarantee<br/> <input type="checkbox"/> f. loan insurance</p>                                                                                                                                                                                                                                                                                                          | <p><b>2. Status of Federal Action:</b></p> <p><input type="checkbox"/> a. bid/offer/application<br/> <input type="checkbox"/> b. initial award<br/> <input type="checkbox"/> c. post-award</p>                                                                                                                                                   | <p><b>3. Report Type:</b></p> <p><input type="checkbox"/> a. initial filing<br/> <input type="checkbox"/> b. material change</p> <p>For Material Change Only:<br/> year _____ quarter _____<br/> date of Last report _____</p> |
| <p><b>4. Name and Address of Reporting Entity:</b></p> <p><input type="checkbox"/> Prime                      <input type="checkbox"/> Subawardee<br/> Tier _____, if known:</p> <p>Congressional District, if known: _____</p>                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                  | <p><b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b></p> <p>Congressional District, if known: _____</p>                                                                                   |
| <p><b>6. Federal Department/Agency:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p><b>7. Federal Program Name/Description:</b></p> <p>CFDA Number, if applicable: _____</p>                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                |
| <p><b>8. Federal Action Number, if known:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p><b>9. Award Amount, if known:</b></p> <p>\$ _____</p>                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                |
| <p><b>10. a. Name address of Lobbying Entity (if individual, last name, first, name, MI):</b></p> <p>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                  | <p><b>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</b></p>                                                                                                    |
| <p><b>11. Amount of Payment (check all that apply):</b></p> <p>\$ _____                      <input type="checkbox"/> actual    <input type="checkbox"/> planned</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <p><b>13. Type of Payment (check all that apply):</b></p> <p><input type="checkbox"/> a. retainer<br/> <input type="checkbox"/> b. one-time fee<br/> <input type="checkbox"/> c. commission<br/> <input type="checkbox"/> d. contingent fee<br/> <input type="checkbox"/> e. deferred<br/> <input type="checkbox"/> f. other; specify: _____</p> |                                                                                                                                                                                                                                |
| <p><b>12. Form of Payment (check all that apply):</b></p> <p><input type="checkbox"/> a. cash<br/> <input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                |
| <p><b>14. Brief Description of Services Performed or to be Performed and Date(s) of Services, including officer(s), employee(s), or Member(s), contacted, for Payment indicated in Item 11:</b></p> <p>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                |
| <p><b>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes    <input type="checkbox"/> No</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                |
| <p><b>16. Information requested through this form is authorized by Title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1353. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty for not less than \$10,000 and not more than \$100,000 for each such failure.</b></p> |                                                                                                                                                                                                                                                                                                                                                  | <p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>                                                                                                                   |
| <p><b>Federal Use Only:</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                  | <p><b>Authorized for Local Reproductions Standard Form - LLL</b></p>                                                                                                                                                           |

**DISCLOSURE OF LOBBYING ACTIVITIES**  
CONTINUATION SHEET

Approved by OMB  
0348-0046

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

[Empty reporting area]

Authorized for Local Reproduction  
Standard Form - LLL-A

## INSTRUCTION FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and ZIP Code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full name of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budgets. Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.



Department of Community Services and Development  
CSD 279 (Rev. 1/2015)

**Community Services and Development  
Federal Funding Accountability and Transparency Act Report Form**

## Return with the Contract

As of October 1, 2010, CSD is required to comply with sub-award reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA). CSD must file the FFATA sub-award report by the end of the month following the month in which CSD awards funds greater than or equal to \$25,000 to any agency/service provider. In accordance with terms of the CSD agreement, agencies are required to provide the information requested in this form on or before the above due date. Failure to timely submit the completed form may result in "high-risk" designation and/or imposition of additional special terms and conditions on the agency's eligibility for CSD funds.

Please e-mail completed report forms to your respective program e-mail address listed below:

**Department of Energy Weatherization Assistance Program:** Wx@csd.ca.gov

**Community Services Block Grant:** CSBGDIV@csd.ca.gov

**Lead Hazard Control:** LEADGrants@csd.ca.gov

**Low Income Home Energy Assistance Program:** Wx@csd.ca.gov

**NOTE: If your agency receives multiple Community Services and Development (CSD) awards under various programs (i.e., Community Services Block Grant (CSBG), Weatherization Assistance Program (WX), Lead Hazard Control Program (LHCP), Low-Income Home Energy Assistance Program), complete a separate form for each program.**

### AGENCY/SUB-AWARDEE INFORMATION

|                                                                                           |                                                |                                        |                                 |                                  |
|-------------------------------------------------------------------------------------------|------------------------------------------------|----------------------------------------|---------------------------------|----------------------------------|
| Agency Name                                                                               | Berkeley Community Action Agency               |                                        |                                 |                                  |
| Program Type ( <i>check one</i> )                                                         | <input checked="" type="checkbox"/> CSBG       | <input type="checkbox"/> LEAD          | <input type="checkbox"/> LIHEAP | <input type="checkbox"/> DOE WAP |
| Contract #(s) ( <i>list all active contracts for the selected program</i> )               | 22F-5001                                       |                                        |                                 |                                  |
| Contract Period(s) ( <i>mm/dd/yy - mm/dd/yy</i> )                                         | January 1, 2022 -                              | May 31, 2023                           |                                 |                                  |
| Agency Unique Identifier (DUNS Number)                                                    | 76529924                                       |                                        |                                 |                                  |
| Agency Primary Contact Information ( <i>person responsible for completing this form</i> ) | Name:                                          | Margot Ernst                           |                                 |                                  |
|                                                                                           | Title                                          | Housing and Community Services Manager |                                 |                                  |
|                                                                                           | E-mail:                                        | MErnst@cityofberkeley.info             |                                 |                                  |
|                                                                                           | Phone:                                         | (510)981-5427                          |                                 |                                  |
| Location of Agency                                                                        | Mailing Address:                               | 2180 Milvia Street, 2nd Floor          |                                 |                                  |
|                                                                                           | State:                                         | CA                                     |                                 |                                  |
|                                                                                           | Zip + 4 digits ( <i>+4 digit is required</i> ) | 94704-1122                             |                                 |                                  |
|                                                                                           | U.S. Congressional District:                   | 9                                      |                                 |                                  |
|                                                                                           | State Assembly District:                       | 15                                     |                                 |                                  |
|                                                                                           | State Senate District:                         | 9                                      |                                 |                                  |

Department of Community Services and Development  
CSD 279 (Rev. 1/2015)

|                                                                                                                                                                                                                                                                                                  |                                                                                                                                                         |                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Place of Performance<br><i>(where program funds are primarily spent, if different from agency location above)</i>                                                                                                                                                                                | Street Address:                                                                                                                                         | 2180 Milvia Street |
|                                                                                                                                                                                                                                                                                                  | State:                                                                                                                                                  | CA                 |
|                                                                                                                                                                                                                                                                                                  | Zip + 4 digits (+4 digit is required)                                                                                                                   | 94704-1122         |
|                                                                                                                                                                                                                                                                                                  | U.S. Congressional District:                                                                                                                            | 9                  |
|                                                                                                                                                                                                                                                                                                  | State Assembly District:                                                                                                                                | 15                 |
|                                                                                                                                                                                                                                                                                                  | State Senate District:                                                                                                                                  | 9                  |
| Agency (Sub-Awardee) Executive Compensation Reporting                                                                                                                                                                                                                                            | Is more than 80% of your agency's annual gross revenue from the Federal government? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                    |
|                                                                                                                                                                                                                                                                                                  | <i>(If YES, continue to the next question. If NO, you are now finished completing this form.)</i>                                                       |                    |
|                                                                                                                                                                                                                                                                                                  | Does your agency's total annual federal funding exceed \$25 million? <input type="checkbox"/> Yes <input type="checkbox"/> No                           |                    |
|                                                                                                                                                                                                                                                                                                  | <i>(If YES, continue to the next question. If NO, you are now finished completing this form.)</i>                                                       |                    |
| Is your agency one of the entities described below? <input type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                     |                                                                                                                                                         |                    |
| <ul style="list-style-type: none"> <li>• A tax-exempt nonprofit entity required to file an annual Form 990 return with the Internal Revenue Service (IRS).</li> <li>• A publicly owned corporation required to file annual reports with the Securities and Exchange Commission (SEC).</li> </ul> |                                                                                                                                                         |                    |
| <i>(If NO, please list the names and compensation of your agency's top five highest compensated employees in the spaces below. If YES, you are now finished completing this form.)</i>                                                                                                           |                                                                                                                                                         |                    |
| Five Highest Compensated Executives/Employees                                                                                                                                                                                                                                                    | Name                                                                                                                                                    |                    |
|                                                                                                                                                                                                                                                                                                  | Compensation                                                                                                                                            |                    |
|                                                                                                                                                                                                                                                                                                  | Name                                                                                                                                                    |                    |
|                                                                                                                                                                                                                                                                                                  | Compensation                                                                                                                                            |                    |
|                                                                                                                                                                                                                                                                                                  | Name                                                                                                                                                    |                    |
|                                                                                                                                                                                                                                                                                                  | Compensation                                                                                                                                            |                    |
|                                                                                                                                                                                                                                                                                                  | Name                                                                                                                                                    |                    |
|                                                                                                                                                                                                                                                                                                  | Compensation                                                                                                                                            |                    |
|                                                                                                                                                                                                                                                                                                  | Name                                                                                                                                                    |                    |
|                                                                                                                                                                                                                                                                                                  | Compensation                                                                                                                                            |                    |

Department of Community Services and Development  
CSD 279 (Rev. 1/2015)

## Description of Information Requested

### Place of Performance

Address represents where the prime recipient is performing the majority of work funded. If the award funds multiple projects in different locations, then an address such as a city hall or county seat may be the most appropriate if it represent where the majority of funds are being used.

### Agency/Sub-Awardee Executive Compensation Reporting

Sub-awardees must report the total compensation and names of the top five executives in the organization if:

- a) More than 80% of the annual gross revenues are from the Federal government, and those revenues are greater than \$25 million annually; and
- b) Compensation information is not readily available through reporting to the IRS on a Form 990 (section 6104 of the Internal Revenue Code of 1986), or through reporting to Securities and Exchange Commission (SEC). SEC reporting is required for publicly owned/traded corporations.

Exemptions: Refer to 2 CFR

Part 170 for exemption <http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-part170.pdf> criteria.

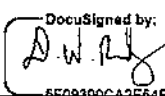
## Additional Resources

| Unique Identifier (DUNS Number)                                                                                                                                                                                                                                  |                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| The Data Universal Numbering System (DUNS) is the widely used system for identifying business entities on a location specific basis. The DUNS number remains with the company location to which it has been assigned even if it closes and goes out of business. | <a href="https://iupdate.dnb.com/i/update/companylookup.htm">https://iupdate.dnb.com/i/update/companylookup.htm</a>                                       |
| Zip Code + 4 Digit Zip                                                                                                                                                                                                                                           |                                                                                                                                                           |
| Use the United States Postal Service website to identify your +4 digit zip                                                                                                                                                                                       | <a href="https://tools.usps.com/go/ZipLookupActionInqut.action">https://tools.usps.com/go/ZipLookupActionInqut.action</a>                                 |
| Congressional District                                                                                                                                                                                                                                           |                                                                                                                                                           |
| Use the following sites to identify your congressional district                                                                                                                                                                                                  |                                                                                                                                                           |
| U.S. Congressional District                                                                                                                                                                                                                                      | <a href="http://www.house.gov/representatives/find/">http://www.house.gov/representatives/find/</a>                                                       |
| State Assembly and Senate District                                                                                                                                                                                                                               | <a href="http://findyourrep.legislature.ca.gov/">http://findyourrep.legislature.ca.gov/</a>                                                               |
| Reporting Requirement Regulations                                                                                                                                                                                                                                |                                                                                                                                                           |
| The Federal Funding Accountability and Transparency Act of 2006                                                                                                                                                                                                  | <a href="http://www.gpo.gov/fdsys/pkg/PLAW-109publ282/html/PLAW-109publ282.htm">http://www.gpo.gov/fdsys/pkg/PLAW-109publ282/html/PLAW-109publ282.htm</a> |
| FFATA Subaward Reporting System (FSRS) website                                                                                                                                                                                                                   | <a href="https://www.fsrs.gov/">https://www.fsrs.gov/</a>                                                                                                 |

CCC 04/2017

**CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

|                                                                                                                                                                                            |                                             |                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|----------------------------------------|
| <i>Contractor/Bidder Firm Name (Printed)</i><br>City of Berkeley                                                                                                                           |                                             | <i>Federal ID Number</i><br>94-6000299 |
| <i>By (Authorized Signature)</i><br><br><small>DocuSigned by:<br/>D.W. Ridley<br/>8E98306CA2F64EC</small> |                                             |                                        |
| <i>Printed Name and Title of Person Signing</i><br>Dee Williams-Ridley                                                                                                                     |                                             | Dee Williams-Ridley, City Manager      |
| <i>Date Executed</i><br>4/1/2022                                                                                                                                                           | <i>Executed in the County of</i><br>Alameda |                                        |

**CONTRACTOR CERTIFICATION CLAUSES**

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the



certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,



or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

SUBVENTION AGREEMENT

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**(2022 CSBG Agreement)****SUBVENTION AGREEMENT****PREAMBLE**

This subvention agreement, for the funding of Community Services Block Grant (CSBG) programs in 2022 ("Agreement"), is entered into between the Department of Community Services and Development ("CSD") and the contractor named on the face sheet of this Agreement, Form STD 213 ("Contractor"), and shall be enforceable on the date last signed.

NOW THEREFORE, in consideration of the promises and of the mutual agreements and covenants hereinafter set forth, the CSD and Contractor hereby agree as follows:

**ARTICLE 1 – SCOPE OF WORK****1.1 General**

Contractor shall administer and/or operate community-based programs designed to reduce poverty, revitalize low-income communities, and empower low-income families and individuals within Contractor's service area to achieve greater self-sufficiency, pursuant to Title 42 of the United States Code (USC) Sections 9901 et seq. (the Community Services Block Grant Act, as amended) and Government Code Sections 12085 et seq., as amended. Unless otherwise specified in the Contractor's Community Action Plan or elsewhere in this Agreement, Contractor shall make its services and activities available to the low-income community within its service area throughout the entire performance period of this Agreement. Contractor shall ensure that all services funded in whole or in part through this Agreement will support state and federal policies and goals of the CSBG Act as set forth in the above-referenced statutes. The CSBG Catalog of Federal Domestic Assistance number is 93.569. The award is made available through the United States Department of Health and Human Services (HHS).

**1.2 Agreement Term**

1.2.1 The term of this Agreement shall be as specified on the Agreement face sheet (STD 213) and is divided into two distinct sections: a period of performance from January 1, 2022 through December 31, 2022, and an extension period of January 1, 2023 through May 31, 2023. The Contractor is expected to expend 100 percent of the Agreement amount as referenced in Article 1.3 below, by the end of the period of performance. The extension period is available upon approval by CSD to contractors unable to fully expend the Agreement amount during the period of performance.

1.2.2 *Period of Performance.* The period of performance of this Agreement shall be from January 1, 2022 through December 31, 2022. One hundred percent of the Agreement amount specified in Article 1.3 below is expected to be fully expended by the end of the period of performance.

1.2.3 *Extension Period.* The extension period provided by this Agreement is available upon approval by CSD from January 1, 2023 through May 31, 2023 to those contractors who will not fully expend 100 percent of the Agreement amount by the

**(2022 CSBG Agreement)****SUBVENTION AGREEMENT**

end of the performance period. Requests for extensions must be received no later than November 16, 2022.

**1.3 Agreement Amount**

The maximum amount of this Agreement shall be as specified on the face sheet (STD 213) and is subject to adjustment(s), in accordance with the following terms:

- 1.3.1 The initial amount shall be based on the prior year's grant award of the federal Community Services Block Grant award.
- 1.3.2 Upon notification of the full federal fiscal year grant award amount from the HHS, CSD shall, if necessary, issue an amendment to this Agreement to increase or decrease the maximum amount.
- 1.3.3 If the full amount of the HHS CSBG grant award to CSD is not available for allocation, CSD will notify Contractor in writing of the amount of Contractor's allocation that is available for expenditure and shall advance funds in accordance with Article 5.2 of this Agreement, as appropriate. When additional funds are subsequently made available by HHS, CSD will notify Contractor of the total amount of funds that may be expended. Contractor may not expend funds in excess of the amount available and authorized by CSD for expenditure. Access to funding shall be conferred upon Contractor through written authorization by CSD, and amendment to this Agreement shall not be required for such purpose, except in cases where the maximum amount of the Agreement has been revised.
- 1.3.4 In the event HHS fails to provide sufficient funding to CSD to enable payment of Contractor's maximum amount of the Agreement prior to the end of the contract term, the contract amount shall be deemed to be reduced to the amount actually provided by HHS and the contract shall be closed on that basis without need for amendment.
- 1.3.5 This Agreement may include a specific amount allocated from the annual discretionary allocation. These funds may target a specific purpose and require a separate budget and work plan in accordance with Article 7.1 of this Agreement.

**1.4 Service Area**

The services shall be performed in the Contractor's service area as indicated on CSD's Public Website at <https://www.csd.ca.gov>.

**1.5 Legal Authorities – Program Requirements, Standards, and Guidance**

- 1.5.1 All services and activities are to be provided in accordance with all applicable federal, state, and local laws and regulations, and as those laws and regulations may be amended from time to time, including but not limited to, the following:

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- 1.5.1.1 The Community Services Block Grant Act, as amended, 42 USC § 9901 et seq., and 45 Code of Federal Regulations (CFR) Part 96;
  - 1.5.1.2 California laws and regulations applicable to CSBG Programs, Government Code (Gov. Code) § 12085 et seq., as amended, and Title 22, California Code of Regulations (Cal. Code Regs.) §§ 100601-100795;
  - 1.5.1.3 The Single Audit Act, 31 USC § 7501 et seq., and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, 45 CFR Part 75;
  - 1.5.1.4 California Civil Code §§ 1798 et seq., and the Federal Privacy Act of 1974 (5 USC § 552a); Requirements to Respond to Incidents Involving a Breach of Personal Information, Statewide Information Management Manual (SIMM) 5340-C, California Department of Technology; and
  - 1.5.1.5 California Contractor Certification Clauses 04/2017 (CCC 04/2017); and State contracting requirements, "General Terms and Conditions, GTC 04/2017". The provisions in their entirety, can be reviewed and downloaded at the [Department of General Services](https://www.dgs.ca.gov/) website at <https://www.dgs.ca.gov/>.
- 1.5.2 *Conflict of Laws.* Contractor shall comply with all of the requirements, standards, and guidelines contained in the authorities listed within this Agreement, as they may be amended from time to time, with respect to procurement requirements, administrative expenses, and other costs claimed under this Agreement, including those costs incurred pursuant to subcontracts executed by Contractor, notwithstanding any language contained in the following authorities that might otherwise exempt Contractor from their applicability. To the extent that the authorities directly conflict with any State law or regulation, or any provision of this Agreement, then that federal law or regulation shall apply, unless a provision of federal law applicable to block grants, such as 45 CFR § 96.30, specifically allows for the application of state law.
- 1.5.3 CSD shall provide Contractor with specific program guidance which shall be binding on the Contractor as a condition of the Contractor's eligibility to receive CSBG funds, provided:
- 1.5.3.1 That such guidance shall be issued by CSD in writing in the form of "CSD Program Notice (CPN) No. XX-XX" or "CSD Program Advisory (CPA) No. XX-XX";
  - 1.5.3.2 That such guidance shall be issued by CSD in the most timely and expeditious manner practicable;
  - 1.5.3.3 That such guidance shall be reasonably necessary to realize the intent and purposes of the CSBG Act;



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- 1.5.3.4 That major and material changes in program requirements, which substantially affect the Contractor's and/or CSD's ability to fulfill contractual obligations, or which otherwise create a substantial hardship on either the Contractor or CSD, shall be subject to an amendment to this Agreement;
- 1.5.3.5 That the parties' failure or inability to execute a mutually acceptable amendment within a period of time allowing the parties to reasonably comply with any major change(s) in CSBG requirements, shall result in this Agreement being without force and effect, subject only to such provisions contained herein as are intended to survive the Agreement in accordance with the express and implied provisions of applicable federal and state law;
- 1.5.3.6 That Contractor is duly informed of the risk of de-designation as an eligible entity, based on CSD's obligation to avoid/minimize interruption of CSBG-funded services in any part of the state, in the event that this Agreement terminates due to failure to agree to any necessary amendment; and
- 1.5.3.7 That upon CSD's or Contractor's good faith determination, delivered to the other party by written notice, that agreement to any necessary amendment cannot be achieved, then this contract shall be terminated, and any issues of eligible entity status addressed, in accordance with requirements of federal and state law and established CSD policy and procedure.
- 1.5.4 The federal and state laws, regulations, and other authorities referenced in this Agreement are hereby incorporated by reference. Copies may be accessed for reference on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

**ARTICLE 2 – CONTRACT ADMINISTRATION AND PROCEDURE****2.1 Required Documents**

- 2.1.1 Contractor shall provide the following documents, satisfactory to CSD in form and substance, together with a signed copy of this Agreement before CSD executes and returns the Agreement to Contractor for implementation. The following documents shall be returned to the Budget and Contracts Services Unit at [contracts2@csd.ca.gov](mailto:contracts2@csd.ca.gov) within 30 calendar days of receipt for private agencies or 45 calendar days of receipt for public agencies:
- 2.1.1.1 Federal Funding Accountability and Transparency Act Report (CSD 279);
- 2.1.1.2 Certification Regarding Lobbying/Disclosure of Lobbying Activities;
- 2.1.1.3 Contractor Certification Clauses (CCC 04/2017);

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- 2.1.1.4 Current Insurance or Self-Insurance Authority Certification; and
- 2.1.1.5 Board Resolution authorizing execution of this Agreement.
- 2.1.2 In addition to the documentation requirements set forth in Article 2.1.1, CSD's obligations under this Agreement are expressly contingent upon Contractor providing the supplemental documentation set forth below, and available on the Local Agencies Portal at <https://agencies.csd.ca.gov/>. The following documents shall be returned to the assigned CSD Field Representative within 30 calendar days of receipt for private agencies or 45 calendar days of receipt for public agencies, and shall each be subject to approval by CSD in form and substance:
  - 2.1.2.1 CSBG Contract Budget Summary (CSD 425.S);
  - 2.1.2.2 CSBG Budget Support Personnel Costs (CSD 425.1.1);
  - 2.1.2.3 CSBG Budget Support Non-Personnel Costs (CSD 425.1.2);
  - 2.1.2.4 CSBG Budget Support Other Agency Operating Funds (CSD 425.1.3);
  - 2.1.2.5 CSBG Contract Budget Narrative (CSD 425.1.4);
  - 2.1.2.6 CSBG Annual Report Work Plan (CSD 641)
  - 2.1.2.7 CSBG Annual Report Projections (CSD 641A and or CSD 641B)
  - 2.1.2.8 Agency Staff and Board Roster (CSD 188);
  - 2.1.2.9 Board Meeting Schedule; and
  - 2.1.2.10 Updated Organizational Bylaws (if applicable).
- 2.1.3 *Board Resolution.* Contractor must also submit a governing board resolution with a DocuSign signature or a wet signature of the board's authorized representative, identifying the individual(s) authorized to execute the 2022 CSBG Agreement and any amendments.
- 2.1.4 CSD shall maintain a certified date-stamped copy of this Agreement for inspection by Contractor during normal business hours.
- 2.1.5 This Agreement may not be changed or altered by any party, except by a formal written, fully executed amendment, or as provided in Article 1.5.3 with respect to program guidance, or as provided in Article 3 – Agreement Changes. Upon such amendment of any provision, the amended PDF version shall be date-stamped and posted to the Local Agencies Portal at <https://agencies.csd.ca.gov/> until such time as a subsequent agreement or amendment is executed by the parties.



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- 2.1.6 Contractors that are public or governmental entities with local provisions requiring receipt of a copy of all parts of this Agreement as a prerequisite to execution, as well as other contractors that make special arrangements with CSD, may receive copies for execution and retention.

### 2.2 Contractor's Option of Termination

- 2.2.1 Contractor may, at Contractor's sole option, elect to terminate this Agreement in lieu of adherence to the procedures set out in Article 1.5.3, should Contractor determine that any subsequent program guidance or proposed amendment to the contract is unjustifiably onerous or otherwise adverse to Contractor's legitimate business interests and ability to implement the contract in an effective and reasonable manner, provided:
- 2.2.1.1 Such notice of termination is in writing and will be effective upon receipt by CSD, delivered by U.S. Postal Service Certified Mail, Return Receipt Requested.
- 2.2.1.2 Notice contains a statement of the reasons for termination with reference to the specific provision(s) in the program guidance or proposed amendment in question.
- 2.2.2 Contractor shall be entitled to reimbursement for all allowable costs incurred prior to termination of the contract. Such reimbursement shall be in accordance with the program guidance and contract provisions in effect at the time the cost was incurred.
- 2.2.3 Contractor shall, within 60 calendar days of termination, close out the contract in accordance with contractual closeout procedures as provided in Article 6.2 – Close-Out Report.
- 2.2.4 By executing this Agreement, Contractor acknowledges and understands that voluntary termination prior to the end of the Agreement term may result in Contractor's permanent or temporary de-designation as an eligible entity, due to CSD's obligation to seek replacement CSBG Provider(s) in accordance with state and federal CSBG requirements.

### 2.3 Budget Contingencies

- 2.3.1 *State Budget Contingency.*
- 2.3.1.1 It is mutually agreed that if funds are not appropriated for implementation of CSBG programs through the state budget process or otherwise, whether in the current year and/or any subsequent year covered by this Agreement, this Agreement shall be of no further force and effect. Upon written notice to Contractor by CSD that no funds are available for contract implementation, the Agreement shall be terminated, and the State shall

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have no obligation to pay Contractor or to furnish other consideration under this Agreement and Contractor shall not be obligated for performance.

2.3.1.2 If CSBG funding for any fiscal year is reduced to such degree that CSD reasonably determines that the program cannot be implemented effectively, the State shall at its sole discretion have the option either to terminate this Agreement upon written notice to Contractor or, in the alternative, to offer and negotiate an amendment addressing the reduced funding. If the parties fail to reach agreement on such amendment, CSD may at its option give written notice of termination without further obligation by either party except for contract closeout obligations or final settlement.

2.3.1.3 Pursuant to Cal. Gov. Code §12785, up to 3.5 percent of the discretionary funds is allocated to restore funding to the prior year's funding level for CSBG eligible entities. In the event the appropriation of the federal CSBG funds are significantly reduced, the CSBG discretionary funding may not be sufficient to restore funding to the prior year's funding level.

2.3.2 *Federal Budget Contingency.*

2.3.2.1 The parties agree that because of uncertainty in the federal budget process, this Agreement may be executed before the availability and amounts of federal funding can be ascertained, in order to minimize delays in the provision of services and the distribution of funds. The parties further agree that the obligations of the parties under this Agreement are expressly contingent on adequate funding being made available to the state by the United States Government.

2.3.2.2 If federal funding for any fiscal year is reduced to such degree that CSD reasonably determines that the program cannot be implemented effectively, CSD shall at its sole discretion have the option either to terminate this Agreement upon written notice to Contractor or, in the alternative, to offer and negotiate an amendment addressing the reduced funding. If the parties fail to reach an agreement on such amendment, CSD may at its option give written notice of termination without further obligation by either party except for contract closeout obligations or final settlement.

2.3.2.3 If federal funding authorities condition funding on any obligations, restrictions, limitations, or conditions not existent when this Agreement was executed, this Agreement shall be amended by mutual agreement for compliance with such obligations, restrictions, limitations or conditions. Failure of the parties to reach agreement on such amendment shall render this Agreement without force and effect.

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### 2.4 Miscellaneous Provisions

- 2.4.1 *Assignment.* Neither this Agreement nor any of the rights, interests, or obligations under this Agreement shall be assigned by any party without the prior written consent of the other parties, except in the case where responsibility for program implementation and oversight may be transferred by the State to another State agency. In the event of such transfer, this Agreement is binding on the agency to which the program is assigned.
- 2.4.2 *Merger/Entire Agreement.* This Agreement (including the attachments, documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.
- 2.4.3 *Severability.* If any provision of this Agreement is found to be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement will not be in any way impaired and shall remain in full force and effect.
- 2.4.4 *Notices.* Each party to this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (“CUEA”) (Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. CSD encourages Contractor to adopt the DocuSign platform to facilitate the receipt of this Agreement. Unless otherwise provided herein, notice given by the parties shall be in writing, delivered personally, by United States mail, or by overnight delivery service (with confirmation). Certain reporting and other communications may be delivered electronically as specified by CSD or as is customary between the parties. Notice shall be delivered as follows:

To Contractor’s address of record; and

To CSD at:

California Department of Community Services and Development  
Field Operations Unit  
2389 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

## ARTICLE 3 – AGREEMENT CHANGES

### 3.1 Amendment

- 3.1.1 Formal amendments to this Agreement are required for changes to the term, amount, scope of work, and/or formal name changes. No amendment to this

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Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.

