

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, November 30, 2021

6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82259683632>. 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: **822 5968 3632**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

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

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

Public Comment on Non-Agenda Matters: *Persons will be selected to address matters not on the Council agenda. If five or fewer persons wish to speak, each person selected will be allotted two minutes each. If more than five persons wish to speak, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda.*

Consent Calendar

The Council will first determine whether to move items on the agenda for "Action" or "Information" to the "Consent Calendar", or move "Consent Calendar" items to "Action." Three members of the City Council must agree to pull an item from the Consent Calendar for it to move to Action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

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

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

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

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

Consent Calendar

- 1. Opt-In to Countywide Organics Reduction and Recycling Ordinance**
From: City Manager
Recommendation: Adopt the second reading of Ordinance No. 7,790-N.S. adding Chapter 12.35 to the Berkeley Municipal Code opting in to the Alameda County Waste Management Authority's Organics Reduction and Recycling Ordinance with an effective date of January 1, 2022. This Ordinance will bring the City into compliance with the regulations of Senate Bill 1383: Short-lived Climate Pollutants Act of 2016.
First Reading Vote: All Ayes
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
- 2. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the council meetings of October 5, 2021 (closed and special), October 12, 2021 (closed and regular), October 19, 2021 (special) and October 26, 2021 (closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 3. Grant Approval: San Francisco Foundation support for 100% affordable housing at BART stations**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to apply for and if awarded, accept a \$50,000 grant from the San Francisco Foundation to support efforts to make the BART housing projects 100% affordable.
Financial Implications: See report
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000
- 4. MOU to implement Ronald V. Dellums Fair Chance Access to Housing Ordinance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to effectuate a Memorandum of Understanding (MOU) between the City of Berkeley and the City of Berkeley Rent Stabilization Board (Rent Board) to implement the Ronald V. Dellums Fair Chance Ordinance previously adopted by the Berkeley City Council.
Financial Implications: See report
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000

Consent Calendar

5. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 30, 2021

From: City Manager

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

Financial Implications: Various Funds - \$340,000

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

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

From: City Manager

Recommendation: 1. Adopt the first reading of an Ordinance rescinding Ordinance 7,788-N.S. which modified the language of Paragraph 'NN.' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code") and which requires the installation of fire sprinklers in certain new structures and the retrofit of fire sprinklers in certain existing structures in Fire Zones 2 and 3 due to additional information presented to City staff, and restore the language of Paragraph 'NN' which existed prior to the October 26, 2021 adoption of Ordinance 7,788-N.S.; 2. Adopt a Resolution (Attachment 2) setting forth findings of local conditions that require more stringent building standards than those provided by the 2019 California Fire Code; 3. In compliance with state law on adopting such more restrictive building standards, hold a public hearing following the first reading and before the second reading, and schedule the public hearing for December 14, 2021.

Financial Implications: None

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

7. Contract: Blaisdell's Business Products for HHCS Furniture

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute a contract, and any amendments or extensions, with Blaisdell's Business Products for new office and classroom furniture for the North Berkeley Senior Center (NBSC). The contract will be in an amount not to exceed \$99,000 for the period January 1, 2022 through June 30, 2022.

Financial Implications: See report

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

Consent Calendar

- 8. Contract No. 32000094 Amendment: Youth Spirit Artworks Mental Health Services**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to amend contract No. 32000094 with vendor Youth Spirit Artworks (YSA) to provide a variety of mental health and case management supports for Transition Age Youth (TAY) through June 30, 2022 in an amount not to exceed \$527,046. This will extend the existing contract by one year and add \$210,046 in funding.
Financial Implications: Measure P - \$210,046
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 9. Contract No. 32100178 Amendment: California Mental Health Services Authority Help@Hand Participation Agreement**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an Amendment to Contract No. 32100178 for the Help@Hand Participation Agreement with the California Mental Health Services Authority (CalMHSA) to increase the amount of local project funds by \$47,999 for a total amount not to exceed \$400,915 through June 30, 2024, and any amendments.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 10. Contract: Community Crisis Response Services**
From: City Manager
Recommendation: Adopt three Resolutions authorizing the City Manager or her designee to execute contracts and any amendments or extensions with Alameda County Network of Mental Health Clients (Berkeley Drop-in Center), Options Recovery, and Women’s Daytime Drop-in Center for Community Crisis Response Services, in an amount not to exceed \$1,200,000.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 11. Contract: Needle Exchange Emergency Distribution (NEED)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an expenditure contract and any amendments or extensions with the Needle Exchange Emergency Distribution (NEED) in an amount not to exceed \$150,000 for the period July 1, 2021 through June 30, 2024.
Financial Implications: General Fund - \$150,000
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

- 12. Grant Application: Cal Fire Urban and Community Forestry Grant Program (Trees Make Berkeley Better)**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a CAL FIRE Urban and Community Forestry tree planting grant application in the amount up to \$1,104,320; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 13. Berkeley Existing Buildings Electrification Strategy**
From: City Manager
Recommendation: Adopt a Resolution approving the Berkeley Existing Buildings Electrification Strategy, as described in Exhibit A.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 14. Cities Race to Zero Campaign: 2030 emission reduction target**
From: City Manager
Recommendation: Adopt a Resolution for the Cities Race to Zero Campaign to establish a 2030 emission reduction target that reflects Berkeley's fair share of the 50% global reduction in CO₂e, committing to reduce emissions 60.5% from 2018 levels by 2030.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 15. Contract No. 112219-1 Amendment: Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 112219-1 with Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance increasing the current contract amount of \$300,000 by \$300,000 for a total not to exceed amount of \$600,000 and extending the term through December 31, 2024.
Financial Implications: Various Funds - \$300,000
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

16. **Contract No. 32100081 Amendment: FirstCarbon Solutions, Inc. for California Environmental Quality Act Compliance for the Solid Waste & Recycling Transfer Station Replacement Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100081 with FirstCarbon Solutions, Inc. for the Solid Waste & Recycling Transfer Station Replacement Project to ensure compliance with the California Environmental Quality Act, increasing the current contract amount of \$500,000 by \$150,000 for a total not to exceed amount of \$650,000 and extending the contract term to June 30, 2022.
Financial Implications: Zero Waste Fund - \$150,000
Contact: Liam Garland, Public Works, (510) 981-6300
17. **Purchase Order: PB Loader Corporation for Two Chipper Trucks**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (formerly NJPA) Contract No. 052417-PBL bid procedures and authorizing the City Manager to execute a purchase order for two Chipper Trucks with PB Loader Corporation in an amount not to exceed \$305,900.
Financial Implications: Equipment Replacement Fund - \$305,900
Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

18. **Budget Referral: Berkeley Age-Friendly Continuum**
From: Mayor Arreguin (Author) and Councilmember Wengraf (Co-Sponsor)
Recommendation: Refer \$20,000 to the November 2021 Annual Appropriations Ordinance #1 process for the Berkeley Age-Friendly Continuum.
Financial Implications: General Fund - \$20,000
Contact: Jesse Arreguin, Mayor, (510) 981-7100
19. **Reappointment of Dr. P. Robert Beatty to the Alameda County Mosquito Abatement District Board of Trustees**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution reappointing Dr. P. Robert Beatty to the Board of Trustees of the Alameda County Abatement District for a two-year term ending on January 1, 2024.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

20. Budget Referral: Commitment to Habitot Recovery

From: Councilmember Bartlett (Author), Mayor Arreguin (Author) and Councilmember Harrison (Co-Sponsor)

Recommendation: Refer to the AAO#1 Budget Process \$100,000 to support the recovery of Habitot and its many agency partners so it can ramp up to pre-pandemic levels and continue to provide its broad services to young children, their parents, and caregivers, and our communities most vulnerable families.

Financial Implications: \$100,000

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

Council Consent Items

21. **Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings** *(Reviewed by the Budget & Finance Policy Committee)*
From: Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation: 1. Adopt a Resolution establishing:

- a. a referral to Office of Energy and Sustainable Development (OESD) staff to design and launch a two-year Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program, using pre-qualified contractors meeting minimum labor standards to assist new property owners, renters and existing property owners with transition to zero-carbon plumbing, HVAC, cooking, and related electrical systems, with a preference first for assisting existing affordable housing buildings and assisting households at or below 120% of the Area Median Income; and
 - b. an annual process for the Energy (or successor) Commission and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES), in consultation with community and labor groups, to provide input to staff and Council about eligible categories of fund expenditures to maximize equitable emissions reductions and impacts for eligible households while leaving the mechanisms for doing so to staff discretion.
2. Send copies of the Resolution and letters to members of the California Public Utilities and Energy Commissions, Governor Newsom, State Senator Skinner, and Assemblymember Wicks conveying urgent support for a statewide approach to rapidly contract the natural gas distribution system in a way that is safe, economical for remaining customers, and that provides a just transition for affected workers, including gas utility and extraction workers.
3. Refer to the November, 2021 AAO budget process:
- a. \$1,500,000 of general fund monies from the American Rescue Plan Act allocation and other sources as appropriate as seed funding for the two-year pilot, inclusive of staff costs, for FY 2022.

Policy Committee Recommendation: On November 3, 2021 the Budget & Finance Policy Committee took the following action: M/S/C (Arreguin/Harrison) to send the item to Council with a qualified positive recommendation including the following amendments: Recommendation 2. That part of the recommended funding source is American Rescue Plan dollars and; Recommendation 1a. Modifying the end of the last sentence to “with a preference first for affordable housing projects and assisting households at or below 120% the area median income.”

Financial Implications: See report

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

Council Consent Items

22. Prioritizing Berkeley Unified School District Public Works Service Requests From: Councilmember Hahn (Author) and Councilmember Harrison (Co-Sponsor)

Recommendation: Refer to the City Manager to: 1. Work with the Berkeley Unified School District (BUSD) to create a system to better document, communicate, and prioritize Public Works service requests from BUSD schools and facilities; and 2. Establish protocols with BUSD for school principals to coordinate directly with Public Works staff to address school site-related concerns that fall under the City's jurisdiction.

Financial Implications: None

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

23. Budget Referral to City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided

From: Councilmember Wengraf (Author)

Recommendation: Refer to the Mid-Year Annual Appropriations Ordinance Budget Process \$100,000 to implement steps to promote increased safety for pedestrians of all ages, including seniors and children, on streets lacking sidewalks. This item is requesting the installation of signage to minimize pedestrian-vehicular conflict points at uncontrolled intersections, and to increase driver awareness of pedestrian activity by posting speed limit signs and other signage as a means to improving safe pedestrian access to schools, neighborhood parks, USPS mailboxes, and school and AC Transit bus stops in areas without the benefit of sidewalks. In addition, this item requests that the City Manager explore the implementation of AB 43 that allows cities to take the safety of vulnerable users into consideration when setting local speed limits. This item requests that the City Manager exercise her authority under the California Vehicle Code to allow for lowering the speed limit to 15 or 20 mph in residential districts where the roadway is less than 25 feet wide.

Financial Implications: \$100,000

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

Action Calendar

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

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

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

Action Calendar – Public Hearings

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

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

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

24. **Bayer Healthcare LLC – Amended and Restated Development Agreement**

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, certify the Final Subsequent Environmental Impact Report, adopt Findings and a Mitigation Monitoring and Reporting Program, and adopt the first reading of an Ordinance to approve the Amended and Restated Development Agreement between the City of Berkeley and Bayer Healthcare LLC.

Financial Implications: See report

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

25. **Amendments to the Berkeley Election Reform Act**

From: Fair Campaign Practices Commission

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) make public financing available to candidates for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner, (2) further clarify the use of Fair Elections funds, (3) clarify the requirements for returning unspent Fair Elections funds, (4) add a new process for requesting return of previously repaid Fair Elections funds, and (5) require the FCPC to make a cost of living adjustment to the contribution limit to candidates in January of each odd-numbered year.

Financial Implications: None

Contact: Sam Harvey, Commission Secretary, (510) 981-6950

Action Calendar – Old Business

26. **Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission** (*Continued from November 16, 2021*)
From: City Manager
Recommendation: Adopt an Ordinance repealing and re-enacting Berkeley Municipal Code Chapter 3.26 to create the Parks, Recreation, and Waterfront Commission, and repealing Berkeley Municipal Code Chapters 3.27 (Children, Youth, and Recreation Commission) and 3.08 (Berkeley Animal Care Commission).
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Action Calendar – New Business

27. **Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code**
From: City Manager
Recommendation: Adopt a Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code.
Financial Implications: None
Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000, Jennifer Louis, Police, (510) 981-5900

Council Action Items

28. Budget Referral: Automated license plate readers for community safety improvement *(Reviewed by the Public Safety Policy Committee)*

From: Councilmember Taplin (Author), Councilmember Droste (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)

Recommendation: That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations: Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and the public right-of-way in areas impacted by violent crime, traffic violations including infractions pertaining to bicycle and pedestrian safety, illegal dumping, Schedule II drug offenses, and other criminal activity; and refer to the FY 23-24 budget process cost of ALPRs. Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance enabling the use of ALPRs in fixed locations, mobile trailers, and vehicles by the Berkeley Police Department; consider a data retention period of no greater than one year, no less than sixty days to account for reporting lag, and study the feasibility of shorter data retention periods for non-hit scans with final discretion resting with the City Manager; consider comparable and applicable standards in the ALPRs policies of local governments including: the City of Alameda, The city of Emeryville, The City of Hayward, The City of Oakland, The City of Piedmont, The City of Richmond, The City of San Leandro, and The City of Vallejo; and consider provisions to safeguard efficacy against plate counterfitting, plate switching, and other methods of detection evasions.

Policy Committee Recommendation: On November 1, 2021, the Public Safety Policy Committee took the following action: M/S/C (Kesarwani/Bartlett) to refer the item to Council with a qualified positive recommendation of the item to reflect the Policy Committee's desire for consideration of the costs and benefits of this proposed expenditure against other public safety investments in the two-year FY 2022-23 & 2023-24 budget and the need to first develop a policy related to addressing data retention and other issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.

Financial Implications: See report

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

Information Reports

29. City Council Short Term Referral Process – Quarterly Update

From: City Manager

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

Information Reports

30. **FY 2021 Fourth Quarter Investment Report: Ended June 30, 2021**
From: City Manager
Contact: Henry Oyekanmi, Finance, (510) 981-7300
31. **Condominium Conversion Program – Annual Report**
From: City Manager
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
32. **Berkeley’s 2019 Community-Wide Greenhouse Gas Emissions Inventory**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

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

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

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

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

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be posted on the City’s website at <http://www.cityofberkeley.info>.

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

COMMUNICATION ACCESS INFORMATION:

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



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

I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 18, 2021.

Mark Numainville, City Clerk

Communications – November 30

Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.

Item #13: Berkeley Existing Buildings Electrification Strategy

1. Daniel Tahara

Item #24: Bayer Healthcare LLC – Amended and Restated Development Agreement

2. Beth Roessner, on behalf of the Berkeley Chamber of Commerce
3. Minda Berbeco
4. Kathleen Crandall
5. Sheroza Haniff, on behalf of the Alameda County Workforce Development Board
6. Katelyn Burns
7. Sara Webber, on behalf of the Berkeley Food Network
8. Nico Nagle, on behalf of the Housing Action Coalition
9. Andrea Ali, owner Guerilla Café
10. Ajit Smith-Iyer
11. Jim Wunderman, on behalf of the Bay Area Council
12. Lindsay Kempf
13. Alejandra Tapia
14. Anabel Fredman
15. Sophia Padron Vos
16. Miguel Piedra Montano
17. Ahmed Akbar
18. Teresa Barnett, on behalf of Community Resources for Science
19. Lauren Rawlins
20. Stephen Baiter, on behalf of East Bay Economic Development Alliance
21. Sherry Smith, on behalf of Berkeley Community Scholars
22. Anshdeep Chhabra
23. Chamroen Eng
24. Willis Hon

25. Lynda Gayden, on behalf of the Board of Directors of Biotech Partners (2)
26. Rob Stoker, on behalf of the Alameda County Building and Construction Trades Council

Item #27: Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code

27. Oren Cheyette

BART Housing

28. Louise Rosenkrantz
29. Mathew Lewis
30. Linda Franklin
31. David Brandon
32. Carla Woodworth
33. Charlene Woodcock
34. Margot Smith (2)
35. Serena Lim
36. Rhonda Grossman
37. Suzanne McMillan
38. Lindsay Dixon
39. Carolyn McMillan
40. Deborah Mathews
41. Barbara Fisher

Plastic Bag Ordinance

42. 3 similarly-worded from letters

People's Park

43. Russbumper

Homeless People Treatment

44. Diana Bohn

Berkeley Police Department Budget

45. Diana Bohn

Voluntary Dismissal of Dominquez et al Lawsuit

46. Melisa Cheatwood

Climate Change

47. Thomas Lord (4)

Electric Vehicle Charging Station Solicitation

48. Sage Feiler

COVID-19 Related Issues

49. Todd Andrew

Berkeley City Council Meeting Statement

50. Katy Scott-Smith

Hopkins Corridor

51. Bill Hickman

Rent Relief Program

52. Human Welfare and Community Action Commission

Vision Zero

53. Arvind Ramesh

54. Kristina Monakhova

55. Leo Vacher

Fighting Crime in Berkeley

56. Robyn Chen

57. Melanie Beasley, on behalf of the City Manager's Office

No Development at Aquatic Park

58. Charlene Woodcock

Street Paving

59. David Fisher

60. Jenifer Steele

61. Arthur Ogus

62. Judy Grether

Genetically Modified Mosquitoes

63. Erick Zavala

64. Robert Swanson

65. Mary Jill Seibel

66. Jaydee Hanson

Encrypted Police Radios

67. Sylvia

Solar Access

68. Pamela Drake

Social Housing

69. gvalentine@

Public Security Cameras

70. Oren Cheyette

Single-Family Homes Floor Area Ratio

71. Drake Zinns

Berkeley is Least Affordable Mid-Sized City

72. Margot Smith

Timeline to Enforce City Ordinance – Homelessness

73. Sam Kang

74. Michael Dillingham (2)

75. Laura Menard (2)

76. Lila Sklar

77. Adena Ishii

78. Olivia Wright

Porta Potty Owned by United Company

79. Debora Greene

ORDINANCE NO. 7,790-N.S.

ADDING CHAPTER 12.35 TO THE BERKELEY MUNICIPAL CODE TO ADOPT BY REFERENCE AND OPT IN TO THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY'S ORGANICS REDUCTION AND RECYCLING ORDINANCE

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

Section 1. That a new Chapter 12.35 is hereby added to the Berkeley Municipal Code to read as follows:

Chapter 12.35

ORGANICS REDUCTION AND RECYCLING

Sections:

- 12.35.010 Purpose and Findings.**
- 12.35.020 Adoption.**
- 12.35.030 Conforming Amendments.**
- 12.35.040 Enforcement Agency Authorization.**
- 12.35.050 Severability.**
- 12.35.060 California Environmental Quality Act.**

12.35.010 Purpose and Findings.

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

- (a) The purpose of this Ordinance is to comply with certain state laws requiring cities, counties, and special districts providing solid waste collection services to adopt ordinances and take other measures to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators, more specifically the Short-Lived Climate Pollutants Organic Waste Reduction regulations adopted pursuant to Senate Bill 1383 (Statutes of 2016) set forth in the California Code of Regulations (the "SB 1383 Regulations").
- (b) The City of Berkeley is a member of the Alameda County Waste Management Authority ("WMA"). The WMA is a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts.
- (c) The SB 1383 Regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism applicable to residents and businesses generating or processing solid waste to implement relevant provisions of the SB 1383 Regulations. In response to this mandate, the WMA's member agencies requested that it adopt an ordinance to establish a uniform and comprehensive

countywide system to establish the local regulations required by the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations.

- (d) On July 28, 2021 the WMA adopted the Organics Reduction and Recycling Ordinance (“ORRO”), Ordinance 2021-01. A copy of the Ordinance is attached as Exhibit A and is posted online at www.StopWaste.org/Rules (Direct link: https://www.stopwaste.org/sites/default/files/ORRO_Ordinance2021-02_Adopted.pdf). In order for the ORRO to apply in the City of Berkeley, the City of Berkeley must adopt an ordinance declaring that it will apply within the City of Berkeley.
- (e) The City of Berkeley wishes the ORRO to apply in Berkeley.
- (f) The ORRO provides jurisdictions with the option to grant enforcement authority over various of its provisions to agencies specified in the ORRO.

12.35.020 Adoption.

The City of Berkeley hereby declares that the Organics Reduction and Recycling Ordinance 2021-02 as adopted by the Alameda County Board of Supervisors on July 28, 2021, included herein by reference in Exhibit A, and including its successors and any future modifications to the ordinance, to be effective in the City of Berkeley beginning on January 1, 2022.

12.35.30 Conforming Amendments.

Mulch Standards. To be applied to the City of Berkeley’s procurement target established by SB 1383 regulations, any mulch sold or otherwise provided to Berkeley in connection with Berkeley’s compliance with the State of California’s Recovered Organic Waste Product Procurement Target requirements set forth in section 18993.1 of Title 14 of the California Code of Regulations shall:

- (a) Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in subsections 17852(a)(24.5)(A)1. through 3 of Title 14 of the California Code of Regulations; and
- (b) Be produced at one or more of the following:
 - (1) A compostable material handling operation or facility as defined in section 17852(a)(12) of Title 14 of the California Code of Regulations, other than a chipping and grinding operation or facility as defined in Section 17852(a)(10) of Title 14 of the California Code of Regulations, that is permitted or authorized under this division; or

- (2) A transfer/processing facility or transfer/processing operation as defined in Sections 17402(a)(30) and (31) of Title 14 of the California Code of Regulations, respectively, that is permitted or authorized under this division; or
- (3) A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under Division 2 of Title 27 of the California Code of Regulations.

12.35.040 Enforcement Agency Authorization.

(a) The WMA is authorized and designated to carry out the responsibilities specified in Exhibit B to this ordinance effective January 1, 2022 and the City Manager is authorized to enter an agreement with the WMA to implement this authorization and designation.

(c) The authorization and designation above do not limit the City's authority to independently carry out some or all of the responsibilities designated above. The City retains full authority to implement and enforce the ORRO.

(d) The City Council may, by resolution, modify Exhibit B and may authorize and designate other entities to carry out responsibilities under this ordinance and no amendment of this ordinance shall be required.

12.35.050 Severability.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

12.35.060 California Environmental Quality Act.

This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions which maintain the already established requirements of the Waste Management Authority's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance) which currently apply in Berkeley, the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. No mitigation measures identified in the EIR are applicable to Berkeley's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the

Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines of as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on November 16, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.