3.1.2 If Contractor intends to request a formal amendment to this Agreement, the request must be submitted on CSD Form 425b, *Justification for Contract Amendment/Modification*, no later than 45 calendar days prior to the expiration of the Agreement term.

3.1.3 *Extension Period.* If Contractor identifies that they will not fully expend 100 percent of the Agreement amount by the end of the period of performance, then Contractor shall submit written notification to their assigned Field Representative on CSD Form 425b, *Justification for Contract Amendment/Modification*, no later than 45 calendar days prior to the expiration of the period of performance or no later than November 16, 2022. Refer to Article 1.2.2 for period of performance. The CSD Form 425b shall include:

3.1.3.1 The reason(s) the Contractor will not fully expend 100 percent of the Agreement amount by the end of the performance period; and

3.1.3.2 The date (January 31, February 28, March 31, April 30, or May 31, 2023) in which the Contractor proposes to fully expend 100 percent of the Agreement amount.

3.1.4 CSD Form 425b is located on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

3.1.5 All requests for an Extension Period are subject to CSD approval.

**3.2 Minor Modification**

3.2.1 Any request(s) for modification to CSBG Fiscal Data or Work Plan documents must be submitted on CSD Form 425b, *Justification for Contract Amendment/Modification*, no later than 45 calendar days prior to the expiration date of this Agreement.

3.2.2 Any increase to out-of-state travel costs or equipment purchases will require a request for modification to the budget and must be submitted on CSD Form 425b, *Justification for Contract Amendment/Modification*.

**ARTICLE 4 - ADMINISTRATIVE POLICIES AND PROCEDURES****4.1 Board Roster, Bylaws, Resolution, and Minutes**

4.1.1 Concurrently with Contractor's submission of this Agreement, Contractor shall submit to CSD at [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov) and the Contractor's assigned Field Representative the following:

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- 4.1.1.1 Unless otherwise specified in 4.1.1.3 and 4.1.1.4 below, Contractor shall submit to CSD an Agency Staff and Board Roster form (CSD 188) of the tripartite board including the name and sector (i.e., low-income, public, private) of each board member, contact information for each member including an address at a location other than the office of the eligible entity, vacancy title, and date each board seat was vacated. Contractor is responsible to notify CSD of any changes to the tripartite board within 30 calendar days of such occurrence.
- 4.1.1.2 Contractor must provide updated organizational bylaws if any changes occurred within the past calendar year.
- 4.1.1.3 In the case of Native American Indian (NAI) Contractors that have established another mechanism (in consultation with CSD and subject to CSD approval) to ensure low-income individuals' participation in the management of programs funded by this Agreement, a current roster of the NAI governing council, commission, board, or other body responsible for administration of CSBG-funded programs, and the most recent version of the organizational bylaws. The roster shall include contact information for each member of the governing body at a location other than the office of the NAI Contractor and shall identify how low-income individuals are represented in the organization's governance. NAI Contractors shall also submit the most recent version of the organizational bylaws. NAI Contractor is responsible to notify CSD of any changes to its governing body within 30 calendar days of such occurrence.
- 4.1.1.4 In the case of Limited Purpose Agency (LPA) Contractors, a current roster of Contractor's board, including the name of each board member, contact information for each member at a location other than the office of the LPA, and the most recent version of the organizational bylaws. LPA Contractor is responsible to notify CSD of any changes to its board within 30 calendar days of such occurrence.
- 4.1.2 Contractor's current governing board must authorize the execution of this Agreement. Contractor has the option of demonstrating such authority by either: (a) direct signature of a board member having signing authority; or (b) any lawful delegation of such authority that is consistent with Contractor's bylaws.
- 4.1.3 Where Contractor elects to delegate signing authority to the chief executive officer (CEO) or executive director (ED), CSD will accept either a resolution specific to this Agreement or a resolution approved by the current governing board with general applicability to any CSD program contract or amendment. Where Contractor provides a general resolution, Contractor shall maintain documentation that the CEO or ED provided timely and effective communication of the execution and terms of this Agreement to the board. Either a specific or current general resolution must be on file with CSD prior to CSD's final execution of this Agreement.



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- 4.1.4 Contractor shall submit to CSD the approved minutes of regularly scheduled meetings of its tripartite board, LPA contractor's board, NAI governing council, commission, advisory board, or other body responsible for administration of CSBG-funded programs, no later than 30 calendar days after the minutes are approved. Contractor shall submit board meeting minutes to CSD at [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov) and to the Contractor's assigned Field Representative. Regularly scheduled board meetings shall be held in accordance with Contractor's bylaws.
- 4.1.5 In addition to the minutes referenced in Article 4.14, if Contractor's tripartite board is advisory to the elected officials of a local government, Contractor also shall submit to CSD the minutes from any meeting of the elected officials where matters relating to this Agreement are heard; including, but not limited to, discussions about or decisions affecting the Community Action program. Such minutes shall be submitted to CSD no later than 30 calendar days after the minutes are approved. Contractor shall submit board meeting minutes to CSD at [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov) and to the Contractor's assigned Field Representative.

**4.2 Training and Quarterly CSBG Service Provider (CSP) Meetings**

Contractors shall make every effort to attend all trainings and quarterly CSP meetings associated with CSD.

**4.3 Internal Control Certification**

Contractor shall establish and maintain a system of internal accounting and administrative control. This responsibility includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions. The system of internal accounting and administrative control shall be attested to within the Contractor's independent audit conducted pursuant to this Agreement, and include:

- 4.3.1 Segregation of duties appropriate to safeguard State assets;
- 4.3.2 Access to Contractor assets is limited to authorized personnel who require these assets in the performance of their assigned duties;
- 4.3.3 Authorization and recordkeeping procedures adequate to provide effective accounting controls over assets, liabilities, revenues, and expenditures;
- 4.3.4 Practices to be followed in performance of duties and functions;
- 4.3.5 Personnel of a quality commensurate with their responsibilities; and
- 4.3.6 Effective internal review.

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### 4.4 Record Retention Requirements

- 4.4.1 All records maintained by Contractor shall meet the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.361 through § 75.370).
- 4.4.2 Contractor shall maintain all records pertaining to this Agreement for a minimum of three years after submission of the final report. However, Contractor shall maintain applicable records until CSD resolves all audit and monitoring findings.
- 4.4.3 Contractor ensures that employee and applicant records shall be maintained in a confidential manner to ensure compliance with the Information Practices Act of 1977, as amended (Civ. Code §§ 1798 et seq.), and the Federal Privacy Act of 1974, as amended (5 USC § 552a).

### 4.5 Insurance Requirements

- 4.5.1 By execution of this Agreement, Contractor agrees that required insurance policies and bond shall be in effect at all times during the term of this Agreement.
- 4.5.2 Contractor shall provide CSD with written notice at least 30 calendar days prior to cancellation or reduction of insurance coverage to an amount less than that required in this Agreement.
- 4.5.3 Notices of Insurance must be submitted electronically via email to [BNCS@csd.ca.gov](mailto:BNCS@csd.ca.gov).
- 4.5.4 In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide within 30 calendar days prior to said expiration date, a new Certificate of Insurance (ACORD 25) evidencing insurance coverage as provided for herein for not less than the remainder of the term of this Agreement. The Certificate shall identify and name CSD as the Certificate Holder. New Certificates of Insurance will be reviewed for content and form by CSD.
- 4.5.5 In the event Contractor fails to maintain in effect at all times the specified insurance and bond coverage as herein provided, CSD may, in addition to any other available remedies it may have, suspend this Agreement.
- 4.5.6 With the exception of workers' compensation and fidelity bond, CSD shall be named as additional insured on all Certificates of Insurance required under this Agreement.
- 4.5.7 The issuance of other CSD contracts, to include any cash advances and reimbursement payments, to the Contractor shall be contingent upon required current insurance coverage being on file at CSD for this Agreement.

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4.5.8 Should Contractor utilize a subcontractor(s) to provide services under this Agreement, Contractor shall indemnify and hold the State harmless against any liability incurred by that subcontractor(s).

### 4.6 Specific Insurance Requirements

#### 4.6.1 *Self-Insurance.*

4.6.1.1 When Contractor is a self-insured governmental entity, CSD, upon satisfactory proof, may waive the appropriate insurance requirements. To qualify for a waiver, an appropriate county or city risk manager shall sign a certification that shall contain assurance of the adequacy of the governmental entity's ability to cover any potential losses under this Agreement.

4.6.1.2 Contractor shall specify in writing a list of which coverage(s) will be self-insured under this Agreement and shall list all applicable policy numbers, expiration dates, and coverage amounts.

4.6.1.3 In the event that the Contractor's self-insurance coverage does not contain any changes from the prior year, CSD will accept a certified letter signed by authorized personnel stating that no changes have occurred from last year. This letter is due at the time of Agreement execution or within 30 calendar days of expiration of insurance.

4.6.1.4 In lieu of providing certification of self-insurance, Contractor may provide proof of excess insurance coverage through an insurance carrier who is licensed to underwrite insurance in the State of California.

#### 4.6.2 *Workers' Compensation Insurance.*

4.6.2.1 Contractor shall have and maintain for the term of this Agreement workers' compensation insurance issued by an insurance carrier licensed to underwrite workers' compensation insurance in the State of California.

4.6.2.2 Contractor shall submit either an applicable Certificate of Insurance or a Certificate of Consent to Self-Insure issued by the Director of the California Department of Industrial Relations to CSD as evidence of compliance with the workers' compensation insurance requirement prior to issuance of an initial cash advance.

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### 4.6.3 *Commercial or Government Crime Coverage (Fidelity Bond).*

4.6.3.1 Contractor shall maintain a commercial crime policy. If Contractor is a public entity, Contractor shall maintain a government crime policy. The commercial crime policy or government crime policy (hereinafter "fidelity bond") shall include the following coverages or their substantial equivalents: Employee Dishonesty/Theft, Forgery or Alteration, and Computer Fraud.

4.6.3.2 Contractor's fidelity bond coverage limits shall not be less than a minimum amount of 4 percent of the total amount of consideration set forth under this Agreement.

4.6.3.3 Contractor shall submit an applicable Certificate of Insurance (ACORD 25) to CSD as evidence of compliance with the fidelity bond requirement prior to issuance of an initial cash advance.

### 4.6.4 *General Liability Insurance.*

4.6.4.1 Contractor shall have and maintain for the term of this Agreement general liability and property damage insurance for a combined single limit of not less than \$500,000 per occurrence.

4.6.4.2 Contractor shall submit to CSD an applicable Certificate of Insurance naming CSD as an additional insured, as evidence of compliance with the general liability insurance requirement prior to issuance of an initial cash advance.

### 4.6.5 *Vehicle Insurance.*

4.6.5.1 Contractor shall have and maintain for the term of this Agreement vehicle insurance in the amount of \$500,000 for each person and each accident for bodily injury and in the amount of \$500,000 for each person and each accident for property damage.

4.6.5.2 When employees use their own vehicles to perform duties within the scope of their employment, Contractor shall have and maintain for the term of this Agreement non-owned and hired automobile liability insurance in the amount of \$500,000 for each person and each accident for bodily injury and \$500,000 for each person and each accident for property damage. Driving to and from place of business is not within the scope of employment.

4.6.5.3 Contractor shall submit to CSD an applicable Certificate of Insurance naming CSD as an additional insured as evidence of compliance with the vehicle insurance requirement prior to issuance of an initial cash advance.

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### 4.7 System Security Requirements

Contractor shall, in cooperation with CSD, institute policies, processes, procedures, and security controls designed to ensure the security of data and to protect information in accordance with the Information Practices Act of 1977 (Civ. Code §§ 1798 et seq.), and such other State and federal laws and regulations as may apply. The parties hereto agree to requirements, obligations, and standards in accordance with regulations set in the State Administrative Manual (SAM) and Statewide Information Management Manual (SIMM). In the event there are different system security standards that may be applied to this Article, Contractor shall endeavor to use the strictest security standard that complies with state and federal requirements.

### 4.8 Services Offered

Data exchange between CSD and Contractor shall be handled through one of three methods: (1) a Contractor user must upload data files or perform data entry using credentials provided by CSD; or (2) utilize CSD web applications as configured by the Contractor technology vendor; or (3) via email using security protocols, such as encryption and redaction, for any sensitive data.

### 4.9 Data Protection

- 4.9.1 Data exchanged between CSD and Contractor must be limited to the data fields included on Data Transfer Rules documents posted on the Local Agencies Portal at <https://agencies.csd.ca.gov/>. No personal financial information (e.g., credit card, bank account numbers), shall be stored or exchanged in the data exchange sessions.
- 4.9.2 Data exchanged between CSD and Contractor must be limited to the data fields as requested within the web applications. No personal financial information, (e.g., credit card, bank account numbers), shall be stored or exchanged in the data exchange sessions.
- 4.9.3 Data exchanged between CSD and Contractor via email communication must have all personally identifiable information (PII) and other sensitive information redacted before the document is sent. Alternately, Contractor is to encrypt any attachments that have sensitive data using encryption tools and configurations as required by CSD.
- 4.9.4 Access to the above-mentioned data must only be given to authorized personnel to complete essential duties. Authorized personnel are to log into these systems using their own assigned credentials (i.e., no login account sharing). Upon departure of personnel with assigned credentials, the Contractor will remove the employee's access to the systems as soon as possible.

### 4.10 Contractor Systems Security

- 4.10.1 The physical location of the computing and data storage devices (e.g., servers) shall be within controlled access facilities. Individual users may not have access



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to the data except through their systems that are specifically credentialed for Contractor business. All access will be controlled by appropriate identification, authentication, and authorization methods to validate the approved users.

- 4.10.2 Standards for secure transmission may be accomplished through such means as certificates, secure socket layer, etc., and storage of the data with encryption, if applicable.
- 4.10.3 Contractor shall securely destruct data by sanitizing media prior to disposal.
- 4.10.4 Contractor shall keep security patches, anti-virus, and anti-malware software up to date on all systems on which data may be used.

**4.11 Trusted Behavior Expectations**

CSD's application system and users shall protect Contractor's application system/data, and the Contractor's application system and users shall protect CSD's application system/data, in accordance with the federal Privacy Act of 1974 (5 USC § 552a), Trade Secrets Act (18 USC § 1905) and Unauthorized Access to Stored Communications (18 USC § 2701). Technology and systems code and functionality are owned by the respective parties and may not be shared with anyone else or used without the written consent of the owner.

**4.12 Incident Reporting**

Any party discovering a security incident shall report it in accordance with its incident reporting procedures. Contractor shall, within 24 hours of discovery, report to CSD's Information Security Office at [ISO@csd.ca.gov](mailto:ISO@csd.ca.gov) any security incident contemplated herein. Examples include, but are not limited to, stolen or lost equipment, malware/ransomware detection, suspected hacking, etc. Contractor further agrees CSD shall have the right to participate in the investigation of a security incident involving CSD's data, and to cooperate fully with CSD and other relevant State entities during independent investigation of the security incident.

**4.13 Audit Trail Responsibilities**

Both parties are responsible for auditing application processes and user activities. Activities that will be recorded include event type, date and time of event, user identification, workstation identification, success or failure of access attempts, and actions taken by system administrators.

**4.14 Data Sharing Responsibilities**

Contractor shall ensure that all primary and delegated secondary organizations that share, exchange, or use personal, sensitive, or confidential data, pursuant to this Agreement and subcontracts issued by Contractor, shall adhere to these security requirements and applicable state and federal law, in addition to further data sharing guidance as may be issued by CSD during the term of this Agreement. If data sharing is accomplished via interconnectivity of an application system, then data sharing must be certified to be secure by both parties.

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- 4.15.1 Contractor's total travel and per diem costs for in-state and/or out-of-state shall be included in the Agreement Budget(s). Out-of-state travel costs that exceed the budgeted amount shall not be reimbursed without prior written authorization from CSD.
- 4.15.2 Contractor's employee travel costs and per diem reimbursement rates shall be reimbursed in accordance with Contractor's written policies and procedures not to exceed federal per diem requirements, and subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.474) or any amendments thereto, as applicable.
- 4.15.3 In the absence of a written travel reimbursement policy, federal per diem limits shall apply.

**4.16 Codes of Conduct**

- 4.16.1 *Written Standards.* Contractor shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts or subcontracts. No employee, officer, or agent of the Contractor shall participate in the selection, award, or administration of a subcontract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the Contractor shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors or parties to sub agreements. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipients.
- 4.16.2 *Self-Dealing Prohibited.* Contractor shall not pay federal funds received from CSD to any entity in which it (or one of its employees, officers, agents, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein) has an interest. As ownership constitutes a financial interest, Contractor shall not subcontract with a subsidiary. Similarly, Contractor shall not subcontract with an entity that employs or is about to employ any person described in 45 CFR § 75.327, or subsequent amendments to these requirements.

**4.17 Conflict of Interest**

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- 4.17.1 Contractor certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who performs any functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit that either directly or indirectly arises from this Agreement.
- 4.17.2 Contractor shall establish written safeguards to prohibit its employees or its officers from using their positions for a purpose that could result in private gain or that gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

### 4.18 Fraud, Waste, and Abuse

- 4.18.1 Contractor shall submit a written report to CSD within 45 days of incidents and activities, or suspected incidents and activities, involving fraud, waste, and abuse of CSBG funds by Contractor's employees, subcontractors, clients, or other parties affiliated with Contractor. Incidents and activities subject to reporting under this section include, but are not limited to, criminal acts and other violations of law constituting a misuse of funds that could result in cost disallowance. Contractor shall, in a timely manner, inform CSD of any reports or complaints submitted to law enforcement officials by Contractor, Contractor's employees, subcontractors, clients or other parties affiliated with Contractor, concerning the misuse of CSBG funds.
- 4.18.2 Contractor shall provide employees, subcontractors, clients, and other parties affiliated with the Contractor the information necessary to report fraud, waste, and abuse to the U.S. Department of Health and Human Services (HHS) Office of Inspector General Fraud hotline.

### 4.19 Procurement Standards

- 4.19.1 *Maintenance of Written Procurement Procedures.* Contractors shall administer this Agreement in accordance with all federal and State rules and regulations governing the CSBG program pertaining to procurement, including the Code of Federal Regulations Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards and amendments thereto, consistent with the general CFR compliance requirement in Article 1 of this Agreement. Contractors shall establish, maintain, and follow written procurement procedures consistent with the procurement standards in 45 CFR § 75.326 through § 75.340, or any subsequent amendments to these standards, and all additional provisions in this Agreement, including but not limited to a code of conduct for the award and administration of contracts and a procedure that provides, to the maximum extent practical, open and free competition.
- 4.19.2 *Eligible Bidders.* Contractor shall not permit any organizational conflicts of interest or noncompetitive practices that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective subcontractor performance

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and eliminate unfair competitive advantage, individuals, or firms that develop or draft specifications, requirements, statements of work, invitations for bids, and/or requests for proposals shall be excluded from competing for such procurements. Contractor shall award any subcontract to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to Contractor when considering price, quality, and other factors. Contractor's solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient.

- 4.19.3 Contractor assures that all supplies, materials, vehicles, equipment, or services purchased or leased with funds provided by this Agreement shall be used solely for the activities allowed under this Agreement, unless a fair market value for such use is charged to the benefiting program and credited to this Agreement.
- 4.19.4 Contractor shall provide for open and free competition and adequate cost analysis in all procurement transactions for each purchase order, lease, or subcontract for any articles, supplies, equipment, or services to be obtained from vendors or subcontractors.
- 4.19.5 *Non-Competitive Bid Justification.* If a service or product is of a unique nature, is in response to a public exigency or emergency, or more than one vendor/provider cannot reasonably be identified, Contractor shall maintain adequate justification for the absence of competitive bidding. "Adequate justification" must include, but is not limited to: (a) explanation of why the acquisition of goods or services is limited to one vendor or supplier; (b) description of sole vendor/supplier's unique qualifications to provide the goods or services in question; and (c) analysis of cost(s) to demonstrate reasonableness.
- 4.19.6 *CSD Lease/Purchase Pre-Approval Requirements.* To ensure that significant procurement transactions are conducted in an open and freely competitive manner, Contractor shall obtain prior written approval from CSD of capital expenditures for equipment with a unit cost of \$10,000 or more through the submission of a Request for Purchase/Lease Pre-Approval (form CSD 558) to CSD at least 15 calendar days prior to execution of the transaction. Transactions without CSD's prior written approval may be disallowed.
- 4.19.7 In all procurements, whether requiring CSD pre-approval or not, Contractor is solely responsible for maintenance of adequate procurement records demonstrating compliance with Federal and State requirements.
- 4.19.8 Noncompliance with any of the provisions in this section may result in a disallowance of the costs of the procurement transaction.

### 4.20 Use and Disposition of Vehicles and Equipment

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- 4.20.1 Use of CSBG-funded vehicles and equipment by other programs shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.320 and § 75.439).
- 4.20.1.1 Vehicles and equipment purchased with CSBG funds must be used by Contractor in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by CSBG funds, and Contractor must not encumber the property without prior approval of CSD. When no longer needed for the original program or project, the equipment may be used in other activities supported by CSD, in the following order of priority: (a) activities under a Federal award from CSD; then (b) activities under Federal awards from other HHS awarding agencies.
- 4.20.1.2 During the time that equipment is used on the project or program for which it was acquired, Contractor must also make the equipment available for use on other projects or programs currently or previously supported by the Federal Government. User fees should be considered, if appropriate, in accordance with federal regulations.
- 4.20.1.3 Any user fees shall be treated as “program income” to the CSBG program, as described in 45 CFR § 75.307.
- 4.20.1.4 Contractor may be compensated for the use of its buildings, capital improvements, equipment and software projects capitalized in accordance with generally accepted accounting principles (GAAP), provided they are used, needed in Contractor’s program activities, and properly allocated to the CSBG grant program. Such compensation must be made by allocating and computing depreciation in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.436).
- 4.20.2 Contractor shall comply with all equipment management requirements outlined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.320 (d)), including, but not limited to: (a) property records; (b) physical inventory of the property; (c) a control system to prevent loss, damage, or theft; (d) adequate maintenance procedures; and (e) proper sale procedures.
- 4.20.3 *Sale or Disposition of CSBG-Funded Vehicles and Equipment.*
- 4.20.3.1 If/when Contractor’s CSBG program(s) no longer need(s) items of equipment with a current per unit fair market value of \$5,000 or less, the equipment may be retained, sold, or otherwise disposed in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (45 CFR § 75.320).



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- 4.20.3.2 Conflict of interest policies and proper sales procedures should be followed to ensure that the best possible value and sale price is realized.
- 4.20.3.3 Pursuant to 45 CFR 75.307(d), (*see also* 45 CFR § 75.2 “Program Income”), sale proceeds from the sale of real property, equipment, or supplies are not program income. Such proceeds will be handled in accordance with the requirements of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards – *Subpart D–Post Federal Award Requirements* (including 45 CFR §§ 75.318, 75.320 and 75.321).

**4.21 Subcontracts**

- 4.21.1 Contractor may enter into subcontract(s) to perform part or all of the direct services covered under this Agreement. Prior to the commencement of subcontracted services under this Agreement, Contractor shall obtain board approval, to include but not be limited to, an assurance that the subcontractor agreement(s) shall comply with all terms, conditions, assurances, and certifications of this Agreement for the nonprofit and local governmental agencies performing services in the area(s) described in ARTICLE 1 - SCOPE OF WORK.
- 4.21.2 *Notification of Subcontract Execution.*
- 4.21.2.1 Contractor shall provide annual written notification to CSD within 60 calendar days of execution of each subcontractor agreement by completing the CSD 163 Subcontractor List (Form), which can be found on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.
- 4.21.2.2 This annual written notification shall also include a certification that, to the best of Contractor’s knowledge, the subcontractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency. For purposes of this certification of subcontractor eligibility, Contractor may rely on information provided via the Excluded Parties List System (EPLS), available at <https://www.sam.gov>.
- 4.21.2.3 If CSD determines that Contractor has executed a subcontract with an individual or entity listed as debarred, suspended, or otherwise ineligible on EPLS as of the effective start date of the subcontract, costs Contractor has incurred under the subcontract may be disallowed.
- 4.21.2.4 Contractor must ensure that funds expended pursuant to this Agreement are allowable and allocable and Contractor must adopt fiscal control and accounting procedures sufficient to enable the tracing of funds paid to any subcontractor to a level of expenditure adequate to establish that such funds have not been used in violation of this Agreement. Contractor shall ensure that any subcontracts under this Agreement

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contain all provisions necessary to ensure adequate substantiation and controls of the expenditure of such funds. Contractor may achieve this through detailed invoices, by periodic monitoring of subcontractor's program activities and fiscal accountability, by retaining a right of reasonable access to the subcontractor's books and records, or by any other method sufficient to meet the Contractor's responsibility to substantiate costs required by the Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards (45 CFR Part 75, Subpart E – Cost Principles).

- 4.21.3 Contractor is solely responsible for performance of the terms, conditions, assurances, and certifications of this Agreement, without recourse to the State, regarding the settlement and satisfaction of all contractual and administrative issues arising out of subcontract agreement(s) entered into in support of this Agreement, including disputes, claims, or other matters of a contractual nature as well as civil liability arising out of negligence or intentional misconduct of the subcontractor(s).
- 4.21.4 Nothing contained in this Agreement shall create any contractual relation between CSD and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. Contractor shall be liable for any acts and omissions of its subcontractors or of persons either directly or indirectly employed by subcontractors in violation of this Agreement. Contractor's obligation to pay subcontractor(s) is independent from CSD's obligation to make payments to Contractor. As a result, CSD shall have no obligation to pay or to enforce payment of any moneys to any subcontractor.
- 4.21.5 In the event CSD suspends, terminates, and/or makes changes to the services to be performed under this Agreement, Contractor shall notify all of its subcontractors in writing within five business days of receipt of notice of such action.

**ARTICLE 5 – PROGRAM BUDGET REQUIREMENTS AND PAYMENTS****5.1.1 Budget**

- 5.1.1 Concurrent with the submission of this Agreement, Contractor shall complete and submit the CSBG Fiscal Data forms [CSBG Contract Budget Summary (CSD 425.S), CSBG Budget Support - Personnel Costs (CSD 425.1.1), CSBG Budget Support - Non-Personnel Costs (CSD 425.1.2), CSBG Budget Support - Other Agency Operating Funds (CSD 425.1.3), and Budget Narrative (CSD 425.1.4)] attached to this Agreement. Contractor must include an itemized list identifying all other funding sources and amounts that make up the total annual operating budget of the community action program(s). Notwithstanding any other provision of this paragraph, Contractor may submit the itemized list of other funding sources by either of the following methods: (a) completing the attached form (CSD 425.1.3); or (b) submitting an internal annual budget document displaying the funding sources and their anticipated revenues.

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5.1.2 Contractor shall submit the CSBG Contract Budget Narrative form (CSD 425.1.4) with a justification for each projected line item reported on the CSD 425.1.1 and CSD 425.1.2.

5.1.3 *Administrative Expenses.* For the purpose of administrative expenditures, and pursuant to Cal. Gov. Code § 12781(D), Contractor shall use funds allocated under this Agreement in an amount not to exceed 12 percent of the total operating budget of its community action program(s) only, including other agency funds used to support CSBG. Contractor shall not use funds provided under this Agreement to cover administrative costs incurred in the Low-Income Home Energy Assistance Program (LIHEAP) and the Low Income Household Water Assistance Program (LIHWAP) in excess of the LIHEAP and LIHWAP contractual limitations by the Contractor's agency.

The budgets of the Contractor's community action programs, not the budget of the organization or the organizational division to which the community action programs are assigned, shall be used in calculating the amount of allowable administrative expenditures under this subparagraph.

5.1.3.1 A qualifying community action program is defined by Cal. Gov. Code § 12750(b) as:

A "locally planned and operated program comprising a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem."

5.1.3.2 Community action programs typically:

5.1.3.2.1 Maintain a tripartite board of directors or advisory board, as defined in Cal. Gov. Code § 12751, which in the case of governmental entities, has operational jurisdiction and oversight or advisory responsibility, and

5.1.3.2.2 Serve the purposes and goals of the federal Community Services Block Grant Act, Section 672 (42 USC § 9901) and Cal. Gov. Code § 12750 with particular reference to the reduction of the causes and conditions of poverty and persistent economic insecurity.

5.1.4 For purposes of allocating indirect costs, contractors may use current negotiated indirect cost rates that have been approved by a cognizant federal agency. Contractor shall submit a copy of the letter of approval from the cognizant agency which includes date of approval and amount of rate. In the absence of a negotiated indirect cost rate, Contractor may elect to use a 10 percent de minimis indirect cost rate as permitted under 45 CFR § 75.414(f) and 2 CFR § 200.414(f).

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5.1.5 *Budget modifications require pre-approval by CSD. No originally approved budget line item may be increased or decreased by more than 10 percent (10%) without prior CSD approval. Contractor shall submit a CSD 425b, Justification for Contract Amendment/Modification and updated budget forms to request a budget modification.*

### 5.2 Advance Payments – Amount

- 5.2.1 Upon approval of all contract deliverables, CSD shall, in accordance with Cal. Gov. Code § 12781(b), issue an advance payment to Contractor in an amount not to exceed 25 percent of the maximum amount of this Agreement.
- 5.2.2 If HIIS does not initially make enough funds available for CSD to pay the advance amount in full, CSD shall provide that portion of the advance amount that is available and pay the remaining portion(s) as funds become available.
- 5.2.3 If HIIS fails to provide sufficient funds to pay the authorized advance amount during the first six months of the contract term, Contractor will not be entitled to additional advance payments thereafter.
- 5.2.4 If, during the first six months of the contract term, CSD amends this Agreement to increase the maximum amount, CSD shall advance up to 25 percent of the increase to Contractor.
- 5.2.5 Contractors who opt not to receive an advance payment must notify CSD in writing on agency letterhead. Written notification must be submitted with the contract.

### 5.3 Advance Payments – Interest on Advances

- 5.3.1 Contractor must deposit all advances in an interest-bearing account in accordance with 45 CFR § 75.305(b)(8), unless one or more of the following apply:
- 5.3.1.1 Contractor receives less than \$120,000 in Federal awards per year.
- 5.3.1.2 The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on CSBG cash balances.
- 5.3.1.3 The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- 5.3.2 Interest earned amounts up to \$500 may be retained by Contractor for administrative expenses. Any additional interest earned on CSBG advance payments deposited in interest-bearing accounts must be remitted annually to the U.S. Department of Health and Human Services at:

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HHS Program Support Center  
P. O. Box 979132  
St. Louis, MO 63197

When returning interest, the refund should include: an explanation stating that the refund is for interest, the name of the awarding agency (CSD), and the grant number for which the interest was earned.

### 5.4 Advance Payments – Liquidation of Advance

- 5.4.1 Contractor may liquidate the advance at any time through offsets against CSD-approved reimbursement requests; however, CSD shall initiate repayment of the advance through offsets of approved expenditures when the Contractor has expended 75 percent of the maximum amount of this Agreement.
- 5.4.2 CSD-initiated repayments of the advance shall be accomplished through offsets against subsequent reimbursement of approved expenditures. CSD shall determine the amount to be offset against reimbursements by dividing the unpaid advance amount by the number of remaining expenditure reporting periods in the contract term. In the event that an expenditure request for a reporting period is less than the offset amount as determined above, the entire amount of the expenditure reimbursement request shall be applied against the remaining advance balance.

### 5.5 Advance Payments – Lien Rights

The State retains lien rights on all funds advanced.

### 5.6 Payments

- 5.6.1 Upon approval of Contractor deliverables CSD shall issue payments (as specified by Contractor on the CSD 425.S) to Contractor upon receipt and approval of a certified CSBG Expenditure/Activity Report. The report shall indicate the actual expenditures being billed to CSD for reimbursement for the specific report period.
- 5.6.2 Subsequent payments to Contractor shall be contingent on receipt and approval by CSD of the preceding Expenditure/Activity Report. If Contractor owes CSD any outstanding balance(s) for overpayments of any Agreement, current or previous, the balance(s) may be offset after notice to the Contractor providing an opportunity to present any valid objection to the offset.

## ARTICLE 6 – FINANCIAL REPORTING

### 6.1 Fiscal Reports



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6.1.1 Contractor shall request reimbursement for expenditures associated with all contract activities by reporting in the Expenditure Activity Reporting System (EARS) in accordance with CPN-C-19-001, *CSBG Financial Reporting Policies and Procedures*, which is available online at the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

6.1.2 Contractor shall submit adjustments in accordance with CPN-C-19-001.

**6.2 Close-Out Report**

6.2.1 Contractor shall complete and submit all CSD close-out forms when funds are 100 percent expended and according to the timelines below. The close out report must be submitted according to the following Period of Performance timeline:

- Period of Performance: January 1, 2022-December 31, 2022; Closeout due March 30, 2023 (90 calendar day closeout)
- Period of Performance: January 1, 2022-March 31, 2023; Closeout due June 30, 2023 (90 calendar day closeout)
- Period of Performance January 1, 2022-April 30, 2023; Closeout due June 30, 2023 (60 calendar day closeout)
- Period of Performance January 1, 2022-May 31, 2023; Closeout due June 30, 2023 (30 calendar day closeout)

6.2.2 The close-out report shall include the following forms: Close-Out Checklist and Certification of Documents Transmitted (CSD 715), Close-Out Program Income/Interest Earned Expenditure Report (CSD 715C), Close-Out Equipment Inventory Schedule (CSD 715D). The latest versions of the close-out forms are available on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

6.2.3 All close-out forms must be submitted electronically via email to [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov).

6.2.4 Final expenditures must be submitted by entry into EARS by June 20, 2023.

6.2.5 All adjustments must be submitted in accordance with CPN-C-19-001.

6.2.6 Subsequent payments for expenditures under any open CSBG contract and the issuance of other CSD contracts shall be contingent upon timely submission of the closeout report.

6.2.7 If CSD grants Contractor a term extension, regardless of the extension period, Contractor must submit all required close-out documents, without exception, no later than June 30, 2023.

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- 6.3.1 In accordance with requirements of the Federal Funding Accountability and Transparency Act (FFATA), contractors that: (a) are not required by the IRS to annually file a Form 990 federal return; (b) receive at least 80 percent of their annual gross revenues from federal sources (excluding any ARRA funds); and (c) have annual gross revenues totaling \$25,000,000.00 or more from federal grants, contracts, or other federal sources (excluding any ARRA funds), shall provide to CSD a current list of names and total compensation of contractor's top five highly compensated officials/employees. The list shall be provided with the executed copy of the Agreement returned to CSD. This requirement applies only to contractors that fall within all three categories set forth in this paragraph.
- 6.3.2 Pursuant to the FFATA reporting requirements (2 CFR Part 170), CSD is required to report information regarding contractors (sub-awardees) receiving CSBG funds. Contractor must complete CSD Form 279, located on the Local Agencies Portal at <https://agencies.csd.ca.gov/>, and return with the signed contract to ensure compliance.
- 6.3.3 CSD may issue guidance and/or Amendment(s) to this Agreement, establishing additional reporting requirements as necessary to ensure compliance with the FFATA or other Federal and State regulations, as applicable.

**ARTICLE 7 – CSBG TERMS, CONDITIONS, PROGRAMMATIC PROVISIONS, AND REPORTING****7.1 Fair Hearing for Denial of Client Benefits by Contractor**

- 7.1.1 Pursuant to 22 Cal. Code Regs. § 100751, as amended, Contractor shall advise individuals who have been denied assistance under a program funded by this Agreement of their right to appeal to CSD for a fair hearing within 20 calendar days from the denial of assistance.
- 7.1.2 Within five business days of receipt of an appeal from a client, CSD's Fair Hearings Officer shall schedule an administrative hearing to be conducted no later than 30 calendar days from the receipt of the request.
- 7.1.3 The client may withdraw the appeal/request for fair hearing at any time during the appeal process by providing written, email, or telephonic notice to CSD. Telephonic notice of withdrawal must be confirmed in writing by the Fair Hearings Officer or designated CSD staff.

**7.2 Organizational Standards**

To maintain compliance with the Office of Community Services' *CSBG IM 138: State Establishment of Organizational Standards for CSBG Eligible Entities*, each Contractor shall submit the Organizational Standards annually utilizing the eGov ReportHub system no later than



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August 31st. Contractor shall have until January 31, 2023 to address modification requests from CSD and/or complete the technical assistance plan(s) for unmet standards in the 2022 Organizational Standards Assessment.

**7.3 Programmatic Reporting**

- 7.3.1 *Submission of Required Plans/Reports.* Unless otherwise specified by the provisions of this Article, all Community Action Plans and reports required by the provisions of this Article shall be submitted via email to [CSBG.Div@csd.ca.gov](mailto:CSBG.Div@csd.ca.gov), no later than the date specified.
- 7.3.2 *Community Action Plan.* Contractor shall submit a Community Action Plan meeting the requirements of Government Code § 12747 no later than June 30th of every odd year, unless/until otherwise instructed by CSD.
- 7.3.3 *CSBG Annual Work Plan Modules 3 and 4.* Annual programmatic work plan covers the proposed programmatic activities from January 1, 2022, through December 31, 2022. Contractor must complete and submit the CSBG Annual Work Plan CSD 641 form, and enter the Targets using Work Plan CSD 641A Module 3 Targets and or 641B Module 4 Targets as part of the contract deliverables. Required data for Module 3 and Module 4 will include selecting the appropriate CNPI(s) and or FNPI(s), entering the target, and entering the type of documentation the agency will use to verify the outcome has been met. The Annual Report projections for CY 2022 must be completed and submitted with the contract deliverables. A copy of the forms may be accessed on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.
- 7.3.4 *CSBG Annual Report Modules 2 through 4 and Agency Success Stories.* Annual programmatic reporting covers the programmatic activities from January 1, 2022, through December 31, 2022. As applicable, Modules 2 through 4 and Agency Success Stories must be completed and submitted in the eGov Reporting system no later than February 1, 2023. Access to the eGov system is available at: <https://cacsd.communitysoftwaregroup.com/CsgIdentity/Account/Login>.
- 7.3.5 Contractor shall be required to collect programmatic outcomes associated with services provided under an extended period of performance covering the period January 1, 2022 through the extended period of performance as specified on the STD 213. Contractor must submit the programmatic outcomes through this period in a supplemental report to CSD with the close out packet.

**ARTICLE 8 – COMPLIANCE POLICIES AND PROCEDURES****8.1 Right to Monitor, Audit, and Investigate**

- 8.1.1 Any duly authorized representative of the federal or State government, which includes but is not limited to the State Auditor, CSD Staff, and any entity selected by CSD to perform inspections, shall have the right to monitor and audit

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Contractor and all subcontractors providing services under this Agreement through on-site inspections, audits, and other applicable means the State determines necessary.

- 8.1.2 Contractor shall make available all reasonable information necessary to substantiate that expenditures under this Agreement are allowable and allocable, including, but not limited to books, documents, papers, and records. Contractor shall agree to make such information available to the federal government, the State, or any of their duly authorized representatives including representatives of the entity selected by CSD to perform inspections, for examination, copying, or mechanical reproduction, on or off the premises of the appropriate entity upon a reasonable request.
- 8.1.3 Any duly authorized representative of the federal or State government shall have the right to undertake investigations in accordance with applicable federal and state requirements, with particular reference to 42 USC §§ 9914-9916, and 22 Cal. Code Regs. § 100730, as amended.
- 8.1.4 All agreements entered into by Contractor with audit firms for purposes of conducting independent audits under this Agreement shall contain a clause permitting any duly authorized representative of the federal or State government access to the working papers of said audit firm(s).

### 8.2 Compliance Monitoring – Contractor’s and CSD’s Shared Responsibilities for Federal Funds

- 8.2.1 As the recipient of federal CSBG funds under this Agreement, Contractor is responsible for substantiating that all costs claimed under this Agreement are allowable and allocable under all applicable federal and State laws, and for tracing all costs to the level of expenditure.
- 8.2.2 As the State CSBG administrator, CSD must conduct onsite and follow-up monitoring, and other audits/reviews as necessary, to ensure that:
- 8.2.2.1 Contractor meets federal and state performance goals, administrative and financial management standards, and other requirements, including federal organizational standards, as discussed in Article 7.2, applicable to CSBG-funded programs; and
- 8.2.2.2 Funds allocated to Contractor are expended for the purposes identified in federal and State CSBG law for allowable and allocable costs in accordance with CFR requirements.
- 8.2.3. CSD shall provide Contractor reasonable advance written notice of on-site monitoring reviews of Contractor’s program or fiscal performance. Contractor shall cooperate with CSD program staff and other representatives, and provide access to all programs, records, documents, resources, personnel, inventory, and

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other things reasonably related to the administration and implementation of the services and activities funded directly or indirectly by this Agreement.

- 8.2.4 Except under certain conditions whereby advanced notice may not be feasible such as, a whistleblower or other investigation, CSD shall provide Contractor reasonable advance written notice of on-site audit of Contractor's program or fiscal performance. Contractor shall cooperate with CSD audits and other representatives, and provide access to all programs, records, documents, resources, personnel, inventory, and other things reasonably related to the administration and implementation of the services and activities funded directly or indirectly by this Agreement.
- 8.2.5 In the event CSD determines that Contractor is not in compliance with material or other legal requirements of this Agreement, CSD shall provide Contractor with observations, recommendations, and/or findings of noncompliance in writing, along with specific action plans for correcting the noncompliance. All noncompliance findings must be resolved by the mutually agreed upon corrective action timeframe.

### 8.3 Collection of Disallowed Costs

- 8.3.1 In the event questioned costs are identified in a final decision on cost disallowance issued by CSD, Contractor shall comply with any demand for repayment, as specified in such final report.
- 8.3.2 *Time for Response.* Contractor shall have no less than 30 calendar days from receipt of the final decision to tender payment to CSD or, alternatively, to provide CSD with complete and accurate information or documentary evidence in support of the allowability of questioned costs.
- 8.3.3 *Notice After Review of Further Supporting Evidence.* If Contractor challenges questioned costs and submits complete and accurate information or documentary evidence in support of the allowability of questioned costs as provided above in Article 8.3.2, CSD shall, after consideration of Contractor's submission, accordingly issue a revised Notice of Disallowed Costs, if any, no later than 30 calendar days after receipt of Contractor's information or documentation. Contractor shall have 15 calendar days from receipt of such Notice to tender payment or a repayment plan acceptable to CSD. In the alternative, Contractor may request a hearing in accordance with this Agreement, for CSD's final determination of disallowed costs.
- 8.3.4 All statements, notices, responses and demands issued in accordance with this Article 8.3 shall be in writing.
- 8.3.5 CSD may, at its discretion, reasonably extend the time periods allowed for responses specified in this Article 8.3.



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### 8.4 Auditing Standards

- 8.4.1 *Applicability.* The standards set forth in in 2 CFR § 200.500 et seq. are hereby incorporated by reference.
- 8.4.2 *Supplemental Audit Guide.* In addition to the applicable audit requirements specified in Article 8.4.1, Contractor must follow the most current CSD Supplemental Audit Guide, which is incorporated into this Agreement by reference and may be accessed on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

### 8.5 Audit Reports

- 8.5.1 Funds provided under this Agreement shall be included in an audit conducted in accordance with the provisions of 2 CFR Subpart F – Audit Requirements §§ 200.500-521, standards promulgated by the American Institute of Certified Public Accountants (AICPA), and those standards included in “Government Auditing Standards,” December 2011 Revision, as amended, or the 2018 revision effective for financial audits, attestation engagements, and reviews of financial statements for periods ending on or after June 30, 2021.
- 8.5.2 *Organizations below audit threshold.* Contractors falling below the federal funding threshold, currently \$750,000, that mandates a single audit may be subject to an audit and/or other fiscal or program-specific review conducted by CSD or its agents, upon 30 calendar days written notice.
- 8.5.3 The financial and compliance audit report shall contain a Schedule of Expenditures of Federal Awards (SEFA) in accordance with 2 CFR § 200.510 (45 CFR § 75.510). All CSBG grants shall be reported separately on the SEFA, i.e., CSBG; Discretionary. In addition, a separate Supplemental Statement of Revenues and Expenditures (SSRE) for **each** contract whose **term ends** during the single-audit fiscal year shall be included in that year’s single audit. The SSRE shall report revenue and expenditures for CSD funding by contract line item and fiscal year. The SSRE shall cover the entire contract term as required in CSD’s Supplemental Audit Guide.
- 8.5.4 *Submission of Audit Reports.* Contractor shall submit to CSD one electronic copy of the required audit report(s) and any management letter(s) issued by the accountant, within the earlier of 30 calendar days after receipt of the auditor’s report, or nine months after the end of the Contractor’s fiscal year.
- 8.5.5 The audit report(s) and all supplemental financial information must be submitted to the following addresses:

One Electronic copy:

[audits@csd.ca.gov](mailto:audits@csd.ca.gov)

## SUBVENTION AGREEMENT

Upon receipt of the audit report, CSD's Audit Services Unit (ASU) will send a confirmation email within five to ten calendar days. Contractor should verify receipt of ASU's confirmation email to ensure your single audit was received.

In accordance with the guidelines of the Division of Audits of the California State Controller's Office (SCO), if Contractor is a local government agency, additional copies of the audit report must be submitted to the following address:

State Controller's Office  
Division of Audits  
300 Capitol Mall, Fifth Floor  
Sacramento, CA 95814

### 8.6 Failure to Comply with Audit Requirements

- 8.6.1 In the event that Contractor fails to comply with the audit requirements under this Article, CSD, as appropriate in the circumstances, may take one or more of the following actions, provided in 45 CFR § 75.371 - § 75.375 "Remedies for Noncompliance": (a) temporarily withhold cash payments pending correction of the deficiency by Contractor or more severe enforcement action by CSD; (b) disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance; (c) wholly or partly suspend (suspension of award activities) or terminate the award; (d) recommend that suspension or debarment proceedings be initiated by the HHS awarding agency, as authorized under 2 CFR Part 180 and Federal awarding agency regulations at 2 CFR Part 376; (e) withhold further federal awards for the project or program; and (f) take other remedies that may be legally available.
- 8.6.2 *Collection of Disallowed Costs.* Contractor shall have no less than ten business days from receipt of the draft Audit Transmittal Report (TR) or comparable document to provide acceptance of the disallowed costs or, alternatively, to provide CSD with complete and accurate information or documentary evidence in support of the allowability of questioned costs.
- 8.6.3 If Contractor challenges questioned costs and submits complete and accurate information or documentary evidence in support of the allowability of questioned costs CSD shall, after consideration of Contractor's submission, issue a final TR, no later than 30 calendar days after receipt of Contractor's information or documentation. If questioned costs are determined to be owing, ASU shall notify CSD's Financial Services Unit (FSU) to send an invoice. Contractor will tender payment to FSU or negotiate a repayment plan acceptable to FSU.

### 8.7 Enforcement Actions Resulting from Noncompliance with this Agreement

- 8.7.1 *Legal Authority.* The authority for CSD Enforcement Actions, as defined in Article 8.7.2, for cost disallowances/recovery of misused funds, and for de-designation of eligible entity status (collectively "Enforcement Process") is

## SUBVENTION AGREEMENT

found in the federal CSBG Act (42 USC §§ 9901 et seq.), in the Code of Federal Regulations, and in state regulations, with particular reference to 22 Cal. Code Regs. § 100780. In order to facilitate compliance with the cited authorities, the parties to this Agreement agree that Article 8.7 shall: (a) guide, inform and clarify the Enforcement Process; (b) establish the procedures to be followed; and (c) establish the rights and obligations of the parties with respect to the Enforcement Process, for purposes of implementing the principles set out in the applicable legal authorities.

### 8.7.2 *Definitions.*

*Enforcement Action.* For purposes of this Article, “Enforcement Action” shall refer to official steps taken by CSD in response to material breaches of this Agreement and/or Contractor’s inability to fulfill contractual obligations of the Agreement due to serious financial instability or insolvency. Enforcement Actions may include any of the following: (a) “High-Risk” designation; (b) a determination of cost disallowance; (c) contract suspension; (d) contract termination; or (e) termination of Contractor’s designation as eligible entity.

*High Risk Designation* refers to the status of a Contractor which, due to material breach/failure to fulfill contractual obligations and/or serious financial instability, is subject to Enforcement Action(s) that may include imposition of Special Conditions and/or Sanctions designed to allow for continued performance of the Agreement within the conditions/sanctions imposed, or other actions deemed necessary to safeguard public funds.

*Material Breach* means any act or omission by Contractor that is in contravention or disregard of Contractor’s duties and obligations under the terms of this Agreement and under applicable State and federal law, which act or omission: (a) constitutes fraud or gross negligence by Contractor or its agent(s); (b) is likely to result in significant waste and/or abuse of federal funds; (c) has a significant adverse impact on Contractor’s ability to meet its administrative, financial, or programmatic duties and obligations over the term of the contract or a significant portion thereof; (d) violates or otherwise disregards significant program guidance and other requirements of the Federal Government, whether issued directly or through CSD; (e) may have serious adverse effects and consequences on the Contractor’s customers, employees, subcontractors, creditors, suppliers, vendors, or other stakeholders; or (f) may otherwise significantly and adversely affect the viability, effectiveness, or integrity of the program.

### 8.7.3 *Initiation of Enforcement Action.*

8.7.3.1 *Grounds for Enforcement Action.* If CSD determines that Contractor has not complied with the requirements of this Agreement and that Contractor’s noncompliance constitutes a material breach of the Agreement, or if CSD determines that Contractor’s financial condition is

## SUBVENTION AGREEMENT

so unstable and tenuous that its ability to implement this Agreement is seriously compromised, CSD may initiate an Enforcement Action.

8.7.3.2 *Notice of High-Risk Designation.* To initiate an Enforcement Action, CSD must provide Contractor with written Notice of High Risk designation, setting forth: (a) the factual and legal basis for the determination of noncompliance, upon which the High-Risk designation is based; (b) the corrective action(s) required; and (c) the date by which they must be taken and completed.

### 8.7.4 *Special Conditions and Sanctions.*

8.7.4.1 CSD may impose Special Conditions and/or Sanctions upon a determination that such steps are reasonably necessary to address acute financial instability or a material breach, as defined above. Imposition of Special Condition(s) and/or Sanction(s) shall be in writing and shall become effective on the date specified in the notice. Such notices must contain the following information: (a) the nature of the Special Condition(s) and/or Sanction(s) being imposed; (b) the reason(s) for imposing Special Condition(s) and/or Sanction(s); and (c) the corrective actions that must be taken and the time allowed for completing them before CSD removes the Special Condition(s) and/or Sanction(s).

8.7.4.2 Special Conditions may include, but are not limited to: (a) requiring Contractor to obtain training and/or technical assistance; (b) imposition of special or additional reporting requirements; (c) special or conditional cost reimbursement requirements and procedures; (d) provision of documentation by Contractor; and/or (e) requiring Contractor to amend or modify systems, procedures, and/or policies.

8.7.4.3 Sanctions may include but are not limited to: (a) suspension of advances and/or reimbursements; and/or (b) issuance of notices to suspend operations.

8.7.4.4 Sanctions may not be imposed without a hearing being first held in accordance with applicable regulations, *unless* CSD reasonably determines, based on credible information, that: (a) substantial sums to be paid to Contractor have been or will be used in violation of law or the provisions of this Agreement, and/or (b) associated costs are otherwise very likely to be disallowed; and (c) taxpayer dollars are at significant risk and are unlikely to be recovered if Sanctions are not immediately imposed.

### 8.7.5 *Procedures for Review of Special Conditions and/or Sanctions.*

8.7.5.1 If Contractor wishes to contest the imposition of Special Conditions and/or Sanctions, Contractor shall have five business days following receipt of a

## SUBVENTION AGREEMENT

Notice of Enforcement Action in which to show cause, in writing, why the Special Conditions or Sanctions should not be imposed.

8.7.5.2 CSD shall have five business days following receipt of Contractor's response to accept or reject Contractor's objection and to state in writing the consequences of the decision and Contractor's obligations going forward, if any.

8.7.5.3 *Hearing.* Within five business days of receipt of a Notice of Enforcement Action, Contractor may request a hearing for the parties to consider the matters addressed in the Notice and to discuss alternative courses of action, which meeting CSD may agree to if, in its sole judgment, it determines that the meeting would be helpful to the process, can be held expeditiously, and will not cause undue delay or further jeopardize taxpayer dollars.

8.7.5.4 Contractor may, at any time, request in writing that CSD initiate the contract suspension or contract termination processes, to include the requisite hearings, as set out in applicable federal and State law, with particular reference to 22 Cal. Code Regs. § 100780.

8.7.5.5 Should Contractor fail to show cause as to why the Enforcement Action should not go forward, or should Contractor fail to request that CSD initiate either the contract suspension or termination processes, CSD may initiate such action at its own discretion.

8.7.5.6 Special Conditions and Sanctions shall remain in effect until the hearing procedure is completed, provided, with respect to sanctions, CSD reasonably determines that Article 8.7.5.3 applies.

### 8.7.6 *Enforcement Action Cost Disallowance.*

8.7.6.1 *Statement of Questioned Costs.* If CSD determines that Contractor's non-compliance has resulted in questioned costs, CSD shall provide Contractor with a Statement of Questioned Costs along with the Notice of Enforcement Action, or at such later time in the enforcement process as questioned costs are identified.

8.7.6.2 Statements of Questioned Costs shall include, at minimum: (a) particular item(s) of cost questioned and the specified amount(s) by type or category of costs; (b) factual basis for questioning costs, and the information and/or documentation required to justify payment of the costs; and (c) timeframe and procedures for Contractor's submission of the required information or documentation to CSD.

8.7.6.3 *Investigative Audits and Reports.* If CSD determines that more information is required before a Statement of Questioned Costs can be



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issued or before a final determination of cost disallowance can be made, CSD may conduct an investigative audit of Contractor's records, files and books of account, or retain an audit firm for such purpose. Contractor agrees to cooperate fully in any audit conducted and to ensure that Contractor's agents, accountants and subcontractors cooperate in the performance of such audit. A report of any audit conducted shall be shared with Contractor, who shall be given ample opportunity to respond to findings and to submit information and documentation in support of the response.

- 8.7.6.4 *Effect of Non-Cooperation with Investigative Audits.* If Contractor fails to cooperate in the conduct of an audit initiated pursuant to Article 8.7.6.3, CSD may: (a) impose sanctions as provided in article 8.7.4; and/or (b) issue a Notice of Disallowed Costs as determined appropriate.
- 8.7.6.5 *Notice of Disallowed Costs.* If CSD determines that further information and/or documentation provided by Contractor has not fully addressed or resolved any outstanding issues of questioned costs, CSD shall issue a Notice of Disallowed Costs, which notice shall include: (a) the amount of disallowed costs to be repaid, if any; and (b) the date by which repayment must be made or, in the alternative, (c) the date by which Contractor must submit a proposed repayment plan for consideration by CSD.
- 8.7.6.6 *Right to Dispute Notice.* Not later than five business days after receipt of a Notice of Disallowed Costs, Contractor may request a hearing disputing the Notice or statements made therein. The hearing shall be conducted in accordance with the procedures set out in 22 Cal. Code Regs. § 100780, for the purpose of adjudicating the matter of cost disallowance; however, either Contractor or CSD may opt to adjudicate other pending enforcement action matters, in a combined proceeding.
- 8.7.6.7 *Waiver of Right to Dispute.* If Contractor declines to request a hearing to adjudicate cost disallowance, or neglects to submit a request as provided in Article 8.7.6.6, the Notice of Disallowed Costs shall be deemed final and Contractor shall be obligated to comply with the requirements of the Notice.
- 8.7.6.8 Contractor will be deemed to have complied with a Notice of Disallowed Costs when CSD receives full repayment of outstanding disallowed amount(s), or when CSD formally approves a repayment plan. In reviewing Contractor's repayment plan, CSD shall take into consideration such factors as, but not limited to: (a) federal requirements or conditions applicable to the grant(s) under which the disallowed costs were funded; (b) the exigencies of the grant program and CSD's ability to reallocate the funds repaid or otherwise dispose of the funds in accordance with applicable law; (c) the risk of being unable to recover

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funding and the options for securing Contractor's repayment obligation;  
and (d) Contractor's financial condition and ability to pay.

- 8.7.7 *Removal of High-Risk Designation.* Contractor shall remain on High Risk until CSD reasonably determines that Contractor has complied with the requirements of the Notice of High Risk Designation, including verification by CSD that corrective measures have been implemented, that all conditions have been met and that disallowed costs have been repaid or, alternatively, that CSD has deemed Contractor's repayment plan to be acceptable and Contractor has demonstrated it is in compliance with the plan. Upon determination that Contractor has complied with the requirements of the Notice of High-Risk Designation, CSD shall give Contractor written notice of such determination.
- 8.7.8 *Further Enforcement Action.* In the event Contractor's non-compliance with the terms and conditions of this Agreement are not remedied through imposition of Special Conditions, and/or Sanctions, thereby enabling CSD to remove High Risk designation, CSD may initiate further Enforcement Actions involving Contract Suspension, Contract Termination and Termination of Contractor's designation as eligible entity, which shall be initiated and conducted in accordance with the applicable provisions found in 22 Cal. Code Regs. § 100780 and other applicable State and federal statutes and regulations.
- 8.7.9 *Contractor's Status During Federal Review Period.* The final decision with respect to any enforcement action which involves contract termination, cost disallowance, a denial of refunding, and/or de-designation of an eligible entity shall become effective upon completion of the applicable federal review, if initiated by Contractor, and in compliance with appeal requirements pursuant to Section 678C of the Community Services Block Grant Act, (42 USC § 9915), except that Special Conditions and Sanctions shall remain in force during the course of any federal review and appeal, and no new contracts or amendments will be executed during the federal review and appeal process.