Exhibit A

Alameda County Waste Management Authority Ordinance 2021-01: Organics
Reduction and Recycling Ordinance

**ORDINANCE 2021-02
ORGANICS REDUCTION
AND RECYCLING ORDINANCE
TABLE OF CONTENTS**

SECTION 1. PURPOSE AND FINDINGS1
SECTION 2. TITLE OF ORDINANCE4
SECTION 3. DEFINITIONS4
SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS14
**SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESS GENERATORS
INCLUDING MULTI-FAMILY RESIDENTIAL DWELLINGS15**
SECTION 6. WAIVERS FOR COMMERCIAL BUSINESS GENERATORS18
SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS19
**SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND
SERVICES21**
**SECTION 9. REQUIREMENTS FOR REGULATED HAULERS AND FACILITY
OPERATORS23**
SECTION 10. REQUIREMENTS FOR SELF-HAULERS25
SECTION 11. INSPECTIONS AND INVESTIGATIONS26
SECTION 12. ENFORCEMENT27
SECTION 13. LOCAL REGULATION AND OPT-OUT AND OPT-IN PROVISIONS30
SECTION 14. SEVERABILITY30
SECTION 15. EFFECTIVE DATE AND REPEAL OF ORDINANCE 2012-131

ORDINANCE 2021-01: ORGANICS REDUCTION AND RECYCLING ORDINANCE

The Board of the Alameda County Waste Management Authority (“WMA”) hereby ordains as follows:

SECTION 1. PURPOSE AND FINDINGS

- (a) The purpose of this Ordinance is to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators. This Ordinance repeals WMA Ordinance 2012-1 (An Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers) in its entirety in order to provide a single and comprehensive framework to achieve its purposes and comply with various state laws as set forth below.
- (b) The WMA has the power to enact this Ordinance pursuant to the Joint Exercise of Powers Agreement for Waste Management (“JPA”). The JPA grants the WMA the power, duty, and responsibility to prepare, adopt, revise, amend, administer, enforce, and implement the Countywide Integrated Waste Management Plan (“ColWMP”), and pursuant to Section 5.m of the JPA, the power to adopt ordinances necessary to carry out the purposes of the JPA.
- (c) The reduction of organic and recyclable materials deposited in landfills is necessary to carry out the purposes of the JPA and implement the ColWMP, including the following goals and objectives:
 - Goal 1 is to “maintain adequate disposal capacity and minimize landfill impacts.” Objectives 1.1 and 1.3 prioritize preserving landfill capacity in the short run through reducing landfilled materials, and aim to ultimately eliminate landfills altogether, through elimination of waste and effective recovery of materials.
 - Goal 2 is to “maximize environmental benefits by balancing high volume of recovery with related considerations such as quality of commodities, operating impacts of facilities, and other environmental impacts of programs.” Objectives 2.1 to 2.5 affirm the need for infrastructure to manage diversion of organics, minimize environmental impacts of infrastructure, support markets for recovered materials, and reduce contamination.
 - Goal 3 is to “shift from managing discards to reducing consumption, managing materials at their highest and best use, and addressing environmental impacts across the full life cycle of materials and products.”

Objectives 3.1 and 3.2 prioritize managing materials at their highest and best use and prioritize incorporating climate impacts into WMA programs.

- Goal 4 is to “inform and engage the public in waste reduction activities.” Objectives 4.2 and 4.3 provide for education of Alameda County residents, schools and businesses and emphasize the need for the public to take action and adopt positive waste reduction habits.
- Goal 5 is to “develop and administer programs and address emerging issues in partnership with member agencies, the private sector, and other key stakeholders.” Objective 5.1 identifies the need for organizational structures that foster inter-jurisdictional cooperation.

- (d) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (approved by the Governor of the State of California on September 29, 1989, which among other things, added Division 30 (Section 40000, et seq.) to the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- (e) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and multi-family property owners that generate a specified threshold amount of Solid Waste to arrange for recycling service and requires jurisdictions to implement a Mandatory Commercial Recycling program.
- (f) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and multi-family property owners that generate a specified threshold amount of Solid Waste, recycling, and Organic Waste per week to arrange for recycling service for those materials, requires counties and cities to implement a recycling program to divert Organic Waste from businesses subject to the law, and to implement a Mandatory Commercial Organics Recycling program.
- (g) State organics recycling law, Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016 (approved by the Governor of the State of

California on September 19, 2016, which added Sections 39730.5, 39730.6, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time), took effect on January 1, 2017 and sets Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, based on the 2014 organics waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code, and requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The SB 1383 Regulations place requirements on multiple entities, including counties, cities, residential households, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets with compliance required beginning January 1, 2022.

- (h) In furtherance of the food recovery objectives of the laws noted above and to reduce legal risks associated with food recovery, the State food donation law, Assembly Bill 1219 of 2017, the California Good Samaritan Food Donation Act of 2017 (approved by the Governor of the State of California on October 9, 2017, which amended Section 1714.25 of the Civil Code, amended Section 58502 of, and repealed Section 58506 of, the Food and Agricultural Code, and amended Sections 114432, 114433, and 114434 of, and added Section 114435 to, the Health and Safety Code, as amended, supplemented, superseded and replaced from time to time), provides additional protections for entities that donate and distribute food for human consumption.
- (i) By January 1, 2022, the SB 1383 Regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations.
- (j) It is in the public interest for participants in the Alameda County solid waste and recycling systems—including cities, the County, sanitary districts, haulers, processors, facility operators, businesses, institutions, the public, and the WMA—to work together to advance the goals in the state legislation noted above, as well as those in the ColWMP.
- (k) This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions which maintain the already established requirements of the WMA's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance), the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR.

No mitigation measures identified in the EIR are applicable to WMA's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment.

SECTION 2. TITLE OF ORDINANCE

This Ordinance is titled "Organics Reduction and Recycling Ordinance".

SECTION 3. DEFINITIONS

The following definitions govern the use of terms in this Ordinance:

- (a) "Alameda County" means all of the geographical areas located within the incorporated and unincorporated areas of Alameda County whereas "County of Alameda" or "County" refers to the public entity, a body corporate and politic of the State of California.
- (b) "Back-Haul" means generating and transporting Organic Waste to a destination owned and operated by a generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- (c) "C&D" means construction and demolition debris.
- (d) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the state agency designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations.
- (e) "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this Ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
- (f) "Certification of Recycling Service Form" means documentation certifying that a Commercial Business does not subscribe to collection services for Compost Containers and/or Recycling Containers because the Commercial Business has arranged for collection of its Source Separated Compost Container Organic Waste and/or Source Separated Recyclable Materials by self-hauling, Back-Haul,

contracting with a third party hauler, or shares service with another Commercial Business.

- (g) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, institution or association (whether incorporated or unincorporated or for-profit or nonprofit), strip mall, industrial facility, or a Multi-Family Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6).
- (h) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined herein or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).
- (i) “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- (j) “Compliance Review” means a review of records by the Enforcement Agency to evaluate compliance with this Ordinance.
- (k) “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this Ordinance, that “Compost” means the product resulting from the controlled biological decomposition of organic Solid Waste that is Source Separated from the municipal Solid Waste stream, or which is separated at a centralized facility.
- (l) “Compost Container” has the same meaning as “Green Container” in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and collection of Source Separated Compost Container Organic Waste.
- (m) “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 and D6868 standards for compostability and are certified by the Biodegradable Products Institute (BPI) or similar third-party approved by the WMA, and are approved by the Member Agency for placement in the Compost Container.
- (n) “Container Contamination” or “Contaminated Container” means a container, regardless of type, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- (o) “Designee” means an entity that the WMA or a Member Agency contracts with or otherwise arranges to carry out or assist with any of the WMA’s or Member Agency’s responsibilities for compliance with the SB 1383 Regulations or

administration or enforcement of this Ordinance. A Designee may be a government entity, a private entity, or a combination of those entities.

- (p) "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this Ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code, as codified in the Health and Safety Code Section 113700, et seq.
- (q) "Enforcement Action" means an action of the relevant Enforcement Agency to address non-compliance with this Ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (r) "Enforcement Agency" means an entity with the authority to enforce part or all of this Ordinance as specified herein. Employees and agents of an Enforcement Agency may carry out inspections and enforcement activities pursuant to this Ordinance. Nothing in this Ordinance authorizing an entity to enforce its terms shall require that entity to undertake such enforcement except as agreed to by that entity.
- (s) "Excluded Waste" means hazardous substances, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from a Member Agency and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the reasonable opinion of the Member Agency or a Regulated Hauler operating in that Member Agency's jurisdiction would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the Member Agency or a Regulated Hauler to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the Member Agency's collection programs and the generator or customer has properly placed the materials for collection pursuant to instructions provided by the Member Agency or the Regulated Hauler providing service to the generator.

- (t) "Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- (u) "Food Facility" has the same meaning as in Section 113789 of the Health and Safety Code.
- (v) "Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- (w) "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:
 - (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Ordinance.

- (x) "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).
- (y) "Food Scraps" means all edible or inedible food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, coffee grounds, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (z) "Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

- (aa) “Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, napkins, and pizza boxes, and is approved by the applicable the Member Agency for placement in the Compost Container.
- (bb) “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics in combination or separately.
- (cc) “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).
- (dd) “Hauler Route” means the designated itinerary or sequence of stops for each segment of a Member Agency’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- (ee) “Health Facility” has the same meaning as in Section 1250 of the Health and Safety Code.
- (ff) “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).
- (gg) “Hotel” has the same meaning as in Section 17210 of the Business and Professions Code.
- (hh) “Inspection” means an Enforcement Agency’s electronic or on-site review of records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this Ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).
- (ii) “Landfill Container” has the same meaning as “Gray Container” in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Landfill Container Waste.
- (jj) “Landfill Container Waste” means Solid Waste that is collected in a Landfill Container that is part of a three-container or three-plus container collection service that prohibits the placement of Organic Waste in the Landfill Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section

17402(a)(6.5). (Three container collection service refers to service collecting materials in Landfill Containers, Organics Containers, and Recycling Containers.)

- (kk) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Ordinance. For the purposes of this definition of Large Event, “local agency” means all public agencies except those that are not subject to the regulatory authority of the Member Agency.

- (ll) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation. For purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this Ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Ordinance.

- (mm) “Member Agency” means a party to the JPA. Current member agencies are the County of Alameda; the Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City; and the Castro Valley and Oro Loma Sanitary Districts. A reference to a Member Agency means the Member Agency within whose boundaries the regulated Organic Waste Generator, Self-Hauler, Regulated Hauler, Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity resides or operates. The Member Agency boundaries for the purpose of administering and enforcing this Ordinance are:
 - (1) The legal boundaries of each of the 14 incorporated municipalities within Alameda County, except those portions of the Cities of Hayward and San Leandro that are within the boundaries of the Oro Loma Sanitary District.
 - (2) The legal boundaries of each of the Castro Valley and Oro Loma Sanitary Districts.
 - (3) The unincorporated sections of the County not included within the above.

- (nn) “Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5).
- (oo) “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five or more dwelling units. Multi-Family premises are considered a distinct type of Commercial Business for the purposes of implementing this Ordinance. Consistent with the SB 1383 Regulations, residential premises that consist of fewer than five units are not “Multi-Family” and instead are “Single-Family” for the purposes of implementing this Ordinance. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered other types of Commercial Businesses.
- (pp) “Non-Compostable Paper” includes, but is not limited to, paper that is coated, lined or treated with a non-compostable material, or otherwise unacceptable to the compostable materials handling facility processing the material.
- (qq) “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable materials including but not limited to recyclable food and beverage glass containers, metal (aluminum and steel) food and beverage cans, HDPE (high density polyethylene) bottles and PET (polyethylene terephthalate) bottles, and other materials specified in 14 CCR Section 18982(a)(43).
- (rr) “Notice of Violation” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.
- (ss) “Organic Waste” means Solid Waste containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).
- (tt) “Organic Waste Generator” means a Person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- (uu) “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- (vv) “Person” includes an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever, or as otherwise defined in Public Resources Code Section 40170.

- (ww) "Printing and Writing Paper" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- (xx) "Prohibited Container Contaminants" includes all of the following: (i) materials placed in the Recycling Container that are not identified as acceptable Source Separated Recyclable Materials for the Member Agency's Recycling Container; (ii) materials placed in the Compost Container that are not identified as acceptable Source Separated Compost Container Organic Waste for the Member Agency's Compost Container; (iii) materials placed in the Landfill Container that are acceptable Source Separated Recyclable Materials and/or acceptable Source Separated Compost Container Organic Waste that can be placed in the Member Agency's Compost Container and/or Recycling Container; and, (iv) Excluded Waste placed in any container.
- (yy) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- (zz) "Recycling Container" has the same meaning as "Blue Container" in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials and Source Separated Recycling Container Organic Waste.
- (aaa) "Regulated Hauler" means a Person that collects Solid Waste (other than Solid Waste generated by a permitted building project) originating in Alameda County from Compost Containers, Recycling Containers, and/or Landfill Containers, and does so under a contract, franchise agreement, or permit with the WMA or a Member Agency. A Member Agency that collects Solid Waste within its boundaries is not a Regulated Hauler with respect to that collection.
- (bbb) "Remote Monitoring" means the use of mechanical or electronic devices to identify the types of materials in Recycling Containers, Compost Containers, and/or Landfill Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- (ccc) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).
- (ddd) "Route Review" means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical or electronic Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

- (eee) "SB 1383" means Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016.
- (fff) "SB 1383 Regulations" means or refers to, for the purposes of this Ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- (ggg) "Self-Hauler" means a Person, who hauls Solid Waste, Organic Waste or recyclable material they have generated to another Person for disposition as allowed by the Member Agency and otherwise in accordance with all applicable laws. Self-Hauler also includes a Person who Back-Hauls such materials, and as otherwise defined in 14 CCR Section 18982(a)(66).
- (hhh) "Single-Family" means, for purposes of this Ordinance, of, from, or pertaining to any residential premises with fewer than five units.
- (iii) "Solid Waste" has the same meaning as defined in Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:
 - (1) Hazardous waste, as defined in the Public Resources Code Section 40141.
 - (2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).
 - (3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code.
- (jjj) "Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this Ordinance,

Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Landfill Container Waste or other Solid Waste for the purposes of collection and processing.

(kkk) "Source Separated Compost Container Organic Waste" means Source Separated Organic Waste that can be placed in a Compost Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Recycling Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

(lll) "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Recycling Container Organic Waste.

(mmm) "Source Separated Recycling Container Organic Waste" means Source Separated Organic Wastes that can be placed in a Recycling Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables, as defined herein or as otherwise defined in Sections 18982(a)(43) and 18982(a)(46). Source Separated Recycling Container Organic Waste shall include materials as determined by the Member Agency and includes unsoiled Paper Products and Printing and Writing Paper.

(nnn) "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

(ooo) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Supermarket.
- (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food Service Provider.
- (4) Food Distributor.
- (5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Ordinance.

(ppp) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.
- (3) Health facility with an on-site Food Facility and 100 or more beds.
- (4) Large Venue.
- (5) Large Event.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition as to entities subject to the regulatory authority of a Member Agency, the definition in 14 CCR Section 18982(a)(74) shall apply to this Ordinance.

- (qqq) “Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).
- (rrr) “WMA” means the Alameda County Waste Management Authority.

SECTION 4. REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Except Single-Family Organic Waste Generators that meet the Self-Hauler requirements in Section 10 of this Ordinance and/or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12), Single-Family generators shall:

- (a) Be subscribed to the collection service(s) approved by the Member Agency for Compost Containers, Recycling Containers, and Landfill Containers. A Member Agency shall have the right to review the number and size of a generator’s containers to evaluate the adequacy of capacity provided for each type of collection service and to review the separation of materials and containment of materials. A Single-Family generator shall adjust its service level for its collection services as requested by the Member Agency in order to meet the standards set forth in this Ordinance. Generators may manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c) to the extent permitted by other applicable laws.
- (b) Participate in the Organic Waste collection service(s) approved by the Member Agency by placing designated materials in designated containers as described below, and not placing Prohibited Container Contaminants in collection containers. Generator shall place Source Separated Compost Container Organic Waste,

including Food Waste, in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste in the Landfill Container. Generators shall not place materials designated for the Landfill Container into the Compost Container or the Recycling Container.

- (c) The Enforcement Agency for the provisions of this Section 4 is the Member Agency and any other Designee of the Member Agency.

SECTION 5. REQUIREMENTS FOR COMMERCIAL BUSINESS GENERATORS INCLUDING MULTI-FAMILY RESIDENTIAL DWELLINGS

Commercial Business Organic Waste Generators, including Multi-Family Residential Dwellings, shall:

- (a) Except Commercial Businesses that meet the Self-Hauler requirements in Section 10 of this Ordinance, or that meet waiver requirements in Section 6 of this Ordinance, or that are located in a census tract for which CalRecycle has issued a low population waiver (as described in 14 CCR Section 18984.12):
 - (1) Be subscribed to collection service(s) approved by the Member Agency for Compost Containers, Recycling Containers, and Landfill Containers and comply with requirements of those services as described below. A Member Agency shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the Member Agency.
 - (2) Participate in collection services approved by the Member Agency for Organic Waste collection service(s) by placing designated materials in designated containers as described below. Generator shall place Source Separated Compost Container Organic Waste, including Food Waste, in the Compost Container; Source Separated Recyclable Materials in the Recycling Container; and Landfill Container Waste in the Landfill Container. Generator shall not place materials designated for the Landfill Container into the Compost Container or Recycling Container.
- (b) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 5(c)(1), 5(c)(2), and 5(d) below) for employees, contractors, tenants, and customers, consistent with the Recycling Container, Compost Container, and Landfill Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 10.

- (c) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials generated by that business in all areas where the Commercial Business provides disposal containers for employees, contractors, tenants, customers and other users of the premises (“User Disposal Containers”). Such User Disposal Containers do not need to be provided in restrooms. If a Commercial Business does not generate, or has a waiver pertaining to, any of the materials that would be collected in one type of User Disposal Container, then the business does not have to provide that particular type of container in all areas where User Disposal Containers are provided. Pursuant to 14 CCR Section 18984.9(b), the User Disposal Containers provided by the business shall have either:
- (1) A body or lid that conforms with the following container colors, with either lids conforming to these color requirements or bodies conforming to these color requirements, or both lids and bodies conforming to these color requirements: gray or black containers for Landfill Container Waste, blue containers for Source Separated Recyclable Materials, and green containers for Source Separated Compost Container Organic Waste. Notwithstanding the foregoing, a Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section 5(c)(1) prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - (2) Container labels that include language or graphic images, or both, indicating the primary materials accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- (d) For Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials in all common areas where those materials are being generated and disposal containers are provided for tenants, and in areas for internal consolidation of materials that are later deposited in Organics Containers, Recycling Containers, and Landfill Containers for collection by Regulated Haulers. Such containers do not need to be provided in restrooms accessible from common areas of the Multi-Family Dwelling. Such containers shall comply with the color and labeling requirements specified in subsections (c)(1) and (c)(2) above.
- (e) To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the Recycling Container, Compost Container, and Landfill Container collection service or, if self-hauling, per the Commercial Businesses’

instructions to support its compliance with its self-haul program, in accordance with Section 10.

- (f) Periodically inspect Recycling Containers, Compost Containers, and Landfill Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- (g) Annually provide information to employees, contractors, tenants, building residents, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials.
- (h) Provide information before or within fourteen days of new occupation of the premises to new tenants and no less than fourteen days before tenants move out of the premises, unless a tenant does not provide fourteen or more days' notice to before moving out, that describes requirements to keep Source Separated Compost Container Organic Waste and Source Separated Recyclable Materials separate from each other and from Landfill Container Waste and the location of containers and the rules governing their use at the property.
- (i) Provide or arrange access for the Enforcement Agency to their properties during all Inspections conducted in connection with this Ordinance and timely provide documents requested by the Enforcement Agency to confirm compliance with the requirements of this Ordinance.
- (j) Accommodate and cooperate with any Remote Monitoring program established by a Regulated Hauler or a Member Agency for Inspection of the types of materials placed in containers for Prohibited Container Contaminants to evaluate generator's compliance with Section 5(a)(1).
- (k) At Commercial Business' option and subject to approval by the Enforcement Agency, implement its own Remote Monitoring program for self-inspection of the types of materials placed in Recycling Containers, Compost Containers, and Landfill Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Purchase and maintenance of the Remote Monitoring program shall be the responsibility of the Commercial Business.
- (l) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c) to the extent permitted by other applicable laws.
- (m) The Enforcement Agency for the provisions of this Section 5 is the Member Agency and, if authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 6. WAIVERS FOR COMMERCIAL BUSINESS GENERATORS

- (a) De Minimis Waivers. Except for Multi-Family Residential Dwellings, the Enforcement Agency may waive a Commercial Business' obligation to comply with some or all of the Organic Waste collection service requirements of this Ordinance if the Commercial Business provides documentation demonstrating that the business generates below a certain amount of Organic Waste material, as described in Section 6(a)(2) below. A Commercial Business requesting a de minimis waiver shall:
- (1) Submit an application to the Enforcement Agency specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation with the application that either:
 - (A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Recycling Container or Compost Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - (B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Recycling Container or Compost Container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - (C) For the purposes of subsections (A) and (B) above, total Solid Waste shall be the sum of weekly Landfill Container Waste, Source Separated Recyclable Materials, and Source Separated Compost Container Organic Waste measured in cubic yards.
 - (3) If the waiver is granted, notify the Enforcement Agency granting the waiver if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case the waiver will be rescinded.
 - (4) If the waiver is granted, provide written verification of continued eligibility for de minimis waiver to the Enforcement Agency every 5 years.
- (b) Physical Space Waivers. The Enforcement Agency may waive a Commercial Business' or property owner's (including a Multi-Family Residential Dwelling's) obligation to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements of this Ordinance if the Enforcement Agency has evidence from a Regulated Hauler, licensed architect, licensed engineer, or other Person authorized by the Enforcement Agency demonstrating that the

premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 5.

A Commercial Business requesting a physical space waiver shall:

- (1) Submit an application to the Enforcement Agency specifying the service or requirements for which it is requesting a waiver.
 - (2) Provide documentation with the application that the premises lacks adequate space for Recycling Containers and/or Compost Containers, which shall include documentation from its Regulated Hauler, licensed architect, licensed engineer, or other Person authorized by the Enforcement Agency.
 - (3) If the waiver is granted, notify the Enforcement Agency granting the waiver if the Commercial Business' physical space configurations or amounts of Solid Waste generation change, in which case the waiver may be rescinded.
 - (4) If the waiver is granted, provide written verification to the Enforcement Agency of continued eligibility for a physical space waiver every five years.
- (c) Collection Frequency Waiver. The Enforcement Agency, at its discretion and in accordance with 14 CCR Section 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to the Member Agency's three- or, if relevant, three-plus container Organic Waste collection service to arrange for the collection of their Recycling Container, Landfill Container, or both once every fourteen days, rather than once per week.
- (d) The Enforcement Agency for the provisions of this Section 6 is the Member Agency and, if authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 7. REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

- (a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3 or such later deadline established by State law or regulations.
- (b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024 or such later deadline established by State law or regulations.
- (c) Commercial Edible Food Generators shall comply with the following requirements:

- (1) Arrange to safely recover for human consumption the maximum amount of Edible Food that would otherwise be disposed.
- (2) Enter into a contract or other written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection for Food Recovery of Edible Food that would otherwise be disposed; or, (ii) acceptance of Edible Food that would otherwise be disposed that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
- (3) Use best efforts to abide by all contractual or written agreement requirements specified by the Food Recovery Organization or Food Recovery Service on how Edible Food should be prepared, packaged, labeled, handled, stored, distributed or transported to the Food Recovery Organization or Service.
- (4) Not intentionally donate food that has not been prepared, packaged, handled, stored and/or transported in accordance with the safety requirements of the California Retail Food Code.
- (5) Not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
- (6) Allow the Enforcement Agency to review records upon request, including by providing electronic copies or allowing access to the premises, pursuant to 14 CCR Section 18991.4.
- (7) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (A) A list of each Food Recovery Service or Food Recovery Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (B) A copy of all contracts and written agreements established under 14 CCR Section 18991.3(b) and/or this Ordinance.
 - (C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - (i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (iii) The established frequency that food will be collected or self-hauled.

- (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- (D) If it has not entered into a contract or written agreement with Food Recovery Organizations or Food Recovery Services pursuant to Section 7(c)(2), a record that describes (i) its direct donation of Edible Food to end recipients (including employees) and/or (ii) its food waste prevention practices that result in it generating no surplus Edible Food that it can donate.
- (8) Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators shall provide, upon request, a Food Recovery report to the Enforcement Agency that includes the information in Section 7(c)(7). Entities shall provide the requested information within 60 days of the request.
- (d) Nothing in this Ordinance shall be construed to limit or conflict with (1) the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 commencing with Section 49580 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time); or (2) otherwise applicable food safety and handling laws and regulations.
- (e) Nothing in this Ordinance prohibits a Commercial Edible Food Generator from donating Edible Food directly to end recipients for consumption, pursuant to Health and Safety Code Section 114432(a).
- (f) The Enforcement Agency for the provisions of this Section 7 is the Member Agency and, if authorized by the applicable Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 8. REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

- (a) Nothing in this Ordinance prohibits a Food Recovery Service or Food Recovery Organization from refusing to accept edible food from a Commercial Edible Food Generator, in accordance with 14 CCR Section 18990.2(d).
- (b) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
 - (2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 - (4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- (c) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):
- (1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
 - (2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month. This may also include the total quantity in pounds of food collected that was spoiled when received from a Commercial Edible Food Generator or otherwise not able to be used to feed people.
 - (3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.
- (d) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in Alameda County and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the WMA the total pounds of Edible Food recovered from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) according to the following schedule: (i) no later than August 15, 2022, submit an initial report covering the period of January 1, 2022 to June 30, 2022; and (ii) no later than March 31, 2023, and no later than every March 31 thereafter, submit a report covering the period of January 1 to December 31 of the previous calendar year.
- (e) In order to support Edible Food Recovery capacity planning assessments and similar studies, Food Recovery Services and Food Recovery Organizations operating in Alameda County shall provide, upon request, information and

consultation to the Enforcement Agency regarding existing, or proposed new or expanded, Food Recovery capacity in a form that can be provided to or that can be accessed by the WMA, Member Agencies, and Commercial Edible Food Generators in Alameda County. A Food Recovery Service or Food Recovery Organization contacted by the Enforcement Agency shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the Enforcement Agency.