## ARTICLE 9 – FEDERAL AND STATE POLICY PROVISIONS

### 9.1 Federal Certification Regarding Debarment, Suspension, and Related Matters

- 9.1.1 Contractor hereby certifies to the best of its knowledge that it, any of its officers, and any subcontractor(s):
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local)

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transaction or contract under a public transaction; violation of federal or State antitrust statutes; commission of embezzlement, theft, forgery, or bribery; falsification or destruction of records; making false statements; or receiving stolen property;

- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in Article 9.1.1; and
- d. Have not, within a three-year period preceding this Agreement, had one or more public (federal, state, or local) transactions terminated for cause or default.

9.1.2 If any of the above conditions are true for the Contractor, any of its officers, or any subcontractor(s), Contractor shall describe such condition(s) in writing and submit this information to CSD with the other forms Contractor must complete and return prior to CSD's execution of this Agreement. Based on the description, CSD in its discretion may decline to execute this Agreement or set further conditions of this Agreement. In the event any of the above conditions are true and not disclosed by Contractor, it shall be deemed a material breach of this Agreement, and CSD may terminate this Agreement for cause immediately pursuant to the termination provisions of State and federal law governing the CSBG program.

9.1.3 Contractor must certify in writing to the best of its knowledge that any subcontractor(s) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

### 9.2 Affirmative Action Compliance

9.2.1 Each contractor or subcontractor with 50 or more employees and an agreement of \$50,000 or more shall be required to develop a written Affirmative Action Compliance Program.

9.2.2 The written Affirmative Action Compliance Program shall follow the guidelines set forth in 41 CFR § 60-1.40, §§ 60-2.10 through 60-2.32, and §§ 60-741.01 through 60-741.47.

9.2.3 Each contractor or subcontractor with less than 50 employees shall comply with Section 202 of Part II of Executive Order 11246, as amended by Executive Order 11375. Contractor shall ensure that subcontractors falling within the scope of this provision shall fully comply with the requirements thereof.

### 9.3 Nondiscrimination Compliance

9.3.1 Contractor's signature affixed hereon shall constitute a certification that to the

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best of its ability and knowledge will, unless exempted, comply with the nondiscrimination program requirements set forth in this section.

- 9.3.2 Contractor hereby certifies compliance with the following:
- a. Federal Executive Order 11246, as amended by Executive Order 11375, relating to equal employment opportunity;
  - b. Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 USC §§ 2000d et seq. and 2000e et seq.);
  - c. Rehabilitation Act of 1973, as amended (29 USC §§ 701 et seq.);
  - d. Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (41 CFR Subtitle B, Part 60-300);
  - e. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, as amended (41 CFR Chapter 60); and
  - f. Americans with Disabilities Act of 1990, as amended (Pub. L. 101-336; 42 USC §§ 12101 et seq.).

### 9.4 Specific Assurances

- 9.4.1 *Pro-Children Act of 1994.* This Agreement incorporates by reference all provisions set forth in Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994. Contractor further agrees that the above language will be included in any subcontracts that contain provisions for children's services and that all subcontractors shall certify compliance accordingly.
- 9.4.2 This Agreement incorporates by reference all provisions set forth in "Child Support Services and Referrals", under 42 USC § 9919(b).
- 9.4.3 *American-Made Equipment/Products.* Contractor shall assure, pursuant to Public Law 103-333, Section 507, to the extent practicable, that all equipment and products purchased with funds made available under this Agreement shall be American-made.
- 9.4.4 *Federal and State Occupational Safety and Health Statutes.* Contractor assures that it shall be in compliance with the provisions as set forth in Federal and State Occupational Safety and Health Statutes; the California Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code §§ 25249.5 et seq.); Universal Waste Rule (Hazardous Waste Management System: Modification of the Hazardous Waste Recycling Regulatory Program) (60 FR 25492, codified at 40 CFR Part 273); and California Workers' Compensation laws (Labor Code §§ 3200 et seq.).

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9.4.5 *Political Activities.* Contractor shall refrain from all political activities if such activities involve the use of any funds that are the subject of this Agreement. Contractor is prohibited from any activity that is designed to provide voters or prospective voters with transportation to the polls or to provide similar assistance in connection with an election if such activities involve the use of any funds that are subject to this Agreement.

9.4.6 *Lobbying Activities.* Contractor shall refrain from all lobbying activities if such activities involve the use of any funds that are the subject of this Agreement or any other fund, programs, projects, or activities that flow from this Agreement. If Contractor engages in lobbying activities, Contractor shall complete, sign and date the attached CERTIFICATION REGARDING LOBBYING/DISCLOSURE OF LOBBYING ACTIVITIES, as required by the U.S. Department of Health and Human Services under 45 CFR Part 93 (Appendix A).

### 9.5 **Commercial and Government Entity (CAGE) Identification Code and Data Universal Numbering System (DUNS) Requirements**

Contractor shall provide to CSD proof of an active nine-digit Data Universal Numbering System (DUNS) number and a five-character Commercial and Governmental Entity (CAGE) identification code as a prerequisite to execution of this Agreement. To obtain authentication of the CAGE and DUNS number, print and submit verification from the Systems for Award Management website at <https://www.sam.gov/portal/public/SAM/>.



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### DEFINITIONS

All terms used in this Agreement shall be defined as stated in applicable federal and state statutes and regulations (42 USC § 9902; Cal. Gov. Code § 12730; 45 CFR Part 75 and 22 Cal. Code Regs. § 100601). The following terms shall be more specifically defined for purposes of this Agreement, insofar as the definition accords with federal and state law, as follows:

Agreement: The complete contents of this Agreement entered into by and between the CSD and Contractor, including all rights, duties, and obligations whether expressed or implied required toward the legal performance of the terms hereof, and including all documents expressly incorporated by reference.

Agreement Term: The timeframe of this Agreement as specified on the Agreement face sheet (STD 213) including the established Period of performance and an extended period granted upon approval to the Contractor by CSD.

Amendment: A formal change to the Agreement of a material nature including but not limited to the term, scope of work, or name change of one of the Parties, or a change of the maximum amount of this Agreement.

Authorized Agent: The duly authorized representative of the Board of Directors of Contractor, and the duly elected or appointed, qualified, and acting officer of the State. In the case of Contractor, the State shall be in receipt of a board resolution affirming the agent's representative capacity to bind Contractor to the terms of this Agreement.

Board of Directors: For the purposes of a private nonprofit Community Action Agency, Board of Directors refers to the tripartite board as mandated by 42 USC § 9910 and Government Code § 12751. For the purposes of a publicly governed Community Action Agency, Board of Directors refers to the tripartite advisory/ administering board that is mandated by 42 USC § 9910 and California Government Code § 12752.1 and established by the political subdivision or local government.

Community Action Agency: A public or private nonprofit agency that fulfills all requirements of Government Code § 12750.

Continuing Resolution: An appropriation act that provides budget authority for federal agencies, specific activities, or both to continue in operation when Congress and the President have not completed action on the regular appropriation acts by the beginning of the fiscal year.

## (2022 CSBG Agreement)

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|                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Contractor:</u>                           | The entity (partnership, corporation, association, agency, or individual) designated on the face sheet (STD 213) of this Agreement.                                                                                                                                                                                                                                                                                                                |
| <u>CSD:</u>                                  | The State of California Department of Community Services and Development.                                                                                                                                                                                                                                                                                                                                                                          |
| <u>Equipment:</u>                            | An article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-profit organization for financial statement purposes, or \$5000.                                                                                                                                                                  |
| <u>Extended Period of Performance:</u>       | An extension to the Period of Performance provided to Contractor upon approval if Contractor does not expect to complete award activities during the Period of Performance.                                                                                                                                                                                                                                                                        |
| <u>Limited Purpose Agency (LPA):</u>         | A community-based nonprofit organization without a tripartite board, as defined in California Government Code § 12775 and 42 USC § 9910(b)(2).                                                                                                                                                                                                                                                                                                     |
| <u>Maximum Amount:</u>                       | The dollar amount reflected on line 3 of the face sheet (STD 213) of this Agreement.                                                                                                                                                                                                                                                                                                                                                               |
| <u>Modification:</u>                         | An immaterial change to this Agreement that does not require an Amendment.                                                                                                                                                                                                                                                                                                                                                                         |
| <u>Native American Indian Program (NAI):</u> | A tribal or other Native American Indian organization in an urban or rural off-reservation area, as defined in Government Code § 12772, such as an Indian nonprofit organization, which meets the criteria of 'eligible entity' as defined in subdivision (g) of § 12730. An NAI may be considered a 'public organization' for purposes of tripartite board requirements or other mechanisms of governance in accordance with 42 USC § 9910(b)(2). |
| <u>Parties:</u>                              | CSID on behalf of the State of California, and the Contractor.                                                                                                                                                                                                                                                                                                                                                                                     |
| <u>Period of Performance:</u>                | Time during which Contractor is expected to complete award activities and expend approved funds.                                                                                                                                                                                                                                                                                                                                                   |
| <u>Program:</u>                              | The Community Services Block Grant (CSBG) Program, 42 USC §§ 9901 et seq., as amended.                                                                                                                                                                                                                                                                                                                                                             |
| <u>State:</u>                                | The State of California Department of Community Services and Development.                                                                                                                                                                                                                                                                                                                                                                          |

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Subcontractor: An entity (partnership, tribe, corporation, association, agency, or individual) that enters into a separate contract or agreement with Contractor to fulfill direct program or administrative tasks in support of this Agreement.

Subcontract: A separate contract or agreement entered into by and between Contractor and Subcontractor to fulfill direct program or administrative tasks in support of this Agreement.

Total Allocation: The actual amount of funds available to Contractor under this Agreement, as calculated pursuant to Government Code § 12759 after CSD receives the notice of grant award for the full allocation based on the appropriation by Congress for the related federal fiscal year, and as publicly announced by CSD's Director or designee, subsequent to the execution of this Agreement.

## (2022 CSBG Agreement)

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## TABLE OF FORMS AND ATTACHMENTS

Forms (to be returned with signed Agreement):

- A. CSBG Contract Allocation Increase:
1. CSBG Contract Budget Summary (CSD 425.S);
  2. CSBG Budget Support Personnel Costs (CSD 425.1.1);
  3. CSBG Budget Support Non-Personnel Costs (CSD 425.1.2);
  4. CSBG Budget Support Other Agency Operating Funds (CSD 425.1.3);
  5. CSBG Contract Budget Narrative (CSD 425.1.4); and
  6. CSBG Annual Report Work Plan (CSD 641).

- B. CSBG Annual Work Plan Projections Modules 3 and 4 (CSD 641A and CSD 641B)

Annual programmatic work plan covers the proposed programmatic activities from January 1, 2022, through December 31, 2022. Contractor must complete and submit the CSBG Annual Work Plan CSD 641 form, and enter the Targets using Work Plan CSD 641A Module 3 Targets and or 641B Module 4 Targets. Required data for Module 3 and Module 4 will include selecting the appropriate CNPI(s) and or FNPI(s), entering the target, and providing the type of documentation the agency will use to verify the outcome has been met. The Annual Report projections for CY 2022 must be completed and submitted with the contract deliverables. All necessary forms may be accessed on the Local Agencies Portal at <https://agencies.csd.ca.gov/>.

- C. Certification Regarding Lobbying/Disclosure of Lobbying Activities
- D. California Contractor Certification Clauses (CCC 04/2017)
- E. CSD Federal Accountability and Transparency Act Report (CSD 279)
- F. Agency Staff and Board Roster (CSD 188)

The following documents are hereby incorporated by reference:

- Attachment A: 2022 CSBG Allocation Spreadsheet
- Attachment B: Supplemental Audit Guide

DocuSign Envelope ID: A4213416-11AC-429E-877E-93679ADF3C57  
 State of California  
 DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 CSBG Budget Support -- Personnel Costs  
 CSD 425.1.1 (Rev. 10/19)

**DISASTER ONLY**

**CSBG BUDGET SUPPORT -- PERSONNEL COSTS**

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: \$274,202                                                               |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

**Section 10 -- ADMINISTRATIVE COSTS -- SALARIES AND WAGES**

| A<br>No. of Positions | B<br>Position Title | C<br>Total Salary for each position | D<br>Percent (%) of CSBG time allocated for each position | E<br>Number of CSBG months allocated for each position | F<br>Total CSBG Funds budgeted for each position |
|-----------------------|---------------------|-------------------------------------|-----------------------------------------------------------|--------------------------------------------------------|--------------------------------------------------|
|                       |                     |                                     |                                                           |                                                        |                                                  |
|                       |                     |                                     |                                                           |                                                        |                                                  |
|                       |                     |                                     |                                                           |                                                        |                                                  |
| <b>Sub-Total</b>      |                     |                                     |                                                           |                                                        |                                                  |

**SECTION 20 -- PROGRAM COSTS -- SALARIES AND WAGES**

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| <b>Sub-Total</b> |  |  |  |  |  |

**FRINGE BENEFITS**

| Enter description of Fringe Benefits. Please include the percentage of Salaries and Wages paid in Benefits. (Examples: FICA, SSI, Health Ins., Workers Comp. Etc.) | Percentage | Section 10 Administrative Costs<br><small>List CSBG funds Budgeted Line 2</small> | Section 20 Program Costs<br><small>List CSBG funds Budgeted Line 2</small> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------|
|                                                                                                                                                                    |            |                                                                                   |                                                                            |
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|                                                                                                                                                                    |            |                                                                                   |                                                                            |
| <b>Sub-Total</b>                                                                                                                                                   |            |                                                                                   |                                                                            |

|                                                                                      |  |                  |  |
|--------------------------------------------------------------------------------------|--|------------------|--|
| Hit Alt & Enter at the same time to begin a new line or paragraph within the cell.   |  | <b>Sub-Total</b> |  |
| List of all Operating expenses:                                                      |  |                  |  |
| List all equipment purchase:                                                         |  |                  |  |
| List all contract/consultant services:                                               |  |                  |  |
| List all subcontractor consultant services:                                          |  |                  |  |
| Other costs:                                                                         |  |                  |  |
| <b>Sub-Total</b>                                                                     |  |                  |  |
| <b>TOTAL AMOUNT Will AUTOMATICALLY POPULATE TO CSD TO CSD 425.S (BUDGET SUMMARY)</b> |  |                  |  |





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 State of California  
 DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 CSBG Budget Support -- Personnel Costs  
 CSD 425.1.1 (Rev. 11/21)

**CSBG BUDGET SUPPORT -- PERSONNEL COSTS**

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: \$274,202                                                               |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

**Section 10 -- ADMINISTRATIVE COSTS -- SALARIES AND WAGES**

| <b>A</b><br>No. of Positions                                                                                | <b>B</b><br>Position Title | <b>C</b><br>Total Salary for each position | <b>D</b><br>Percent (%) of CSBG time allocated for each position | <b>E</b><br>Number of CSBG months allocated for each position | <b>F</b><br>Total CSBG Funds budgeted for each position |
|-------------------------------------------------------------------------------------------------------------|----------------------------|--------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------|
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| <b>Total (must match Section 10: Administrative Costs line item 1 on the CSD 425.S Budget Summary form)</b> |                            |                                            |                                                                  |                                                               |                                                         |

**SECTION 20 -- PROGRAM COSTS -- SALARIES AND WAGES**

|                                                                                                      |  |  |  |  |  |
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| <b>Total (must match Section 20: Program Costs line item 1 on the CSD 425.S Budget Summary form)</b> |  |  |  |  |  |

**FRINGE BENEFITS**

| Enter description of Fringe Benefits. Please include the percentage of Salaries and Wages paid in Benefits. (Examples: FICA, SSI, Health Ins., Workers Comp. Etc.) | Percentage | Section 10 Administrative Costs<br>List CSBG funds Budgeted Line 2 | Section 20 Program Costs<br>List CSBG funds Budgeted Line 2 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|--------------------------------------------------------------------|-------------------------------------------------------------|
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| <b>TOTAL MUST MATCH THE AMOUNT ENTERED ON CSD 425.S (BUDGET SUMMARY)</b>                                                                                           |            |                                                                    |                                                             |



**CSBG BUDGET SUPPORT -- PERSONNEL COSTS**

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: \$274,202                                                               |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

**Section 10 -- ADMINISTRATIVE COSTS -- SALARIES AND WAGES**

| <u>A</u><br>No. of Positions                                                                                | <u>B</u><br>Position Title                       | <u>C</u><br>Total Salary for each position | <u>D</u><br>Percent (%) of CSBG time allocated for each position | <u>E</u><br>Number of CSBG months allocated for each position | <u>F</u><br>Total CSBG Funds budgeted for each position |
|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------|--------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------|
| 1                                                                                                           | Manager of Community Services and Administration | \$164,482                                  | 8.00%                                                            | 12                                                            | \$13,158.56                                             |
| 1                                                                                                           | Senior Management Analyst                        | \$133,951                                  | 5.00%                                                            | 12                                                            | \$6,697.55                                              |
| 1                                                                                                           | Community Services Specialist III                | \$133,951                                  | 6.00%                                                            | 12                                                            | \$8,037.06                                              |
| 1                                                                                                           | Accounting Office Specialist III                 | \$83,085                                   | 5.00%                                                            | 12                                                            | \$4,154.25                                              |
| 1                                                                                                           | Associate Management Analyst                     | \$119,587                                  | 5.00%                                                            | 12                                                            | \$5,979.35                                              |
| 1                                                                                                           | Associate Management Analyst                     | \$119,585                                  | 25.50%                                                           | 12                                                            | \$30,494.18                                             |
|                                                                                                             |                                                  |                                            |                                                                  |                                                               |                                                         |
|                                                                                                             |                                                  |                                            |                                                                  |                                                               |                                                         |
|                                                                                                             |                                                  |                                            |                                                                  |                                                               |                                                         |
|                                                                                                             |                                                  |                                            |                                                                  |                                                               |                                                         |
| <b>Total (must match Section 10: Administrative Costs line item 1 on the CSD 425.S Budget Summary form)</b> |                                                  |                                            |                                                                  |                                                               | \$68,521                                                |

**SECTION 20 -- PROGRAM COSTS -- SALARIES AND WAGES**

| <u>A</u><br>No. of Positions                                                                         | <u>B</u><br>Position Title | <u>C</u><br>Total Salary for each position | <u>D</u><br>Percent (%) of CSBG time allocated for each position | <u>E</u><br>Number of CSBG months allocated for each position | <u>F</u><br>Total CSBG Funds budgeted for each position |
|------------------------------------------------------------------------------------------------------|----------------------------|--------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------|
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
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|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
|                                                                                                      |                            |                                            |                                                                  |                                                               |                                                         |
| <b>Total (must match Section 20: Program Costs line item 1 on the CSD 425.S Budget Summary form)</b> |                            |                                            |                                                                  |                                                               |                                                         |

**FRINGE BENEFITS**

| Enter description of Fringe Benefits. Please include the percentage of Salaries and Wages paid in Benefits. (Examples: FICA, SSI, Health Ins., Workers Comp. Etc.) | Percentage | Section 10 Administrative Costs<br><small>List CSBG funds Budgeted Line 2</small> | Section 20 Program Costs<br><small>List CSBG funds Budgeted Line 2</small> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Insurance (Health, Dental, Life, Medicare)                                                                                                                         | 24.00%     | \$18,074.32                                                                       |                                                                            |
| Worker's Comp                                                                                                                                                      | 2.00%      | \$1,538.44                                                                        |                                                                            |
| Retirement Benefits                                                                                                                                                | 40.00%     | \$24,689.91                                                                       |                                                                            |
| Miscellaneous                                                                                                                                                      | 2.00%      | \$1,378.33                                                                        |                                                                            |
|                                                                                                                                                                    |            |                                                                                   |                                                                            |
| <b>TOTAL MUST MATCH THE AMOUNT ENTERED ON CSD 425.S (BUDGET SUMMARY)</b>                                                                                           |            | \$45,681                                                                          |                                                                            |

State of California  
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
CSBG Contract Budget Summary  
CSD 425.S (Rev.10/19)

### CSBG CONTRACT BUDGET SUMMARY

|                                                                                                                               |                                   |                                                                                          |                                                     |
|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------------------------------------------------------------------------------------|-----------------------------------------------------|
| Contractor Name: Department of Community Services and Development                                                             |                                   | Contract Number: 22F-5001                                                                | Amendment Number: NA                                |
| Prepared By: Mary-Claire Katz                                                                                                 |                                   | Contract Term: January 1, 2022 through May 31, 2023                                      |                                                     |
| Telephone Number: 510-981-5414                                                                                                |                                   | Contract Amount: \$274,202                                                               |                                                     |
| Date: 1/14/2022                                                                                                               |                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                                                     |
| <b>SECTION 10: ADMINISTRATIVE COSTS</b>                                                                                       |                                   |                                                                                          |                                                     |
| <b>Line Item</b>                                                                                                              |                                   |                                                                                          | <b>CSBG Funds<br/>(round to the nearest dollar)</b> |
| 1                                                                                                                             | Salaries and Wages                |                                                                                          | \$68,521.00                                         |
| 2                                                                                                                             | Fringe Benefits                   |                                                                                          | \$45,681.00                                         |
| 3                                                                                                                             | Operating Expenses                |                                                                                          |                                                     |
| 4                                                                                                                             | Equipment                         |                                                                                          |                                                     |
| 5                                                                                                                             | Out-of-State Travel               |                                                                                          |                                                     |
| 6                                                                                                                             | Contract/Consultant Services      |                                                                                          |                                                     |
| 7                                                                                                                             | Other Costs                       |                                                                                          |                                                     |
| 8                                                                                                                             | Disaster                          |                                                                                          |                                                     |
| Subtotal Section 10: Administrative Costs (cannot exceed 12% of the total operating budget in Section 80)                     |                                   |                                                                                          | \$114,202.00                                        |
| <b>SECTION 20: PROGRAM COSTS</b>                                                                                              |                                   |                                                                                          |                                                     |
| <b>Line Item</b>                                                                                                              |                                   |                                                                                          | <b>CSBG Funds<br/>(round to the nearest dollar)</b> |
| 1                                                                                                                             | Salaries and Wages                |                                                                                          |                                                     |
| 2                                                                                                                             | Fringe Benefits                   |                                                                                          |                                                     |
| 3                                                                                                                             | Operating Expenses                |                                                                                          |                                                     |
| 4                                                                                                                             | Equipment                         |                                                                                          |                                                     |
| 5                                                                                                                             | Out-of-State Travel               |                                                                                          |                                                     |
| 6                                                                                                                             | Subcontractor/Consultant Services |                                                                                          | \$160,000.00                                        |
| 7                                                                                                                             | Other Costs                       |                                                                                          |                                                     |
| 8                                                                                                                             | Disaster                          |                                                                                          |                                                     |
| Subtotal Section 20: Program Costs                                                                                            |                                   |                                                                                          | \$160,000.00                                        |
| <b>SECTION 40: Total CSBG Budget Amount (Sum of Subtotal Sections 10 and 20) Note: Total cannot exceed allocation amount.</b> |                                   |                                                                                          | <b>\$274,202.00</b>                                 |
| <b>SECTION 70: Enter Other Agency Operating Funds Used to Support CSBG</b>                                                    |                                   |                                                                                          | <b>\$1,432,011.00</b>                               |
| <b>SECTION 80: Agency Total Operating Budget (Sum of Sections 40 and 70)</b>                                                  |                                   |                                                                                          | <b>\$1,706,213.00</b>                               |
| <b>SECTION 90: CSBG Funds Administrative Percent (Section 10 divided by Section 80)</b>                                       |                                   |                                                                                          | <b>6.69%</b>                                        |



State of California  
 DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 CSBG Budget Support – Non Personnel Costs  
 CSD 425.1.2 (Rev. 10/19)

**CSBG BUDGET SUPPORT -- NON PERSONNEL COSTS**

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: 274,202                                                                 |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

Hit Alt & Enter at the same time to begin a new line or paragraph within the cell.

| LIST EACH LINE ITEM<br>Totals must match CSD 425.S Budget Summary form<br>Attach additional sheet(s) if necessary     | CSBG                                                                     |                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
|                                                                                                                       | Section 10:<br>Administrative Costs                                      | Section 20:<br>Program Costs                                                          |
| List all Operating Expenses                                                                                           | 3 sum should equal total on line item 3 of CSD 425.S Budget Summary form | 3 sum should equal total on line item 3 of CSD 425.S Budget Summary form              |
| List all Equipment Purchases                                                                                          | 4 sum should equal total on line item 4 of CSD 425.S Budget Summary form | 4 sum should equal total on line item 4 of CSD 425.S Budget Summary form              |
| List all Out-of-State Travel: Name of conference; Specify location; Cost per trip                                     | 5 sum should equal total on line item 5 of CSD 425.S Budget Summary form | 5 sum should equal total on line item 5 of CSD 425.S Budget Summary form              |
| List all Contract/Consultant Services                                                                                 | 6 sum should equal total on line item 6 of CSD 425.S Budget Summary form |                                                                                       |
| List all Subcontractor/Consultant Services<br>LifeLong Medical Care                                                   |                                                                          | 6 sum should equal total on line item 6 of CSD 425.S Budget Summary form<br>\$160,000 |
| <b>Other Costs - List each line item (i - iv): Any additional Other Costs (attach additional sheet if necessary):</b> | <b>Section 10: Administrative Costs</b>                                  | <b>Section 20: Program Cost</b>                                                       |
| i                                                                                                                     |                                                                          |                                                                                       |
| ii                                                                                                                    |                                                                          |                                                                                       |
| iii                                                                                                                   |                                                                          |                                                                                       |
| iv                                                                                                                    |                                                                          |                                                                                       |
| <b>Total Other Costs (Sum of i, ii, iii, iv):</b>                                                                     | 7 sum should equal total on line item 7 of CSD 425.S Budget Summary form | 7 sum should equal total on line item 7 of CSD 425.S Budget Summary form              |







### CSBG Contract Budget Narrative

|                                                                   |                                                                                          |                      |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------|
| Contractor Name: Department of Community Services and Development | Contract Number: 22F-5001                                                                | Amendment Number: NA |
| Prepared By: Mary-Claire Katz                                     | Contract Term: January 1, 2022 through May 31, 2023                                      |                      |
| Telephone Number: 510-981-5414                                    | Contract Amount: \$274,202                                                               |                      |
| Date: 1/14/2022                                                   | E-mail Address: <a href="mailto:mkatz@cityofberkeley.info">mkatz@cityofberkeley.info</a> |                      |

#### Budget Narrative

Section 10 Total \$68,521, Salaries and Wages - Manager of Community Services and Administration: Serves as Executive Director of the Berkeley Community Action Agency and supervises the Associate Management Analyst. Responds to community requests for assistance, and oversees CSBG contract and reporting submissions, \$13,158.56; Community Services Specialist III provides assistance to the Associate Management Analyst in financial reports, \$8,037.06; Associate Management Analyst provides administrative support to the CSBG program, \$5,979.35; Associate Management Analyst completes program reports, completes biennial Community Action Plan, and monitors contracts of CSBG-funded partner agencies. Acts as secretary to the CSBG Tripartite Board (Human Welfare and Community Action Commission), \$30,494.18; Accounting Office Specialist III, provides financial support to the CSBG program; reviews all expenditures and prepares subcontractor payments, \$4,154.25; Senior Management Analyst provides support to CSSIII and AMA in implementing and reporting on CSBG-related activities, \$6,697.55. Insurance (Health, Dental, Life, Medicare): These costs support the medical benefits of the staff listed previously, \$18,074.32; Worker's Comp: These costs represent the cost of worker's compensation insurance for the staff listed previously, \$1,538.44; Retirement Benefits: These costs represent the cost of retirement benefits for the staff listed previously, \$24,689.91; Miscellaneous: These costs represent other benefits offered by the City of Berkeley (Berkeley Community Action Agency): disability insurance, retiree medical, medicare, misc. benefits, \$1,378.33. Section 20 Total Program Costs \$160,000, Subcontractor: LifeLong Medical Care will provide integrated primary care and behavioral health services to low-income, uninsured, and underinsured residents of Berkeley, \$160,000.

**ATTACHMENT 3**

| Contract  | Contract Number | CONTRACT END DATE | Component | Allocated    | Expended     | Remaining   | Percentage Expended | Last EARS Report- Approved as of 11/16/23 | Comments                     |
|-----------|-----------------|-------------------|-----------|--------------|--------------|-------------|---------------------|-------------------------------------------|------------------------------|
| 2023 CS9G | 23F-4001        | 5/31/2024         | REGULAR   | \$299,495.00 | \$209,355.54 | \$90,139.46 | 69.90%              | OCT-2023                                  | ADVANCE OWED: \$73,426.00    |
| 2023 CS9G | 23F-4001        | 5/31/2024         | AJ/DISC   | \$12,807.00  | \$0          | \$12,807.00 | 0.00%               | AUG-2023                                  | 2 MONTHS BEHIND IN REPORTING |





State of California  
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
Training and Technical Assistance Referral  
CSD 332 (Rev.11.21)

## CSBG Training and Technical Assistance Referral

### Referral Guidelines

To refer an agency, please complete this form and return it along with a copy of any supporting documents, (i.e., emails, reference to monitoring finding/observation), to the CSD - CalCAPA Contract Manager.

Agencies being referred must be notified about the referral prior to submission of this form. They must also be made aware of the intent, purpose, and expected outcome of the referral. The agency contact should be provided a copy a copy of the referral form.

### Agency Contact Information

Agency Name: Berkeley Community Action Agency Phone: (510) 981-5414  
Contact Name: Mary-Claire Katz E-Mail Address: mkatz@ci.berkeley.ca.us

### CSD Contact Information

Name: Jennifer Milovina  
E-Mail Address: Jennifer.Milovina@csd.ca.gov  
Phone No: 916-594-2327

### Training/ Technical Assistance Request

1. Provide a detailed description of the training/technical assistance requested.

The City of Berkeley currently has 8 board vacancies. Two of these vacancies are from 2017 and 2018. CSD is recommending CalCAPA assist Berkeley in any manner they can to find a better solution to fill not only the 2 long-term vacancies, but all 8 vacancies.

2. Indicate what type of training/technical assistance you believe would be most beneficial to the agency.

- Training
- Peer-to Peer
- Technical Assistance
- Resources/Materials

3. How was the training and technical assistance need identified?

- Monitoring - (Modified Monitoring Completed 2022)
- Agency Request
- Other – Explain

4. Is the training/technical assistance time sensitive? (i.e., needed in the next 30 days to assist the agency with addressing a monitoring finding)? Yes, CSD requests this assistance is received withing the next 30 days.

State of California  
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
Training and Technical Assistance Referral  
CSD 332 (Rev.11.21)

- Yes
- No

5. If yes, indicate when the training should be completed by. 06 /30/2022

**Request/Submit Date(s)**

Date Requested  
by Agency (if  
applicable): N/A

Date Submitted to  
CalCAPA: 5/27/2022

Coordination of Trainings/Technical Assistance:

*It is the responsibility of both the CSD Field Rep making the referral and CalCAPA to remain in communication throughout the referral and training/technical assistance process to ensure agency needs and requests are met and addressed in a timely manner.*

*Training/technical assistance follow-up will be conducted by both CalCAPA and CSD upon completion to identify if the training/technical assistance met the need, and if additional training is required.*

*CSD is to be notified of all scheduled training and technical assistance offered within 5 days prior to the training date.*

**ATTACHMENT 5**



DAVID SCRIBNER  
DIRECTOR

State of California-Health and Human Services Agency  
**DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT**  
2389 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833  
Telephone: (916) 576-7109 | Fax: (916) 263-1406  
[www.csd.ca.gov](http://www.csd.ca.gov)



GAVIN NEWSOM  
GOVERNOR

May 26, 2023

**VIA EMAIL TO:**

Margot Ernst, Executive Director  
[Mernst@cityofberkeley.info](mailto:Mernst@cityofberkeley.info)  
Health, Housing & Community Services Department  
2180 Milvia Street, 2<sup>nd</sup> Floor  
Berkeley, CA. 94704

**SUBJECT: CSD response to The City of Berkeley's Quarterly Vacancy update received 3-31-2023**

Dear Ms. Ernst,

This letter is in response to the City of Berkeley's corrective action update which was developed based on the issues identified in Monitoring Report #C-22-002, completed May 26, 2022.

CSD requires corrective action updates and progress reports, specifically board vacancy updates, to be submitted to CSD quarterly. Since the previous monitoring report from May 26, 2022, the most recent vacancy updates from Berkeley (received December 31, 2022, and March 31, 2023), did not include an updated CSD 188 Board Roster. In addition to vacancy reporting, the City of Berkeley is required to submit any changes to the board within 30 days of the change occurring, (CSBG Contract, Article 4.1).

Due to the number of vacancies in all sectors, and the inability to determine which vacancy is assigned to what sector, a formal request was submitted to CalCAPA on May 27, 2022, to provide Training and/or Technical Assistance to aide Berkeley's staff in fulfilling all contractual requirements from CSD. The CSD 188 board roster included in the contract packet from March 2023, indicates the following vacancies:

| Sector             | Date of Vacancy |
|--------------------|-----------------|
| Public             | April, 2017     |
| Public             | October 2021    |
| Private/Public (?) | December 2021   |
| Private/Public(?)  | January, 2022   |
| Private/Public(?)  | July 2022       |
| Private/Public(?)  | February 2023   |
| Low-Income         | November 2018   |
| Low-Income         | December 2020   |
| Low-Income         | October 2021    |
| Low-Income         | October 2021    |

|            |               |
|------------|---------------|
| Low-Income | December 2022 |
| Low-Income | January 2023  |

During the COVID-19 pandemic, CSD acknowledged the increased difficulty experienced by agencies attempting to recruit board /council members. Board vacancies occurring during the period from March 2020 through December 2022, were documented, however, new corrective actions were assigned. CSD encouraged agencies to engage in recruitment activities to fill vacancies during this period and reminded all agencies regular monitoring practices would begin during the 2023 monitoring season.

The City of Berkeley failed to maintain compliance with the terms of Monitoring Report #C-22-002 the 2022 CSBG annual contract, CSBG Act 42 C.F.R §9910, California Government Code § 12752.1, and CSBG Contract Section 4.1.1.1. and Organization Standard 5.5.

Sections 676B of the Community Services Block Grant Reauthorization Act of 1998 requires that, as a condition of designation, private nonprofit entities and public organizations administer their CSBG program through tripartite boards that "fully participate in the development, planning, implementation, and evaluation of the program to serve low-income communities." Board members, especially those who reside in communities to be served and that represent low-income people, should be a primary source of information and insight concerning the conditions in their neighborhoods.

Your Tripartite board cannot and has not been operating in the manner with which a tripartite board is designed to operate for some time. Due to the lack of board members, CSD is concerned about the review and approval of the following upcoming requirements:

- Community Needs Assessment and Community Action Plan due June 30, 2023
- Review of upcoming Contract amendments, released May 15, 2023
- Submission/execution of 2023 Contract Amendment packet and deliverables, due June 30, 2023

To responsibly uphold the values and voices of the individuals and families of whom you serve through funding from the Community Services Block Grant and maintain compliance with all applicable laws and regulations, The City of Berkeley must have an effectively functioning tripartite board.

The Department of Community Services and Development is requiring The City of Berkeley to work with CalCAPA to develop a formal plan to address and resolve the following:

- 1) Recruitment and establishment of Board members in accordance with their bylaws to meet the Tripartite Governance requirement.
- 2) Clearly identify the required Board Sectors on future submissions of the CSD 188 Board Roster; (Private, Public and Low-Income)

This plan must be submitted for review and approval by CSD no later than June 19, 2023.

Failure to submit a formal plan by the required due date will result in escalation and could potentially put your agency at risk for additional corrective action.

Should you require any further information about this matter, please contact Jennifer Milovina at (916) 594-2327 or [jennifer.milovina@csd.ca.gov](mailto:jennifer.milovina@csd.ca.gov).

Sincerely,

Wilmer Brown, Jr.

Mgr. CSBG Field Operations Unit







Health, Housing, and  
Community Services Department  
Housing & Community Services Division

June 19, 2023

Wilmer Brown, Jr., Mgr. CSBG Field Operations Unit  
California Department of Community Services and Development  
2389 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

**Subject: Re: CSD response to The City of Berkeley's Quarterly Vacancy update  
received 3-31-2023**

Dear Mr. Brown,

Thank you for your letter. Please see below for actions recently taken, and the plan for future actions, to maintain compliance with all applicable Community Services Block Grant laws and regulations. Specifically, these actions address challenges with recruitment and the establishment of Board members in accordance with Berkeley Community Action Agency's (BCAA) bylaws to meet the Tripartite Governance requirement, and identifying the required Board Sectors on future submissions of the CSD 188 Board Roster. This plan was developed in collaboration with CalCAPA.

#### **ACTIONS RECENTLY TAKEN**

*Date – April 28, 2023*

BCAA staff and commission chair met and consulted with staff from CalCAPA to develop a plan on how to best address board vacancies and clearly identify the required Board Sectors on future submissions of the CSD 188 Board Roster.

*Date – May 15, 2023*

BCAA staff, CalCAPA staff, and the chair of the BCAA Advisory Board met and discussed the importance of filling the Board vacancies as soon as possible.

#### **REMEDIATION PLAN**

**GOAL: RECRUITMENT AND ESTABLISHMENT OF BOARD MEMBERS IN ACCORDANCE WITH THEIR BYLAWS TO MEET THE TRIPARTITE GOVERNANCE REQUIREMENT.**

*A Vibrant and Healthy Berkeley for All*

2180 Milvia Street, 2<sup>nd</sup> Floor, Berkeley, CA 94704 Tel: 510.981.5400 TDD: 510.981.6903 Fax: 510.981.5450  
E-mail: [HHCS@berkeleyca.gov](mailto:HHCS@berkeleyca.gov)

Wilmer Brown, Jr., Mgr. CSBG Field Operations Unit  
 June 19, 2023  
 Page 2 of 4

### 1) Challenge – Filling Low-Income vacancies on the HWCAC.

A) *Cause* – Current bylaws restrict nominations to low-income districts, resulting in few candidates willing and able to serve.

*Proposed Solution* – (Contingent on Advisory Board's and Council's input) Revise bylaws to eliminate low-income districts and allow low-income representatives to reside anywhere within the City, as long as they are persons chosen in accordance with democratic selection procedures outlined in regulations promulgated by the department to assure that the low-income elected are either low-income and/or reside in the City.

#### Action Steps

1. Action: BCAA staff to work with current Advisory Board to revise the bylaws.

Dates: July 19<sup>th</sup> and September 20<sup>th</sup> Human Welfare and Community Action (HWCAC) regular commission meetings.

*If Advisory Board agrees to changes:*

2. Action: BCAA staff to send proposed bylaw changes to CalCAPA for their review

Due: September 25, 2023

3. Action: BCAA staff and Advisory Board to finalize bylaws for proposed adoption by City Council.

Due: The next regular HWCAC commission meeting after receiving feedback from CalCAPA

4. Action: City Council to consider revised bylaws for recommended adoption.

Due: 6 weeks after step 3 is complete.

Note: Process for getting items on Council agenda, takes about six weeks after first draft of item (i.e. final proposed bylaw changes) is submitted for review.

B) *Cause* – Lack of outreach to Low-Income persons residing within the City of Berkeley

*Proposed Solution* - Develop relationships with area nonprofits, such as Head Start, to identify Low-Income representatives.

#### Action Steps

Action: BCAA staff to develop list of appropriate agencies to contact

Wimer Brown, Jr., Mgr. CSBG Field Operations Unit  
 June 19, 2023  
 Page 3 of 4

Due: June 23, 2023

Action: BCAA staff to meet with agencies and develop plan for outreach

Due: July 10, 2023 to September 29, 2023

Note: Due to people's limited availability during the summer months, we're providing a range of dates for when we anticipate the meetings to take place.

## 2) Challenge - Public Sector vacancies on Board.

*Cause* – City Council not appointing representatives.

*Proposed Solution* – City Manager and CalCAPA to send letter to City Council asking them to appoint representatives as soon as possible.

### Action Steps

Action: City Manager to send letter to City Council.

Due: July 3, 2023

Action: CalCAPA to send letter to City Council

Due: July 3, 2023

## 3) Challenge –Private sector vacancies.

*Cause* - Lack of clarity in bylaws in distinction between Public and Private representation.

*Proposed Solution:* Revise bylaws to clarify this distinction.

### Action Steps

1. Action: BCAA staff to work with current Advisory Board to revise the bylaws.

Dates: July 19<sup>th</sup> and September 20<sup>th</sup> Human Welfare and Community Action (HWCAC) regular commission meetings.

*If Advisory Board agrees to changes:*

2. Action: BCAA staff to send proposed bylaw changes to CalCAPA for their review

Due: September 25, 2023

3. Action: BCAA staff and Advisory Board to finalize bylaws for proposed adoption by City Council.

Due: The next regular HWCAC commission meeting after receiving feedback from CalCAPA

Wilmer Brown, Jr., Mgr. CSBG Field Operations Unit  
June 19, 2023  
Page 4 of 4

4. Action: City Council to consider revised bylaws for recommended adoption.

Due: 6 weeks after step 3 is complete.

Note: Process for getting items on Council agenda, takes about six weeks after first draft of item (i.e. final proposed bylaw changes) is submitted for review.

**GOAL: CLEARLY IDENTIFY THE REQUIRED BOARD SECTORS ON FUTURE SUBMISSIONS OF THE CSD 188 BOARD ROSTER.**

*See Challenge #3 for Goal: Recruitment and establishment of Board members in accordance with their bylaws to meet the Tripartite Governance requirement.*

We will continuously monitor for progress towards these goals and inform CSD of any additional challenges BCAA may encounter in attempting to reach these goals, accompanied by plans to address them.

Sincerely,



Margot Ernst, Manager  
Housing & Community Services Division

cc:

Jennifer Milovina, Associate Governmental Program Analyst, California Department of Community Services and Development

Mary-Claire Katz, Associate Management Analyst, City of Berkeley

Joshua Oehler, Community Services Specialist III, City of Berkeley

David Knight, Executive Director, California Community Action Partnership Association

Lawrence Hiner, Director of Training & Technical Assistance, California Community Action Partnership Association



# ATTACHMENT 7

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 Agency Staff and Board Roster  
 CSD 188 (Rev 08/2016)

## Agency Staff and Board Roster

Programs Administered: CSBG  Energy

|                       |                                  |                              |                           |
|-----------------------|----------------------------------|------------------------------|---------------------------|
| Agency Name:          | Berkeley Community Action Agency | Contact Email Address:       | MKatz@cityofberkeley.info |
| Contact Person:       | Mary-Claire Katz                 | Date Submitted:              | 11/1/23                   |
| Contact Phone Number: | 510-981-5414                     | Total Number of Board Seats: | 15                        |

List the name of each program manager for CSBG and Energy Programs. If there is more than one manager please list them as well i.e. Utility Assistance Program Manager.

This document must be updated within 30 days of any changes to the Executive Director, Program Manager, Chief Financial Officer and board roster.

### Agency Key Staff

|   | Name                | Title/Position (include date of vacancy if applicable) | Address                                                                                           | Phone Number | Email                       |
|---|---------------------|--------------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------|-----------------------------|
| 1 | Margot Ernst        | Executive Director                                     | Health, Housing & Community Services Department, 2180 Milvia Street, 2nd Floor, Berkeley CA 94704 | 510.981.5427 | MErnst@cityofberkeley.info  |
| 2 | Dee Williams-Ridley | Additional Authorized signer of the Contract           | Health, Housing & Community Services Department, 2180 Milvia Street, 2nd Floor, Berkeley CA 94704 | 510.981.7000 | manager@cityofberkeley.info |
| 3 |                     | Chief Financial Officer                                |                                                                                                   |              |                             |
| 4 |                     | CSBG Program Manager                                   |                                                                                                   |              |                             |
| 5 |                     | Weatherization Program Manager                         |                                                                                                   |              |                             |
| 6 |                     | Utility Assistance Program Manager                     |                                                                                                   |              |                             |
| 7 |                     | Other                                                  |                                                                                                   |              |                             |

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 Executive Director and Board Roster  
 CSD 188 (Rev 08/2016)

List the name of each board member and identify any board vacancies. In the "Title/Position" field identify the date the seat became vacant and specify the sector represented in the "Sector" field.

Sector: Please indicate P=Public, PR= Private, L= Low Income (Energy only agencies are not required to identify the sector.)

Board Roster

|   | Name                | Title/Position (Include date of vacancy if applicable) | Address                              | Sector | Phone Number | Email                       |
|---|---------------------|--------------------------------------------------------|--------------------------------------|--------|--------------|-----------------------------|
| 1 | Vacant, April 2017  | Mayor                                                  |                                      | Pr     |              |                             |
| 2 | Vacant, 1/19/22     |                                                        |                                      | Pr     |              |                             |
| 3 | Vacant, 2/17/23     |                                                        |                                      | Pr     |              |                             |
| 4 | Mary Behm-Steinberg | Chair                                                  | 1447 Kains Avenue Berkeley, CA 94702 | P      |              | marybehmsteinberg@gmail.com |
| 5 | Vacant, 7/21/22     |                                                        |                                      | P      |              |                             |
| 6 | Vacant, 10/20/21    |                                                        |                                      | Pr     |              |                             |
| 7 | Vacant, 10/2/23     |                                                        |                                      | P      |              |                             |
| 8 | Vacant, 12/31/21    |                                                        |                                      | P      |              |                             |

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
 Executive Director and Board Roster  
 CSD 188 (Rev 08/2016)

|    | Name             | Title/Position (Include date of vacancy if applicable) | Address | Sector | Phone Number | Email |
|----|------------------|--------------------------------------------------------|---------|--------|--------------|-------|
| 9  | Vacant, 2/10/23  |                                                        |         | P      |              |       |
| 10 | Vacant, 12/19/22 |                                                        |         | L      |              |       |
| 11 | Vacant, 1/30/23  |                                                        |         | L      |              |       |
| 12 | Vacant, 12/2020  |                                                        |         | L      |              |       |
| 13 | Vacant, 11/2018  |                                                        |         | L      |              |       |
| 14 | Vacant, 10/3/21  |                                                        |         | L      |              |       |
| 15 | Vacant, 10/21/21 |                                                        |         | L      |              |       |
| 16 |                  |                                                        |         |        |              |       |
| 17 |                  |                                                        |         |        |              |       |
| 18 |                  |                                                        |         |        |              |       |
| 19 |                  |                                                        |         |        |              |       |

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
Executive Director and Board Roster  
CSD 188 (Rev 09/2016)

|    | Name | Title/Position (include date of vacancy if applicable) | Address | Sector | Phone Number | Email |
|----|------|--------------------------------------------------------|---------|--------|--------------|-------|
| 20 |      |                                                        |         |        |              |       |
| 21 |      |                                                        |         |        |              |       |
| 22 |      |                                                        |         |        |              |       |
| 23 |      |                                                        |         |        |              |       |
| 24 |      |                                                        |         |        |              |       |
| 25 |      |                                                        |         |        |              |       |
| 26 |      |                                                        |         |        |              |       |
| 27 |      |                                                        |         |        |              |       |
| 28 |      |                                                        |         |        |              |       |
| 29 |      |                                                        |         |        |              |       |
| 30 |      |                                                        |         |        |              |       |

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT  
Executive Director and Board Roster  
CSD 188 (Rev 08/2016)

Instructions: Agency Staff and Board Roster (CSD 188)

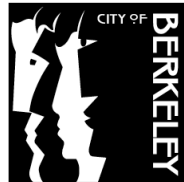
- Agency Name:** Legal entity title as stated on Federal Tax ID Form (STD 204)
- Contact Person:** Name, phone number and email of person completing the form
- Programs Administered:** Please check each box that applies. For example, if your agency administers both CSBG and Energy, please check both boxes; however, if your agency administers one, check the applicable program box.
- Date Submitted:** Enter the date the Agency Staff and Board Roster (CSD 188) form is submitted to CSD.
- Total Number of Board Seats:** Enter the total number of Board seats required under your agency Bylaws.
- Table 1: Agency Staff**
- Chief Financial Officer and Program Manager(s) Information:** Enter the Chief Financial Officers and Program Manager's information, as well as the executive director's information. If applicable, enter the name of the additional authorized signer of the contract. If applicable, enter additional managers if your Agency has a Program Manager for CSBG, Weatherization or Utility Assistance. For each agency staff provide an address and a contact phone number.
- Table 2: Board Roster Board Member Information:** Enter the current Board Chair and board member names, title and sector\*. For each board member provide an address other than the Agency's and a contact phone number for each member.

Agency must submit any changes/updates to the Executive Director, Chief Financial Officer, Program Managers and Board Roster (CSD 188) within thirty days of such occurrence(s). The updated form identifying the changes should be submitted electronically to the Contract Services Unit at:

[contracts2@cso.ca.gov](mailto:contracts2@cso.ca.gov)







## PROCLAMATION CALLING A SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

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

**Tuesday, June 15, 2021  
4:00 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/87908681987>. 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: 879 0868 1987. 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.*

## Preliminary Matters

### Roll Call:

## Action Calendar

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

*The Presiding Officer will request that persons wishing to speak use the "raise hand" function to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.*

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

## Action Calendar – Old Business

1. **Commission Reorganization for Post-COVID19 Budget Recovery**  
**From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Mayor Arreguin (Co-Sponsor)** (Reviewed by the Agenda & Rules Committee) (Continued from May 25, 2021)

### **Recommendation:**

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.
2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
5. Refer to City Manager and Commissions the following additional considerations:
  - Federal, state or other external mandates that might be impacted, and determine how to handle.
  - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted.
  - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter.
  - Whether the merged Commission might include 9, or a greater number of members.
  - The possibility of requiring specific qualifications for

## Action Calendar – Old Business

appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission. - Volunteer workload and capacity given scope of Commission's charter

*Policy Committee Recommendation: Make a Qualified Positive Recommendation to City Council to: 1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one. 2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions. 3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes. 4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions. 5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees. 6. Refer Councilmember Hahn questions to City Manager and Commissions: "Commissions to Combine/Merge - Suggested Considerations" - Federal, state or other external mandates that might be impacted, and determine how to handle. - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted. - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter. - Whether the merged Commission might include 9, or a greater number of members. - The possibility of requiring specific qualifications for appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission - Volunteer workload and capacity given scope of Commission's charter.*

**Financial Implications:** See report

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

## Public Comment - Items on this agenda only

## Adjournment

I hereby request that the City Clerk of the City of Berkeley cause personal notice to be given to each member of the Berkeley City Council on the time and place of said meeting, forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the City of Berkeley to be affixed on this 3<sup>rd</sup> day of June, 2021.



Jesse Arreguin, Mayor

Public Notice – this Proclamation serves as the official agenda for this meeting.

ATTEST:



Date: June 3, 2021  
Mark Numainville, City Clerk

**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.



## Communications

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

### **Item #1: Commission Reorganization for Post-COVID19 Budget Recovery**

1. Holly Scheider





Lori Droste  
Berkeley Vice Mayor

**ACTION CALENDAR**

June 15, 2021

*(Continued from May 25, 2021)*

**To:** Honorable Mayor and Members of the City Council

**From:** Councilmember Lori Droste (Author), Councilmembers Rigel Robinson (Co-Sponsor), Rashi Kesarwani (Co-Sponsor) and Mayor Jesse Arreguín (Co-Sponsor)

**Subject:** Commission Reorganization for Post-COVID19 Budget Recovery

**RECOMMENDATION**

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

*Phase 1:* Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

*Phase 2:* All other Commissions as proposed below.  
As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

| New Commission Name                       | Former Commissions to be Reorganized                                  |
|-------------------------------------------|-----------------------------------------------------------------------|
| Commission on Climate and the Environment | Zero Waste, Energy, Community Environmental Advisory, and Animal Care |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Parks, Recreation, Waterfront (special Marina subcommittee)                                                                                                                                                                                                                                                                                                                                                                                                                           | Children, Youth, and Recreation and Parks and Waterfront                  |
| Peace, Justice, and Human Welfare <sup>1</sup>                                                                                                                                                                                                                                                                                                                                                                                                                                        | Peace and Justice and Human Welfare, Community Action Commissions         |
| Public Health Commission & Sugar Sweetened Beverage Panel of Experts                                                                                                                                                                                                                                                                                                                                                                                                                  | Community Health Commission and Sugar Sweetened Beverage Panel of Experts |
| Housing Advisory Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Measure O and Housing Advisory Commission                                 |
| Homeless Services Panel of Experts                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Homeless Commission and Measure P Homeless Services Panel of Experts      |
| Public Works and Transportation                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Public Works and Transportation                                           |
| Planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Planning and Cannabis                                                     |
| <p><b>All other commissions will maintain their current structure:</b> Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BID's, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p> |                                                                           |

2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
  
3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
  
4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
  
5. Refer to City Manager and Commissions the following additional considerations:
  - Federal, state or other external mandates that might be impacted, and determine how to handle.
  - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted

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<sup>1</sup> Members will be appointed by Council and membership should adhere to Government Code Section 12736(e); 12750(a)(2) and 12751.

- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter.
- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission’s charter

| Policy Committee Oversight <sup>2</sup>                        | Commissions                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Agenda and Rules                                               | <ol style="list-style-type: none"> <li>1. Fair Campaign Practices/Open Government Commission</li> <li>2. Personnel Board</li> </ol>                                                                                                                                                                                                                |
| Budget and Finance                                             | (Any legislation that requires funding)                                                                                                                                                                                                                                                                                                            |
| Public Safety                                                  | <ol style="list-style-type: none"> <li>1. Disaster and Fire Safety Commission</li> <li>2. Police Accountability Board/Police Review Commission</li> <li>3. Reimagining Public Safety Task Force</li> </ol>                                                                                                                                         |
| Facilities, Infrastructure, Transportation and the Environment | <ol style="list-style-type: none"> <li>1. Commission on the Environment</li> <li>2. Parks, Recreation and Waterfront with Marina subcommittee</li> <li>3. Public Works and Transportation</li> </ol>                                                                                                                                               |
| Land Use and Economic Development                              | <ol style="list-style-type: none"> <li>1. Measure O Housing Commission</li> <li>2. Planning Commission</li> <li>3. Labor</li> <li>4. Civic Arts Commission</li> </ol>                                                                                                                                                                              |
| Health, Equity, Life Enrichment, and Community                 | <ol style="list-style-type: none"> <li>1. Peace, Justice, and Civil Rights</li> <li>2. Health and Sugar Sweetened Beverage Panel of Experts</li> <li>3. Homeless Services Panel of Experts</li> <li>4. Mental Health Commission (state/federal mandate)</li> <li>5. Commission on the Status of Women</li> <li>6. Disability Commission</li> </ol> |

<sup>2</sup> Primary policy committee oversight but legislation may be referred to multiple policy committees.



**Other Commissions:** Zoning Adjustments Board (DRC), Landmarks Preservation, Board of Library Trustees, BIDs, Independent Redistricting Commission, Loan Administration Board

**POLICY COMMITTEE RECOMMENDATION**

On April 5, 2021, the Agenda and Rules Committee made a qualified positive recommendation to City Council to:

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

Phase 2: All other Commissions as proposed below.  
As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

| <b>New Commission Name (suggested)</b>                               | <b>Former Commissions to be Reorganized</b>                                    |
|----------------------------------------------------------------------|--------------------------------------------------------------------------------|
| Commission on Climate and the Environment                            | Zero Waste, Energy, Community Environmental Advisory, and Animal Care          |
| Parks, Recreation, Waterfront (special Marina subcommittee)          | Children, Youth, and Recreation and Parks and Waterfront                       |
| Peace, Justice, and Human Welfare                                    | Peace and Justice Commission and Human Welfare and Community Action Commission |
| Public Health Commission & Sugar Sweetened Beverage Panel of Experts | Community Health Commission and Sugar Sweetened Beverage Panel of Experts      |
| Housing Advisory Commission                                          | Measure O and Housing Advisory Commission                                      |
| Homeless Services Panel of Experts                                   | Homeless Commission and Measure P Homeless Services Panel of Experts           |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| Public Works and Transportation                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Public Works and Transportation |
| Planning                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Planning and Cannabis           |
| <p><b>All other commissions will maintain their current structure:</b> Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p> |                                 |

2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions.

3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.

4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.

5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees.

6. Refer Councilmember Hahn questions to City Manager and Commissions: “Commissions to Combine/Merge - Suggested Considerations”

- Federal, state or other external mandates that might be impacted, and determine how to handle
- Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted
- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter.
- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission’s charter

### **PROBLEM/SUMMARY STATEMENT**

Commissions provide an important mechanism for residents to shape public policy and provide input on City business. However, the City of Berkeley maintains far more commissions than other cities of similar size, with a significant investment of City resources to staff all 37 commissions. Some commission secretaries report spending upwards of 20+ hours per week on commission business, which takes valuable time away from addressing other pressing City priorities. The local public health emergency created by the global COVID-19 pandemic has required City staff to shift to new roles and maintain an Emergency Operations Center since January 2020; recovery from the pandemic will continue to demand the full attention of our City staff for the foreseeable future. Given the uncertainties that our City faces in recovering from the COVID-19 pandemic and the demands that this recovery places on our City staff, it is an appropriate time to consider how best to consolidate our commissions in a manner that helps the City to achieve its core mission.

### **REITERATION OF PRINCIPLES**

Commissions are a fundamental part of the City's policymaking process. Members of boards and commissions provide an invaluable service to our City. They advise the City Council on a wide variety of subjects by making recommendations on important policy matters. Without the assistance of the various boards and commissions, the City Council could give many complex and significant matters only a perfunctory review. The detailed studies and considered advice of boards and commissions are often catalysts for innovative programs and improved services. Serving on a board or commission can be a rewarding experience for community service-minded residents. It is an excellent way to participate in the functioning of local government and to make a personal contribution to the improvement of our community. Making local government effective and responsive is everybody's responsibility.