- (f) The Enforcement Agency for the provisions of this Section 8 is Member Agency and, if authorized by the Member Agency, the WMA and any other Designee of the Member Agency.

SECTION 9. REQUIREMENTS FOR REGULATED HAULERS AND FACILITY OPERATORS

- (a) Requirements for Regulated Haulers.
 - (1) A Regulated Hauler providing Single-Family, Commercial, or industrial Organic Waste collection service to generators within Alameda County shall meet the following requirements and standards in connection with collection of Organic Waste:
 - (A) Through written notice to the Member Agency annually on or before March 31, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Compost Container Organic Waste.
 - (B) Transport Source Separated Recyclable Materials to a facility that recycles those materials and transport Source Separated Compost Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - (C) Obtain approval from the Member Agency to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1, Section 13 of this Ordinance, and any WMA and Member Agency rules.
 - (2) Within the boundaries of any Member Agency in which it has customers, a Regulated Hauler collecting Organic Waste shall:
 - (A) Up to four times per year, provide reports to the WMA and Member Agency on Commercial Business account information and service levels in a form to be specified by the WMA.

- (B) Assist in the dissemination of SB 1383 educational materials to Single-Family and Commercial Business accounts.
- (C) At least annually and during new staff on-boarding, train Regulated Hauler's customer service representatives and account managers/recycling coordinators serving Organic Waste Generators in Alameda County on the generator requirements set forth in Sections 4 and 5 of this Ordinance, SB 1383 Regulations as they may be revised from time to time and on resources available to assist in compliance. Trainings may be in a virtual or in-person format.
- (D) Where a Regulated Hauler provides Landfill Container collection service, notify Single-Family and Commercial Business accounts that (i) they must also be subscribed to Recycling Container collection service and Compost Container collection service to comply with this Ordinance, except if an applicable waiver has been granted for the account, if an applicable waiver application has been submitted and is under review for the account, or if the account has an approved Certification of Recycling Service Form and (ii) that the Regulated Hauler will inform the Member Agency if the account fails to subscribe to a required collection service offered by the Regulated Hauler.
- (E) Provide quarterly reports to the WMA identifying Single-Family and Commercial accounts that are subscribed to Landfill Container collection service but that are not subscribed to Recycling Container and/or Compost Container collection service. WMA shall provide this information to the Member Agency. If a Regulated Hauler providing Landfill Container collection service does not offer Recycling Container Collection Service and/or Compost Container collection service to its Landfill Container collection service customers, the requirements of subsection (D) and (E) shall not apply with respect to those customers and the type(s) of service that is not offered.
- (F) Conduct or comply with Container Contamination minimization efforts such as Route Reviews or waste evaluations. Inform generators when Container Contamination is observed by the Regulated Hauler.
- (G) If requested by the Enforcement Agency, assist generators with verification of physical space constraints when generator submits an application for a physical space waiver.
- (H) Provide Commercial Business accounts with interactive assistance such as employee trainings, in a virtual or in-person format, when Recycling Container collection service or Composting Container collection service is added, or upon request.

- (3) The Enforcement Agency for the provisions of this Section 9(a) is the Member Agency and, where authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.
- (b) Requirements for Facility Operators and Community Composting Operations
- (1) Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon request from the WMA, provide within 60 days information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes.
 - (2) Community Composting operators shall, upon request from the WMA, provide within 60 days information to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation.
 - (3) The Enforcement Agency for the provisions of this Section 9(b) is the WMA and any Designee of the WMA.

SECTION 10. REQUIREMENTS FOR SELF-HAULERS

- (a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that the Member Agency otherwise requires generators to separate for collection in the Member Agency's organics and recycling collection program) generated or handled on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.
- (b) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Compost Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility. Self-Haulers may Back-haul to a destination owned and operated by the generator using the generator's own employees and equipment and then haul those consolidated materials to facilities meeting the requirements of this subsection (b).
- (c) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers

Organic Waste; this record shall be subject to Inspection by the Enforcement Agency. The records shall include the following information:

- (1) Delivery receipts and weight tickets from the entity accepting the material.
 - (2) The amount of material in cubic yards or tons transported by the generator to each entity.
 - (3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- (d) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall submit a Certification of Recycling Service Form to the Enforcement Agency for review for compliance if they do not also subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler. Applications will be considered for approval to the extent permitted by other applicable laws.
 - (e) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall submit a new Certification of Recycling Service Form to the Enforcement Agency for compliance review every five years, if they do not also subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler.
 - (f) Self-Haulers shall notify the Enforcement Agency if they subscribe to separate collection service for Compost Containers and/or Recycling Containers by a Regulated Hauler, such that they are no longer Self-Haulers.
 - (g) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall provide information, upon request, collected in Section 10(c) to the Enforcement Agency. Entities shall provide the requested information within 60 days.
 - (h) A Single-Family Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Sections 10(c) through (g).
 - (i) The Enforcement Agency for the provisions of this Section 10 is the Member Agency and, where authorized by the Member Agency, the WMA, and any other Designee of the Member Agency.

SECTION 11. INSPECTIONS AND INVESTIGATIONS

- (a) The Enforcement Agency is authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or

transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with the provisions of this Ordinance for which it has enforcement authority by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, Regulated Haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow entry in a private residential dwelling unit for Inspection. For the purposes of inspecting Commercial Business containers for compliance with Section 5(b) of this Ordinance, the Enforcement Agency may conduct container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with the Remote Monitoring pursuant to Section 5(j) of this Ordinance.

- (b) A Person subject to the requirements of this Ordinance shall provide or arrange for access during all Inspections (with the exception of a private residential dwelling unit) and shall cooperate with the Enforcement Agency during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, inspection of Edible Food Recovery activities, review of required records, or other verification or Inspection to confirm compliance with any other requirement of this Ordinance. Failure to provide or arrange for: (i) access to the premises; (ii) installation and operation of Remote Monitoring equipment, if a Remote Monitoring program is adopted; or (iii) access to records for any Inspection or investigation is a violation of this Ordinance and may result in penalties described in Section 12.
- (c) Any records obtained by the Enforcement Agency during Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the California Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) The Enforcement Agency is authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this Ordinance, subject to applicable laws.
- (e) The Enforcement Agency shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this Ordinance.
- (f) The Enforcement Agency for the provisions of this Section 11 is the Member Agency and any Designee authorized by the Member Agency to enforce one or more sections of this Ordinance.

SECTION 12. ENFORCEMENT

- (a) Violation of any provision of this Ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by the Enforcement Agency. Enforcement Actions under this Ordinance are issuance of an administrative

citation and assessment of a fine. The Enforcement Agency's procedures on imposition of administrative citations and fines as contained shall govern the imposition, enforcement, collection, and review of administrative citations and fines issued to enforce this Ordinance and any rule or regulation adopted pursuant to this Ordinance, except as otherwise indicated in this Ordinance.

(b) Other remedies allowed by law may be used, including civil action or prosecution as a misdemeanor or infraction. The Enforcement Agency may pursue civil actions in the California courts to seek recovery of unpaid administrative citations, and fines. The Enforcement Agency may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of Enforcement Agency staff and resources.

(c) Process for Enforcement

(1) The following provisions of this Ordinance may be enforced beginning on January 1, 2022: Section 5 concerning Requirements for Commercial Business Generators, Section 6 concerning Waivers for Commercial Business Generators, Section 9 concerning Requirements for Haulers and Facility Operators, Section 10 concerning Requirements for Self-Haulers, and Inspections related to compliance with those sections.

(2) The following provisions of this Ordinance may be enforced beginning on January 1, 2024: Section 4 concerning Requirements for Single Family Generators, Section 7 concerning Requirements for Commercial Edible Food Generators, and Section 8 concerning Requirements for Food Recovery Organizations and Services, and Inspections related to compliance with those sections.

(3) The Enforcement Agency will monitor compliance with this Ordinance through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring).

(4) The Enforcement Agency may issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.

(5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the Enforcement Agency shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the Enforcement Agency's standard procedures.

(d) Penalty Amounts for Violations

The penalty levels are as follows:

- (1) For a first violation, the amount of the penalty shall be \$50 to \$100 per violation or such higher amount as may be established by the Enforcement Agency.
- (2) For a second violation, the amount of the penalty shall be \$100 to \$200 per violation or such higher amount as may be established by the Enforcement Agency.
- (3) For a third or subsequent violation, the amount of the penalty shall be \$250 to \$500 per violation or such higher amount as may be established by the Enforcement Agency.

(e) Compliance Deadline Extension Considerations

The Enforcement Agency may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this Section 12 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- (1) Acts of nature such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
- (2) Delays not within the control of respondent or their agents in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Member Agency is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(f) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed in the administrative citation and consistent with the Enforcement Agency's appeal procedures.

(g) Education Period for Non-Compliance

With respect to provisions of this Ordinance subject to enforcement starting January 1, 2024, the Enforcement Agency will, prior to that date, conduct Inspections, Remote Monitoring (if such a program is implemented), Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if the Enforcement Agency determines that Organic Waste Generator, Self-Hauler, Regulated Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Ordinance and a notice

that compliance is required and that violations may be subject to administrative citations, penalties, or other remedies starting on January 1, 2024.

(h) Civil Penalties for Non-Compliance

If the Enforcement Agency determines that an Organic Waste Generator, Self-Hauler, Regulated Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this Ordinance, it may document the noncompliance or violation, issue a Notice of Violation, and/or take Enforcement Action pursuant to this Section 12, as needed and consistent with the enforcement commencement dates set forth in subsection (c)(1), above.

(i) The Enforcement Agency for the provisions of this Section 12 is the Member Agency and any Designee authorized by the Member Agency to enforce one or more sections of this Ordinance.

SECTION 13. LOCAL REGULATION AND OPT-IN PROVISIONS

- (a) Nothing in this Ordinance shall be construed to prohibit any Member Agency from enacting and enforcing ordinances and regulations regarding the collection, transport, storage, processing, and deposit in landfill(s) of Solid Waste within its jurisdiction, including more stringent requirements than those in this Ordinance.
- (b) This Ordinance shall apply only within the boundaries of Member Agencies that have adopted an ordinance declaring that the Member Agency is opting in to this Ordinance and that it shall apply within their jurisdiction. For any Member Agency that opts in, this Ordinance shall apply as to that Member Agency from the date specified in the ordinance adopted by the Member Agency. A Member Agency that has adopted such an ordinance may declare that this Ordinance no longer applies within its boundaries by adopting a subsequent ordinance setting forth the date upon which this Ordinance shall no longer apply.

SECTION 14. SEVERABILITY

If any provision of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such invalidity shall not affect the remaining provisions or application of the remaining provisions of this Ordinance, which can be given effect without the invalid provisions or application.

SECTION 15. EFFECTIVE DATE AND REPEAL OF ORDINANCE 2012-1

This Ordinance shall be posted at the WMA Office after its adoption by the Board for at least thirty (30) days and shall take effect commencing on January 1, 2022. The WMA's Ordinance 2012-01 (An Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers) is repealed as of the time that this Ordinance takes effect.

Following introduction on June 23, 2021, passed and adopted July 28, 2021 by the following vote:

AYES: Arkin, Carling, Cavanaugh, Cox, Hannon, Hernandez, Jordan, Kalb, Kassan, Lamnin, Martinez, Patiño, Sadoff, Spencer, Wengraf, Young

NOES: None

ABSTAIN: None

ABSENT: Haubert

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of Ordinance No. 2021-02.



ARLISS DUNN

CLERK OF THE BOARD

Exhibit B
Enforcement Agency Authorization – Waste Management Authority

The City of Berkeley designates the WMA as an Enforcement Agency for Sections 5, 6, 7, 8, 9(a)(2), 9(b), 10, 11, and 12 of the ORRO. Without limiting the generality of the foregoing, the authority provided by this designation includes the authority to request information or conduct inspections to verify compliance with any of the above sections to support WMA's enforcement activities.

EXHIBIT C

NOTICE OF DETERMINATION/NOTICE OF EXEMPTION
California Environmental Quality Act (CEQA)

DATE: August 6, 2021

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94607

Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

FROM: Alameda County Waste Management Authority
1537 Webster Street
Oakland, CA 94612
Contact: Emily Alvarez, Program Manager, 510-891-6585

SUBJECT: Filing of Notice of Determination/Notice of Exemption in compliance with Section 21108 or 21152 of the Public Resources Code

PROJECT TITLE: Organics Reduction and Recycling Ordinance

STATE CLEARINGHOUSE NUMBER: Previous CEQA Document: *Program EIR for the SB 1383 Regulations, ShortLived Climate Pollutants: Organic Waste Methane Emission Reductions*, SCH#2018122023

PROJECT APPLICANT: Alameda County Waste Management Authority (WMA)

PROJECT LOCATION: Alameda County – countywide

PROJECT DESCRIPTION:

The Organics Reduction and Recycling Ordinance (ORRO) is a countywide ordinance that WMA adopted on July 28, 2021 pursuant to CalRecycle's SB 1383 Regulations, which require diversion of 75% of organic waste from landfills and recovery of 20% of edible food for human consumption statewide by 2025. The SB 1383 regulations require that by January 1, 2022, jurisdictions adopt an ordinance or other enforceable mechanism to require compliance by organic waste generators, haulers, and other entities subject to the regulations and subject to the jurisdiction's regulatory authority. The SB 1383 Regulations were the subject of the *SB 1383 Regulations, ShortLived Climate Pollutants: Organic Waste Methane Emission Reductions* program EIR (SB 1383 Regulations EIR), SCH#2018122023, prepared by the Department of Resources Recycling and Recovery (CalRecycle).

WMA adopted the ORRO to assist WMA member agencies, all of which are jurisdictions in Alameda County, in complying with the SB 1383 Regulations and to create a consistent set of requirements throughout the county. The ORRO's requirements include the following: single family, multifamily and businesses must have organic waste and recycling collection service and sort properly; businesses and multifamily buildings must educate employees and tenants about proper sorting and must provide labeled bins; businesses must monitor for contamination of bins; haulers must assist with SB 1383 implementation in several ways, such as conducting or complying with route reviews (i.e., contamination monitoring) and providing compliance data to enforcement agencies; commercial edible food generators

(e.g., grocery stores, restaurants, wholesale food distributors, and others) must recover surplus edible food, have a contract in place with a food recovery organization or service, and keep monthly records; and food recovery organizations must keep records and report the amount of food collected. The ORRO will apply within the boundaries of each WMA member agency that opts-in to the ORRO.

This is to advise that WMA, acting as lead agency, approved the above described project on July 28, 2021, and has made the following determinations regarding the above described project.

1. Except for provisions in the ORRO which maintain the already established requirements of WMA's *Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers* (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance), the activities to be carried out under the project are entirely within the scope of the SB 1383 Regulations and its EIR.
2. No mitigation measures identified in the SB 1383 Regulations EIR are applicable to WMA's enactment of the ORRO.
3. None of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred.
4. The SB 1383 Regulations EIR adequately analyzes any potential environmental effects of the project and no additional environmental review is required.
5. Findings were made pursuant to the provisions of CEQA.

On a separate and independent basis, WMA has determined that the project is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate by reducing the contributions to climate change from methane and other harmful greenhouse gases. There are no unusual circumstances that would cause this project to have a significant effect on the environment.

Due to the COVID-19 pandemic, Alameda County Waste Management Authority's office is currently closed to the public. A record of project approval by WMA is available to the general public by request by emailing ealvarez@stopwaste.org or by calling 510-891-6585.

The SB 1383 Regulations EIR may be examined online at:

Draft EIR: <https://www.calrecycle.ca.gov/docs/cr/laws/rulemaking/slcp/sb1383eir.pdf>

Final EIR: <https://www2.calrecycle.ca.gov/Docs/Web/116058>



By: Date: 8/10/2021
TIMOTHY BURROUGHS, Executive Director
Alameda County Waste Management Authority



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

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

RECOMMENDATION

Approve the minutes for the council meetings of October 5, 2021 (closed and special), October 12, 2021 (closed and regular), October 19, 2021 (special) and October 26, 2021 (closed and regular).

CONTACT PERSON

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

Attachments:

1. October 5, 2021 – Closed City Council Meeting
2. October 5, 2021 – Special City Council Meeting
3. October 12, 2021 – Closed City Council Meeting
4. October 12, 2021 – Regular City Council Meeting
5. October 19, 2021 – Special City Council Meeting
6. October 26, 2021 – Closed City Council Meeting
7. October 26, 2021 – Regular City Council Meeting

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

TUESDAY, OCTOBER 5, 2021

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://us02web.zoom.us/j/82234741420>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)**; enter Meeting ID: **822 3474 1420**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

Preliminary Matters

Roll Call: 4:06 p.m.

Present: Kesarwani, Hahn, Robinson, Droste, Arreguin

Absent: Taplin, Bartlett, Harrison, Wengraf

Bartlett present at 4:13 p.m.

Public Comment: No speakers

CLOSED SESSION:

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

1. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1)

- a. Case #1: Nathan Spencer v. City of Berkeley, Alameda Superior Court Case No. RG19036980 – personal injury proposed settlement

Action: M/S/C (Hahn, Arreguin) to authorize the City Attorney Attorney to settle Nathan Spencer v. City of Berkeley, Alameda County Superior Court, Case No. RG 19036980 for \$38,700.

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

- b. Case #2: Yenny Ung v. City of Berkeley, Alameda County Superior Court Case No. RG19047098 – personal injury proposed settlement

Action: M/S/C (Hahn/Arreguin) to authorize the City Attorney to settle Yenny Ung v. City of Berkeley, Alameda County Superior Court, Case No. RG19047098 for \$95,000.

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

OPEN SESSION:

The City Council met in closed session and authorized the City Attorney to settle Nathan Spencer v. City of Berkeley, Alameda County Superior Court, Case No. RG 19036980 for \$38,700.

The City Council met in closed session and authorized the City Attorney to settle Yenny Ung v. City of Berkeley, Alameda County Superior Court, Case No. RG19047098 for \$95,000.

Adjournment

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

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

Adjourned at 4:25 p.m.

This is to certify that the foregoing is a true and correct record of the closed session meeting on October 5, 2021.

Michael MacDonald, Assistant City Clerk

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 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.



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

**Tuesday, October 5, 2021
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://us02web.zoom.us/j/83878881991>. 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: **838 7888 1991**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Report from Closed Session

The City Council met in closed session and authorized the City Attorney to settle Nathan Spencer v. City of Berkeley, Alameda County Superior Court, Case No. RG 19036980 for \$38,700.

The City Council met in closed session and authorized the City Attorney to settle Yenny Ung v. City of Berkeley, Alameda County Superior Court, Case No. RG19047098 for \$95,000.

Roll Call: 6:04 p.m.

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

Absent: Kesarwani, Taplin

Councilmember Kesarwani present at 6:07 p.m.

Councilmember Taplin present at 6:07 p.m.

Consent Calendar

A. Waiver of Sanctuary City Ordinance for Motorola Solutions Lease

From: City Manager

Recommendation: Adopt a Resolution waiving the contract prohibition of Berkeley Municipal Code Chapter 13.105, Sanctuary City Contracting, in order to enter into a Public Safety Radio System lease with Motorola Solutions, Incorporated.

Financial Implications: See report

Contact: Jennifer Louis, Police, (510) 981-5900, Abe Roman, Fire, (510) 981-3473

Action: Moved to Action Calendar. 24 speakers. M/S/C (Arreguin/Taplin) to adopt Resolution No. 70,052–N.S. waiving the contract prohibition of Berkeley Municipal Code Chapter 13.105, Sanctuary City Contracting, in order to enter into a Public Safety Radio System lease with Motorola Solutions, Incorporated.

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

Councilmember Hahn absent 7:07 p.m. – 9: 23 p.m.

Recess 7:53 p.m. – 8:03 p.m.

Action Calendar

1. **Approval of Interim Regulations for the Police Accountability Board and Office of the Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department** (*Continued from September 28, 2021*) (*Item contains supplemental material*)

From: Police Accountability Board and Director of Police Accountability

Recommendation: Approve Interim Regulations to be used by the Police Accountability Board and Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department under City Charter Article XVIII, Section 125 (Measure II). The City Council is asked to choose between the Board's modified proposal, conditioned upon City Attorney approval, or the Interim Director's preferred version.

Financial Implications: None

Contact: Katherine Lee, Interim Director of Police Accountability, (510) 981-4950

Action: M/S/Failed (Taplin/Droste) to approve the Interim Regulations as proposed by the Director of Police Accountability with an amendment to require written permission of aggrieved party for an eye witness to file a complaint.

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

Action: 19 speakers. M/S/C (Harrison/Hahn) to approve Interim Regulations as proposed by the Police Accountability Board including the items listed below.

- Adding Eyewitnesses to the definition of "Complainant" which reads as follows, "Aggrieved Parties, as well as Eyewitnesses to alleged police misconduct who file a complaint with the Office of the Director of Police Accountability."
- Amending Section II.A.2. Who may file, to read, "Only Aggrieved Parties, as well as Eyewitnesses [Definition of Eyewitness] to alleged police misconduct, may file a complaint. Complaints may also be initiated by the Board upon a vote of five Board members to authorize an investigation."
- Extending filing deadline for complaints to 180 days.
- Definition of "Eyewitness(es)" added to Section I.A. to include description as a "percipient witness."

Consideration of amendments to how testimony is taken at hearings is deferred until the required legal process is completed.

Vote: All Ayes.

Adjournment

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

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

Councilmember Hahn absent 10:15 p.m. – 10:16 p.m.

Adjourned at 10:16 p.m.

I hereby certify that the foregoing is a true and correct record of the city council special meeting held on October 5, 2021.

Mark Numainville
City Clerk

Communications

- None

Supplemental Communications and Reports 1

- None

Supplemental Communications and Reports 2

Item #A: Waiver of Sanctuary City Ordinance for Motorola Solutions Lease

1. Diana Bohn

Supplemental Communications and Reports 3

Item #A: Wiaver of Sanctuary City Ordinance for Motorola Solutions Lease

2. Diana Bohn
3. Catherine Huchting
4. Margot Smith
5. Linda Franklin
6. Terry Paris

Item #1: Approval of Interim Regulations for the Police Accountability Board and Office of the Director of Police Accountability for Handling Complaints Against Sworn Officers of the Police Department

7. Linda Franklin

**MINUTES
BERKELEY CITY COUNCIL
SPECIAL MEETING**

TUESDAY, OCTOBER 12, 2021

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI

DISTRICT 2 – TERRY TAPLIN

DISTRICT 3 – BEN BARTLETT

DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN

DISTRICT 6 – SUSAN WENGRAF

DISTRICT 7 – RIGEL ROBINSON

DISTRICT 8 – LORI DROSTE

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of the attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/81204866867>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free); enter Meeting ID: 812 0486 6867. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

Preliminary Matters

Roll Call: 4:06 p.m.

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

Absent: Kesarwani

Councilmember Kesarwani present at 4:17 p.m.

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

CLOSED SESSION:

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

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

a. **Title of position to be filled:** Fire Chief

Action: No reportable action taken.

2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957(b):

a. **Title of position to be evaluated:** City Manager

Action: No reportable action taken.

OPEN SESSION:

No reportable action taken.

Adjournment

Adjourned at 7:14 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting held on October 12, 2021.

Mark Numainville
City Clerk

MINUTES
BERKELEY CITY COUNCIL MEETING
Tuesday, October 12, 2021
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/87357139470>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **873 5713 9470**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 7:33 p.m.

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

Absent: None

Ceremonial Matters:

1. Recognition of Heirs to Our Oceans
2. Adjourned in Memory of John Carothers, Local Activist and Cyclist
3. Adjourned in Memory of Marilyn Golden, Disability Rights Activist
4. Marsha Friedman, Local Activist

City Manager Comments: None

Public Comment on Non-Agenda Matters: 10 speakers.

Public Comment on Consent Calendar and Information Items Only: 29 speakers.

Consent Calendar

Action: M/S/C (Arreguin/Taplin) to adopt a temporary rule for a limit of one minute per speaker for agenda items.

Vote: All Ayes.

Action: M/S/C (Arreguin/Wengraf) to accept supplemental and revised materials from the City Attorney on Item 21 and from Councilmember Harrison on Item 28.

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

Action: M/S/C (Arreguin/Droste) to continue Items 29, 31, 32, and 33 to the October 26, 2021 meeting.

Vote: All Ayes.

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

Vote: All Ayes.

Recess Items

1. **Contract: Murray Building, Inc. for Cazadero Camp Jensen Dormitory Construction Project**
From: City Manager
Recommendation: Adopt a Resolution ratifying the action taken by the City Manager during recess: 1. Approving the plans and specifications for the Cazadero Camp Jensen Dormitory Project, Specification No. 21-11443-C; 2. Accepting the bid of Murray Building, Inc. as the lowest responsive and responsible bidder for the amount of \$1,329,000; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the Project in accordance with the approved plans and specifications with Murray Building, Inc. in an amount not to exceed \$1,461,900 which includes a 10% contingency.
Financial Implications: Camps Fund - \$1,461,900
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,053–N.S.

Consent Calendar

2. **Amending BMC Section 14.56.070 for 3-Ton Commercial Truck Weight Limit on Berkeley's Bicycle Boulevards and on At-Risk West Berkeley Residential Streets**
From: Councilmember Taplin (Author), Councilmember Kesarwani (Co-Sponsor), Councilmember Wengraf (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,784 amending Berkeley Municipal Code (BMC) Section 14.56.070 to add 3-ton commercial truck weight limits on:
 1. Ninth Street between Dwight Way and Heinz Avenue
 2. Addison Street between San Pablo Avenue and Sixth Street;
 3. Allston Way between San Pablo Avenue and Sixth Street;
 4. Bancroft Way between San Pablo Avenue and Sixth Street;
 5. Channing Way between San Pablo Avenue and Fourth Street;
 6. Dwight Way between San Pablo Avenue and Sixth Street;
 7. Camelia Street between Eighth Street and Ninth Street;
 8. Eighth Street between Jackson Street and Camelia Street;
 9. Ninth Street between Camelia Street and Cedar Street;
 10. Virginia Street between Sacramento Street and Martin Luther King Jr. Way;
 11. Virginia Street between Shattuck Avenue and Euclid Avenue;
 12. Channing Way between Martin Luther King Jr. Way and Piedmont Avenue;
 13. Heinz Avenue between Ninth Street and San Pablo Avenue;
 14. Russell Street between San Pablo Avenue and Shattuck Avenue;
 15. Russell Street between Telegraph Avenue and Claremont Avenue;
 16. California Street between Hopkins Street and University Avenue;
 17. California Street between Dwight Way and Russell Street;

- 18.King Street between Russell Street and Stanford Avenue;
- 19.Milvia Street from Dwight Way to Russell Street;
- 20.Bowditch Street from Bancroft Way to Dwight Way;
- 21.Hillegass Avenue from Dwight Way to Woolsey Street
- 22.Addison from San Pablo to Sacramento
- 23.Allston San Pablo to Sacramento
- 24.Bancroft from San Pablo to Sacramento
- 25.Addison San Pablo to Curtis
- 26.Cowper from San Pablo to Curtis
- 27.Byron from Addison to Bancroft
- 28.Curtis from University to Dwight
- 29.Browning from Addison to Dwight
- 30.West from Addison to Allston
- 31.Valley from Bancroft to Dwight
- 32.Acton from Addison to 66th.
- 33.Bonar from University to Dwight
- 34.Edwards from Bancroft to Dwight
- 35.Matthews from Dwight to Russell
- 36.Mabel from Dwight to 66th.
- 37.Derby from San Pablo to Sacramento
- 38.Ward from San Pablo to Sacramento
- 39.Oregon from San Pablo Park to Sacramento
- 40.Burnett from San Pablo to Acton
- 41.Dohr from Ward to Prince
- 42.Haskell from San Pablo to Acton
- 43.Harmon from Idaho to California
- 44.Prince from Acton to California
- 45.66th from Mabel to California

First Reading Vote: All Ayes.

Financial Implications: See report

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

Action: Adopted second reading of Ordinance No. 7,784-N.S.

3. Amending BMC Section 14.56.040 to Reduce the Commercial Weight Limit on Marin Ave

From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor), Councilmember Droste (Co-Sponsor)

Recommendation: Adopt second reading of Ordinance No. 7,785–N.S. 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.

First Reading Vote: All Ayes.

Financial Implications: See report

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

Action: Adopted second reading of Ordinance No. 7,785-N.S.

- 4. Ordinance for a Shared Electric Micromobility Permit Program**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,786–N.S. adding Berkeley Municipal Code Chapter 14.63 and amending Chapter 14.68 to establish the Shared Electric Micromobility Permit Program and related parking regulations.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Liam Garland, Public Works, (510) 981-6300
Action: Adopted second reading of Ordinance No. 7,786-N.S.
- 5. Adoption of the Baseline Zoning Ordinance (BZO)**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,787–N.S. rescinding the current Berkeley Municipal Code (BMC) Title 23 and adopting the new Baseline Zoning Ordinance (BZO) as BMC Title 23 with an effective date of December 1, 2021.
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Jordan Klein, Planning and Development, (510) 981-7400
Action: Adopted second reading of Ordinance No. 7,787-N.S.
- 6. Update Guidelines and Procedures for City Council Office Budget Expenditure Accounts**
From: City Manager
Recommendation: Adopt a Resolution: 1. Rescinding Resolution No. 65,540-N.S.; and 2. Updating the guidelines and procedures for City Council Office Budget Expenditure Accounts to allocate for Mayor and Councilmember Office staff salaries and fringe benefits for Legislative Assistant position to be adjusted annually consistent with any increase provided to the SEIU Local 1021 Community Services Unit and Part-Time Recreation Leaders Association (CSUPTRLA) Unit.
Financial Implications: See report
Contact: Rama Murty, Budget Office, (510) 981-7000
Action: Adopted Resolution No. 70,054–N.S.
- 7. City Council Rules of Procedure and Order Revisions**
From: City Manager
Recommendation: Adopt a Resolution revising Appendix C of the City Council Rules of Procedure and Order to refine practices for holding public meetings via video conference technologies; clarifying the Council procedures for moving an item from the Action to Consent Calendar; removing Appendix D; and rescinding any preceding amendatory resolutions.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 70,055–N.S.

8. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 12, 2021

From: City Manager

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

Financial Implications: Zero Waste Fund - \$750,000

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

Action: Approved recommendation.

9. Proposed Ordinance Amending Paragraph 'NN' of Berkeley Municipal Code Section 19.48.020

From: City Manager

Recommendation: 1. Adopt the first reading of an Ordinance (Attachment 1) which modifies the language of Paragraph 'NN.' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and which will expand the existing local code amendment that requires the installation of fire sprinklers in new structures and the retrofit fire sprinklers into existing structures that currently exists in Fire Zone 3 to include structures located in Berkeley Fire Zone 2;

2. Adopt a Resolution (Attachment 2) setting forth findings of local conditions that require more stringent building standards than those provided by the 2019 California Fire Code and that amends Resolution number 69,178–N.S.; and

3. In compliance with state law on adopting such more restrictive building standards, hold a public hearing following the first reading and before the second reading, and schedule the public hearing for October 26, 2021.

Financial Implications: See report

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

Action: Adopted first reading of Ordinance No. 7,788—N.S. Second reading scheduled for October 26, 2021; Adopted Resolution No. 70,056–N.S. as revised in Supplemental Communications Packet #1 from the City Manager.

- 10. Purchase Order: Braun Northwest for Two 2022 North Star 155-1 Type 1 Ambulances**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in HGACBuy contract bid procedures, and authorizing the City Manager to execute a purchase order for two (2) 2022 North Star 155-1 Type 1 Ambulances with Braun Northwest, Inc. in an amount not to exceed \$650,000.
Financial Implications: Measure FF - \$650,000
 Contact: Abe Roman, Fire, (510) 981-3473, Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,057–N.S.
- 11. Purchase Order: Nicholas K Corp DBA “The Ford Store” San Leandro for Five Ford F-250 4X4 Pickup Trucks**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Alameda County bid procedures and authorizing the City Manager to execute a purchase order for five (5) Ford F-250 4X4 Pickup Trucks with Nicholas K Corp DBA “The Ford Store” San Leandro in an amount not to exceed \$322,000.
Financial Implications: Measure FF - \$322,000
 Contact: Abe Roman, Fire, (510) 981-3473, Liam Garland, Public Works, (510) 981-6300
Action: Adopted Resolution No. 70,058–N.S.
- 12. Contract No. 32100181 Amendment: Alameda County Healthcare Services Agency**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32100181 with Alameda County Healthcare Services to increase the total contract amount by \$62,000 for a total contract amount not to exceed \$100,000 for the period of May 1, 2021 to July 31, 2024 for epidemiology and program evaluation services. The contract will serve the needs of the Public Health Division in providing the program evaluation required under the 3-year Prop 64 Cohort 2 grant funding that was awarded to the City of Berkeley in May 2021.
Financial Implications: See report
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,059–N.S.

- 13. Appointment of Fire Chief**
From: City Manager
Recommendation: Adopt a Resolution confirming the appointment of Abraham Roman as the Fire Chief to be effective October 17, 2021 at an annual salary of \$268,990.
Financial Implications: See report
 Contact: LaTanya Bellow, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 70,060–N.S.
- 14. Classification and Salary: Establish Program Manager I and II Classifications**
From: City Manager
Recommendation: Adopt a Resolution amending Resolution No. 68,709-N.S., Classification and Salary Resolution for Public Employees Union, Local One to include the classification of Program Manager I and II Classifications with an hourly salary range of \$51.7326 - \$62.4561 effective October 12, 2021.
Financial Implications: See report
 Contact: LaTanya Bellow, Human Resources, (510) 981-6800
Action: Adopted Resolution No. 70,061–N.S. as revised in Supplemental Communications Packet #2 from the City Manager.
- 15. Transfer Tax Refund for 1685 Solano Avenue**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to grant a transfer tax refund of an estimated \$121,250 to the Bay Area Community Land Trust (BACLT) to support the acquisition and renovation of 1685 Solano Avenue and BACLT's operation of the property as affordable housing.
Financial Implications: General Fund - \$121,250
 Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,062–N.S.
- 16. Contract No. 112798-2 Amendment: Geographic Technologies Group for Additional Geographic Information System (GIS) Projects**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 112798-2 with Geographic Technologies Group (GTG) for Geographic Information System (GIS) professional services, for a total not to exceed \$100,000 and for a total contract value of \$499,411 from September 14, 2016 to June 30, 2023.
Financial Implications: FY22 IT Cost Allocation - \$100,000
 Contact: Savita Chaudhary, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 70,063–N.S.

- 17. Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency's (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$492,000 through September 30, 2022.
Financial Implications: See report
 Contact: Savita Chaudhary, Information Technology, (510) 981-6500
Action: Adopted Resolution No. 70,064–N.S.
- 18. Grant Application: Environmental Enhancement and Mitigation Project (EEMP) Proposal**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit an Environmental Enhancement and Mitigation (EEM) grant application to plant urban forest trees in the amount up to \$500,000; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: See report
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,065–N.S.

Council Consent Items

- 19. City Policy Regarding Scheduling City Meetings on Significant Religious Holidays**
From: Mayor Arreguin (Author), Councilmember Wengraf (Author), Councilmember Taplin (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution establishing an official City of Berkeley policy to avoid scheduling of meetings of the City Legislative Bodies (City Council, Commissions and Boards, Council Policy Committees, Task Forces) on any religious holiday that incorporates significant work restrictions and direct the City Manager to identify those holidays in consultation with community religious leaders.
Financial Implications: Staff time
 Contact: Jesse Arreguin, Mayor, (510) 981-7100
Action: Adopted Resolution No. 70,066–N.S. with the Resolved clause revised to read:

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it will be the policy of the City to avoid scheduling meetings of City Legislative Bodies (City Council, Commissions and Boards, Council Policy Committees, Task Forces) on religious holidays that incorporate significant work restrictions and such days shall be identified through consultation with community religious leaders.

20. Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas

From: Councilmember Taplin (Author), Councilmember Kesarwani (Author)

Recommendation: In order to deter gun violence and obtain evidence to solve criminal investigations, adopt the following recommendations: 1. Authorize the City Manager to install security cameras, prominent signage, and increased lighting in the public right-of-way at intersections experiencing a rise in violent crime, including appropriate arterial streets serving as entry into and exit out of the City of Berkeley; 2. Refer to the City Manager an environmental safety assessment of the high crime areas specifically in South and West Berkeley; 3. Refer costs for security cameras and lighting to the Annual Appropriations Ordinance (AAO) #1 budget process.

We note that the security camera footage would be used solely for the purpose of solving criminal investigations. The cameras are not intended and would not be used for any kind of surveillance purposes whatsoever. Key intersections entering and leaving Berkeley for security camera installation could include those listed below. Arterial intersections along University, Ashby and Alcatraz in close proximity to gun violence in South and West Berkeley should be prioritized: 6th/University, 7th/Ashby, San Pablo Ave./Ashby, Sacramento/Alcatraz, Alcatraz/Adeline, Ashby/Telegraph, Gilman/6th, College/Alcatraz, Ashby/Domingo, Ashby/Claremont. Other locations within Berkeley may include the following: University/San Pablo, University/Sacramento, Sacramento/Ashby, George Florence Park, 10th/Bancroft, 8th/Channing, 8th/Addison.

Financial Implications: See report

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

Action: Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Taplin, and further revised to include the amendments below.

- Refer to the City Manager to develop a use policy for the security cameras that includes provisions that the data may be used for active investigations only and that the policy will include the data retention schedule. Staff to provide Council with an off-agenda memo commemorating the use policy.
- The locations of the cameras will be based on calls-for-service data; that staff will bring a list of locations to Council; and to refer the item to the AAO1 budget process.

21. Ghost Gun Ordinance

From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Droste (Co-Sponsor)
(Reviewed by the Public Safety Committee)

Recommendation: Adopt first reading of an Ordinance amending the Berkeley Municipal Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law; and prohibiting any person from possessing, manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law.

Policy Committee Recommendation: Send the item, with a positive recommendation, to Council and directed the author to work with the City Attorney's office to finalize a draft Ordinance and to submit the item as a time critical item for inclusion in the October 12, 2021 Council agenda.

Financial Implications: Staff time

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

Action: Approved first reading of Ordinance No. 7,789—N.S. as revised in the material submitted by the City Attorney at the meeting to 1) Edit a sentence in the Findings for clarity; 2) Amend the definition of “unfinished frame or receiver” and makes corresponding minor edits throughout, to avoid conflict with a proposed federal rule; 3) Address applicability, in light of federal and/or state law, for (1) licensed firearm precursor part vendors, (2) Federal Firearms Importers, (3) Federal Firearms Manufacturers, (4) sworn peace officers acting within the scope of official duties, and (5) licensed and regulated common carriers; 4) Delete a subsection that is descriptive of existing law; and 5) Provide that Subsections A and C shall take effect 6 months after the other provisions go into effect, rather than 90 days, allowing the City more time to inform residents of the provisions. Second reading scheduled for October 26, 2021.

22. Letter to Senate Budget Committee Chair Sen. Skinner Regarding Berkeley Pier

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

Recommendation: Send a letter to State Senator Nancy Skinner (D-Berkeley), Chair of the Senate Budget Committee, requesting state budget allocations for urgent infrastructure needs at the Berkeley Municipal Pier.

Financial Implications: None

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

Action: Item 22 continued to October 26, 2021.

- 23. Infrastructure and Affordable Housing Finance Plan for Adeline Corridor**
From: Councilmember Bartlett (Author)
Recommendation: Refer to the November Annual Appropriation Ordinance an allocation of \$200,000 to fund a Consultant to design and implement an infrastructure and affordable housing finance strategy for the Adeline Corridor Plan that was adopted by the City Council on December 8, 2020. The proposed analysis should examine the feasibility of various infrastructure financing tools, such as an Enhanced Infrastructure Finance District (EIFD), Community Facilities District, Affordable Housing Authority, Community Revitalization and Investment Authority, pursuit of state and Federal grants, and other public and private financing tools. The project team should determine which financing mechanism(s) would be most appropriate to fund elements of the Adeline Corridor Plan, and future community-oriented projects. Upon identifying the appropriate funding tools, the consultant would then proceed with implementation based on further feedback from City Council and the community.
Financial Implications: See report
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
Action: Councilmembers Harrison and Taplin added as co-sponsors. Approved recommendation.
- 24. Adopt a Resolution in Support of a Direct Pay Provision for the 26 U.S.C. § 25D Residential Energy Efficient Property Tax Credit**
From: Councilmember Harrison (Author)
Recommendation: Adopt a resolution in support of a Direct Pay Provision for the 26 U.S.C. § 25D Residential Energy Efficient Property Tax Credit. end copies of the resolution to Senators Feinstein and Padilla, Congresswoman Lee, Chairman Wyden, Chairman Neal, Ranking Member Crapo, and Ranking Member Brady.
Financial Implications: None
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
Action: Adopted Resolution No. 70,067–N.S.
- 25. Adopt a Resolution Denouncing Texas Anti-Abortion Law (SB 8) and Reaffirming Reproductive Freedom in Berkeley**
From: Councilmember Wengraf (Author), Councilmember Taplin (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution to denounce the Texas abortion law, Senate Bill (SB) 8, banning most abortions after six weeks of pregnancy. The resolution will also reaffirm the City of Berkeley's commitment to reproductive freedom.
Financial Implications: None
 Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Adopted Resolution No. 70,068–N.S.

- 26. Support for H.R. 3755 and S.1975 – Women’s Health Protection Act of 2021**
From: Councilmember Wengraf (Author), Councilmember Taplin (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution in support of H.R. 3755 and S.1975 – Women’s Health Protection Action of 2021 (Rep. Chu) (Sen. Blumenthal) and send copies to House Representatives Judy Chu and Barbara Lee; Senators Richard Blumenthal, Dianne Feinstein and Alex Padilla; Vice President Kamala Harris and President Joe Biden.
Financial Implications: None
 Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
Action: Adopted Resolution No. 70,069–N.S.

Action Calendar

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

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

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

Action Calendar – Public Hearings

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

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

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

- 27. ZAB Appeal: 1205 Peralta Avenue, Variance/Use Permit #ZP2020-0060**
From: City Manager
Recommendation: Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to deny Zoning Permit #ZP2020-0060 for a Variance to legalize the elimination of two off-street parking spaces by conversion of an existing 18 foot x 20 foot garage to habitable space, and a Use Permit to legalize the addition of three bedrooms on a lot that is non-conforming for density, lot coverage, setbacks, usable open space and parking.
Financial Implications: None
 Contact: Jordan Klein, Planning and Development, (510) 981-7400

28. Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04 *(Continued from September 28, 2021) (Item contains revised material)*

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23C.24] and amendments to relevant Definitions [BMC Chapter 23F.04] in the Zoning Ordinance.

Financial Implications: None

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

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

Action: M/S/C (Arreguin/Wengraf) to continue the public hearing to October 26, 2021 as the first action item including supplemental material from Councilmember Harrison in Supplemental Communications Packet #1 and new material submitted at the meeting.

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

Councilmember Harrison absent 11:07 p.m. – 11:11 p.m.

29. Amending the Berkeley Election Reform Act (BERA) Relating to Officeholder Accounts *(Reviewed by the Agenda & Rules Committee) (Continued from September 14, 2021)*

From: Agenda & Rules Committee: Mayor Arreguin, Councilmember Hahn, Councilmember Wengraf

Recommendation:

Take one of the following actions: 1. Refer a proposal to the Fair Campaign Practices Commission (FCPC) amending the Berkeley Election Reform Act (BERA), BMC Chapter 2.12, and Lobbyist Registration Act, BMC Chapter 2.09, to enact “a reasonable set of limitations and rules” to regulate the maintenance of officeholder accounts, as developed and referred for consideration by the Agenda and Rules Committee; or 2. Refer a proposal to the FCPC amending BERA, BMC Chapter 2.12, to prohibit Officeholder Accounts, as originally proposed by the Fair Campaign Practices Commission.

Policy Committee Recommendation: Send the item to Council with two proposed alternatives: 1) Councilmember Hahn’s proposal to regulate officeholder accounts, and 2) the Fair Campaign Practices Commission proposal to prohibit officeholder accounts; and to include the Commission’s analysis of regulating officeholder accounts in the item that goes to the full Council.

Financial Implications: See report

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

Action: Item 29 continued to October 26, 2021.

- 30. Referral to the Zero Waste and Energy Commission (or Successor Commission) to Hold Joint Meetings to Conduct Community Outreach and Education Events with Regard to the Proposed Ordinance Regulating the Use of Carryout and Pre-checkout Bags and to Make Recommendations to the FITES Committee** *(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee) (Continued from September 14, 2021)*
From: Councilmember Harrison (Author)
Recommendation: Refer to Berkeley's Zero Waste and Energy Commissions (or successor Commission) to hold joint meetings regarding the proposed Ordinance regulating the use of carryout and pre-checkout bags and promoting the use of reusable bags by December 31, 2021.
 As part of the series of meetings, the Commissions should: 1. strive to conduct community/business outreach and education events to include, but not limited to the following entities: a. all stores and events that provide pre-checkout bags (e.g., grocery stores, convenience stores, food marts, and food vendors); b. all restaurants, take-out food stores, food trucks, permitted events, and any other commercial establishment not regulated by the state that provide carryout bags; and 2. make any recommendations with respect to any amendments and appropriate phasing to the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee.
Policy Committee Recommendation: Make a positive recommendation to the City Council that the Council direct the Zero Waste and Energy Commission (or successor Commission) to hold joint meetings to conduct community outreach and education events and recommend proposed changes and appropriate phasing to the FITES Committee.
Financial Implications: See report
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
Action: Moved to Consent Calendar. Approved recommendation as revised in the Supplemental materials submitted by Councilmember Harrison.
- 31. Objective Standards Recommendations for Density, Design and Shadows**
From: Joint Subcommittee for the Implementation of State Housing Laws *(Continued from September 28, 2021) (Item contains supplemental material)*
Recommendation: Refer to the Planning Commission and Design Review Committee to review the recommendations from the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) for objective standards for density, design and shadows and draft Zoning Ordinance amendments for City Council consideration.
Financial Implications: See report
 Contact: Alene Pearson, Commission Secretary, (510) 981-7400
Action: Item 31 continued to the October 26, 2021 meeting.

32. Identifying City Council Referrals for Removal

From: City Manager

Recommendation: 1. Review the referrals marked as rescinded by the sponsoring Councilmember or District; 2. Consider the referrals identified by Councilmembers for further discussion; and 3. Approve the removal of referrals that have been marked as rescinded by the sponsoring Councilmember or District.

Financial Implications: None

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

Action: Item 32 continued to the October 26, 2021 meeting.

Council Action Items

33. Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley

From: Councilmember Harrison (Author)

Recommendation: Refer to the November 2021 budget process approximately \$500,000 in General Fund Revenue toward fully subsidizing AC Transit fares originating from Berkeley on Sundays for at least one calendar year.

Financial Implications: General Fund - \$500,000

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

Action: Item 33 continued to the October 26, 2021 meeting, including revised material in Supplemental Communications Packet #2 from Councilmember Harrison.