- The Public Works Commission, for example, develops the City's five year paving plan which they then present to City Council for approval. Through extensive community outreach and research, the Commission identifies the streets most in need of repaving.
- With the passage of Measure D in 2014, a Panel of Experts on Sugar-Sweetened Beverages has guided the City's spending of over \$5 million in revenue generated from the Measure. Those dollars have bolstered local public campaigns and education initiatives.

These are merely two examples of the powerful role that Commissions play in City policymaking.

## **CURRENT SITUATION AND ITS EFFECTS**

### *Current Commission Structure*

The City of Berkeley has approximately thirty-seven commissions overseen by city administration, most of which have at least nine members and who are appointed by individual councilmembers. These commissions were intended to be a forum for public participation beyond what is feasible at the City Council, so that issues that come before the City Council can be adequately vetted.

Some commissions are required by charter or mandated by voter approval or state/federal mandate. Those commissions are the following:

1. Board of Library Trustees (charter)
2. Business Improvement Districts (state mandate)
3. Civic Arts Commission (charter)
4. Community Environmental Advisory Commission (state/federal mandate--CUPA)
5. Fair Campaign Practices Commission/Open Government (ballot measure)
6. Homeless Services Panel of Experts (ballot measure)
7. Housing Advisory Commission (state/federal mandate)
8. Human Welfare and Community Action (state/federal mandate)
9. Measure O Bond Oversight Committee (ballot measure)
10. Mental Health Commission (state/federal mandate)
11. Personnel (charter)Police Review Commission (ballot measure)
12. Sugar-Sweetened Beverages (ballot measure)

Berkeley must have its own mental health commission because of its independent Mental Health Division. In order to receive services, the City needs to have to have an advisory board. Additionally, Berkeley's Community Environmental Advisory Commission is a required commission in order to oversee Certified Unified Program Agency (CUPA) under California's Environmental Protection Agency. Additionally, some commissions serve other purposes beyond policy advisories. The Children, Youth and Recreation Commission, Housing Advisory Commission, and the Human Welfare and Community Action Commission advise Council on community agency funding. However, some of the aforementioned quasi-judicial and state/federal mandated commissions do not need to stand independently and can be combined to meet mandated goals.

### *The Importance of Commissions*

Commissions serve a vital role in the City of Berkeley's rich process of resident engagement. An analysis of agendas over the past several years shows that the commissions have created policy that have benefited the community in meaningful and important ways. In 2020, 14 of the 16 commission items submitted to Council passed. From 2016-2020, an average of 34 items were submitted by commissions to Council for consideration.

The City's Health, Housing and Community Development department serves an important role in addressing COVID-19, racial disparities, inequitable health outcomes, affordable housing, and other important community programs. Additionally, Health, Housing, and Community Development also staffs ten commissions, more than many cities of Berkeley's size. Council needs to wrestle with these tradeoffs to ensure that we seek the maximum benefit for *all* of the Berkeley community, particularly our most vulnerable.

#### *Commission Structures in Neighboring Jurisdictions*

In comparison to neighboring jurisdictions of similar size, Berkeley has significantly more commissions. The median number of commissions for these cities is 12 and the average is 15.

| Comparable Bay Area City | Population (est.) | Number of Commissions | Links                                                                                                                                                                                                         |
|--------------------------|-------------------|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Berkeley                 | 121,000           | 37                    | <a href="https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf">https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf</a> |
| Antioch                  | 112,000           | 6                     | <a href="https://www.antiochca.gov/government/boards-commissions/">https://www.antiochca.gov/government/boards-commissions/</a>                                                                               |
| Concord                  | 130,000           | 14                    | <a href="https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Commi">https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Commi</a>                                           |
| Daly City                | 107,000           | 7                     | <a href="http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm">http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm</a>         |
| Fairfield                | 117,000           | 7                     | <a href="https://www.fairfield.ca.gov/gov/comms/default.asp">https://www.fairfield.ca.gov/gov/comms/default.asp</a>                                                                                           |
| Fremont                  | 238,000           | 15                    | <a href="https://www.fremont.gov/76/Boards-Commissions-Committees">https://www.fremont.gov/76/Boards-Commissions-Committees</a>                                                                               |
| Hayward                  | 160,000           | 12                    | <a href="https://www.hayward-ca.gov/your-government/boards-commissions">https://www.hayward-ca.gov/your-government/boards-commissions</a>                                                                     |



|           |         |    |                                                                                                                                                           |
|-----------|---------|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Richmond  | 110,000 | 29 | <a href="https://www.ci.richmond.ca.us/256/Boards-and-Commissions">https://www.ci.richmond.ca.us/256/Boards-and-Commissions</a>                           |
| San Mateo | 105,000 | 7  | <a href="https://www.cityofsanmateo.org/60/Commissions-Boards">https://www.cityofsanmateo.org/60/Commissions-Boards</a>                                   |
| Sunnyvale | 153,000 | 10 | <a href="https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804">https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804</a> |
| Vallejo   | 122,000 | 17 | <a href="http://www.ci.vallejo.ca.us/cms/one.aspx?pagelid=22192">http://www.ci.vallejo.ca.us/cms/one.aspx?pagelid=22192</a>                               |

To understand the impact on various departments and staffing capacity, the following table shows which departments are responsible for overseeing various commissions.

### *Staffing and Resources Supporting Berkeley's Current Commission Structure*

| Commission Name                             | Overseeing Department (Total Commissions in Department) |
|---------------------------------------------|---------------------------------------------------------|
| Animal Care Commission                      | City Manager (8)                                        |
| Civic Arts Commission                       | City Manager (8)                                        |
| Commission on the Status of Women           | City Manager (8)                                        |
| Elmwood BID Advisory Board                  | City Manager (8)                                        |
| Loan Administration Board                   | City Manager (8)                                        |
| Peace and Justice Commission                | City Manager (8)                                        |
| Solano Ave BID Advisory Board               | City Manager (8)                                        |
| Cannabis Commission                         | Planning (7)                                            |
| Community Environmental Advisory Commission | Planning (7)                                            |
| Design Review Committee                     | Planning (7)                                            |
| Energy Commission                           | Planning (7)                                            |
| Landmarks Preservation Commission           | Planning (7)                                            |
| Planning Commission                         | Planning (7)                                            |
| Zoning Adjustments Board                    | Planning (7)                                            |

|                                                               |                                                        |
|---------------------------------------------------------------|--------------------------------------------------------|
| Children, Youth, and Recreation Commission                    | Parks (3)                                              |
| Parks and Waterfront Commission                               | Parks (3)                                              |
| Youth Commission                                              | Parks (3)                                              |
| Commission on Aging                                           | Health, Housing, and Community Services (HHCS)<br>(10) |
| Commission on Labor                                           | HHCS (10)                                              |
| Community Health Commission                                   | HHCS (10)                                              |
| Homeless Commission                                           | HHCS (10)                                              |
| Homeless Services Panel of Experts                            | HHCS(10)                                               |
| Housing Advisory Commission                                   | HHCS (10)                                              |
| Human Welfare & Community Action Commission                   | HHCS (10)                                              |
| Measure O Bond Oversight Committee                            | HHCS (10)                                              |
| Mental Health Commission                                      | HHCS (10)                                              |
| Sugar-Sweetened Beverage Product Panel of Experts             | HHCS (10)                                              |
| Disaster and Fire Safety Commission                           | Fire (1)                                               |
| Commission on Disability                                      | Public Works (4)                                       |
| Public Works Commission                                       | Public Works (4)                                       |
| Transportation Commission                                     | Public Works (4)                                       |
| Zero Waste Commission                                         | Public Works (4)                                       |
| Fair Campaign Practices Commission/Open Government Commission | City Attorney (1)                                      |
| Personnel Board                                               | Human Resources (1)                                    |

|                                                      |                                                            |
|------------------------------------------------------|------------------------------------------------------------|
| Police Review Commission/Police Accountability Board | Police Review Commission/Police Accountability Board Staff |
| Reimagining Public Safety Task Force                 | City Manager *(8) and BPD (2)                              |
| Board of Library Trustees                            | Library (1)                                                |

Gray=charter  
 Red=state/federal mandate  
 Yellow=quasi-judicial  
 Blue=ballot initiative  
 Orange=state/federal mandate and quasi-judicial  
 Green=quasi-judicial and ballot initiative

The departments that staff more than five commissions are Health, Housing, and Community Services (10 commissions), Planning (7 commissions), and the City Manager’s department (8 commissions). At the same time, some smaller departments (e.g. the City Attorney’s office) may be impacted just as meaningfully if they have fewer staff and larger individual commission workloads.

*Policy Committee Structure Expands Opportunities for Public Input*

With the recent addition of policy committees, proposed legislation is now vetted by councilmembers in these forums. Each policy committee is focused on a particular content area aligned with the City of Berkeley’s strategic plan and is staffed and an advisory policy body to certain city departments. Members of the public are able to provide input at these committees as well. The policy committees currently have the following department alignment:

**Department and Policy Committee alignment**

1. **Agenda and Rules**—all departments
2. **Budget and Finance**—City Manager, Clerk, Budget, and Finance
3. **Land Use and Economic Development**—Clerk, Planning, HHCS, City Attorney, and City Manager (OED)
4. **Public Safety**—Clerk, City Manager, Police, and Fire
5. **Facilities, Infrastructure, Transportation, Environment and Sustainability** (Clerk, City Manager, Planning, Public Works, and Parks)
6. **Health, Equity, Life Enrichment, and Community** (Clerk, City Manager, HHCS)

*Staffing Costs*

Based upon preliminary calculations of staff titles and salary classifications, the average commission staff secretary makes roughly \$60-\$65/hour. Based upon recent interviews with secretaries and department heads, individual commission secretaries work

anywhere from 8-80 hours a month staffing and preparing for commission meetings. To illustrate this example, a few examples are listed below.

| Commission                        | Step 5 Rate of Pay | Reported Hours a Month | Total <b>Direct</b> Cost of Commission <b>per Month</b> |
|-----------------------------------|--------------------|------------------------|---------------------------------------------------------|
| Animal Care                       | \$70.90            | 8                      | \$567.20                                                |
| Landmarks Preservation Commission | \$57.96            | 80                     | \$4,636.80                                              |
| Design Review Commission          | \$52.76            | 60                     | \$3,165.60                                              |
| Peace and Justice                 | \$60.82            | 32                     | \$1,946.24                                              |

It is extremely challenging to estimate a specific cost of commissions in the aggregate because of the varying workload but a safe estimate of salary costs dedicated to commissions would be in the six-figure range.

Many commissions--particularly quasi-judicial and land use commissions-- require more than one staff member to be present and prepare reports for commissions. For example, Zoning Adjustment Board meetings often last five hours or more and multiple staff members spend hours preparing for hearings. The Planning Department indicates that *in addition* to direct hours, additional commission-related staff time adds an extra 33% staff time. Using the previous examples, this means that the Landmarks Preservation Commission would cost the city over \$6,000 in productivity while the Design Review Commission would cost the City over \$4,000 a month.

#### *Productivity Losses and Administrative Burden*

Current productivity losses are stark because of the sheer amount of hours of staffing time dedicated to commissions. As an example, in 2019 one of the City of Berkeley's main homeless outreach workers staffed a commission within the City Manager's department. She spent approximately 32 hours a month working directly on commission work. While this is not a commentary on a particular commission, this work directly impacted her ability to conduct homeless outreach.

### **RATIONALE FOR RECOMMENDATION**

At a time when the City needs to demonstrate efficiency and fiscal restraint, the current commission structure is costly and duplicative. At the same time, civic engagement and commission work absolutely deserve an important role in Berkeley. Consequently, this legislation retains commissions but centers on overall community benefit, staff productivity, and associated costs. This is imperative to address, especially in light of COVID-19 and community demands for reinvestment in important social services.

**FISCAL IMPACTS**

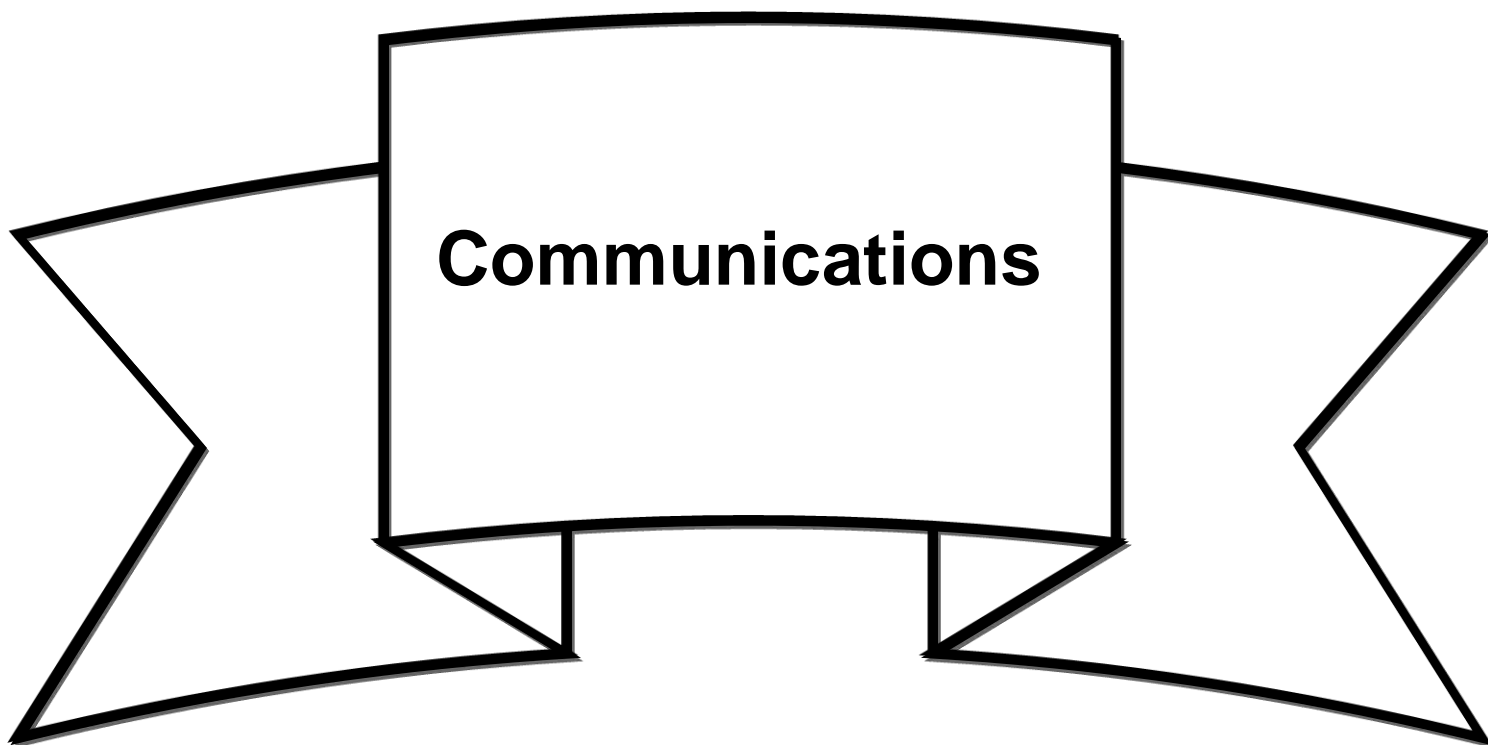
Significant savings associated with reduced staffing.

**CONTACT**

Vice Mayor Lori Droste 510-981-7180







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





Office of the City Manager

INFORMATION CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Sharon Friedrichsen, Budget Manager  
Henry Oyekanmi, Finance Director

Subject: Fiscal Year 2024 Mid-Year Budget Update

RECOMMENDATION

Council receive and file the Fiscal Year 2024 Mid-Year Budget Update.

INTRODUCTION

This report presents the Fiscal Year 2024 (“FY 2024”) Mid-Year Budget Update including actual General Fund and Special Fund expenditures incurred from July 1, 2023 to December 31, 2023. It also provides an estimate of anticipated General Fund revenues and expenditures by June 30, 2024 and projected expenditures for All Funds by department for FY 2024.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley is currently in FY 2024, which covers the period of July 1, 2023 to June 30, 2024. On June 27, 2023 the City Council adopted the FY 2024 Budget, authorizing gross appropriations of \$728,631,293 and net appropriations of \$621,229,929 (net of dual appropriations). The General Fund portion of this appropriation is \$276,548,969.

As depicted on the next page, the *FY 2024 Mid-Year General Budget at a Glance*, shows that, as of December 31, 2023, General Fund revenues actuals are at 45.32% of the revised budget projection. Revenues received are less than 50% with half of the fiscal year elapsed, although the timing of the receipt of revenues varies through the course of the fiscal year. The year-end projected revenue is expected at \$1.67 million less than the Adopted and Revised revenue.

General Fund expenses are at 55.54%, compared to the projected 50%, halfway through the fiscal year. Based on the mid-year trend, expenditures are projected to end over the revised budget by approximately \$2.4 million. The FY 2024 mid-year projected ending shortfall is mostly due to increased personnel costs based upon approved labor agreements and public safety overtime offset by salary savings related to vacancies in other departments. However, the projections do not reflect all expenditures approved on January 16, 2024 by Council in the Amendment to the Annual Appropriation Ordinance (AAO#1).



**FY 2024 Mid-Year General Budget at a Glance**

| <b>\$'s in Millions</b>                                                                  | <b>Revenues</b> | <b>Expenditures</b> |
|------------------------------------------------------------------------------------------|-----------------|---------------------|
| FY 2024 Adopted Budget                                                                   | \$266.42        | (\$276.55)          |
| FY 2024 Revised Budget                                                                   | \$266.42        | (\$307.53)          |
| FY 2024 Mid-Year Actuals                                                                 | \$120.73        | (\$170.81)          |
| Percentage of Revenue Received/<br>Expended and Encumbered<br>compared to Revised Budget | 45.32%          | 55.54%              |
| FY 2024 Year-End Projected                                                               | \$264.75        | (\$309.96)          |
| Variance between Revised and<br>Projected                                                | (\$1.67)        | (\$2.43)            |

**FY 2024 Mid-Year Summary**

**General Fund Revenues**

*General Fund Revenue and Transfer In FY 2024 Mid-Year vs FY 2023 Mid-Year Comparison*, on the next page, shows FY 2024 General Fund Revenues through the first six months of the current fiscal year and compares the year-to-date revenues received to the first six months of FY 2023. General Fund revenue and transfers decreased \$7,143,655 or 5.59%, from \$127,875,604 in the first half of FY 2023, to \$120,731,949 for the same period in FY 2024.

Notable declines during the first half of FY 2024 were the following:

- 1. Property Transfer Taxes \$ 6,619,374
- 2. Measure P Property Transfer Taxes 5,523,564
- 3. Transfers In 2,411,463
- 4. Sales Taxes 382,339

As staff indicated in the FY 2023 General Fund Revenue report to Council, the City General Fund has, for the near term, lost at least two of its three primary drivers of annual growth (Property Transfer Taxes and Measure P Property Transfer Taxes). These drivers of annual growth are experiencing negative growth that will eventually lower growth for Secured Property Taxes as they have continued to decline sharply in the first half of FY 2024. As a result, the General Fund revenue and transfers projection for FY 2024 has been reduced by \$1,672,971 or .6% from \$266,418,342 to \$264,745,371.

The City’s Sales Tax Consultant has noted softening in sales activity in several sales tax categories since the Adopted Budget was passed, resulting in a reduction in the Sales Tax revenue projection of \$1,278,425, from \$19,654,225 to \$18,375,800. The decline in Transfers In was due to a decline of \$4,507,934 in transfers from the American Rescue Plan Fund.

Three notable increases during the first half of FY 2024 were Unsecured Property Taxes (+\$729,509), Ambulance Fees (+\$1,335,904) and Interest Income (+\$2,580,861), which resulted in increases in the revenue projections for those revenue categories. Excluding Transfers, General Fund revenue decreased \$4,327,473 or 3.55%, from \$121,916,745 in the first half of FY 2023, to \$116,589,272 in the first half of FY 2024.

**General Fund Revenue and Transfer In FY 2024 Mid-Year vs FY 2023 Mid-Year Comparison**

| Revenue Categories                                      | FY 2024              |                      |                       |               | FY 2023              |                      |                       |               | Comparison FY24 vs FY23 |               |
|---------------------------------------------------------|----------------------|----------------------|-----------------------|---------------|----------------------|----------------------|-----------------------|---------------|-------------------------|---------------|
|                                                         | Adopted              | Actual               | Variance              | % Received    | Adopted              | Actual               | Variance              | % Received    | Amount                  | %             |
| Secured Property                                        | \$84,725,717         | \$42,904,620         | (\$41,821,097)        | 50.64%        | \$75,664,920         | \$40,237,811         | (\$35,427,109)        | 53.18%        | 2,666,809               | 6.63%         |
| Redemptions -Regular                                    | 831,441              | 524,404              | (307,037)             | 63.07%        | 831,441              | 461,026              | -370,415              | 55.45%        | 63,378                  | 13.75%        |
| Supplemental Taxes                                      | 3,400,000            | 1,197,265            | (2,202,735)           | 35.21%        | 2,000,000            | 1,229,929            | -770,071              | 61.50%        | (32,664)                | -2.66%        |
| Unsecured Property Taxes                                | 3,806,995            | 3,881,280            | 74,285                | 101.95%       | 3,516,000            | 3,151,771            | -364,229              | 89.64%        | 729,509                 | 23.15%        |
| Property Transfer Tax                                   | 22,873,786           | 10,056,934           | (12,816,852)          | 43.97%        | 34,462,172           | 16,676,308           | -17,785,864           | 48.39%        | (6,619,374)             | -39.69%       |
| Property Transfer Tax-Measure P (New December 21, 2018) | 10,189,500           | 2,840,259            | (7,349,241)           | 27.87%        | 14,073,750           | 8,363,823            | -5,709,927            | 59.43%        | (5,523,564)             | -66.04%       |
| Sales Taxes                                             | 19,654,225           | 9,305,556            | (10,348,669)          | 47.35%        | 19,016,546           | 9,687,895            | -9,328,651            | 50.94%        | (382,339)               | -3.95%        |
| Soda Taxes                                              | 1,147,387            | 581,705              | (565,682)             | 50.70%        | 990,210              | 642,874              | -347,336              | 64.92%        | (61,169)                | -9.51%        |
| Utility Users Taxes                                     | 17,454,320           | 7,801,328            | (9,652,992)           | 44.70%        | 13,800,000           | 7,638,612            | -6,161,388            | 55.35%        | 162,716                 | 2.13%         |
| Transient Occupancy Taxes                               | 8,374,588            | 4,393,772            | (3,980,816)           | 52.47%        | 5,000,000            | 4,785,735            | -214,265              | 95.71%        | (391,963)               | -8.19%        |
| Less: TOT rebates owed (3)                              |                      | (546,224)            |                       |               |                      | (498,566)            |                       |               | (47,658)                | 9.56%         |
| Short-term Rentals                                      | 1,400,000            | 687,271              | (712,729)             | 49.09%        | 1,000,000            | 712,661              | -287,339              | 1,000,000     | (25,390)                | -3.56%        |
| Business License Tax                                    | 21,560,783           | 1,592,902            | (19,967,881)          | 7.39%         | 19,000,000           | 1,010,143            | -17,989,857           | 5.32%         | 582,759                 | 57.69%        |
| Recreational Cannabis                                   | 1,000,000            | 76,512               | (923,488)             | 7.65%         | 1,400,000            | 237,669              | -1,162,331            | 16.98%        | (161,157)               | -67.81%       |
| U1 Revenues                                             | 5,900,000            | 181,607              | (5,718,393)           | 3.08%         | 4,900,000            | 113,893              | -4,786,107            | 2.32%         | 67,714                  | 59.45%        |
| Other Taxes (excluding Redemptions-Regular)             | 2,593,129            | 1,899,156            | (693,973)             | 73.24%        | 1,800,000            | 1,500,099            | -299,901              | 83.34%        | 399,057                 | 26.60%        |
| Vehicle In-Lieu Taxes                                   | 17,811,134           | 8,937,911            | (8,873,223)           | 50.18%        | 15,926,168           | 8,329,833            | -7,596,335            | 52.30%        | 608,078                 | 7.30%         |
| Parking Fines-Regular Collections                       | 5,800,000            | 3,253,087            | (2,546,913)           | 56.09%        | 4,326,450            | 3,104,161            | -1,222,289            | 71.75%        | 148,926                 | 4.80%         |
| Moving Violations                                       | 132,600              | 96,254               | (36,346)              | 72.59%        | 132,600              | 71,415               | -61,185               | 53.86%        | 24,839                  | 34.78%        |
| Ambulance Fees                                          | 5,350,779            | 3,815,272            | (1,535,507)           | 71.30%        | 3,880,779            | 2,479,368            | -1,401,411            | 63.89%        | 1,335,904               | 53.88%        |
| Interest Income                                         | 8,826,211            | 6,619,791            | (2,206,420)           | 75.00%        | 6,000,000            | 4,038,930            | -1,961,070            | 67.32%        | 2,580,861               | 63.90%        |
| Franchise Fees                                          | 1,720,056            | 307,634              | (1,412,422)           | 17.89%        | 1,613,283            | 335,043              | -1,278,240            | 20.77%        | (27,409)                | -8.18%        |
| Other Revenue                                           | 7,668,797            | 3,018,612            | (4,650,185)           | 39.36%        | 6,729,977            | 3,902,132            | -2,827,845            | 57.98%        | (883,520)               | -22.64%       |
| IDC Reimbursement                                       | 6,104,970            | 3,259,079            | (2,845,891)           | 53.38%        | 5,490,000            | 3,205,614            | -2,284,386            | 58.39%        | 53,465                  | 1.67%         |
| Transfers                                               | 8,091,924            | 4,045,962            | (4,045,962)           | 50.00%        | 17,096,148           | 6,457,425            | -10,638,723           | 37.77%        | (2,411,463)             | -37.34%       |
| <b>Total Revenue:</b>                                   | <b>\$266,418,342</b> | <b>\$120,731,949</b> | <b>-\$145,686,393</b> | <b>45.32%</b> | <b>\$258,650,444</b> | <b>\$127,875,604</b> | <b>-\$130,774,840</b> | <b>49.44%</b> | <b>(\$7,143,655)</b>    | <b>-5.59%</b> |

Notes: This statement is presented on a budgetary basis (i.e., cash).

Before getting into the FY 2024 General Fund revenue details, staff also want to point out that the City's General Fund revenue challenges have not ended now that the Fed's have apparently stopped raising short-term rates, for the following reasons:

1. The Fed's monetary tightening includes a program to sell \$95 billion/month (or \$1.14 trillion per year) of Agency and Mortgage-Backed securities from its Balance Sheet, which increases the supply of these securities and puts additional upward pressure on long-term rates, including mortgage rates. Prior to the monetary policy change, as the Fed's was the major purchaser of these long-term securities;
2. The proposed \$1.8 trillion federal budget deficit for the upcoming fiscal year will require the issuance of an additional \$1.8 trillion in Treasury Bonds to fund the deficit; and,
3. The Personal Consumption Expenditures (PCE) index (the Fed's favored inflation index) has declined from almost 9% during the pandemic to 2.93% in December 2023, close to the Fed's 2.0% target.

Despite that, the Fed is reluctant to lower short-term interest rates as soon as the market expected. The Fed Chairman indicated at the January 31, 2024 meeting that it will not start lowering interest rates until it is certain that inflation is on a sustainable path to the Fed's 2% goal.

The additional huge supply of bonds from these macroeconomic factors will probably overwhelm demand for long-term bonds and continue to put pressure on long-term interest rates, including mortgage rates. In addition to reducing consumer spending and slowing down the economy, it will keep mortgage rates high.

## **FY 2024 FIRST HALF GENERAL FUND REVENUE DETAILS**

### **Supplemental Taxes (-\$32,664 less than FY 2023 Actual)**

During the first half of FY 2024, Supplemental Taxes totaled \$1,197,265, which was \$32,664 or 2.7% less than the \$1,229,929 received for the same period in FY 2023

### **Secured Property Tax (+\$2,666,809 more than FY 2023 Actual)**

During the first half of FY 2024, Secured Property Tax revenues totaled \$42,904,620, which was \$2,666,809 or 6.63% more than the \$40,237,811 received for the same period in FY 2023.

This result was consistent with the County's Certification of Assessed Valuation (received from the County in August 2023), which reflects growth of 7.256%. However, the FY 2024 Adopted Budget assumed a 6.895% increase for FY 2024, so actual Secured Property Taxes are expected to be \$286,128 or .361% more than the Adopted Budget amount of \$84,725,717. The Secured Property Tax Revenue projection is being increased from \$84,725,717 to \$85,011,845.