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

Adjournment

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

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

Councilmember Droste absent 11:08 – 11:11 p.m.

Adjourned at 11:11 p.m.

I hereby certify that the foregoing is a true and correct record of the city council regular meeting held on October 12, 2021.

Mark Numainville
City Clerk

Communications

Homelessness Issues

1. Eric Friedman
2. Paul Buddenhagen, Deputy City Manager
3. Yasuo Tanaka
4. Steve Kromer
5. Ben Buettner
6. Fran Haselsteiner
7. Alex Merenkov
8. Parisa Jorjani (2)
9. Jae Wheeler

Sustainable Housing at the North Berkeley BART

10. 11 similarly-worded form letters
11. Andrew Livsey
12. Deborah Gouailhardou
13. Laura Wise
14. Josh Gutwill
15. Lorna Brand
16. Barbara Fisher

Purchase Parcel of the Ashby Community Garden

17. Carrie Jahde
18. Anna Henry
19. Veronica Graham
20. Mariam Queen and Alison Paskal
21. Carolyn Goldwasser
22. Jennifer Sowerwine
23. Nell Wollner
24. Larisa Cummings
25. Ingrid Good
26. Linda Currie
27. Elizabeth Barry

New Construction Funding at 1740 San Pablo Avenue

28. Kate Traynor, on behalf of BRIDGE Housing Corporation

Zero Waste Commission Support

29. Danielle Epifani
30. Chrise

Fair Work Week Ordinance

31. John Paluska, Owner of Comal

Fire Hazard at 1040 University Avenue

32. Ben Hubbell

Vaccine + Masks

- 33. City of Berkeley Youth Commission
- 34. Susan Imperial

Oppose SB9

- 35. Evan Meyer

Investing in West Berkeley

- 36. Becca Schonberg

Cragmont Park Rental

- 37. Denise

Parking Ordinance Suggestion

- 38. Tina Goldsmith

Secondhand Marijuana and Tobacco Use

- 39. Carol Denney

Resolution to Support Redistribution of City Resources

- 40. Anna Minsky

RV Parking

- 41. Charlene Washington
- 42. Maryann O'Sullivan

Berkeley Shooting/Crime

- 43. Michael O'Heaney
- 44. Jeff Vincent
- 45. Naomi Marks
- 46. Laralynn Rapoza
- 47. Imad Din

Street Paving Equity

- 48. Zach Franklin
- 49. Minda Berbeco
- 50. Kris Wiley
- 51. Maryann O'Sullivan

Menstrual Problems After COVID Shots

- 52. Vivian Warkentin

Leonard Powell Saga

- 53. Steve Martinot

Save People's Park

54. Diana Bohn

Parking Permits

55. Parisa Jorjani

URL's Only

56. Russbumper (3)

57. Vivian Warkentin

58. Barbara Gilbert

Supplemental Communications and Reports 1

Item #2: Amending BMC Section 14.56.070 for 3-Ton Commercial Truck Weight Limit on Berkeley's Bicycle Boulevards and on At-Risk West Berkeley Residential Streets

59. Carl Bass

Item #4: Ordinance for a Shared Electric Micromobility Permit Program

60. Tom Lent

Item #9: Proposed Ordinance Amending Paragraph 'NN' of Berkeley Municipal Code Section 19.48.020

61. Revised material, submitted by Fire

Item #20: Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas

62. Revised material, submitted by Councilmember Taplin

63. Arabelle Malinis

64. Patrick McCully

65. Kristina Hill

66. Ken Berland

67. Denah Bookstein

Item #21: Ghost Gun Ordinance

68. 18 similarly-worded form letters

Item #27: ZAB Appeal: 1205 Peralta Avenue, Variance/Use #ZP2020-0060

69. Rena Rickles (3)

Item #28: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

70. Supplemental material, submitted by Councilmember Harrison for the September 28 council meeting

71. Cameron Woo

Item #30: Referral to the Zero Waste and Energy Commission (or Successor Commission) to Hold Joint Meetings to Conduct Community Outreach and Education Events with Regard to the Proposed Ordinance Regulating the Use of Carryout and Pre-checkout Bags and to Make Recommendations to the FITES Committee

- 72. Revised material, submitted by Councilmember Harrison for the September 14 council meeting
- 73. Martin Bourque
- 74. Peter Schultze-Allen

Supplemental Communications and Reports 2

Item #6: Council Office Expense Account

- 75. Barbara Gilbert

Item #14: Classification and Salary: Establish Program Manager I and II Classifications

- 76. Revised material, submitted by Human Resources

Item #20: Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas

- 77. Supplemental material, submitted by Councilmember Taplin
- 78. Chimey Lee
- 79. Tracy Rosenberg
- 80. 8 similarly-worded form letters

Item #21: Ghost Gun Ordinance

- 81. 5 similarly-worded form letters
- 82. Laurie Leiber
- 83. Anna Mahony

Item #24: Adopt a Resolution in Support of a Direct Pay Provision for the 26 U.S.C. 25D Residential Energy Efficiency Property Tax Credit

- 84. Barbara Gilbert

Item #27: ZAB Appeal: 1205 Peralta Avenue, Variance/Use #ZP2020-0060

- 85. Alan Tobey
- 86. Veronika Fukson
- 87. Karen Fiene
- 88. Rena Rickles (5)
- 89. Ruth Tobey
- 90. Joan Sprinson
- 91. Tiana Wages
- 92. Sara Ishikawa

Item #28: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

- 93. 15 similarly-worded form letters
- 94. George Porter
- 95. Marissa Moss
- 96. Kathleen Giustino
- 97. Sheila Goldmacher
- 98. Cindy Shamban
- 99. Lisa Bruce
- 100. Janis Ching (2)
- 101. Loni Gray
- 102. Debra Sanderson (2)
- 103. Margaretta Mitchell
- 104. John Rice
- 105. Kerna Trottier
- 106. Sabina McMurtry
- 107. Eric Arens
- 108. Rolf Bell
- 109. Debra Shell
- 110. Susan Kegeles

Item #30: Referral to the Zero Waste and Energy Commission (or Successor Commission) to Hold Joint Meetings to Conduct Community Outreach and Education Events with Regard to the Proposed Ordinance Regulating the Use of Carryout and Pre-checkout Bags and to Make Recommendations to the FITES Committee

- 111. Igor Tregub, on behalf of the Sierra Club
- 112. 287 similarly-worded form letters

Item #31: Objective Standards Recommendations for Density, Design and Shadows

- 113. Susanne Tilney
- 114. Wendy Alfsen
- 115. Michael Katz
- 116. Sally Hughes
- 117. Laura Klein
- 118. Lisa Bruce
- 119. Erin Diehm
- 120. Bummer Brenner
- 121. Kris Muller
- 122. Gar Smith
- 123. Phil Allen
- 124. Tom Graly
- 125. Kirsten Rose

- 126. Jane Graly
- 127. Charlene Harrington
- 128. George Killingsworth
- 129. Paul Newacheck
- 130. Constance Rivemale
- 131. Karen Weil
- 132. Sharon Singer
- 133. Rani Cochran
- 134. Jeffrey Kaplan
- 135. Linda Franklin and Fred Dodsworth
- 136. Sbina McMurtry
- 137. Larry Hendel
- 138. Lynn Cooper
- 139. Meryl Siegal
- 140. Jane Kitchel
- 141. Nancy Lemon and Blaine Devine
- 142. Kerna Trottier
- 143. Carole Cool
- 144. Rachel Bradley
- 145. Diana Bohn
- 146. Charlene Woodcock
- 147. Eva Herzer
- 148. Barbara Fisher
- 149. Kori Kody and Steve Jackson
- 150. Fred Krieger
- 151. Mathew Lewis
- 152. Todd and Linda Darling
- 153. Tony Corman
- 154. Jeffrey Carter
- 155. Rob Wrenn
- 156. Sheila Goldmacher
- 157. Barbara Stebbins
- 158. Jean Mudge
- 159. Alison Lingo
- 160. Carla Woodworth
- 161. Tobey Wiebe
- 162. Theresa Gensler

Item #33: Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley

- 163. Revised material, submitted by Councilmember Harrison

Supplemental Communications and Reports 3

Item #20: Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas

- 164. Eric Wiesner
- 165. Rani Hurd

Item #21: Ghost Gun Ordinance

- 166. Supplemental material, submitted by the Attorney's Office
- 167. Eric Wiesner

Item #27: ZAB Appeal: 1205 Peralta Avenue, Variance/Use #ZP2020-0060

- 168. Presentation, submitted by Planning
- 169. Joan Sprinson

Item #28: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

- 170. Supplemental material, submitted by Councilmember Harrison
- 171. Steven Segal

Item #30: Referral to the Zero Waste and Energy Commission (or Successor Commission) to Hold Joint Meetings to Conduct Community Outreach and Education Events with Regard to the Proposed Ordinance Regulating the Use of Carryout and Pre-checkout Bags and to Make Recommendations to the FITES Committee

- 172. 34 similarly-worded form letters

Item #33: Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley

- 173. Igor Tregub

**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:

**Tuesday, October 19, 2021
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/85920143926>. 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: 859 2014 3926. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 6:04 p.m.

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

Absent: None

Worksession

- 1. BPD Annual Update: 2020/First Half of 2021 Crime Report; Council Referrals/Reporting: Use of Force, Stop Data (RIPA Report), Hate Crime Response/Reporting; Departmental Personnel Report: Hiring/Recruitment/Staffing and FIP recommendations implementation From: City Manager**
Contact: Jennifer Louis, Police, (510) 981-5900

Action: Presentation made and discussion held.

Public Comment - Items on this agenda only – 12 speakers

Adjournment

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

Vote: All Ayes

Adjourned at 9:42 p.m.

I hereby certify that the foregoing is a true and correct record of the city council special meeting held on October 19, 2021.

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: BPD Annual Update: 2020/First Half of 2021 Crime Report; Council Referrals/Reporting: Use of Force, Stop Data (RIPA Report), Hate Crime Response/Reporting; Departmental Personnel Report: Hiring/Recruitment/Staffing and FIP recommendations implementation

1. Presentation, submitted by the Police Department

**MINUTES
BERKELEY CITY COUNCIL
SPECIAL MEETING**

TUESDAY, OCTOBER 26, 2021

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/83600896808>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free); enter Meeting ID: 836 0089 6808. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

Preliminary Matters

Roll Call: 4:06 p.m.

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

Absent: Kesarwani

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 LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, LaTanya Bellow, Interim Deputy City Manager, Don Ellison, Interim Human Resources Director, Ravinder Rangi, Employee Relations Manager, Jon Holtzman, Labor Negotiator, Dania Torres-Wong, Labor Negotiator, Burke Dunphy, Labor Negotiator, Jen Louis, Interim Chief of Police, Abe Roman, Fire Chief.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW), Local 1245, SEIU 1021 Community Services and Part-time Recreation Activity Leaders, Berkeley Fire Fighters Association Local 1227, Berkeley Police Association, Service Employees International Union, Local 1021 Maintenance and Clerical Chapters, Berkeley Fire Fighters Association, Local 1227 I.A.F.F./Berkeley Chief Fire Officers Association, Public Employees Union Local 1, Unrepresented Employees.

Action: No reportable action taken.

OPEN SESSION:

No reportable action taken.

Adjournment

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

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

Adjourned at 5:02 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session City Council meeting held on October 26, 2021.

Mark Numainville
City Clerk

MINUTES
BERKELEY CITY COUNCIL MEETING
Tuesday, October 26, 2021
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/87152148000>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **871 5214 8000**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

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

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

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call: 6:04 p.m.

Present: Taplin, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin

Absent: Kesarwani, Droste

Councilmember Kesarwani present at 6:31 p.m.

Councilmember Droste present at 6:39 p.m.

Ceremonial Matters:

1. Recognition of Jim Jacobs, Pioneering Berkeley Librarian
2. Recognition of Childhood Lead Poisoning Prevention Week (October 24 – October 30)
3. Adjourned in Memory of Dr. John Lowitz, Local Physician
4. Bob Burrell, Berkeley Resident

City Manager Comments:

The City Manager provided an update on the Reimaging Public Safety process including Task Force activities and planned future meetings.

Public Comment on Non-Agenda Matters: 7 speakers.

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

Action: M/S/C (Arreguin/Robinson) to adopt a temporary rule to limit public comment to one minute per speaker for Consent and Action items.

Vote: All Ayes.

Consent Calendar

Action: M/S/C (Arreguin/Hahn) to accept revised material from Councilmember Robinson on Item 30 and 31; to accept revised material from Councilmember Hahn on Item 36; and to accept revised material from Councilmember Harrison on Item 38.

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

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

Vote: All Ayes.

Consent Calendar

1. **Ghost Gun Ordinance**
From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Droste (Co-Sponsor)
Recommendation: Adopt second reading of an Ordinance amending the Berkeley Municipal Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law; and prohibiting any person from possessing, manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law.
First Reading Vote: All Ayes
Financial Implications: Staff time
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Adopted second reading of Ordinance No. 7,789-N.S.

2. **Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**
From: City Manager
Recommendation: Adopt a Resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference.
Financial Implications: None
Contact: Farimah Brown, City Attorney, (510) 981-6950
Action: Adopted Resolution No. 70,071-N.S.

3. **Referral Response: Amending City Council Office Budget Expenditure and Reimbursement Policies**
From: City Manager
Recommendation: Adopt a Resolution revising the Councilmember Office Budget Relinquishment and Grant Policy to add that donations to nonprofit organizations be made on behalf of the City Council and the residents of Berkeley.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 70,072-N.S.

4. **Appointment of Emergency Standby Officer for City Council District 2 and Resignation of Second Standby Officer for District 7**
From: City Manager
Recommendation: Adopt a Resolution confirming the appointment of a newly nominated standby officer for City Council District 2 to serve in the event the elected official is unavailable during an emergency, removing the second standby officer for District 7, and rescinding Resolution No. 69,190-N.S.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 70,073-N.S.

- 5. Revised Conflict of Interest Code**
From: City Manager
Recommendation: Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 69,152–N.S.
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Adopted Resolution No. 70,074-N.S.
- 6. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the council meetings of September 14, 2021 (closed and regular), September 21, 2021 (special) and September 28, 2021 (closed and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
Action: Approved recommendation.
- 7. Contract No. 32100161 Amendment: Dorothy Day House for Services at 742 Grayson Street**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend contract number 32100161 with Dorothy Day House, adding \$548,096 for a new total not to exceed amount of \$1,657,618, to include the operation of homeless shelter for people living in vehicles in an off-street safe parking program for Recreational Vehicles at 742 Grayson Street, and extending the contract through September 30, 2022.
Financial Implications: See report
Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 70,075-N.S.
- 8. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 26, 2021**
From: City Manager
Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.
Financial Implications: Parking Meter Fund - \$300,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300
Action: Approved recommendation.

9. **Contract: Federal Engineering, Inc. for Prioritized Dispatch Consulting**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Federal Engineering, Inc. (Contractor) to provide prioritized dispatch consulting services from November 1, 2021 to October 30, 2022 in an amount not to exceed \$100,000 with an option to extend for two additional two-year terms, for a total contract amount not to exceed \$300,000.
Financial Implications: See report
Contact: Abe Roman, Fire, (510) 981-3473
Action: Adopted Resolution No. 70,076-N.S.
10. **Contract No. 31900009 Amendment: Building Opportunities for Self-Sufficiency (BOSS) for Property Management Services at 2111 McKinley Ave**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900009 with Building Opportunities for Self-Sufficiency (BOSS) to fund property management services at 2111 McKinley Avenue in Berkeley, a Supported housing site for mental health division clients, to increase the amount by \$287,712 for a total contract not to exceed \$657,712, and to extend the contract through November 1, 2023.
Financial Implications: FY22 Budget - \$287,712
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,077-N.S.
11. **Contract No. 32100019 Amendment: Sonya Dublin Consulting as the External Evaluator, Tobacco Prevention Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 32100019 with Sonya Dublin Consulting as the External Evaluator for Health, Housing and Community Services Public Health Division's Tobacco Prevention Program, increasing the amount by \$9,900 for a total amount not to exceed \$103,500, and extending the contract through December 31, 2021.
Financial Implications: See report
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: Adopted Resolution No. 70,078-N.S.

**12. Contract: Discovery Health Services, Vendor for Citywide COVID-19 Testing
From: City Manager**

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Discovery Health Services for weekly onsite employee COVID-19 testing, for the period covering November 1, 2021 to November 1, 2022 for an amount not to exceed \$450,000.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

Action: Adopted Resolution No. 70,079-N.S.

**13. Contract: Voya for Third-Party Administrator for COBRA Administration and Retiree Health Premium Assistance Plan Administration
From: City Manager**

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract with Voya for COBRA Plan administration and administration of the Retiree Health Premium Assistance Plan for non-sworn retirees and other retiree medical programs for sworn Fire and Police, for the period covering November 1, 2021 to November 1, 2026 for an amount not to exceed \$112,000.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

Action: Adopted Resolution No. 70,080-N.S.

14. Resolution Authorizing an Amendment to CalPERS Contract Pursuant to California Government Code 20516

From: City Manager

Recommendation: Adopt a Resolution to initiate process to amend the contract between the Board of Administration, California Public Employees' Retirement System and the City Council for the City of Berkeley pursuant to California Government Code 20516 to effectuate changes to the cost sharing agreement between the City and Unrepresented PEPRA members in the following Units: Units X-1 (Unrepresented Hourly Non-Career); X-2 (Retired Annuitants); Z-1 (Confidential and Executive Management Employees); Z-2 (Confidential Professional Employees); Z-3 (Confidential Clerical Employees); Z-6 (Legislative Analysts); and Z-9 (Unrepresented at-will positions in the Rent Stabilization Program) (collectively referred to as "Unrepresented Group").

As part of the most recent negotiations regarding the memorandum of understanding between the City and SEIU Local 1021 Maintenance and Clerical (MC), the parties agreed to reduce the MC PEPRA members' employer cost share (Ramp Down) of eight percent (8%) over the term of the current MOUs. Although the Unrepresented Group is not represented by a labor group, they customarily receive the same negotiated benefits afforded to the MC chapters.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

Action: Adopted Resolution No. 70,081-N.S.

15. Revise Housing Inspector Supervisor Classification and Salary

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 69,996-N.S. Memorandum of Understanding: Public Employees Union - Local 1, revising the Housing Inspector Supervisor Classification and Salary.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

Action: Adopted Resolution No. 70,082-N.S.

16. Assistant Inspector, Housing Inspector I, Housing Inspector II, and Senior Housing Inspector

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 69,991-N.S. Classification and Salary Resolution for SEIU 1021 Community Services and Part-Time Recreation Activity Leaders Memorandum Agreement, Unit L (career and non-Career, miscellaneous and administrative employees) adding Assistant Inspector, Housing Inspector I, Housing Inspector II and Senior Housing Inspector.

Financial Implications: See report

Contact: Donald E. Ellison, Human Resources, (510) 981-6800

Action: Adopted Resolution No. 70,083-N.S.

- 17. Dell Computers, Inc.: Using National Association of State Procurement Officials (NASPO) ValuePoint Cooperative Purchasing Agreement for Computer Hardware and Software Purchases**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to increase spending authority with Dell Computers, Inc. for the purchase of computer and server hardware, software, and related services, utilizing pricing and contracts, amendments, and extensions from the National Association of State Procurement Officials (NASPO) ValuePoint for the period beginning October 26, 2021 through June 30, 2023 for an amount not-to-exceed (NTE) \$1,939,538 with \$1,019,769 in Fiscal Year 2022 and \$919,769 in Fiscal Year 2023.
Financial Implications: Various Funds - \$1,939,538
Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 70,084-N.S.
- 18. Contract No. 122411-2 Amendment: Communication Strategies for Consulting Services for Voice over IP (VoIP) Extending Support and Maintenance and AT&T Phone Bill Audit**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 122411-2 with Communication Strategies for Consulting Services for Voice over IP (VoIP) extending Support and Maintenance and in order to conduct a phone billing audit of AT&T, increasing the contract amount by \$14,625 for a total not-to-exceed amount of \$97,436 from July 1, 2017 to June 30, 2023.
Financial Implications: IT Cost Allocation Fund - \$14,625
Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000
Action: Adopted Resolution No. 70,085-N.S.
- 19. Grant Application: the San Francisco Restoration Authority Measure AA Grant Program for Pre-Construction documents for Potential Improvement Projects at Aquatic Park**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to: 1) submit a grant application in the amount of \$897,000 to the San Francisco Restoration Authority Measure AA Grant Program to prepare pre-construction technical documents for potential improvement projects at Aquatic Park; 2) accept any grants; 3) execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.
Financial Implications: See report
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,086-N.S.

- 20. Grant Application: Boating Safety and Enforcement Equipment (BSEE) grant program of the California Division of Boating & Waterways**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to 1) submit a grant application to the California Division of Boating and Waterways 2021 BSEE grant program for \$20,000; 2) accept any grants; and 3) execute any resulting grant agreements and any amendments; and the City Council authorizes the implementation of the projects and appropriation of funding for related expenses subject to securing the grant.
Financial Implications: See report
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
Action: Adopted Resolution No. 70,087-N.S.
- 21. Renewal of the Elmwood Avenue BID for Calendar Year 2022**
From: Elmwood Advisory Board
Recommendation: Adopt a Resolution approving the Elmwood Business Improvement District Advisory Board's (hereafter "Elmwood BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the 2021 Annual Report and preliminary budget for proposed improvements in the District for calendar year 2022; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2022 and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for November 16, 2021.
Financial Implications: See report
 Contact: Kieron Slaughter, Commission Secretary, (510) 981-7530
Action: Adopted Resolution No. 70,088-N.S.
- 22. Renewal of the Solano Avenue BID for Calendar Year 2022**
From: Solano Avenue BID Advisory Board
Recommendation: Adopt a Resolution approving the Solano Avenue Business Improvement District Advisory Board's (hereafter "Solano BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the 2021 Annual Report and preliminary budget on proposed improvements in the District for calendar year 2022; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2022; and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for November 16, 2021
Financial Implications: See report
 Contact: Eleanor Hollander, Commission Secretary, (510) 981-7530
Action: Adopted Resolution No. 70,089-N.S.

- 23. Budget Referral: Reckless Driving and Sideshow Deterrence Improvements**
From: Councilmember Taplin (Author)
Recommendation: That the City Council refers to the FY2023 budget process the funding of sideshow deterrence infrastructure, traffic circles or bott's dots, at the following intersections:
Seventh Street and Addison Street, Eighth Street and Channing Way, Bonar Street and Allston Way, Bonar Street and Bancroft Way, additional intersections to be determined by the Transportation Division of the Public Works Department. The Transportation Division shall determine which intersections best qualify for bott's dots and which qualify for traffic circles.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Approved recommendation as revised in Supplemental Communications Packet #2 by Councilmember Taplin.
- 24. Budget Referral: Sidewalk Repair on Arterial Streets**
From: Councilmember Taplin (Author)
Recommendation: That the City Council refers to the FY2023 budget process an allocation of \$600,000 from the General Fund for the purpose of funding sidewalk repairs on major West and South Berkeley arterial streets including Sacramento Street, Alcatraz Avenue, and Dwight Avenue.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Approved recommendation.
- 25. CalVIP Grant Application Authorization**
From: Councilmember Taplin (Author)
Recommendation: Authorize the City Manager to respond to Requests For Proposals (RFPs) and submit applications to the California Violence Intervention and Prevention (CalVIP) Grant Program in future funding cycles in order to provide resources for community safety initiatives.
Financial Implications: None
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Approved recommendation.