### **Unsecured Property Tax (+\$729,509 more than FY 2023 Actual)**

During the first half of FY 2024, Unsecured Property Tax revenues totaled \$3,881,280, which was \$729,509 or 23.2% more than the amount of \$3,151,771 received for the same period in FY 2023.

This amount is greater than the County's Certification of Assessed Valuation growth of 9.1% for FY 2024. The Unsecured Property Tax Revenue projection is being increased from \$3,806,995 to \$3,881,280.

### **Property Transfer Tax (-\$6,619,374 less than FY 2023 Actual)**

During the first half of FY 2024, Property Transfer Tax totaled \$10,056,934, which was \$6,619,374 or 39.7% less than the \$16,676,308 received for the same period in FY 2023.

The primary reasons for the \$6,619,374 decrease in Property Transfer Tax were the following:

- (1) The dollar value of property sales decreased by \$487.2 billion or 42.2%, from \$1.154.7 billion in the first half of FY 2023 to \$667.5 million during the same period of FY 2024, as illustrated in Table 1 below.
- (2) There were ten property sales of \$10 million or more, with total sales of \$411 million in the first half of FY 2023 compared to 4 property sales of \$10 million or more, with total sales of \$74.9 million in the first half of FY 2024; and,

- (3) The number of property sales transactions decreased by 126 or 23.7% from 532 in the first half of FY 2023 to 406 during the same period of FY 2024, as illustrated in the Table 3 below.

This decline in real estate activity is generally attributed to high and increasing mortgage rates and a slowing economy resulting from the Federal Reserve Board's aggressive attempt to reduce the money supply and slowing down the US economy in order to reduce inflation, by sharply raising interest rates and selling \$95 billion/month of Agency and Mortgage-Backed securities from its Balance Sheet. The Property Transfer Tax Revenue projection is being decreased from \$22,873,786 to \$16,873,786.

### Property Sales In Million \$

|          | July    | Aug     | Sept   | Oct    | Nov    | Dec    | Total   |
|----------|---------|---------|--------|--------|--------|--------|---------|
| FY 2024  | \$129.2 | \$152.5 | \$99.9 | \$95.7 | \$95.8 | \$94.4 | \$667.5 |
| FY 2023  | 188.9   | 320.0   | 134.6  | 113.9  | 254.9  | 142.4  | 1,154.7 |
| Change   | -59.7   | -167.5  | -34.7  | -18.2  | 159.1  | -48.0  | -487.2  |
| % Change | -31.6%  | -52.3%  | -25.8% | -16.0% | 62.4%  | -33.7% | -42.2%  |

### Number of Property Sales Transactions

|          | July   | Aug    | Sept  | Oct    | Nov   | Dec  | Total  |
|----------|--------|--------|-------|--------|-------|------|--------|
| FY 2024  | 79     | 73     | 64    | 61     | 67    | 62   | 406    |
| FY 2023  | 113    | 101    | 108   | 79     | 74    | 57   | 532    |
| Change   | -34    | -28    | -44   | -18    | -7    | 5    | -126   |
| % Change | -30.1% | -27.7% | 40.7% | -22.8% | -9.5% | 8.8% | -23.7% |

### Measure P-Property Transfer Tax (-\$5,523,564 less than FY 2023 Actual)

Measure P taxes totaling \$2,840,259 was collected during the first half of FY 2024, which was \$5,523,564 or 66.0% less than the \$8,363,823 collected during the same period of FY 2023. This decrease resulted primarily from the following: (1) A decrease of 61.0% in the dollar value of property sales amount in the first half of FY 2024 versus those in the first half of FY 2023 as reflected in Table 3; (2) The number of property sales transactions decreased by 131 or 60.9% during the first half of FY 2024, as illustrated in the table below; and,(3) There were only four property sales of \$10 million or more totaling \$75 million during this six-month period in FY 2024, compared to 9 transactions with total property sales of \$401 million for the same period in FY 2023. The Measure P1 Property Transfer Tax Revenue projection is being decreased from \$10,189,500 to \$6,500,000.

### Property Sales \$1.5 million+ In Million \$

|          | July   | Aug    | Sept   | Oct    | Nov    | Dec    | Total   |
|----------|--------|--------|--------|--------|--------|--------|---------|
| FY 2024  | \$62.8 | \$87.2 | \$48.5 | \$51.9 | \$33.6 | \$42.5 | \$326.5 |
| FY 2023  | 114.4  | 271.1  | 84.1   | 63.3   | 203.7  | 99.8   | 836.4   |
| Change   | - 51.6 | -183.9 | -35.6  | -11.4  | -170.1 | -57.3  | -509.9  |
| % Change | -45.1% | -67.8% | -42.3% | -18.0% | -83.5% | -57.4% | -61.0%  |

**Property Transactions \$1.5 Million and Above**

|          | July   | Aug    | Sept   | Oct    | Nov    | Dec    | Total  |
|----------|--------|--------|--------|--------|--------|--------|--------|
| FY 2024  | 18     | 17     | 12     | 15     | 12     | 10     | 84     |
| FY 2023  | 52     | 41     | 48     | 31     | 24     | 19     | 215    |
| Change   | -34    | -24    | -36    | -16    | -12    | -9     | -131   |
| % Change | -65.4% | -58.5% | -75.0% | -51.6% | -50.0% | -47.4% | -60.9% |

**Sales Tax (-\$382,339 less than FY 2023 Actual)**

For the first half of FY 2024, Sales Tax revenue totaled \$9,305,556, which was \$382,339 or 3.95% less than the \$9,687,895 received for the same period in FY 2023. The City's Sales Tax Consultant has noticed a significant softening of sales in several categories since the Adopted Budget was passed and has revised revenue projections in the following categories:

| Category             | Adopted Budget Amount | Revised Projection   | Difference           |
|----------------------|-----------------------|----------------------|----------------------|
| General Retail       | \$ 4,514,430          | \$ 4,037,541         | (\$ 476,889)         |
| Food Products        | 5,584,993             | 5,332,044            | ( 252,949)           |
| Transportation       | 3,060,135             | 2,566,985            | ( 493,150)           |
| Construction         | 1,697,060             | 1,430,481            | ( 266,579)           |
| Business to Business | 1,692,394             | 1,729,113            | 36,719               |
| Miscellaneous        | 211,692               | 563,185              | 351,493              |
| County Pool          | 4,091,330             | 3,437,856            | ( 653,474)           |
| State Pool           | 9,402                 | 8,989                | (413)                |
| County Sharing       | (1,043,072)           | (955,310)            | 87,762               |
| CDTFA Administration | (164,139)             | (137,311)            | 26,828               |
| <b>Total</b>         | <b>\$19,654,225</b>   | <b>\$ 18,013,573</b> | <b>(\$1,640,652)</b> |

As a result, the FY 2024 Sales Tax Revenue projection is being decreased from \$19,654,225 to \$18,375,800.

**Utility Users Taxes (+\$162,716 more than FY 2023 Actual)**

Utility Users Tax revenue for the first half of FY 2024 totaled \$7,801,328, which was \$162,716 or 2.13% more than the \$7,638,612 received for FY 2023. This increase of \$162,716 resulted from increases/decreases in the following categories:

| <b>FY 2024 Actual Revenues Compared to FY 2023 Actual Revenues</b> |                    |                    |                  |                 |
|--------------------------------------------------------------------|--------------------|--------------------|------------------|-----------------|
|                                                                    | <b>FY2024</b>      | <b>FY 2023</b>     | <b>\$ Change</b> | <b>% Change</b> |
| Telephone                                                          | \$ 515,199         | \$ 545,243         | \$ -30,044       | -5.96%          |
| Cable                                                              | 475,793            | 503,785            | - 27,992         | -5.56%          |
| Cellular                                                           | 881,338            | 898,459            | -17,121          | -1.91%          |
| Electric                                                           | 4,792,052          | 4,346,334          | 445,718          | 10.26%          |
| Gas                                                                | 1,136,946          | 1,344,791          | -207,845         | -15.46%         |
| <b>Total</b>                                                       | <b>\$7,801,328</b> | <b>\$7,638,612</b> | <b>\$162,716</b> | <b>2.13%</b>    |



PG&E received an 8% increase in electricity rates in January 2022, another increase of 8.9% in March 2023, and another ranging between 1%-4.1% effective September 1, 2023. The UUT Revenue projection is being increased from \$17,454,320 to \$17,700,000.

**Transient Occupancy Tax (-\$391,963 less than FY 2023 Actual)**

The total gross Transient Occupancy Tax (TOT) revenue reported for the first half of FY 2024 totaled \$4,393,772 (before deducting \$546,224 in TOT rebates owed), which was \$391,963 or 8.2% less than the \$4,785,735 (before deducting \$498,566 in TOT rebates owed) received for the same period in 2023. The decline reported was \$439,621 or 10.3% after deducting the TOT rebates owed for the respective period.

However, four hotels with a total of \$293,467 in TOT and \$92,312 in TOT rebates owed were not reported in the period ending December 31, 2023. After considering these transactions, gross TOT revenue in the first half of FY 2024 declined \$98,496 or 2.1% and net TOT (after deducting TOT rebates owed) declined \$238,466 or 5.6%.

The revised decrease in the first half of FY 2024 was primarily attributable to a gross decrease of 3.7% and a net decrease of .2% at the six largest hotels in Berkeley.

**Short-Term Rentals (-\$25,390 less than FY 2023 Actual)**

Short-Term Rentals revenue for the first half of FY 2024 totaled \$687,271, which was \$25,390 or 3.6% less than the \$712,661 received for the same period in FY 2023.

**Business License Taxes (+\$582,759 more than FY 2023 Actual)**

Business license Taxes (BLT) revenue for the first half of FY 2024 totaled \$1,592,902, which was \$582,759 or 57.7% more than the \$1,010,143 received for the same period in FY 2023.

It is too soon to determine if this increase is due to growth or due to the timing of the processing of the Business License Tax receipts, as these taxes are not delinquent until March 1<sup>st</sup>.

**U1 Revenues (+\$67,714 more than FY 2023 Actual)**

U1 revenues for the first half of FY 2024 totaled \$181,607, which was \$67,714 or 59.5% more than the \$113,893 received for the same period in FY 2023.

It is too soon to determine if this increase is due to growth or due to the timing of the processing of the U1 receipts, as these taxes are not delinquent until March 1<sup>st</sup>.

**Vehicle In Lieu Taxes (+\$608,078 more than FY 2023 Actual)**

Vehicle in Lieu Taxes (VLF) for the first half of FY 2024 totaled \$8,937,911, which was \$608,078 or 7.30% more than the \$8,329,833 received for the same period in FY 2023. This result was consistent with the County's Certification of Assessed Valuation (received in August 2022), which reflects growth of 7.256%. Changes in VLF revenues are based on the growth in assessed values. However, the Adopted Budget reflects growth of 6.912%, so actual Vehicle In Lieu Taxes are expected to be \$57,356 or .3443% more than the Adopted Budget amount of \$17,811,134. The FY 2024 Vehicle In Lieu Tax projection is being increased from \$17,811,134 to \$17,868,490.

**Other Taxes (+\$399,057 more than FY 2023 Actual)**

Other Taxes (excluding Redemptions-Regular) for the first half of FY 2024 totaled \$1,899,156 which was \$399,047 or 26.6% more than the \$1,500,099 received for the same period in FY 2023. The primary reason for the increase was (1) an increase of \$199,570 in Parking Lot Taxes; (2) a decline of \$191,035 in BLT penalties; (3) a decline of \$97,637 in BLT interest; and, (4) \$406,213 in Transportation Network Company User Tax (i.e., a tax on ride sharing companies enacted during the height of the COVID-19 pandemic) was recorded as Other Revenue, instead of Other Taxes in FY 2023. After including Transportation Network Company User Taxes as Other Taxes, instead of Other Income, the FY 2024 Other Taxes projection is being increased from \$2,593,129 to \$4,621,618.

**Parking Fines (+\$148,926 more than FY 2023 Actual)**

Parking Fines revenue for the first half of FY 2024 totaled \$3,253,087, which was \$148,926 or 4.8% more than the \$3,104,161 received for the same period in FY 2023. The primary reason for the increase was the continued increase in ticket writing. For the first half of FY 2024, ticket writing increased by 4,986 or 7.06% from 70,592 in the first half of FY 2023 to 75,578 in the same period in FY 2024, as follows:

|              | July   | Aug    | Sept   | Oct    | Nov    | Dec    | Total  |
|--------------|--------|--------|--------|--------|--------|--------|--------|
| FY 2024      | 12,318 | 13,865 | 12,931 | 12,819 | 12,213 | 11,432 | 75,578 |
| FY 2023      | 10,881 | 11,414 | 12,984 | 12,419 | 12,369 | 10,525 | 70,592 |
| Difference   | 1,437  | 2,451  | -53    | 400    | -156   | 907    | 4,986  |
| % Difference | 13.2%  | 21.5%  | -.4%   | 12.6%  | -1.26% | 8.62%  | 7.06%  |

**Ambulance Fees (+\$1,335,904 more than FY 2023 Actual)**

Ambulance Fees revenue for the first half of FY 2024 totaled \$3,815,272, which was \$1,335,904 or 53.9% more than the \$3,833,730 received for the same period in FY 2023. This increase was primarily due to (1) an increase in the number of transports, which increased by 205 or 7% in the first half of FY 2024, from 2,941 to 3,146; and (2) the Public Provider Ground Emergency Medical Transportation (PPGEMT) program replacing the Quality Assurance Fee Program (QAF); The MEDI-CAL and MCAL HMO reimbursement rate increased to \$1,062 under the PPGEMT Program from \$339 under the QAF Program. As a result, the FY 2024 Ambulance Fee revenue projection is being increased from \$5,350,779 to \$6,944,117 in FY 2024.

**Interest Income (+\$2,580,861 more than FY 2023 Actual)**

For the first half of FY 2024, Interest Income totaled \$6,619,791, which was \$2,580,861 or 63.9% more than the total of \$4,038,930 received for the same period in FY 2023. This increase was primarily attributable to a significant increase in average interest rates earned after the Federal Reserve reversed course and started raising interest rates on March 17, 2022. Primarily as a result of the Fed's actions, the net interest rate earned by the City increased from a range of 1.837%-2.616% during the first half of FY 2023, to a range of 2.84%-3.10% during the first half of FY 2024, as follows:

| <b>Monthly Net Interest Rate Earned</b> |             |            |             |            |            |            |
|-----------------------------------------|-------------|------------|-------------|------------|------------|------------|
|                                         | <b>July</b> | <b>Aug</b> | <b>Sept</b> | <b>Oct</b> | <b>Nov</b> | <b>Dec</b> |
| FY 2024                                 | 3.10%       | 3.02%      | 2.95%       | 2.95%      | 2.88%      | 2.84%      |
| FY 2023                                 | 1.837%      | 2.025%     | 1.972%      | 2.258%     | 2.390%     | 2.616%     |

The FY 2024 Interest Income projection is being increased from \$8,826,211 to \$12,615,354.

**Indirect Cost Reimbursements (+\$53,465 more than FY 2023 Actual)**

**Indirect Cost Reimbursements (IDC)** for the first half of FY 2024 totaled \$3,259,079, which was \$53,465 or 1.67% more than the \$3,205,614 received for the same period in FY 2023. This increase was primarily accounted for by an increase in the indirect cost allocation base (total direct salaries and wages) from \$14,360,779 in the first half of FY 2023 to \$14,846,041 in FY 2024. The FY 2024 IDC revenue projection is being increased from \$6,104,970 to \$6,800,000.

**Transfers (-\$2,411,463 less than FY 2023 Actual)**

Transfers from other funds for the first half of FY 2024 totaled \$4,045,962 which was \$2,411,463 or 37.3% less than the \$6,457,425 received for the same period in FY 2023. This was primarily attributable to the Transfer of \$1,627,872 from the American Rescue Plan Fund to recover from the impact of the COVID-19 pandemic in FY 2024, compared to the Transfer of \$6,135,806 from the American Rescue Plan Fund for the same period in FY 2023.

**Other Revenues (-\$883,520 less than FY 2023 Actual)**

Other Revenues primarily 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 half of FY 2024 totaled \$3,018,612 which was \$883,520 or 22.6% less than the \$3,902,132 received for the same period in FY 2023. This decrease of \$883,520 was primarily attributable to (1) the inclusion of \$406,213 in TNC User Taxes to Other Income, rather than Other Taxes in the first half of FY 2023; and (2) A premium of \$687,680 on the issuance of the Tax and Revenue Anticipation Notes (TRAN) in FY 2023 versus \$457,283 in FY 2024. The premium paid to the City was not actually revenue; it was a liability that was paid by the purchaser of the City's Notes when the coupon interest rate was higher than the market rate when the Notes were issued. It will be used to offset the interest expense paid by the City on the Notes.

The FY 2023 total for Other Revenue was \$9,043,937, while the Adopted Budget total was \$7,668,797. The FY 2024 Other Revenue projection is being increased from \$7,668,797 to \$8,468,797.

**Based on the FY 2024 Mid-Year, the revised projection for the FY 2024 General Fund Revenues are \$264.75 million.**

**General Fund Expenditures**

On June 27, 2023 the City Council adopted the FY 2024 Budget, which authorized General Fund expenditures in FY 2024 of \$276.55 million. Subsequently, on December 12, 2023, the City Council approved General Fund recommended encumbered rollovers, unencumbered carryovers, and adjustments totaling \$50.04 million in the Amendment to the FY 2024 Annual Appropriations Ordinance (AAO#1) as shown in the table below:

**FY 2024 General Fund Revised Budget**

| <b>FY 2024 Adopted Budget</b> | <b>Encumbered Recommended</b> | <b>Unencumbered Recommended</b> | <b>Other Adjustments</b> | <b>FY 2024 Revised Budget</b> |
|-------------------------------|-------------------------------|---------------------------------|--------------------------|-------------------------------|
| \$ 276,548,969                | \$ 16,752,951                 | \$ 12,523,938                   | \$ 20,763,498            | \$ 326,589,356                |

\*FY 24 Revised Budget at mid-year totaled \$307.5 million. With AAO#1 amendment approved in January 2024, revised budget increases to \$326.6 million.

The encumbered rollovers of \$16.75 million reflect contractual obligations entered in FY 2023, which had not been paid as of June 30, 2023. Unencumbered carryovers of \$12.52 million are approved by Council for specific purposes that had not been completed by the end of FY 2023. Funding for these commitments is brought forward into the current fiscal year to provide for payment of these obligations. Adjustments are new allocations for projects and Council priorities as detailed in the AAO. Included in the other adjustments of \$20.76 million are Council authorized allocations approved through the adoption of the Amendment to the AAO on December 12, 2023 (first reading) and January 16, 2024 (second reading).

General Fund expenditures incurred by department as of December 31, 2023 are shown in the following chart along with projections regarding the expenditures likely to be incurred through June 30, 2024. The two projected savings/deficit columns in the chart below are an estimate of whether the department will be under or over the revised budget and their respective appropriation limit based upon the first six months of the year. Not all of the adopted AAO#1 funding is reflected in the FY 2024 Revised Budget as of December 31, 2023.

The General Fund expenditure is projected to be over original revised budget of \$3.08 million by \$2.43 million at the end of FY 2024 (Revised Budget minus Projected Expenses). The planned expenditures reflect increased personnel costs based upon approved labor agreements, and public safety overtime offset by salary savings related to vacancies in other departments and adjustments approved by Council on January 16, 2024 in the Amendment to the Annual Appropriation Ordinance (AAO#1). Projected expenditures will also fluctuate as departments (1) fill vacant positions; (2) increase overtime spending to provide critical public safety services; (3) spend more on consultants and other professional services (“non-personnel costs”) to mitigate vacant staff positions and/or respond to unanticipated events and (4) implementation of projects.

**FY 2024 Mid-Year General Fund Expenditures (as of December 21, 2023)**

| DEPARTMENT                     | FY 2024 ADOPTED BUDGET | FY 2024 REVISED BUDGET* | YEAR TO DATE EXPENDED | ENCUMBRANCES      | AVAILABLE BUDGET   | PERSONNEL PERCENTAGE USED | NON-PERSONNEL PERCENTAGE USED | TOTAL PERCENTAGE USED | FY 2024 PROJECTED EXPENDITURES | FY 2024 PROJECTED ENDING BALANCE/(DEFICIT) |
|--------------------------------|------------------------|-------------------------|-----------------------|-------------------|--------------------|---------------------------|-------------------------------|-----------------------|--------------------------------|--------------------------------------------|
| MAYOR AND COUNCIL              | 4,772,190              | 4,849,542               | 1,923,297             | 62,410            | 2,863,835          | 40.5%                     | 44.7%                         | 40.9%                 | 4,849,542                      | -                                          |
| CITY AUDITOR                   | 3,136,323              | 3,221,934               | 1,391,210             | 102,047           | 1,728,678          | 43.9%                     | 63.1%                         | 46.3%                 | 3,089,758                      | 132,177                                    |
| RENT STABILIZATION BOARD       | 550,000                | 651,588                 | 302,231               | 349,356           | 1                  | 0.0%                      | 100.0%                        | 100.0%                | 651,588                        | -                                          |
| POLICE ACCOUNTABILITY          | 1,142,593              | 1,310,290               | 515,732               | 159,357           | 635,201            | 34.4%                     | 77.3%                         | 51.5%                 | 1,597,102                      | (286,812)                                  |
| CITY MANAGER'S OFFICE          | 13,150,234             | 16,294,107              | 7,458,276             | 2,303,030         | 6,532,801          | 45.4%                     | 81.4%                         | 59.9%                 | 15,758,044                     | 536,063                                    |
| CITY ATTORNEY                  | 4,304,039              | 5,003,419               | 2,038,057             | 395,637           | 2,569,725          | 39.6%                     | 77.3%                         | 48.6%                 | 5,273,499                      | (270,080)                                  |
| CITY CLERK                     | 2,547,276              | 2,759,548               | 972,288               | 325,627           | 1,461,633          | 48.0%                     | 45.7%                         | 47.0%                 | 2,886,744                      | (127,196)                                  |
| FINANCE                        | 8,179,370              | 9,110,602               | 3,281,701             | 1,063,527         | 4,765,374          | 39.6%                     | 71.4%                         | 47.7%                 | 8,047,068                      | 1,063,534                                  |
| HUMAN RESOURCES                | 3,467,541              | 4,127,222               | 1,728,648             | 142,944           | 2,255,629          | 45.6%                     | 44.8%                         | 45.3%                 | 4,125,275                      | 1,947                                      |
| INFORMATION TECHNOLOGY         | 1,526,760              | 2,233,165               | 891,132               | 308,646           | 1,033,388          | 0.0%                      | 53.7%                         | 53.7%                 | 1,702,432                      | 530,733                                    |
| HEALTH, HSG & COMMUNITY SVC    | 31,429,102             | 47,457,711              | 16,578,721            | 9,486,685         | 21,392,304         | 40.7%                     | 60.9%                         | 54.9%                 | 45,656,435                     | 1,801,276                                  |
| PARKS, RECREATION & WATERFRONT | 9,359,349              | 11,766,832              | 5,828,846             | 997,780           | 4,940,206          | 49.7%                     | 66.8%                         | 58.0%                 | 16,256,832                     | (4,490,000)                                |
| PLANNING & DEVELOPMENT         | 3,277,246              | 6,494,510               | 1,469,787             | 171,732           | 4,852,991          | 43.4%                     | 12.2%                         | 25.3%                 | 6,132,221                      | 362,289                                    |
| PUBLIC WORKS                   | 6,558,529              | 12,160,727              | 3,144,927             | 1,972,562         | 7,043,238          | 30.8%                     | 49.4%                         | 42.1%                 | 9,264,376                      | 2,896,351                                  |
| POLICE                         | 83,606,570             | 81,617,830              | 41,085,284            | 1,081,010         | 39,451,536         | 49.5%                     | 70.3%                         | 51.7%                 | 85,155,524                     | (3,537,694)                                |
| FIRE & EMERGENCY SERVICES      | 39,546,063             | 43,205,216              | 22,830,487            | 4,951,735         | 15,422,994         | 62.6%                     | 67.8%                         | 64.3%                 | 49,455,394                     | (6,250,178)                                |
| NON DEPARTMENTAL               | 59,995,782             | 55,262,131              | 35,120,397            | 378,568           | 19,763,166         | 1564.8%                   | 64.1%                         | 64.2%                 | 50,055,826                     | 5,206,305                                  |
| <b>GRAND TOTAL</b>             | <b>276,548,969</b>     | <b>307,526,375</b>      | <b>146,561,021</b>    | <b>24,252,653</b> | <b>136,712,701</b> | <b>49.1%</b>              | <b>62.7%</b>                  | <b>55.5%</b>          | <b>309,957,660</b>             | <b>(2,431,285)</b>                         |

\*FY 2024 Revised does not reflect as of December 31, 2023 all Council approved allocations included in the FY 2024 AAO #1.

Explanations for significant projected savings and overages are as follows:

- City Auditor's Office, \$132,177: The projected balance is mostly due to salary savings by underfilled positions and a vacancy.
- Office of the Director of Police Accountability, (-\$46,237): The projected deficit results from expenditure patterns driven by one-time investments in office infrastructure, which were funded as part of AAO1, but not reflected at this point in time.



- City Manager's Office, \$536,063: Projected balance from vacancies during the first half of the fiscal year as well as timing-related delays in implementing new programs.
- City Attorney's Office, (-\$270,080): Projected deficit is timing related as the report does not reflect Council approved increases in funding in the AAO#1. Based upon AAO#1, the department is projecting a positive balance due to not incremental filling of vacancies and the possible partial use of funding for outside legal counsel.
- City Clerk, (-\$127,196): Projected deficit is due to unplanned special elections costs.
- Finance, \$1,063,534: Projected balance due to vacancies and challenges in finding qualified candidates to fill specialized positions funded by the General Fund.
- Information Technology, \$530,733: Projected balance is due to various projects that will not be completed in FY 2024.
- Health, Housing & Community Services, \$1,801,276: Projected balance due to vacancies and challenges in hiring for specialized positions.
- Parks, Recreation, and Waterfront, (-\$4,490,000): Projected deficit is timing-related as the report does not include Council approved AAO#1 funding. Once the additional funding is accounted for, the department is expecting to be on budget. The projection includes projections for predictability pay, \$4.05M of General Fund FY 2024 contribution to the Workers Compensation Fund redirected to fill the T1 funding gap, \$300,000 for Dreamland design and \$140,000 for the Miyawaki Forest.
- Planning, \$362,289: Projected balance is primarily comprised of \$284,000 in salary savings due to vacancies.
- Public Works, \$2,896,351: Projected savings is primarily due to Facilities and Transportation projects that are expected to not be completed by FY 2024.
- Police, (-\$3,537,694): Projected deficit based on mid-year numbers do not reflect the Council approved funding in AAO#1 of \$4.3 million for the Berkeley Police Association Memorandum of Understanding (MOU). Once adjusted, the projected year-end is positive due to savings from vacant positions. It also consists of cost overruns related to Police fleet replacement fund contributions and fuel and maintenance costs.
- Fire, (-\$6,250.178): Projected deficit of \$6.25 million compared to the FY 2024 revised budget as of mid-year. This is expected to decrease once the \$1.89 million of approved AAO#1 funding for the Berkeley Fire Fighters Association's new MOU is entered into the financial system. However, the Fire department is still expected to end the fiscal year with a deficit due to challenges in staffing and increases in overtime cost and fringe benefits.
- Non-Departmental, \$5,206,305: Projected balance due to timing of implementation of various projects and programs.
- In addition, the Rent Board and Human Resources, are expected to finish the year either on budget or very slightly under budget.

## Projected General Fund Budget Summary

The FY 2024 Adopted Budget anticipated the use of \$10.13 million in fund balance to support increased expenditures that exceeded revenue projections, recognizing that revenues had not fully returned to pre-pandemic levels, the use of one-time federal funds from the American Rescue Plan Act would be exhausted, and that Measure P fund balance within the General Fund would be required to fund related programs and one-time expenditures such as the reservation for Project Homekey. Based on the projected decrease in General Fund revenue, and various assumptions related to non-personnel expenses incurred before June 30, 2024, the FY 2024 mid-year projection estimates an annual shortfall between \$18.2-45.21 million, with the latter upward projection assuming all non-personnel expenditures authorized within the revised budget are fully spent by June 30, 2024. However, it is important to emphasize that the revenue and expenditure projections provided are the best estimates staff has at this time for how the General Fund is projected to close in FY 2024. Between now and the end of the fiscal year, a number of assumptions could change that will impact projections, including, but not limited to, changes in economic conditions that may impact revenue, status of vacant positions, any increased operational costs, as well as the likely underspending in non-personnel costs related to timing delays in implementing projects and programs that would significantly reduce the projected shortfall. The actual FY 2024 year-end status will be known sometime in late December 2024 after the completion of the financial audit. Any General Fund shortfall will be absorbed by existing fund balance and will impact recommendations regarding carryover and encumbrances requests in FY 2025.