- 26. Presentation Request: Study to Achieve Equity in City Contracting - “Berkeley Inclusion in Opportunity Index”**
From: Councilmember Bartlett (Author) and Councilmember Harrison (Co-Sponsor)
Recommendation: Request for Mason Tillman Associates Ltd (MTA) to present their findings and recommendations from the “Berkeley Inclusion in Opportunity Index” study at the November 9th, 2021 City Council meeting. The presentation should include an analysis of the City’s use of local, small, emerging, and diverse enterprises. The study focuses on enterprises experiencing barriers to access in obtaining City contracts in construction, architecture, engineering, professional services, goods, and other services.
Financial Implications: See report
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130
Action: Approved recommendation.
- 27. Support Net Energy Metering**
From: Councilmember Hahn (Author), Mayor Arreguin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor) and Councilmember Harrison (Co-Sponsor)
Recommendation: Approve a Resolution in Support of Net Energy Metering and transmit copies to Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, and members of the California Public Utilities Commission Board (CPUC).
Financial Implications: None
 Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150
Action: Adopted Resolution No. 70,090-N.S.
- 28. Amend City Council Rules of Procedure and Order to Allow Extension of Items in Committee in Writing**
From: Councilmember Robinson (Author)
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to amend Chapter III, Section G, Subsection 4 to allow the Chair of a Committee to accept a Primary Author’s written request that their item remain in Committee past the 120 day deadline rather than requiring that extensions be approved by a full vote of the committee.
Financial Implications: See report
 Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
Action: Adopted Resolution No. 70,091-N.S.

- 29. Budget Referral: Public Bank East Bay**
From: Councilmember Robinson (Author), Mayor Arreguin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor) and Councilmember Harrison (Co-Sponsor)
Recommendation: Refer \$50,000 to the November 2021 AAO process for a contribution to the Friends of the Public Bank East Bay for the development of a business plan for the Public Bank East Bay.
Financial Implications: General Fund - \$50,000
 Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
Action: Approved recommendation.
- 30. Budget Referral: Durant Parklet and Telegraph Plaza Improvements**
From: Councilmember Robinson (Author) and Mayor Arreguin (Co-Sponsor)
Recommendation: Refer \$60,000 to the November 2021 AAO process for placemaking improvements in the Telegraph District, consisting of the installation of a public parklet on Durant Avenue and the closure of the right-turn slip lane at the Dwight Triangle to create a public plaza.
Financial Implications: \$60,000
 Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
Action: Approved recommendation as revised in supplemental materials submitted by Councilmember Robinson at the meeting.
- 31. Budget Referral: Telegraph Shared Streets Feasibility Study**
From: Councilmember Robinson (Author), Mayor Arreguin (Co-Sponsor) and Councilmember Hahn (Co-Sponsor)
Recommendation: Refer \$500,000 to the November 2021 AAO process for conducting a feasibility study of the Telegraph Shared Streets project.
Financial Implications: \$500,000
 Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170
Action: Approved recommendation as revised in supplemental materials submitted by Councilmember Robinson at the meeting.

Action Calendar

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

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

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

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

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

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

32. Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04 (Continued from October 12, 2021) (Item contains Supplemental material)

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23C.24] and amendments to relevant Definitions [BMC Chapter 23F.04] in the Zoning Ordinance.

Financial Implications: None

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

Public Testimony: The Mayor opened the public hearing. 31 speakers.

Action: M/S/C (Hahn/Arreguin) to suspend the rules and extend the meeting to 11:30 p.m. and to continue Items 35, 36, and 38 to November 9, 2021.

Vote: All Ayes.

Action: M/S/C (Arreguin/Wengraf) to suspend the rules and extend the meeting to 11:45 p.m.

Vote: All Ayes.

Action: M/S/C (Arreguin/Kesarwani) to suspend the rules and extend the meeting to 11:50 p.m.

Vote: All Ayes.

Action: M/S/C (Wengraf/Robinson) to suspend the rules and extend the meeting to 12:00 a.m.

Vote: All Ayes.

Action: M/S/Failed (Hahn/Harrison) to 1) Refer the development of a local ADU Ordinance that only covers area outside of Fire Zones 2 and 3; and Zones 2 and 3 continue to be governed by state regulations at this time; Refer to the City Attorney development of a special ordinance for Zones 2 and 3 with specific findings regarding public safety needs; 2) Include 20 foot height by right and a 4 foot setback with no protrusions into the setback; 3) Prohibit roof decks; 4) Include the 3 foot setback from the proposal by Councilmember Kesarwani; 5) Do not include language regarding design standards; 6) Request staff to propose language on the notification of existing tenants; 7) Provide links to requirements in other comparable jurisdictions; 8) Consider an AUP process for ADUs that exceed standards but may still be allowed; 9) Provide information of the oak tree replacement concept.

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

Action: M/S/Carried (Kesarwani/Taplin) to:

- 1) Adopt the proposed recommendations from Councilmembers Kesarwani, Bartlett, Taplin, and Robinson contained in Supplemental Communications Packet #2 for area outside the Hillside Overlay District only.
- 2) Referral to the November 4 Legislative Platform Meeting, a discussion of ADU limitations in the Hillside Overlay District.
- 3) For the Hillside District, in light of the public hazards and life safety concerns, we refer to the City Manager and City Attorney for staff analysis and recommendations for a potential ordinance, Councilmember Wengraf's full list of recommendations (including the number of ADUs on a parcel) as well as the issue of ADU limitations where there is one access and egress route with a goal of returning within a month or less.
- 4) Refer to the City Manager and the City Attorney the proposal from Councilmember Robinson to consider the following language: "As part of their application, an applicant will attest to whether the lot on which the proposed ADU or JADU is to be built is occupied by tenants." Further, to consider creating a notification system for tenants of properties where an ADU is to be ministerially approved, including potentially by requiring in the code that property owners notify their tenants or by creating a staff-side notification process, and to explore other options to protect tenants, with special attention to elderly and disabled tenants.

Vote: All Ayes.

Action: M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 12:10 a.m.

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

Councilmember Harrison absent at 11:56 p.m.

33. Proposed Ordinance Amending Paragraph ‘NN’ of Berkeley Municipal Code Section 19.48.020

From: City Manager

Recommendation: Conduct a public hearing and, upon conclusion, adopt the second reading of Ordinance No. 7,788-N.S. which modifies the language of Paragraph ‘NN.’ of Berkeley Municipal Code Section 19.48.020 (“Amendments to the California Fire Code) by adopting a building standard which is more restrictive than that standard currently contained in the California Fire Code and which will expand the existing local code amendment that requires the installation of fire sprinklers in new structures and the retrofit fire sprinklers into existing structures that currently exists in Fire Zone 3 to include structures located in Berkeley Fire Zone 2.

First Reading Vote: All Ayes

Financial Implications: See report

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

Public Testimony: The Mayor opened the public hearing. 9 speakers.

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

Vote: All Ayes.

Action: M/S/C (Wengraf/Droste) to adopt the second reading of Ordinance No. 7,788-N.S.

Vote: All Ayes.

Recess 7:57 p.m. – 8:12 p.m.

Action Calendar – Old Business

34. Identifying City Council Referrals for Removal *(Continued from October 12, 2021)*

From: City Manager

Recommendation: 1. Review the referrals marked as rescinded by the sponsoring Councilmember or District; 2. Consider the referrals identified by Councilmembers for further discussion; and 3. Approve the removal of referrals that have been marked as rescinded by the sponsoring Councilmember or District.

Financial Implications: None

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

Action: 4 speakers. M/S/C (Arreguin/Droste) to approve the removal of the referrals in the item with the following changes:

- 1) Remove the Fair Chance Ordinance item (Arreguin)
- 2) Keep the Racism as a Public Health Threat item (Taplin)
- 3) Keep the Referral to Prevent Displacement item (Taplin)
- 4) Remove the five items identified by Councilmember Robinson in Supplemental Communications Packet #1 (Robinson)
- 5) Keep the AC Transit MOU item (Hahn)

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

35. Amending the Berkeley Election Reform Act (BERA) Relating to Officeholder Accounts *(Reviewed by the Agenda & Rules Committee) (Continued from October 12, 2021)*

From: Agenda & Rules Committee: Mayor Arreguin, Councilmember Hahn, Councilmember Wengraf

Recommendation: Take one of the following actions:

1. Refer a proposal to the Fair Campaign Practices Commission (FCPC) amending the Berkeley Election Reform Act (BERA), BMC Chapter 2.12, and Lobbyist Registration Act, BMC Chapter 2.09, to enact “a reasonable set of limitations and rules” to regulate the maintenance of officeholder accounts, as developed and referred for consideration by the Agenda and Rules Committee; or
2. Refer a proposal to the FCPC amending BERA, BMC Chapter 2.12, to prohibit Officeholder Accounts, as originally proposed by the Fair Campaign Practices Commission.

Policy Committee Recommendation: Send the item to Council with two proposed alternatives: 1) Councilmember Hahn’s proposal to regulate officeholder accounts, and 2) the Fair Campaign Practices Commission proposal to prohibit officeholder accounts; and to include the Commission’s analysis of regulating officeholder accounts in the item that goes to the full Council.

Financial Implications: See report

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

Action: Item 35 continued to November 9, 2021.

36. Objective Standards Recommendations for Density, Design and Shadows *(Continued from October 12, 2021) (Item contains Supplemental material)*

From: Joint Subcommittee for the Implementation of State Housing Laws

Recommendation: Refer to the Planning Commission and Design Review Committee to review the recommendations from the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) for objective standards for density, design and shadows and draft Zoning Ordinance amendments for City Council consideration.

Financial Implications: See report

Contact: Alene Pearson, Commission Secretary, (510) 981-7400

Action: Item 36 continued to November 9, 2021, including materials in Supplemental Communications Packet #1 and Supplemental material submitted at the meeting from Mayor Arreguin, Councilmembers Wengraf, Hahn, and Harrison.

- 37. Letter to Senate Budget Committee Chair Sen. Skinner Regarding Berkeley Pier** *(Continued from October 12, 2021)*
From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)
Recommendation: Send a letter to State Senator Nancy Skinner (D-Berkeley), Chair of the Senate Budget Committee, requesting state budget allocations for urgent infrastructure needs at the Berkeley Municipal Pier.
Financial Implications: None
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
Action: Moved to Consent Calendar. Adopted recommendation with revised letter as written in Supplemental Communications Packet #2 from Councilmember Taplin.
- 38. Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley** *(Continued from October 12, 2021) (Item contains Supplemental material)*
From: Councilmember Harrison (Author) and Councilmember Bartlett (Co-sponsor)
Recommendation: Refer to the November 2021 budget process approximately \$500,000 in General Fund Revenue toward fully subsidizing AC Transit fares originating from Berkeley on Sundays for at least one calendar year and possible restoration of the suspended Line 80 serving some of Berkeley's lowest income neighborhoods.
Financial Implications: General Fund - \$500,000
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140
Action: Item 38 continued to November 9, 2021 including revised material submitted at the meeting from Councilmember Harrison.

Action Calendar – New Business

- 39. Proposal to Allocate Revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances** *(Reviewed by the Budget & Finance Policy Committee)*
From: Parks and Waterfront Commission
Recommendation: That Council adopt a Resolution adopting a policy that all Transient Occupancy Taxes (TOT hotel tax) generated at the Berkeley Waterfront be allocated to the City's Marina Enterprise Fund. All other property, sales, utility users, and parking taxes; as well as business license and franchise fees, would continue to be allocated to the City's General Fund.
Policy Committee Recommendation: Send the item to Council with a negative recommendation and additionally request a referral to the Budget & Finance Policy Committee to discuss and develop alternative revenue streams for the Marina Fund including a dedicated reserve.
Financial Implications: See report
 Contact: Roger Miller, Commission Secretary, (510) 981-6700
Action: Item 39 continued to November 9, 2021.

40. Annual Commission Attendance and Meeting Frequency Report

From: City Manager

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

Action: Received and filed.

41. Senior Center Survey Results – Fiscal Year 2021

From: City Manager

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

Action: Received and filed.

42. Parks and Waterfront Commission Work Plan for 2021-2022

From: City Manager

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

Action: Received and filed.

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

Adjournment

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

Vote: Ayes – Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin;

Noes – None; Abstain – None; Absent - Harrison.

Adjourned at 12:05 a.m.

I hereby certify that the foregoing is a true and correct record of the regular session City Council meeting held on October 26, 2021.

Mark Numainville
City Clerk

Communications – October 26, 2021

Homelessness

1. Councilmember Taplin
2. Diana Bohn
3. Maria St. John
4. Alison Huetter
5. Hugh Fountain
6. Tim Southwick
7. Laura Menard
8. Councilmember Bartlett

9. Jae Wheeler

RV Parking

- 10. Maryann O'Sullivan
- 11. Diana Bohn
- 12. Mimi Mougovan
- 13. Yesica Prado

Street Paving Equity

- 14. Kelley Zito
- 15. Mikko Jokela
- 16. Lauren Gularte
- 17. Markus Feyh

Automated License Plate Readers (ALRP)

- 18. 18 similarly-worded from letters
- 19. Becca Schonberg

Affordable Housing Overlay

- 20. Alfred Twu
- 21. Nico Nagle, on behalf of the Housing Action Coalition

North Berkeley BART Zoning

- 22. Mary Rose

Leonard Powell Saga

- 23. Steve Martinot

Lori Droste's Interview Request

- 24. Jalaya

BUSD Student Vaccine Mandate

- 25. Nathan Shepard

Sugar-Sweetened Beverage Product Panel Experts Commission (SSBPPE)

- 26. Holly Scheider, Chairperson, SSBPPE Commission

City Vacant Positions

- 27. Margot Smith

Police Accountability Board, et al

- 28. Katherine Lee, Interim Director of Police Accountability (2)

Mask Mandate

- 29. Anne McClintock

- 30. COVID-19 Information Service, City of Berkeley
- 31. B. Beekman

UC Berkeley Adding 20,000 Students

- 32. Margot Smith

Sanctuary City and Motorola

- 33. B. Beekman

Mats in King Pool Locker Room

- 34. Katie Calvert

Public Toilets in Front of the People's Park Mural

- 35. Rachel Neuman
- 36. Diana Bohn
- 37. Amy Kimmel
- 38. Sylvia
- 39. Harvey Smith
- 40. Kelly Hammargren
- 41. Liam Garland, Director of Public Works
- 42. Carol Denney
- 43. Carrie Olson
- 44. Gar Smith
- 45. Marcia Poole
- 46. Councilmember Harrison
- 47. Maris Arnold
- 48. Deborah Green
- 49. Lisa Teague
- 50. Daniella Thompsin
- 51. Maureen Kildee
- 52. Lee Altenberg
- 53. Max Ventura
- 54. Andrea Prichett
- 55. Alan Steinbach

Bayer Healthcare – Public Hearing Notice

- 56. Alene Pearson, on behalf of Planning

URL's Only

- 57. Russbumper (2)
- 58. Vivian Warkentin

Supplemental Communications and Reports 1

Item #32: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

- 59. Supplemental material, submitted by Councilmember Kesarwani
- 60. Doris Nassiry
- 61. Steven Segal
- 62. Cameron Woo
- 63. Christine Rosen

Item #34: Identifying City Council Referrals for Removal

- 64. Supplemental material, submitted by Councilmember Robinson

Item #36: Objective Standards Recommendation for Density, Design and Shadows

- 65. Supplemental material, submitted by Councilmember Hahn

Supplemental Communications and Reports 2

Item #23: Budget Referral: Reckless Driving and Sideshow Deterrence Improvements

- 66. Supplemental material, submitted by Councilmember Taplin

Item #27: Support Net Energy Metering

- 67. Todd and Linda Darling

Item #32: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

- 68. Supplemental material, submitted by Councilmember Wengraf
- 69. Revised material, submitted by Councilmember Kesarwani
- 70. Gregory Fischer
- 71. Alfred Twu
- 72. Jeffrey Heller
- 73. Eric Johnson
- 74. Claudia Kawczynska
- 75. Michael Ely
- 76. Riti Dhesi
- 77. Oren Leiman
- 78. Mary Ann Wenger
- 79. Robert Sonderegger
- 80. Navarre Oaks
- 81. Cameron Woo
- 82. Michael Katz
- 83. Emily McAfee
- 84. Debra Sanderson, Co-chair, ADU Task Force
- 85. Karen Gilligan
- 86. Linda Schmidt
- 87. Tawny Reynolds
- 88. Kelly Hammargren
- 89. Elizabeth Snowden
- 90. Charles Smith

91.30 similarly- worded form letters

Item #36: Objective Standards Recommendation for Density, Design and Shadows

- 92. Gary Weimberg
- 93. Eric Arens
- 94. James Grow
- 95. Elizabeth Ditmars
- 96. Gary Dahl
- 97. Charlene Woodcock
- 98. Jack Litewka
- 99. Rob Wrenn
- 100. Jane Graly
- 101. Sabina McMurtry
- 102. Daniel Caraco
- 103. Tom Graly
- 104. Paul Cox
- 105. Mischa Lorraine
- 106. Vincent Casalaina
- 107. Jane Tierney
- 108. Barbara Fisher
- 109. Theresa Gensler
- 110. Eva Herzer
- 111. Donna Mickleson
- 112. Greysonne Coomes
- 113. Steve Jackson and Kori Kody
- 114. Carla Woodworth
- 115. Kelly Hammargren
- 116. Sally Bean
- 117. Gregor and Rosa Hicks
- 118. Toni Mester
- 119. Linda Yen

Item #37: Letter to Senate Budget Committee Chair Sen. Skinner Regarding Berkeley Pier

- 120. Supplemental material, submitted by Councilmember Taplin
- 121. Amma Oduro
- 122. Nicholas Waton
- 123. Micaela Hardt
- 124. Eric Smith

Item #38: Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley

- 125. Masha Albrecht
- 126. Lisa Guis
- 127. David Otten

- 128. Marjorie Alvord
- 129. Daveed Mandell

Item 39: Proposal to Allocate revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances

- 130. Camille Antinori, on behalf of the Cal Sailing Club
- 131. Peter Kuhn (2)
- 132. Councilmember Harrison
- 133. Robert Ofsevit
- 134. Umair Khokhar

Supplemental Communications and Reports 3

Item #27: Support Net Energy Metering

- 135. Tawny Reynolds
- 136. Liam Herbert
- 137. Igor Tregub, on behalf of California Solar & Storage Association

Item #30: Budget Referral: Durant Parklet and Telegraph Plaza Improvements

- 138. Revised material, submitted by Councilmember Robinson

Item #31: Budget Referral: Telegraph Shared Streets Feasibility Study

- 139. Revised material, submitted by Councilmember Robinson

Item #32: Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns; Amending BMC Chapters 23C.24 and 23F.04

- 140. Presentation, submitted by Planning
- 141. 14 similarly-worded form letters
- 142. 124 similarly-worded form letters (Supp 2 comments)
- 143. Nancy Rader
- 144. Sharon Entwistle
- 145. David Parsons
- 146. Kristina Kessel
- 147. Trei Campbell
- 148. Philip and Sonya Hunt
- 149. Carol Dorf
- 150. Joann Sullivan
- 151. Barbara Fisher
- 152. Barry Eichengreen
- 153. Chris McKee
- 154. Jimmy Owens
- 155. Elsa Tranter
- 156. Brandin Roat
- 157. Barbara Davis
- 158. Robert Girling

159. Sarah Liu
160. Joan Wager
161. John Coveney
162. Ellen Greenblatt
163. Tetsu Tokunaga
164. James Jones
165. Schuyler Bailey
166. Maya Trilling
167. Lila Crutchfield
168. Jenny Wenk
169. Kathryn Snowden
170. Jo Ann Driscoll
171. Christopher Adams
172. Carolyn West
173. Mike Bank
174. Ben Buckman
175. Bruce Brody
176. Sally and Jonathan Francis
177. David Johnson
178. George Porter (3)
179. Cindy Larson
180. Gina Rieger
181. Robert Sonderegger
182. Karen Chernoff
183. William Foley
184. Helen Marcus
185. Robert Warden
186. Eileen Adams
187. John Parman
188. Karen Kissler
189. Carmelle Knudsen
190. Nigel Blair-Johns
191. Steve Jackson and Kori Kody
192. Carla Schneiderman
193. Brian Gilbane
194. Bonnie
195. Rachel Bradley
196. Bryce Nesbitt
197. Kathleen Weaver
198. Gail Machlis
199. Eric Friedman
200. Rachel Biale
201. Ellen Matthews
202. George Leitmann
203. Marissa Moss
204. Gail Greenwood

205. Cindy Rosenthal
206. Linda Aurichio
207. Karen Tobey
208. Diane Damonte
209. Jen Bilik
210. Connie Field
211. Ellen Archilla
212. Tami Boulet and Nick Rizza
213. Isaac Turiel
214. Natalie Leimkuhler
215. Pierre Divenyi
216. Robert Hoffman
217. Soufyane Zatla
218. Ryan O'Connell
219. Lee Bishop
220. Scott Scheffler
221. Gary Miguel
222. Hope Alper
223. Marjorie Fletcher
224. John and Nancy Lawrence
225. Jerry Skrainar
226. Kevin Powell
227. Shawn Drost
228. Carrie Kabat
229. David Thill
230. Paul Winsberg
231. Judith Tabb
232. Phyllis Olin
233. Fred Schlachter
234. Tony Hawthorne
235. Bryce Nesbitt
236. David Baxter
237. Kay Licina
238. Regina Stefaniak
239. Pablo Diza-Gutierrez
240. Gretchen Brandt
241. Naomi Pearce
242. Molly Raphael
243. Paula Morgan
244. Milton McClaskey
245. Christina Crowley
246. Paul Litsky
247. Jonathan Bailey
248. Melinda di Sessa
249. Shirley Issel
250. Jacques Watteyne

- 251. Bonnie Wade
- 252. Pamela Doolan
- 253. Melinda Derish and Cassius Scott
- 254. Lisa and Tim Goodman
- 255. Beth Feingold
- 256. Vanessa Bohm (2)
- 257. Richard Hiersch
- 258. Sylvia Conant
- 259. David Socholitzky
- 260. Leah Isaacson
- 261. Doris Nassiry
- 262. Bianca Walser
- 263. Diane Tokugawa
- 264. Colin McRae
- 265. Ted Raphael
- 266. Susie Bailey
- 267. Victoria deMara
- 268. James Nelson
- 269. Candace and Rick Medress
- 270. Carol Valk
- 271. Jean Krois
- 272. Barbara Vaughan
- 273. Kim Sharrar
- 274. John Hitchen
- 275. Dave Savidge
- 276. Thomas Bellfort
- 277. Shelley Izquierdo
- 278. David Feiten
- 279. Robert Dering and Gay Gale
- 280. George Porter
- 281. Shirley Issel
- 282. Diane Webershapiro

Item #33: Proposed Ordinance Amending Paragraph “NN” of Berkeley Municipal Code Section 19.48.020

- 283. Presentation, submitted by Fire

Item #36: Objective Standards Recommendation for Density, Design and Shadows

- 284. Supplemental material, submitted by Councilmember Hahn
- 285. Todd Darling
- 286. Wendy Alfsen
- 287. Keith Johnson
- 288. Linda Franklin
- 289. Rafa Sonnenfeld
- 290. Erin Diehm

- 291. Constance Rivemale
- 292. Deborah Kropp
- 293. Karen Weil
- 294. David Ushijima
- 295. Oren Cheyette
- 296. Richard Illgen
- 297. Thomas Lord
- 298. Councilmember Harrison
- 299. Mark Morris

Item #38: Budget Referral: Allocate General Fund Revenues to Support Pilot Program Offering Free AC Transit on Sundays in Berkeley

- 300. Supplemental material, submitted by Councilmember Harrison
- 301. Mary Lim-Lampe
- 302. MJ Baumann
- 303. Kevin Jude
- 304. Igor Tregub, on behalf of the Sierra Club

Item 39: Proposal to Allocate revenues Generated by the Transient Occupancy Tax in the Waterfront Area to the Marina Fund to Avoid Insolvency, Rebuild its Fund Balance and to Stabilize its Finances

- 305. Gordon Wozniak, Chair of the Parks and Waterfront Commission



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Paul Buddenhagen, Deputy City Manager
 Subject: Grant Approval: San Francisco Foundation support for 100% affordable housing at BART stations

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to apply for and if awarded, accept a \$50,000 grant from the San Francisco Foundation to support efforts to make the BART housing projects 100% affordable.

FISCAL IMPACTS OF RECOMMENDATION

The grant funds will be deposited and expensed from the One-Time Grant: No Capital Expenses Fund and will be appropriated in the First Amendment to the FY 2022 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley has provisionally reserved \$53 million to support the minimum goal of 35% affordable housing at each of the two BART housing sites currently being planned. The San Francisco Foundation grant would support hiring a part time consultant to create a plan, in collaboration with multiple partners, to secure the funding needed to maximize project goals of developing 100% affordable housing at the Ashby and North Berkeley BART sites.

BACKGROUND

The redevelopment of the Ashby and North Berkeley BART stations provides a rare opportunity for the City of Berkeley and BART to collaborate to build new and much needed permanently affordable housing. There are no other publicly-owned sites of this size adjacent to a regional transit station that can make significant progress towards the City's housing needs and also achieve multiple City and BART objectives to reduce greenhouse gas emissions and provide public space and other desired community amenities.

On December 19, 2019 the Berkeley City Council authorized the Mayor and City Manager to execute a Memorandum of Understanding between the City of Berkeley and the Bay Area Rapid Transit District to establish a process for cooperatively pursuing the implementation of Assembly Bill 2923 at the Ashby and North Berkeley BART Stations.

The council also authorized the establishment of a Community Advisory Group (CAG), with members recommended by the Council and appointed by the Mayor and Councilmembers Kesarwani and Bartlett, for the purposes of providing input to the Planning Commission. CAG supported a goal of 100% affordable housing at both BART development sites.

On April 27, 2021, after considerable community engagement, the Berkeley City Council voted to provisionally reserve \$40 million of the City's Measure O bond funds as part of the \$53 million City subsidy needed to achieve 35% affordable housing at the Ashby and North Berkeley BART sites. Additionally, council provisionally reserved at least \$13 million in future Affordable Housing Mitigation Fees, and/or a new source of revenue to be identified no later than 2024, in order to cover the balance of \$53 million City subsidy currently estimated to be needed for 35% affordable housing at the Ashby and North Berkeley BART sites. Finally, the city council signaled support for a goal of maximizing affordable housing up to 100% at either or both BART sites.

The City engaged Street Level Advisors, a housing economics firm, to analyze the amount of affordable housing subsidy and likely required timing (or phasing) to achieve the MOU minimum threshold of 35% (at low, very low and/or extremely low income levels) and higher levels of affordable housing at the BART sites, including up to 100% affordable. Significantly more city subsidy would be necessary to increase affordability levels.

The San Francisco Foundation grant contemplated by this council item would provide support to the City in developing additional strategies of increasing financial support for greater affordability levels for the BART projects.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Would support Climate Action goals by providing more affordable housing along transit corridors.

RATIONALE FOR RECOMMENDATION

Increasing affordability levels for new housing developments are in line with City values and council direction. This grant supports the efforts to increase affordability at the BART housing projects that are being planned.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Paul Buddenhagen, Deputy City Manager, City Manager's Office, (510) 981-7005

Attachments:

1: Resolution

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

SAN FRANCISCO FOUNDATION GRANT APPLICATION AND ACCEPTANCE OF FUNDING

WHEREAS, the City Council and BART Board unanimously adopted a Memorandum of Understanding (MOU) in December 2019 and January 2020, respectively, related to future development at the Ashby and North Berkeley BART sites; and

WHEREAS, On April 27, 2021, the Berkeley City Council voted to provisionally reserve \$40 million of the City's Measure O bond funds as part of the \$53 million City subsidy needed to achieve 35% affordable housing at the Ashby and North Berkeley BART sites; and

WHEREAS, At the April 27, 2021 meeting the Berkeley City Council provisionally reserved at least \$13 million in future Affordable Housing Mitigation Fees, indicated support for a goal of maximizing affordable housing up to 100% at either or both BART sites; and

WHEREAS, the San Francisco Foundation grant of \$50,000 would support the City's efforts to increase affordability at the two BART projects by developing a plan to realize the goal.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to apply for, and if awarded, accept a \$50,000 grant from the San Francisco Foundation to hire a consultant(s) to work with staff and the community to develop a plan to increase affordability at the BART housing projects.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Paul Buddenhagen, Deputy City Manager
 Subject: MOU to implement Ronald V. Dellums Fair Chance Access to Housing Ordinance

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to effectuate a Memorandum of Understanding (MOU) between the City of Berkeley and the City of Berkeley Rent Stabilization Board (Rent Board) to implement the Ronald V. Dellums Fair Chance Ordinance previously adopted by the Berkeley City Council.

FISCAL IMPACTS OF RECOMMENDATION

The Berkeley City Council, through the June 2021 budget adoption, allocated \$115,850 of General Fund for the Rent Board to implement the Fair Chance Ordinance. This is a new body of work and the Rent Board has developed a line item budget to implement the ordinance. The Rent Board will bill the city on a quarterly basis for actual costs expended.

CURRENT SITUATION AND ITS EFFECTS

For the fiscal year 2022 budget, the City Council approved \$115,850 for the Rent Board to leverage its existing programs and services to implement the Fair Chance Ordinance. The implementation work is codified in the attached MOU which is before council for approval. Additionally, a contract for \$30,000 with Just Cities was established to support implementation of the Fair Chance ordinance through the development of information and reporting materials, outreach and educational activities, and audit and compliance testing. This work has begun.

BACKGROUND

On October 30, 2018 the Berkeley City Council approved a council referral to the City Manager and the 4x4 Committee to look into precluding housing providers from taking adverse actions against tenants who were formerly incarcerated, allowing tenants who suspected their landlords violated the ordinance to submit complaints to a city agency, and imposing penalties on providers in violation.

Throughout 2019, the Alameda County Fair Chance Housing Coalition, led by Just Cities/the Dellums Institute for Social Justice, met with stakeholders in Berkeley and

proposed the Fair Chance Housing Ordinance to: (1) increase access to housing for formerly incarcerated individuals and their family members; (2) reduce homelessness and family separation that result from blanket exclusion for housing applicants based solely on criminal background checks; (3) reduce recidivism by removing structural barriers to stable housing; (4) provide formerly incarcerated people with a fair opportunity to reclaim their lives and effectively reintegrate into the Berkeley community and (5) maintain existing safeguards for owners. The prospective ordinance was discussed at several city policy committee meetings and then brought to the Berkeley city council on March 10, 2020 where a first reading was approved. The next two city council meetings were canceled because of the Covid-19 crisis. The Ordinance was adopted by the City Council on April 14, 2020.

The Fair Chance Ordinance prohibits housing providers from advertising, directly or indirectly, that they will not consider applicants with criminal histories except as required by state or federal law. It also prohibits housing providers from inquiring about an applicant's criminal history, requiring an applicant to disclose their criminal history or authorize the release of their criminal history, or, if the housing provider receives that information, to take adverse action based on it. The Ordinance does not prohibit housing providers from complying with state or federal laws that require them to automatically exclude tenants based on certain types of criminal history so long as the provider has fulfilled their obligations under the Ordinance. The ordinance does not apply to single family homes, single family homes with ADUs or duplexes and triplexes where an owner occupies a unit on the property as their primary residence.

In passing the ordinance on April 14, 2020, the City Council directed the City Manager to take all necessary steps to implement the ordinance, including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board, preparing an annual implementation budget, designating hearing officers and other necessary staffing for administrative complaint, exploring the development of a compliance testing program similar to that used by the Seattle Office of Civil Rights, developing timelines and procedures for complaints, conducting outreach and education in partnership with the Alameda County Fair Chance Housing Coalition, and referring program costs to the June budget process

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

N/A

RATIONALE FOR RECOMMENDATION

The Ronald V. Dellums Fair Chance Access to Housing Ordinance ("Fair Chance Ordinance," B.M.C. Chapter 13.106) creates rights and obligations for tenants and landlords in Berkeley, including the right to file an administrative complaint about an alleged violation and the right to an administrative hearing before a hearing officer. The Rent Board conducts administrative hearings arising from petitions filed by tenants and

landlords to exercise rights set forth in the Rent Ordinance. Additionally, the Rent Board operates a robust public information program that routinely advises tenants and landlords regarding a broad array of state and local laws that directly pertain to rent stabilization and eviction for good cause.

In the interest of efficient delivery of services to the public, the City intends to delegate authority for the implementation of the Fair Chance Ordinance to the Rent Board, so that its existing systems can be leveraged to provide services to tenants and landlords.

ALTERNATIVE ACTIONS CONSIDERED

Considered having the Health, Housing and Community Services Department administer, but Rent Board is much more aligned with the work needed.

CONTACT PERSON

Paul Buddenhagen, Deputy City Manager, City Manager's Office, (510) 981-7005

Attachments:

1: Resolution

Exhibit A: Memorandum of Understanding of Fair Chance Ordinance Implementation

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

MEMORANDUM OF UNDERSTANDING OF FAIR CHANCE ORDINANCE IMPLEMENTATION BETWEEN RENT STABILIZATION BOARD AND CITY OF BERKELEY

WHEREAS, On October 30, 2018 the Berkeley City Council approved a council referral to the City Manager and the 4x4 Committee to look into precluding housing providers from taking adverse actions against tenants who were formerly incarcerated, allowing tenants who suspected their landlords violated the ordinance to submit complaints to a city agency, and imposing penalties on providers in violation; and

WHEREAS, the prospective ordinance was discussed at several city policy committee meetings and then brought to the Berkeley city council on March 10, 2020 where a first reading was approved and the Ordinance was adopted by the City Council on April 14, 2020; and

WHEREAS, in passing the ordinance on April 14, 2020, the City Council directed the City Manager to take all necessary steps to implement the ordinance, including but not limited to developing administrative regulations in consultation with all relevant City Departments including the Rent Stabilization Board; and

WHEREAS, the Berkeley City Council, through the June 2021 budget adoption, allocated \$115,850 of General Fund for the Rent Board to implement the Fair Chance Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that in the interest of efficient delivery of services to the public, the Rent Board is delegated authority for the implementation of the Ronald V. Dellums Fair Chance Access to Housing Ordinance per the attached Memorandum of Understanding of Fair Chance Ordinance Implementation.

BE IT FURTHER RESOLVED that the City of Berkeley will pay the Rent Board up to \$115,850 for actual costs incurred to implement the MOU of Fair Chance Ordinance.

Exhibits

A: Memorandum of Understanding of Fair Chance Ordinance Implementation

**MEMORANDUM OF UNDERSTANDING OF FAIR CHANCE ORDINANCE
IMPLEMENTATION**

THIS AGREEMENT is made and effective as of July 1, 2021, by and between the Berkeley Rent Stabilization Board, a quasi-independent municipal agency (“Rent Board”), and the City of Berkeley, a California municipal corporation (“City”). In consideration of the mutual covenants, conditions and undertakings set forth herein, the parties agree as follows:

1. Recitals. This Agreement is made with respect to the following facts and purposes which each of the parties acknowledge and agree are true and correct:

A. The Rent Board is organized as a department of the City but operates under the independent direction and authority of a board of elected commissioners. The Rent Board is charged with implementation of the Rent Stabilization and Eviction for Good Cause Ordinance (B.M.C. 13.76), the purpose of which is to “regulate residential rent increases in the city of Berkeley and to protect tenants from unwarranted rent increases and arbitrary, discriminatory, or retaliatory evictions, in order to help maintain the diversity of the Berkeley community and to ensure compliance with legal obligations relating to the rental of housing.” (B.M.C. 13.76.030.) The City Manager and City Council do not have authority to direct the work of Rent Board staff.

B. The Ronald V. Dellums Fair Chance Access to Housing Ordinance (“Fair Chance Ordinance,” B.M.C. Chapter 13.106) creates rights and obligations for tenants and landlords in Berkeley, including the right to file an administrative complaint about an alleged violation and the right to an administrative hearing before a hearing officer.

C. The Rent Board already operates a robust public information program that routinely advises tenants and landlords regarding a broad array of state and local laws that directly pertain to rent stabilization and eviction for good cause.

D. The Rent Board also conducts administrative hearings arising from petitions filed by tenants and landlords to exercise rights set forth in the Rent Ordinance.

E. In the interest of efficient delivery of services to the public, the City intends to delegate authority for the implementation of the Fair Chance Ordinance to the Rent Board, so that its existing programs can be leveraged to provide services to tenants and landlords as set forth below.

F. Under the City Charter, the “Board is also empowered to request and receive funding, when and if necessary, from the City of Berkeley and/or any other available source for its reasonable and necessary expenses.” (Charter, Section 123(3)).

G. In consideration of the Rent Board’s agreement to implement the Fair Chance Ordinance and the resulting benefits to tenants and landlords in Berkeley, the City has provided a grant to cover costs incurred by the Rent Board as described in this Agreement.

2. Grant. On June 29, 2021 The City Council approved an allocation of \$115,850 to the Rent Board for Fiscal Year 2021-2022 subject to the provisions of this Agreement (“Grant Funds”). Any funds not used in accordance with Paragraph 3, below, shall be returned to the City at the end of the Term of this MOU. In the event that these funds are inadequate to provide the services detailed below, the Rent Board may seek an additional funding allocation from the City Council.

3. Use of Grant Funds.

Recipient shall use the Grant funds to support the implementation of the Fair Chance Ordinance and for no other purposes during the term of this agreement. Implementation includes the following:

The administrative start-up costs include staff time that has been spent and will continue to be spent on the following as the Fair Chance Ordinance is implemented:

- Communication with Just Cities, HHCS, City Attorney's Office, Mayor's Office
- Drafting Administrative Regulations with the City Attorney's Office
- Internal agency training of counselors
- Development of training materials
- Outreach to the public regarding the Ordinance

It also includes costs associated with modifying the Rent Board's existing database and database that is currently in development to allow staff to track Fair Chance-related work for both internal and external reporting purposes.

Estimated (non-binding) staff time as follows:

- Housing Counselors (approx. 10 hours/week) will counsel current Berkeley tenants and landlords, help prepare tenants denied housing and landlords for administrative determinations and full evidentiary hearings, and conduct ongoing outreach to Berkeley tenants and landlords.
- Public Information Unit Supervisor (approx. 2 hours/week) will oversee the housing counselors, communicate and coordinate with Just Cities on their outreach to prospective tenants, compile data from the database, and provide annual data to Just Cities for the required report.
- Staff Attorney (approx. 4 hours/week) will provide ongoing guidance to housing counselors and conduct administrative determinations.
- Hearing Examiner (approx. 4 hours/week) will conduct full evidentiary hearings as specified in the Ordinance and Administrative Regulations.

4. Term. This Agreement shall commence on July 1, 2021 and shall remain and continue in effect until June 30, 2022, unless sooner terminated pursuant to the provisions of this Agreement.

5. Assignment. Rent Board shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City Manager.

6. Administrative Citations. The Rent Board is hereby designated the authority to issue administrative citations for the limited purpose of the Fair Chance Ordinance. Administrative

citations shall not be issued except where expressly authorized by a decision of a hearing examiner pursuant the administrative hearing procedure set forth under the Fair Chance Ordinance. (B.M.C. 13.106.090.) The City shall accept payment of fines directly, and shall conduct hearings appealing the amount of such fines in accordance with applicable administrative regulations.

7. Entire Agreement. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Henry Oyekanmi, Director, Finance

Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 30, 2021

RECOMMENDATION

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

Total estimated cost of items included in this report is **\$340,000**.

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
Intersection Work at Dwight Way & California Street	011	General Fund	\$240,000
Mental Health services for Asian Pacific Islanders.	315	Mental Health Service	\$100,000
Total:			\$340,000

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and

Formal Bid Solicitations and Request for Proposals
Scheduled for Possible Issuance After Council
Approval on November 30, 2021

CONSENT CALENDAR
November 30, 2021

upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on November 30, 2021

- a) Intersection Work at Dwight Way & California Street
- b) Mental Health services for Asian Pacific Islanders

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

DATE SUBMITTED: November 30, 2021

SPECIFICATI ON NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
22-11485-C	Intersection Work at Dwight Way & California Street	12/15/2021	1/20/2021	Contractor will construct a median refuge island on Dwight Way, at the intersection of California Street, re-pave the affected portion of Dwight Way, and install signage and pavement markings prohibiting through traffic on California Street.	\$240,000	\$56,161 is available (or will be via AAO1) from 011-54-622-668-0000- 431-665110 \$183,839 will be appropriated via AAO#2 after further General Fund review	Public Works - Transportation	Ken Jung 981-7028
22-11486-C	Mental Health services for Asian Pacific Islanders.	12/1/2021	12/21/2021	Mental health services and supports for the Asian Pacific Islander community.	\$100,000	HHMCSD2201- 315-51-503-526- 2017-000451-636110.	HHCS-Mental Health	Karen Klatt 981-7644
Dept TOTAL					\$340,000			
DEPT. TOTAL					\$340,000			



Office of the City Manager

CONSENT CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Abe Roman, Fire Chief, Department of Fire and Emergency Services

Subject: Proposed Ordinance Rescinding Ordinance 7,788-N.S. and Amending Paragraph 'NN' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code") to Restore Language Which Existed Prior to October 26, 2021.

RECOMMENDATION

1. Adopt the first reading of an ordinance rescinding Ordinance 7,788-N.S. which modified the language of Paragraph 'NN.' of Berkeley Municipal Code Section 19.48.020 ("Amendments to the California Fire Code") and which requires the installation of fire sprinklers in certain new structures and the retrofit of fire sprinklers in certain existing structures in Fire Zones 2 and 3 due to additional information presented to City staff, and restore the language of Paragraph 'NN' which existed prior to the October 26, 2021 adoption of Ordinance 7,788-N.S.;
2. Adopt a Resolution (Attachment 2) setting forth findings of local conditions that require more stringent building standards than those provided by the 2019 California Fire Code;
3. In compliance with state law on adopting such more restrictive building standards, hold a public hearing following the first reading and before the second reading, and schedule the public hearing for December 14, 2021.

FISCAL IMPACTS OF RECOMMENDATION

None. Restores local statutes to conditions which existed prior to the adoption of Ordinance 7,788-N.S. and maintains the status quo of existing fee-for-service revenues and expenditures.

CURRENT SITUATION AND ITS EFFECTS

On October 26, 2021 the Berkeley City Council passed Ordinance 7,788-N.S. which expanded existing provisions contained in Paragraph 'NN' of Berkeley Municipal Code section 19.48.020 ("Amendments to the California Fire Code") and revised the language of that paragraph. Since the adoption of Ordinance 7,788-N.S. City staff have been presented with additional information from community stakeholders regarding subjects such as the permit threshold trigger dollar valuation, implementation details and opportunities to promote health, safety and environmental initiatives within the community.

While Ordinance 7,788-N.S. was passed by City Council on October 26, 2021, per the language of the ordinance, its effective date is delayed 90-days after its adoption, for an effective date of January 24, 2022. Prompt action to rescind ordinance 7,788-N.S. is required to prevent the current language from taking effect as scheduled. It is also necessary to restore the original Paragraph 'NN' language which existed prior to the adoption of Ordinance 7,788-N.S. to ensure that long-standing fire protection measures in the "Environmental Safety- Residential" zoning district remain intact while staff evaluates and makes recommendations on a replacement amendment for Paragraph 'NN'.

Ordinance 7,788-N.S. expanded and modified the language of Paragraph 'NN' of Berkeley Municipal Code (B.M.C) Section 19.48.020 ("Amendments to the California Fire Code") to expand the scope and applicability of fire sprinkler provisions, which previously existed in the "Environmental Safety- Residential" zoning district. That ordinance also focused the fire sprinkler requirements on residential structures built on properties zoned for single- and duplex-dwelling construction, established three triggering conditions which would require sprinkler installation and / or retrofit (including a construction permit valuation threshold), and established a number of exemptions that would not trigger such installations.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This change would restore local statutes to conditions which existed prior to the adoption of Ordinance 7,788-N.S. and maintain the status quo of existing fire code provisions; the impact on environmental sustainability and climate impacts is neutral.

RATIONALE FOR RECOMMENDATION

Staff believes that in light of additional information presented to City staff by community stakeholders that rescission of the modifications will provide an opportunity for staff to further evaluate and make recommendations regarding the permit valuation threshold and other concerns regarding implementation.

In addition to achieving the fire protection and life safety goals outlined in the staff report submitted with Ordinance 7,788-N.S., further evaluation and analysis and resulting staff recommendations in amending this paragraph will allow us to avoid unintended disincentives to, and ultimately promote other significant health, safety and environmental initiatives within the community.

ALTERNATIVE ACTIONS CONSIDERED

Without prompt action the approved fire code language of Paragraph 'NN' language of Ordinance 7,788-N.S. will take effect on January 24, 2022. Based on the need for further stakeholder input, staff analysis and the drafting of recommendations and given the time constraints to act on this issue, other alternative actions such as direct amendment of the Ordinance 7,788-N.S. language have been ruled out as viable alternative actions.

CONTACT PERSON

Steven Riggs, Fire Marshal, Department of Fire and Emergency Services, (510) 981-3473

Attachments:

- 1: Ordinance: “RESCINDING ORDINANCE 7,788-N.S. AND RESTORING THE PREVIOUS LANGUAGE OF PARAGRAPH ‘NN’ OF BERKELEY MUNICIPAL CODE (B.M.C.) SECTION 19.48.020”
- 2: Resolution: RESCINDING RESOLUTION 70,056-N.S. AND ADOPTING FINDINGS AS TO LOCAL CLIMATIC, GEOLOGICAL AND TOPOGRAPHICAL CONDITIONS RENDERING REASONABLY NECESSARY VARIOUS ENUMERATED LOCAL FIRE AND BUILDING STANDARDS THAT ARE MORE STRINGENT THAN THOSE MANDATED BY THE CALIFORNIA FIRE CODE AND REAFFIRMING RESOLUTION NO. 69,178-N.S.

ORDINANCE NO. N.S.

RESCINDING ORDINANCE 7,788-N.S. AND RESTORING THE PREVIOUS
LANGUAGE OF PARAGRAPH 'NN' OF BERKELEY MUNICIPAL CODE (B.M.C.)
SECTION 19.48.020

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

Section 1. That Ordinance 7,788-N.S. which amended Paragraph 'NN' of Section 19.48.020 of the Berkeley Municipal Code (B.M.C.) is hereby rescinded.

Section 2. That Paragraph NN. of Section 19.48.020 of the Berkeley Municipal Code ("Amendments to the California Fire Code") is amended to read as follows:

NN. Section 903.2.23 Environmental Safety--Residential District~~Fire Zones 2 and 3 [Additional subsection]~~ Any new construction requiring a permit determined to be \$100,000 or more in construction costs or new additions to existing structures shall be required to install automatic fire sprinklers throughout the structure. For the purpose of this subsection "Environmental Safety--Residential District" shall mean those areas designated as such on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time. On any parcel zoned to allow single-family or duplex dwelling residential use, any of the following conditions shall trigger the installation of fire sprinklers throughout any new and existing primary and related accessory structures containing habitable space:

~~A. The construction of a new structure containing habitable space, or~~

~~B. The conversion of existing structures or portions of existing structures to habitable space when such structures did not previously contain formally approved habitable space, or~~

~~C. Any alterations or additions requiring permit(s) determined to be \$100,000 or more in aggregate construction costs over a 36-month period from the date of permit issuance~~

~~For the purpose of this subsection Fire Zones 2 and 3 shall mean those areas designated as such in the Berkeley Fire Code, as it may be amended from time to time.~~

~~Exceptions: 1. Detached accessory structures of Group 'U' Occupancy with a floor area not greater than 120 square feet.~~

~~2. Construction or portions of construction defined as repairs for maintenance purposes or construction alterations intended to bring a structure into compliance with ignition resistant construction standards for wildfire exposure of the structure as set forth in the Berkeley Building Code.~~

~~3. Additions of new space that total not more than 250 square feet in area and which are used solely for mechanical or utility service of a building.~~

~~4. Where multiple, primary, free-standing dwellings exist on a given property the fire sprinkler installation requirements of this section shall be applicable to an individual primary structure and any qualified accessory structures on the property associated with the affected primary dwelling structure. Other free-standing dwelling structures on the property and their accessory structures need not retrofit fire sprinklers at that time.~~

Section 3. This amendment shall become effective 30 days after adoption of this ordinance.

Section 44. 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.