## All Funds Expenditures

The General Funds comprises about 32 percent of the total revised budget. The rest of the budget consists of various Special Funds. Special Funds are collected for a specific purpose; therefore, the projected balances are not considered to be discretionary and available to be re-allocated toward other programs, projects, and services. Included in the *FY 2024 Mid-Year All Funds Expenditures by Department* chart on the next page are both the General Fund and the Special Funds expenditures as of December 31, 2023. On an All Funds basis, the City is tracking on budget at 49.2 percent at mid-year and projected to close FY 2024 with a balance of \$75.51 million using the revised budget as of December 31, 2023.

**FY 2023 Mid-Year All Funds Expenditures (as of December 31, 2023)**

| DEPARTMENT                  | FY 2024 ADOPTED BUDGET | FY 2024 REVISED BUDGET* (as of 12/31/23) | FY 2024 EXPENDED (as of 12/31/23) | ENCUMBRANCES (as of 12/31/23) | AVAILABLE BUDGET (as of 12/31/23) | TOTAL PERCENTAGE USED | FY 2024 PROJECTED EXPENDITURES | FY 2024 PROJECTED ENDING BALANCE/(DEFICIT) |
|-----------------------------|------------------------|------------------------------------------|-----------------------------------|-------------------------------|-----------------------------------|-----------------------|--------------------------------|--------------------------------------------|
| MAYOR AND COUNCIL           | 4,772,190              | 4,852,642                                | 1,923,297                         | 62,410                        | \$2,866,935                       | 40.9%                 | 4,852,642                      | -                                          |
| CITY AUDITOR                | 3,231,099              | 3,316,710                                | 1,436,197                         | 102,047                       | \$1,778,466                       | 46.4%                 | 3,185,336                      | 131,374                                    |
| RENT STABILIZATION BOARD    | 8,056,460              | 8,878,430                                | 3,321,869                         | 1,177,159                     | \$4,379,402                       | 50.7%                 | 8,878,430                      | -                                          |
| POLICE ACCOUNTABILITY       | 1,142,593              | 1,310,290                                | 515,732                           | 159,357                       | \$635,201                         | 51.5%                 | 1,597,102                      | (286,812)                                  |
| CITY MANAGER'S OFFICE       | 16,889,184             | 24,460,343                               | 10,369,281                        | 3,308,613                     | \$10,782,449                      | 55.9%                 | 23,849,537                     | 610,806                                    |
| BERKELEY PUBLIC LIBRARY     | 25,024,425             | 26,408,346                               | 11,707,927                        | 2,974,567                     | \$11,725,852                      | 55.6%                 | 31,726,777                     | (5,318,431)                                |
| CITY ATTORNEY               | 8,106,984              | 9,855,499                                | 3,859,904                         | 848,178                       | \$5,147,417                       | 47.8%                 | 10,253,763                     | (398,264)                                  |
| CITY CLERK                  | 3,159,486              | 3,371,758                                | 1,137,760                         | 325,627                       | \$1,908,371                       | 43.4%                 | 3,257,393                      | 114,365                                    |
| FINANCE                     | 10,607,143             | 11,608,386                               | 4,108,986                         | 1,214,803                     | \$6,284,597                       | 45.9%                 | 10,240,391                     | 1,367,995                                  |
| HUMAN RESOURCES             | 5,442,688              | 6,133,364                                | 2,524,897                         | 168,619                       | \$3,439,848                       | 43.9%                 | 6,098,578                      | 34,786                                     |
| INFORMATION TECHNOLOGY      | 22,237,720             | 29,316,274                               | 7,944,446                         | 3,165,053                     | \$18,206,775                      | 37.9%                 | 25,820,790                     | 3,495,484                                  |
| HEALTH, HSG & COMMUNITY SVC | 99,683,536             | 163,577,083                              | 39,384,181                        | 38,369,815                    | \$85,823,087                      | 47.5%                 | 132,358,390                    | 31,218,693                                 |
| PARKS, RECREATION & WF      | 53,688,581             | 89,082,692                               | 24,402,344                        | 9,740,801                     | \$54,939,546                      | 38.3%                 | 69,503,725                     | 19,578,967                                 |
| PLANNING & DEVELOPMENT      | 31,267,162             | 36,767,666                               | 12,207,816                        | 1,955,917                     | \$22,603,933                      | 38.5%                 | 32,394,732                     | 4,372,934                                  |
| PUBLIC WORKS                | 188,326,163            | 292,296,250                              | 71,665,023                        | 67,247,968                    | \$153,383,259                     | 47.5%                 | 267,668,149                    | 24,628,101                                 |
| POLICE                      | 88,188,161             | 88,587,883                               | 43,419,654                        | 1,496,074                     | \$43,672,155                      | 50.7%                 | 91,106,786                     | (2,518,903)                                |
| FIRE & EMERGENCY SERVICES   | 62,316,809             | 69,373,228                               | 31,462,153                        | 7,817,721                     | \$30,093,354                      | 56.6%                 | 75,998,874                     | (6,625,646)                                |
| NON DEPARTMENTAL            | 101,173,999            | 100,604,624                              | 65,445,388                        | 520,846                       | \$34,638,390                      | 65.6%                 | 95,504,624                     | 5,100,000                                  |
| <b>GRAND TOTAL</b>          | <b>733,314,383</b>     | <b>969,801,468</b>                       | <b>336,836,857</b>                | <b>140,655,573</b>            | <b>492,309,038</b>                | <b>49.2%</b>          | <b>894,296,021</b>             | <b>75,505,447</b>                          |

\*FY 2024 Revised does not reflect as of December 31, 2023 all Council approved allocations included in the FY 2024 AAO #1.

- City Auditor, City Manager's Office, City Clerk, Finance, Human Resources, Information Technology, Health, Housing, & Community Services, Parks, Recreation & Waterfront, Planning, Public Works, and Non-Departmental are anticipated to finish FY 2024 with balances compared to the Mid-Year FY 2024 Revised budget. The underspending is related to salary savings due to vacancies, as well as projects and grants that are not expected to be finished by the end of the fiscal year.

- The Office of the Director of Police Accountability, City Attorney, and Police Department anticipates an ending shortfall from the FY 2024 Revised Budget. However, after accounting for all of the approved AAO#1 funding, anticipated shortfalls will be less or end with a balance.
- The Fire Department is expected to end FY 2024 with a deficit due to high vacancy rate causing an increase in overtime expenses and underfunded fringe benefit costs
- The Berkeley Public Library shows a projected deficit of over \$5.0 million. This is mostly due to increasing 0.5 Part Time employees to 0.75 Part Time employees. The Library plans to reconcile this late third quarter in FY 2024 and going forward.

### **Next Steps:**

Staff is continuously monitoring the FY 2024 General Fund budget to make sure the City stays within budget and is also reviewing and analyzing data to make sure that the City remains agile should additional operating and capital needs arise in the fiscal year. Final FY 2024 year-end General Fund revenues and expenditures information will be included in the “FY 2024 Year-End Report and FY 2025 First Quarter Update” that will be presented to Council in December 2024.

The City’s annual Mid-Year Budget Update is a Strategic Plan Priority, advancing our goal to provide an efficient and financially-healthy City government.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

Sharon Friedrichsen, Budget Manager, City Manager’s Office, 981-7000  
Henry Oyekanmi, Finance Director, Department of Finance, 981-7300  
Maricar Dupaya, Senior Management Analyst, City Manager’s Office, 981-7000

### Attachments:

1. Table: General Fund Revenue and Transfer In FY 2024 Mid-Year vs FY 2023 Mid-Year Comparison
2. Table: FY 2024 Mid-Year General Fund Expenditures (as of December 31, 2023)
3. Table: FY 2024 Mid-Year All Funds Expenditures (as of December 31, 2023)

General Fund Revenue and Transfer Mid Year FY 2024 vs Mid Year FY 2023 Comparison

Attachment 1

| Revenue Categories                                      | FY 2024              |                      |                       |               | FY 2023              |                      |                       |               | Comparison FY24 vs FY23 |               |
|---------------------------------------------------------|----------------------|----------------------|-----------------------|---------------|----------------------|----------------------|-----------------------|---------------|-------------------------|---------------|
|                                                         | 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                                        | \$84,725,717         | \$42,904,620         | (\$41,821,097)        | 50.64%        | \$75,664,920         | \$40,237,811         | (\$35,427,109)        | 53.18%        | 2,666,809               | 6.63%         |
| Redemptions -Regular                                    | 831,441              | 524,404              | (307,037)             | 63.07%        | 831,441              | 461,026              | -370,415              | 55.45%        | 63,378                  | 13.75%        |
| Supplemental Taxes                                      | 3,400,000            | 1,197,265            | (2,202,735)           | 35.21%        | 2,000,000            | 1,229,929            | -770,071              | 61.50%        | (32,664)                | -2.66%        |
| Unsecured Property Taxes                                | 3,806,995            | 3,881,280            | 74,285                | 101.95%       | 3,516,000            | 3,151,771            | -364,229              | 89.64%        | 729,509                 | 23.15%        |
| Property Transfer Tax                                   | 22,873,786           | 10,056,934           | (12,816,852)          | 43.97%        | 34,462,172           | 16,676,308           | -17,785,864           | 48.39%        | (6,619,374)             | -39.69%       |
| Property Transfer Tax-Measure P (New December 21, 2018) | 10,189,500           | 2,840,259            | (7,349,241)           | 27.87%        | 14,073,750           | 8,363,823            | -5,709,927            | 59.43%        | (5,523,564)             | -66.04%       |
| Sales Taxes                                             | 19,654,225           | 9,305,556            | (10,348,669)          | 47.35%        | 19,016,546           | 9,687,895            | -9,328,651            | 50.94%        | (382,339)               | -3.95%        |
| Soda Taxes                                              | 1,147,387            | 581,705              | (565,682)             | 50.70%        | 990,210              | 642,874              | -347,336              | 64.92%        | (61,169)                | -9.51%        |
| Utility Users Taxes                                     | 17,454,320           | 7,801,328            | (9,652,992)           | 44.70%        | 13,800,000           | 7,638,612            | -6,161,388            | 55.35%        | 162,716                 | 2.13%         |
| Transient Occupancy Taxes                               | 8,374,588            | 4,393,772            | (3,980,816)           | 52.47%        | 5,000,000            | 4,785,735            | -214,265              | 95.71%        | (391,963)               | -8.19%        |
| Less: TOT rebates owed (3)                              |                      | (546,224)            |                       |               |                      | (498,566)            |                       |               | (47,658)                | 9.56%         |
| Short-term Rentals                                      | 1,400,000            | 687,271              | (712,729)             | 49.09%        | 1,000,000            | 712,661              | -287,339              | 1,000,000     | (25,390)                | -3.56%        |
| Business License Tax                                    | 21,560,783           | 1,592,902            | (19,967,881)          | 7.39%         | 19,000,000           | 1,010,143            | -17,989,857           | 5.32%         | 582,759                 | 57.69%        |
| Recreational Cannabis                                   | 1,000,000            | 76,512               | (923,488)             | 7.65%         | 1,400,000            | 237,669              | -1,162,331            | 16.98%        | (161,157)               | -67.81%       |
| U1 Revenues                                             | 5,900,000            | 181,607              | (5,718,393)           | 3.08%         | 4,900,000            | 113,893              | -4,786,107            | 2.32%         | 67,714                  | 59.45%        |
| Other Taxes (excluding Redemptions-Regular)             | 2,593,129            | 1,899,156            | (693,973)             | 73.24%        | 1,800,000            | 1,500,099            | -299,901              | 83.34%        | 399,057                 | 26.60%        |
| Vehicle In-Lieu Taxes                                   | 17,811,134           | 8,937,911            | (8,873,223)           | 50.18%        | 15,926,168           | 8,329,833            | -7,596,335            | 52.30%        | 608,078                 | 7.30%         |
| Parking Fines-Regular Collections                       | 5,800,000            | 3,253,087            | (2,546,913)           | 56.09%        | 4,326,450            | 3,104,161            | -1,222,289            | 71.75%        | 148,926                 | 4.80%         |
| Moving Violations                                       | 132,600              | 96,254               | (36,346)              | 72.59%        | 132,600              | 71,415               | -61,185               | 53.86%        | 24,839                  | 34.78%        |
| Ambulance Fees                                          | 5,350,779            | 3,815,272            | (1,535,507)           | 71.30%        | 3,880,779            | 2,479,368            | -1,401,411            | 63.89%        | 1,335,904               | 53.88%        |
| Interest Income                                         | 8,826,211            | 6,619,791            | (2,206,420)           | 75.00%        | 6,000,000            | 4,038,930            | -1,961,070            | 67.32%        | 2,580,861               | 63.90%        |
| Franchise Fees                                          | 1,720,056            | 307,634              | (1,412,422)           | 17.89%        | 1,613,283            | 335,043              | -1,278,240            | 20.77%        | (27,409)                | -8.18%        |
| Other Revenue                                           | 7,668,797            | 3,018,612            | (4,650,185)           | 39.36%        | 6,729,977            | 3,902,132            | -2,827,845            | 57.98%        | (883,520)               | -22.64%       |
| IDC Reimbursement                                       | 6,104,970            | 3,259,079            | (2,845,891)           | 53.38%        | 5,490,000            | 3,205,614            | -2,284,386            | 58.39%        | 53,465                  | 1.67%         |
| Transfers                                               | 8,091,924            | 4,045,962            | (4,045,962)           | 50.00%        | 17,096,148           | 6,457,425            | -10,638,723           | 37.77%        | (2,411,463)             | -37.34%       |
|                                                         |                      |                      | -                     |               |                      |                      | 0                     |               | -                       |               |
| <b>Total Revenue:</b>                                   | <b>\$266,418,342</b> | <b>\$120,731,949</b> | <b>-\$145,686,393</b> | <b>45.32%</b> | <b>\$258,650,444</b> | <b>\$127,875,604</b> | <b>-\$130,774,840</b> | <b>49.44%</b> | <b>(\$7,143,655)</b>    | <b>-5.59%</b> |

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

(3) Includes the amount of TOT rebates owed for the period

(4) Total Other Taxes includes Redemptions-Regular



| FY 2024 MID-YEAR GENERAL FUND EXPENDITURES (AS OF DECEMBER 31, 2023) |                        |                         |                       |                   |                    |                           |                               |                       |                                | Attachment 2                               |
|----------------------------------------------------------------------|------------------------|-------------------------|-----------------------|-------------------|--------------------|---------------------------|-------------------------------|-----------------------|--------------------------------|--------------------------------------------|
| DEPARTMENT                                                           | FY 2024 ADOPTED BUDGET | FY 2024 REVISED BUDGET* | YEAR TO DATE EXPENDED | ENCUMBRANCES      | AVAILABLE BUDGET   | PERSONNEL PERCENTAGE USED | NON-PERSONNEL PERCENTAGE USED | TOTAL PERCENTAGE USED | FY 2024 PROJECTED EXPENDITURES | FY 2024 PROJECTED ENDING BALANCE/(DEFICIT) |
| MAYOR AND COUNCIL                                                    | 4,772,190              | 4,849,542               | 1,923,297             | 62,410            | 2,863,835          | 40.5%                     | 44.7%                         | 40.9%                 | 4,849,542                      | -                                          |
| CITY AUDITOR                                                         | 3,136,323              | 3,221,934               | 1,391,210             | 102,047           | 1,728,678          | 43.9%                     | 63.1%                         | 46.3%                 | 3,089,758                      | 132,177                                    |
| RENT STABILIZATION BOARD                                             | 550,000                | 651,588                 | 302,231               | 349,356           | 1                  | 0.0%                      | 100.0%                        | 100.0%                | 651,588                        | -                                          |
| POLICE ACCOUNTABILITY                                                | 1,142,593              | 1,310,290               | 515,732               | 159,357           | 635,201            | 34.4%                     | 77.3%                         | 51.5%                 | 1,597,102                      | (286,812)                                  |
| CITY MANAGER'S OFFICE                                                | 13,150,234             | 16,294,107              | 7,458,276             | 2,303,030         | 6,532,801          | 45.4%                     | 81.4%                         | 59.9%                 | 15,758,044                     | 536,063                                    |
| CITY ATTORNEY                                                        | 4,304,039              | 5,003,419               | 2,038,057             | 395,637           | 2,569,725          | 39.6%                     | 77.3%                         | 48.6%                 | 5,273,499                      | (270,080)                                  |
| CITY CLERK                                                           | 2,547,276              | 2,759,548               | 972,288               | 325,627           | 1,461,633          | 48.0%                     | 45.7%                         | 47.0%                 | 2,886,744                      | (127,196)                                  |
| FINANCE                                                              | 8,179,370              | 9,110,602               | 3,281,701             | 1,063,527         | 4,765,374          | 39.6%                     | 71.4%                         | 47.7%                 | 8,047,068                      | 1,063,534                                  |
| HUMAN RESOURCES                                                      | 3,467,541              | 4,127,222               | 1,728,648             | 142,944           | 2,255,629          | 45.6%                     | 44.8%                         | 45.3%                 | 4,125,275                      | 1,947                                      |
| INFORMATION TECHNOLOGY                                               | 1,526,760              | 2,233,165               | 891,132               | 308,646           | 1,033,388          | 0.0%                      | 53.7%                         | 53.7%                 | 1,702,432                      | 530,733                                    |
| HEALTH, HSG & COMMUNITY SVC                                          | 31,429,102             | 47,457,711              | 16,578,721            | 9,486,685         | 21,392,304         | 40.7%                     | 60.9%                         | 54.9%                 | 45,656,435                     | 1,801,276                                  |
| PARKS, RECREATION & WATERFRONT                                       | 9,359,349              | 11,766,832              | 5,828,846             | 997,780           | 4,940,206          | 49.7%                     | 66.8%                         | 58.0%                 | 16,256,832                     | (4,490,000)                                |
| PLANNING & DEVELOPMENT                                               | 3,277,246              | 6,494,510               | 1,469,787             | 171,732           | 4,852,991          | 43.4%                     | 12.2%                         | 25.3%                 | 6,132,221                      | 362,289                                    |
| PUBLIC WORKS                                                         | 6,558,529              | 12,160,727              | 3,144,927             | 1,972,562         | 7,043,238          | 30.8%                     | 49.4%                         | 42.1%                 | 9,264,376                      | 2,896,351                                  |
| POLICE                                                               | 83,606,570             | 81,617,830              | 41,085,284            | 1,081,010         | 39,451,536         | 49.5%                     | 70.3%                         | 51.7%                 | 85,155,524                     | (3,537,694)                                |
| FIRE & EMERGENCY SERVICES                                            | 39,546,063             | 43,205,216              | 22,830,487            | 4,951,735         | 15,422,994         | 62.6%                     | 67.8%                         | 64.3%                 | 49,455,394                     | (6,250,178)                                |
| NON DEPARTMENTAL                                                     | 59,995,782             | 55,262,131              | 35,120,397            | 378,568           | 19,763,166         | 1564.8%                   | 64.1%                         | 64.2%                 | 50,055,826                     | 5,206,305                                  |
| <b>GRAND TOTAL</b>                                                   | <b>276,548,969</b>     | <b>307,526,375</b>      | <b>146,561,021</b>    | <b>24,252,653</b> | <b>136,712,701</b> | <b>49.1%</b>              | <b>62.7%</b>                  | <b>55.5%</b>          | <b>309,957,660</b>             | <b>(2,431,285)</b>                         |

\*FY 2024 Revised does not reflect as of December 31, 2023 all Council approved allocations included in the FY 2024 AAO #1.

FY 2024 MID-YEAR ALL FUNDS EXPENDITURES (AS OF DECEMBER 31, 2023)

Attachment 3

| DEPARTMENT                  | FY 2024 ADOPTED BUDGET | FY 2024 REVISED BUDGET* (as of 12/31/23) | FY 2024 EXPENDED (as of 12/31/23) | ENCUMBRANCES (as of 12/31/23) | AVAILABLE BUDGET (as of 12/31/23) | TOTAL PERCENTAGE USED | FY 2024 PROJECTED EXPENDITURES | FY 2024 PROJECTED ENDING BALANCE/(DEFICIT) |
|-----------------------------|------------------------|------------------------------------------|-----------------------------------|-------------------------------|-----------------------------------|-----------------------|--------------------------------|--------------------------------------------|
| MAYOR AND COUNCIL           | 4,772,190              | 4,852,642                                | 1,923,297                         | 62,410                        | \$2,866,935                       | 40.9%                 | 4,852,642                      | -                                          |
| CITY AUDITOR                | 3,231,099              | 3,316,710                                | 1,436,197                         | 102,047                       | \$1,778,466                       | 46.4%                 | 3,185,336                      | 131,374                                    |
| RENT STABILIZATION BOARD    | 8,056,460              | 8,878,430                                | 3,321,869                         | 1,177,159                     | \$4,379,402                       | 50.7%                 | 8,878,430                      | -                                          |
| POLICE ACCOUNTABILITY       | 1,142,593              | 1,310,290                                | 515,732                           | 159,357                       | \$635,201                         | 51.5%                 | 1,597,102                      | (286,812)                                  |
| CITY MANAGER'S OFFICE       | 16,889,184             | 24,460,343                               | 10,369,281                        | 3,308,613                     | \$10,782,449                      | 55.9%                 | 23,849,537                     | 610,806                                    |
| BERKELEY PUBLIC LIBRARY     | 25,024,425             | 26,408,346                               | 11,707,927                        | 2,974,567                     | \$11,725,852                      | 55.6%                 | 31,726,777                     | (5,318,431)                                |
| CITY ATTORNEY               | 8,106,984              | 9,855,499                                | 3,859,904                         | 848,178                       | \$5,147,417                       | 47.8%                 | 10,253,763                     | (398,264)                                  |
| CITY CLERK                  | 3,159,486              | 3,371,758                                | 1,137,760                         | 325,627                       | \$1,908,371                       | 43.4%                 | 3,257,393                      | 114,365                                    |
| FINANCE                     | 10,607,143             | 11,608,386                               | 4,108,986                         | 1,214,803                     | \$6,284,597                       | 45.9%                 | 10,240,391                     | 1,367,995                                  |
| HUMAN RESOURCES             | 5,442,688              | 6,133,364                                | 2,524,897                         | 168,619                       | \$3,439,848                       | 43.9%                 | 6,098,578                      | 34,786                                     |
| INFORMATION TECHNOLOGY      | 22,237,720             | 29,316,274                               | 7,944,446                         | 3,165,053                     | \$18,206,775                      | 37.9%                 | 25,820,790                     | 3,495,484                                  |
| HEALTH, HSG & COMMUNITY SVC | 99,683,536             | 163,577,083                              | 39,384,181                        | 38,369,815                    | \$85,823,087                      | 47.5%                 | 132,358,390                    | 31,218,693                                 |
| PARKS, RECREATION & WF      | 53,688,581             | 89,082,692                               | 24,402,344                        | 9,740,801                     | \$54,939,546                      | 38.3%                 | 69,503,725                     | 19,578,967                                 |
| PLANNING & DEVELOPMENT      | 31,267,162             | 36,767,666                               | 12,207,816                        | 1,955,917                     | \$22,603,933                      | 38.5%                 | 32,394,732                     | 4,372,934                                  |
| PUBLIC WORKS                | 188,326,163            | 292,296,250                              | 71,665,023                        | 67,247,968                    | \$153,383,259                     | 47.5%                 | 267,668,149                    | 24,628,101                                 |
| POLICE                      | 88,188,161             | 88,587,883                               | 43,419,654                        | 1,496,074                     | \$43,672,155                      | 50.7%                 | 91,106,786                     | (2,518,903)                                |
| FIRE & EMERGENCY SERVICES   | 62,316,809             | 69,373,228                               | 31,462,153                        | 7,817,721                     | \$30,093,354                      | 56.6%                 | 75,998,874                     | (6,625,646)                                |
| NON DEPARTMENTAL            | 101,173,999            | 100,604,624                              | 65,445,388                        | 520,846                       | \$34,638,390                      | 65.6%                 | 95,504,624                     | 5,100,000                                  |
| <b>GRAND TOTAL</b>          | <b>733,314,383</b>     | <b>969,801,468</b>                       | <b>336,836,857</b>                | <b>140,655,573</b>            | <b>492,309,038</b>                | <b>49.2%</b>          | <b>894,296,021</b>             | <b>75,505,447</b>                          |

\*FY 2024 Revised does not reflect as of December 31, 2023 all Council approved allocations included in the FY 2024 AAO #1.



[Commission Name]

INFORMATION CALENDAR  
March 26, 2024

To: Honorable Mayor and Members of the City Council  
 From: Homeless Services Panel of Experts  
 Submitted by: Josh Jacobs, Secretary, Homeless Services Panel of Experts  
 Subject: Two consecutive meetings canceled for lack of quorum

INTRODUCTION

The Homeless Services Panel of Experts canceled their regular January and February meetings due to lack of quorum.

CURRENT SITUATION AND ITS EFFECTS

On January 10, 2024 four out of eight commissioners were present for the regularly scheduled meeting. On February 7, 2024, the commissioners were polled and the meeting was cancelled preemptively due to lack of quorum.

BACKGROUND

The Commissioners' Manual states that it is the secretary's responsibility to submit an information report to the City Council whenever a commission cancels two consecutive meetings for lack of quorum.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No environmental impact.

POSSIBLE FUTURE ACTION

No action is required.

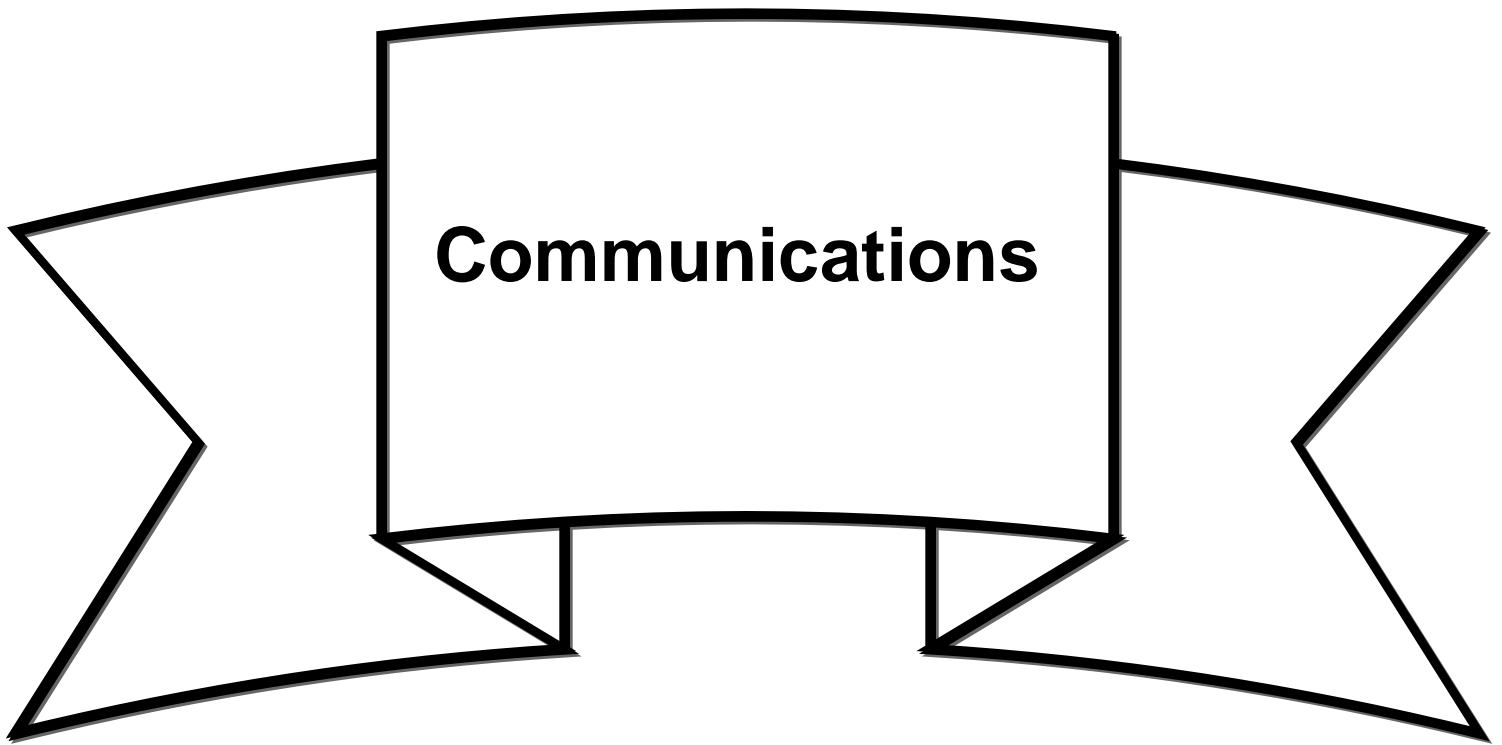
FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No action is required.

CONTACT PERSON

Josh Jacobs, Homeless Services Panel of Experts, City Manager's Office, 510-225-8035





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**

<https://records.cityofberkeley.info/>

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