RESOLUTION NO. -N.S.

RESCINDING RESOLUTION 70,056-N.S. AND ADOPTING FINDINGS AS TO LOCAL CLIMATIC, GEOLOGICAL AND TOPOGRAPHICAL CONDITIONS RENDERING REASONABLY NECESSARY VARIOUS ENUMERATED LOCAL FIRE AND BUILDING STANDARDS THAT ARE MORE STRINGENT THAN THOSE MANDATED BY THE CALIFORNIA FIRE CODE AND REAFFIRMING RESOLUTION NO. 69,178-N.S.

WHEREAS, on October 12, 2021 the City adopted Resolution No. 70,056-N.S. which found that changes and modifications to the California Fire Code then proposed and enumerated in that document were reasonably necessary because of local climatic, geological or topographical conditions or factors and conditions in the area encompassed by the City of Berkeley, and

WHEREAS, the findings-of-fact set forth in Resolution 70,056-N.S. were in addition to, and not replacements for the findings-of-fact set forth in City of Berkeley Resolution 69,178, and

WHEREAS, Health & Safety Code §17958 allows the City to make modifications or changes to the California Fire Code and other regulations adopted pursuant to Health & Safety Code §17921(a) which result in more stringent local requirements; and

WHEREAS, Health & Safety Code §17925, §17958.5 and §17958.7 require that such changes be supported by findings made by the governing body that such more stringent local requirements are necessary because of "local climatic, geological or topographical conditions or factors"; and

WHEREAS, such findings must be made available as a public record and a copy thereof with each such modification or change shall be filed with the California Building Standards Commission; and

WHEREAS, on November 12, 2019, the City adopted Resolution No. 69,178-N.S. which found that each of the various changes or modifications to the California Fire Code then proposed and enumerated in that document were reasonably necessary because of local climatic, geological or topographical conditions or factors and conditions in the area encompassed by the City of Berkeley; and

WHEREAS, the City is proposing to rescind the provisions of Berkeley City Ordinance 7,788-N.S. which created those changes in the Berkeley Fire Code as proposed and enumerated in Resolution 70,056-N.S.:

NOW THEREFORE, BE IT RESOLVED by the City Council that it finds that the changes and modifications originally enumerated in City of Berkeley Resolution No. 69,178-N.S.

are reaffirmed, are repeated and enumerated below and are reasonably necessary because of local conditions in the area encompassed by the City of Berkeley, as set forth below:

A. **LOCAL CONDITIONS**

1. Climatic Conditions

a. Discussion

The City of Berkeley is located at the geographic center of the Bay Area. The western limits are defined by the Bay at near sea level and the eastern limits by the abruptly rising Berkeley Hills to 1,200 feet. The eastern limit faces open parklands and open space (covered with vegetative fuel loading) to the east and is exposed to a unique danger from wildland fires during periods of hot, dry weather in the summer months. Many of the Berkeley homes in this area have wood shake and shingle roofs and are surrounded by brush type vegetation. The situation is made even worse by the negative effects of high wind conditions during the fire season. During May to October, critical climatic fire conditions occur where the temperature is greater than 80°F, wind speed is greater than 15 mph, fuel moisture is less than or equal to 10 percent, wind direction is from north to the east-southeast and the ignition component is 65 or greater. These conditions occur more frequently during the fire season but this does not preclude the possibility that a serious fire could occur during other months of the year. The critical climate fire conditions create a situation conducive to rapidly moving, high intensity fires. Fires starting in the wildland areas along the easterly border are likely to move rapidly westward into Berkeley's urban areas.

In September 1923, critical climatic fire conditions were in effect and Berkeley sustained one of the most devastating fires in California's history. A fire swept over the range of the hills to the northeast of Berkeley and within two hours was attacking houses within the City limits. A total of 130 acres of built-up territory burned. 584 Berkeley buildings were wholly destroyed and about 30 others seriously damaged. By far the greater portion were single-family dwellings, but among the number were 63 apartments, 13 fraternity, sorority and students' house clubs and 6 hotels and boarding houses.

In December of 1980, during critical climatic fire conditions, a small fire started at Berkeley's northeast limits and within minutes five homes were totally destroyed by fire.

On October 20, 1991, a disastrous firestorm swept down from the Oakland hills. Within the first few hours, thousands of people were evacuated. Ultimately over 3,000 dwelling units were destroyed, of which more than 70 were in Berkeley. This fire matched the pattern established by the fires of 1923 and 1980. Additionally, the conditions that led to it were the same as the conditions that led to a 1970 fire that destroyed 37 homes in Berkeley and Oakland.

b. Summary

Local climatic conditions of limited rainfall, low humidity, high temperatures and high winds along with existing building construction create extremely hazardous fire conditions that adversely affect the acceleration intensity and size of fires in the City. The same climatic conditions may result in the concurrent occurrence of one or more fires, which may spread in the more populated areas of the City without adequate fire department personnel to protect against and control such a situation.

2. Geological Conditions

a. Discussion.

The City of Berkeley is in a region of high seismic activity and is traversed by the Hayward fault. It has the San Andreas earthquake fault to the west and the Calaveras earthquake fault to the east. All three faults are known to be active as evidenced by the damaging earthquakes they have produced in the last 100 years and can, therefore, be expected to do the same in the future. Of primary concern to Berkeley is the Hayward Fault, which has been estimated to be capable of earthquakes exceeding a magnitude of 7.0 on the Richter scale. It extends through many residential areas and passes through a small business district and the University of California. A large number of underground utilities cross the fault, including major water supply lines. Intensified damage during an earthquake may be expected in those areas of poorer ground along the Bay, west of Interstate 80 and in known slide areas, as well as hillside areas (occupied mainly by dwellings) located within or near the fault zone; some areas are steep and have been subjected to slides.

The waterfront areas and areas in the Berkeley flatlands immediately adjacent to creeks and water streams present a major potential for soil liquefaction hazard. The Eastshore Freeway may liquefy and fail under heavy shaking or it may be inundated by a tsunami. The north hill area is most susceptible to landslides because of the presence of soft and unconsolidated sediments, extensive water content in the ground and the steepness of slopes.

Great potential damage can be related to the likely collapse of freeway overpasses. In the event of a major earthquake, Berkeley's firefighting capability could be greatly affected by loss of its main water supply. There is also the strong possibility of inundation due to failure of water reservoirs in the hill area. The replacement of Summit Reservoir at the Kensington border in Berkeley was completed in December 2018. Berryman Reservoir North has been demolished and replaced by a steel tank in 2012. Berryman Reservoir South has received a seismic upgrade. Additional potential situations following an earthquake include broken natural gas mains and ensuing fires in the streets; building fires, as the result of broken service connections; trapped occupants in collapsed structures; and rendering of first aid and other medical attention to a large number of people.

b. Summary.

Local geological conditions include high seismic activity and large concentrations of residential type buildings as well as a major freeway. Since the City of Berkeley is located in a densely populated area having buildings and structures constructed over and near a vast array of fault systems capable of producing major earthquakes, the modifications cited herein are intended to better limit life safety hazards and property damage as a result of a seismic activity.

3. Topographical Conditions.

a. Discussion.

The City of Berkeley has many homes built throughout the urban portion of the Berkeley Hills that are reached by narrow and often winding paved streets which hamper access for fire apparatus and escape routes for residents. In addition, many of the hillside homes are on the extreme eastern edge of the City and require longer response times for the total required firefighting force. Panoramic Way and other hill areas with narrow and winding streets may face the problem of isolation from the rest of the City.

In the areas north and south of the University of California, there are large concentrations of apartments, rooming houses, and fraternity and sorority houses. A number of apartments in these areas are of wood frame construction and are up to five stories in height from grade level. The fire potential is moderately high due to building congestion, heights, and wood shingle roof coverings and siding. Fires can be expected to involve large groups of buildings in these areas. It is noted that Berkeley most probably has more physically impaired people per capita than any other community in the United States. It is estimated that 14% of the approximate population of 112,580 per 2010 Census in Berkeley are physically impaired. Emergency egress and rescue for these people are more difficult during a fire or other life safety emergency.

The Eastshore Highway, running along the western edge of Berkeley, is one of the most heavily used and congested freeway sections in the state. Noted impacts have been increased rates of asthma, particularly among children. The proximity of Berkeley to this freeway and its location downwind from prevailing patterns negatively affects air quality, thus increasing the impact of wood smoke in Berkeley.

b. Summary.

Local topographical conditions include hillside housing with many narrow and winding streets with slide potential for blockage in the abruptly rising Berkeley hills. These conditions create an extremely serious problem for the Fire Department when a major fire or earthquake occurs. Many situations will result in limiting or total blockage of fire department emergency vehicular traffic, overtaxed fire department personnel and a total lack of resources for the suppression of fire in buildings and structures in the City of Berkeley. In addition, under these local conditions, the presence of wood smoke can

cause increased disease, including asthma, and increased deaths from heart and lung disease.

B. REASONABLE NECESSITY

The proposed changes and modifications to the California Fire Code are reasonably necessary due to the local climatic, geological and topographical conditions set forth above. They are further justified for the reasons set forth below.

In adopting the California Fire Code as the Berkeley Fire Code, the City proposes to make certain substantive modifications whose effect is to impose more stringent requirements locally than are mandated by the California Fire Code. These are specifically listed below, but may be generally characterized as relating to: the preservation of building and roof accessibility and emergency egress; maintenance of building compartmentation using fusible links; amendment of automatic sprinkler requirements; amendment of fire alarm system requirements; amendment of fire flow requirements; requirements for high-rise air supply and the regulation of hazards including hazardous materials, Wildland-Urban Interface management, temporary assembly attractions, fireworks and explosives. These more stringent local requirements are reasonably necessary to address risks created by local conditions set forth above for the following reasons:

1. Section 503 (Fire apparatus access roads) and Appendix D (Fire apparatus access roads) are adopted in their entirety as local code amendments. They are adopted due to: local geological conditions of severe earthquake potential which may result in landslides and the collapse of "built-environment" features which may block access roads; local topographical conditions including narrow streets and steep hills which slow and hinder emergency response and evacuation; and local climatic conditions including the need for rapid, unhindered citizen evacuation from and emergency responder access into wildfire prone areas of the City.
2. Section 504.1.1 (Marking of Exterior Building Openings) is added due to local topographical conditions which promote multi-story and on-slope construction to maximize buildable space within the City. The limited space available for development encourages developers and designers to crowd exterior openings into limited available space, often resulting in groups of building openings without any obvious cues for firefighters as to the area(s) served within the building or the purpose of the openings. This amendment is intended to inform firefighters as to the area served and/or purpose of an exterior opening and therefore reduce the amount of time firefighters may spend searching for or forcing entry into otherwise unmarked doorways.
3. Section 703.2.4 (Fusible Links) is added due to the increased risks caused by fires resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of

occupancies. This amendment will maintain the fire and smoke separation requirements and prevent spread of smoke and fire in apartments, boarding houses, and congregate living spaces.

4. Sections 903.2.10, 903.2.10.1, 903.2.11.1, 903.2.21, 903.2.22, 903.2.23, 903.3.1.2, 903.3.9 and 1103.5.5, 1103.5.5.1, 1103.5.5.2, 1103.5.5.3 (Fire Sprinkler Systems) are amended due to the increased risks caused by fires resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of occupancies. Automatic fire sprinkler systems significantly reduce the loss of life and fire spread with early suppression and control of a fire. Additionally, these amendments will maintain the standards established in 1992 after the 1990 fraternity fire and 1991 Berkeley Oakland firestorm.

5. Amendments and additions to Sections 907.2, 907.2.1, 907.2.2, 907.2.4, 907.2.7, 907.2.8.1, 907.2.8.2, 907.2.9.1 and 1103.7, 1103.7.5.1, 103.7.6, and 1103.7.10 (Fire Alarm Systems) are amended due to the increased risks caused by fires resulting from earthquakes and proximity to the wildland-interface. These risks, which are particularly severe in Berkeley due to its high population density, are shown by its past history of above average death and property loss due to fire in these types of occupancies. Automatic fire alarm systems significantly reduce the loss of life and fire spread with early detection and notification of firefighting personnel. Additionally, these amendments will maintain the standards adopted in 1998 as part of the Berkeley Fire Code.

6. Section 1104.16.5.1 (Examination of existing fire escape stairs) is adopted from the model code language. Numerous fire escape stairs are in use throughout the City due to the local topographical conditions of Berkeley's steep terrain and dense, multi-story development. Due to the severe risk of earthquake and ensuing fire in Berkeley, fire escape stairs require periodic inspection by a licensed professional to provide reasonable assurance that existing fire escape stairs will survive a credible earthquake and be available for their intended life safety function after a seismic event.

7. Section 914.3.9 ["Fire Fighter Air Replenishment Systems"], Appendix Chapter L ["Requirements for Fire Fighter Air Replenishment Systems" in its entirety as amended), Section L104.5.1 ["Stored pressure air supply" as amended], Section 105.6.56 [operational permit to maintain a "firefighter air replenishment system (FARS)"] and Section 105.7.270 [construction permit to install or modify "Firefighter air replenishment system(FARS)"] are added due to the local geological condition of severe risk of earthquake and ensuing fires. Fire Fighter Air Replenishment Systems are intended to maximize the operational efficiency of available firefighting forces, and to reduce the impacts of high-rise fire incidents on limited firefighting forces that may already be challenged by the aftermath of a major seismic event. Additionally, these amendments will maintain the standards adopted in 2002 as part of the Berkeley Fire Code to require air supply systems for firefighting operations. The proposed code adoption recognizes Appendix Chapter L of the International Fire Code as the standard for the design, installation, testing and maintenance of such a system. It provides potential owners,

designers and installers with a standard that they may refer to in order to better understand a type of system that many may not be familiar with.

8. Sections 5701.4.2 (Storage of Class I and Class II liquids in aboveground tanks), 5704.2.11.1.1 (Restrictions on underground storage tanks), Section 5704.2.13.1.4 (Tanks abandoned in place), Section 5704.2.14 (Removal and disposal of tanks) and section 6104.1.2 (Restrictions on storage of LP-gas containers) of the Berkeley Fire Code are local amendments to the California Fire Code. These subsections are necessitated by local topographical conditions including the dense population of residential dwellings throughout the City; the narrow winding streets of the hazardous hill area; and the presence of a major transportation system underground (BART with its surge chambers and other openings at the street level in various areas of the city). These factors make it very important for purposes of fire safety to regulate hazardous material storage to ensure that it does not intrude in these areas.

9. Section 8105.2 (Appendix B, "Fire Flow Requirements for Buildings", Table 8105.2, "Required Fire-Flow for Buildings Other Than One- And Two-Family Dwellings, Group R-3 And R-4 Buildings and Townhouses") is amended due to the geological conditions of the City with its proximity to major earthquake faults. Predictions by the local water utility company are that many water mains will break as the result of a magnitude 6.7 earthquake on the Hayward Fault.

10. Appendix O (Temporary haunted houses, ghost walks and similar amusement uses) is adopted as a local amendment to the California Fire Code and is adopted based on local geological conditions (the potential for severe earthquake with accompanying fire and/or structural collapse) and local topographical conditions including the need to ensure adequate separation of structures and uses in densely developed urban areas. Fire alarm systems (as required in this appendix) are shown to significantly reduce the life safety threat to occupants of structures during fire events. Regulation of these structures and activities ensures that adequate safety provisions have been made for limiting occupancy to safe numbers of guests and for the evacuation of attraction guests in crowded urban environments. Adoption of this appendix also allows for the regulation of related features such as the combustibility of decorations and the management of hazards such as temporary electrical wiring and the use of portable generators.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that certain local amendments to the codes are not more stringent than the provisions of the California Fire Code but rather cover matters not addressed by those Codes or as administrative in nature, as follows:

1. Chapter 1 (as amended in Sections 101.1, 101.6, 102.6, 104.12, 104.13, 105.6.16, 105.6.31, 105.6.52, 105.6.53, 105.6.54, 105.6.55, 105.6.56, 109, 109.1, 109.2, 109.3, 110.1, 110.4, 110.4.2, 110.4.3, 111.2.1, 111.3, and 111.4.1) provides administrative provisions, an appeal process, and additional clarification and non-building standard permit requirements required to implement the fire code.

2. Chapter 2 as amended in section 202 (Definitions) provides additional definitions required to clarify and implement the local adoption of the fire code.
3. Chapter 3 (General Requirements) excluding Section 317 (Rooftop gardens and landscaped roofs) is adopted in its entirety. The adopted sections of this chapter impose controls on a wide range of hazards that are not building standards. Hazards addressed include asphalt kettles, combustible waste materials, control of ignition sources, open burning/recreational fires, open flames, powered industrial equipment, smoking, securing of vacant premises, vehicle impact protection, fueled equipment, general storage and hazards to firefighters.
4. Chapter 49 as amended provides definitions related to local Wildland-Urban Interface (WUI) fire areas, directs interested parties to appropriate BMC Chapter 19.28 sections (Berkeley Building Code) for building construction requirements in WUI areas, and imposes various non-building standard requirements for the management of vegetation and the suppression and control of fires in WUI areas.
5. Section 5001.7 (Hazardous Materials Transport Restrictions), Section 5601.1.3 (Fireworks) and Section 5701.4.1 (Transfer of Flammable Liquids) are local amendments to the California Fire Code that restricts the transportation, storage and transfer of hazardous materials but does not create or modify any building standards. It simply imposes additional requirements necessitated by local conditions. This new subsection is necessitated by: the dense population of residential dwellings throughout the City; the narrow winding streets of the hazardous hill area; and the presence of a major transportation system underground (BART with its surge chambers and other openings at the street level in various areas of the city). These factors make it very important for purposes of fire safety to regulate hazardous material transportation to ensure that it does not intrude in these areas.
6. Section 5601.1.3 (Fireworks) prohibits (with suitable exceptions) the possession, manufacture, storage, sale, handling and use of fireworks within the jurisdiction (including fireworks classified by the State Fire Marshal as Safe and Sane fireworks). Section 5604.1 ("General" section of 5604, "Explosive and Fireworks") is modified to prohibit the storage and handling of explosives within the jurisdiction. Both sections are intended to preserve the ban on storage, handling and use of these materials within City limits which have historically been deemed unsafe and inappropriate activities within the jurisdiction.
7. Section 5701.4.1 (Transfer of flammable and combustible liquids) prohibits dispensing of flammable liquids on or from a street or public way and provides administrative provisions, additional clarification and non-building standard approval or permit requirements required to implement the fire code.
8. Appendix E (Hazard Categories) and Appendix F (Hazard Ranking) are local amendments to the California Fire Code related to hazardous materials management. These chapters define the hazard categories and rankings associated with the storage, handling and use of hazardous materials, and provide the qualitative and quantitative

rankings used on hazardous materials information signs posted for the benefit of firefighters and other first responders. These hazard categories and rankings are administrative in nature and do not constitute building standards.

BE IT FURTHER RESOLVED, that Resolution No. 70,056-N.S is hereby rescinded.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing, & Community Services
 Subject: Contract: Blaisdell's Business Products for HHCS Furniture

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute a contract, and any amendments or extensions, with Blaisdell's Business Products for new office and classroom furniture for the North Berkeley Senior Center (NBSC).

The contract will be in an amount not to exceed \$99,000 for the period January 1, 2022 through June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

Blaisdell's, a City vendor, has been selected to furnish the recently renovated North Berkeley Senior Center with new office and classroom furniture. Blaisdell's has met all of the steps of the City's competitive Request for Proposal process and has submitted a revised quote with final pricing. The original and revised pricing proposal includes delivery, assemblage, and installation of all furniture.

The contract will have a total not to exceed amount of \$99,000:

- **North Berkeley Senior Center:** \$99,000 from ERMA T1 Bond Measure Account 511-54-623-677-0000-000-444-651120-

CURRENT SITUATION AND ITS EFFECTS

The furniture contract with Blaisdell's Business Products will enable the Aging Services Division to provide state-of-the-art and well-maintained facilities in order to foster dynamic and sustainable service provision to the community.

The City released a Request for Proposals (RFP) under Specification No. 22-11466, conducted a mandatory site walk-thru, and convened a panel of stakeholders to select Blaisdell's Business Products as the most responsive and responsible bidder for this contract.

BACKGROUND

The North Berkeley Senior Center was first constructed in 1977. Earthquake retrofitting and interior and exterior renovations on the building were initiated in the Spring 2019

(funded by the T1 Bond measure). Renovations include energy efficient upgrades (e.g. solar roof panels, HVAC, electrical) as well as cosmetic upgrades that will provide a more efficient service delivery model. The modern and updated setting will enable our senior community to engage in socialization, education, and nutrition. The renovation for this facility has an anticipated completion date of December 2021.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The North Berkeley Senior Center includes several energy efficient upgrades, such as solar panels installed on the roof of the facility, and solar tubes. Since the facility is used for City Council and Commission meetings, private rentals, and as a City emergency shelter, these energy upgrades will aid in reducing utility costs.

RATIONALE FOR RECOMMENDATION

Blaisdell's is a current City vendor that provides office supplies and goods. Their proposal includes high quality furniture that aligns with the intended multifunctional uses of all three HHCS facilities.

ALTERNATIVE ACTIONS CONSIDERED

The City could not provide essential senior services, such as information and assistance, nutrition, and socialization opportunities, without new furniture and equipment to complement the recently renovated North Berkeley Senior Center.

CONTACT PERSON

Tanya Bustamante, Aging Services Division Manager, HHCS, (510) 981-5178

Attachments:

1: Resolution

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

CONTRACT: BLAISDELL'S BUSINESS PRODUCTS FOR HHCS FURNITURE

WHEREAS, new office furniture and equipment will serve current and future staff to operate programs and services; and

WHEREAS, new office furniture and equipment will also provide a more efficient delivery of services to community members, including the senior community; and

WHEREAS, Blaisdell's was selected by the City's RFP process which includes bidding from vendors, draft proposals, and pricing; and

WHEREAS, funds are available in the current year budget in the ERMA T1 Bond Measure Account 511-54-623-677-0000-000-444-651120.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments, with Blaisdell's Business Products to deliver, assemble, and install office furniture and equipment for the North Berkeley Senior Center in an amount not to exceed \$99,000 for the period January 1, 2022 thru June 30, 2022. 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
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services
 Subject: Contract No. 32000094 Amendment: Youth Spirit Artworks Mental Health Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to amend contract No. 32000094 with vendor Youth Spirit Artworks (YSA) to provide a variety of mental health and case management supports for Transition Age Youth (TAY) through June 30, 2022 in an amount not to exceed \$527,046. This will extend the existing contract by one year and add \$210,046 in funding.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the scope of work in the amount of \$132,046 is available in the current year budget from ERMA GL Code 315-51-503-526-2017-000-451-636110-, which utilizes funding from the Mental Health Services Act (MHSA) Community Services and Supports (CSS) initiative, and \$78,000 from ERMA GL Code 011-51-503-523-5002-000-451-636110-, funding derived from City of Berkeley Measure P.

CURRENT SITUATION AND ITS EFFECTS

This contract amendment will cover three separate scopes of work:

1. TAY case management and linkage services, including counseling, case management, life skills training to program participants, and linkage to other need-based services available in the community. These services are being extended for an additional year. \$100,000 will be allocated toward these services.
2. Case management for Berkeley TAY at the Tiny Villages program, which provides housing for at-risk TAY in a communal setting that promotes group cohesion, learning to live independently, and developing life skills in a supportive environment. These services are also being extended for an additional year. \$78,000 will be allocated toward these services.
3. Trauma support services for TAY in Berkeley. YSA was selected in 2021 via a Request for Proposals (RFP) to address additional needs in the TAY population. \$32,046 will be allocated toward trauma support services for TAY.

BACKGROUND

Berkeley Mental Health has partnered with YSA to serve the TAY population, which includes youth between the ages of 16-24, with case management and linkage services for the past three years. The Tiny Villages program was added last year. YSA has proven an effective vendor for these services. Continuing this successful partnership will provide continuity to consumers and ensure the related objectives of stability and connection to services are realized for our community's TAY population. Adding in trauma support services will allow YSA to expand the services they offer, and further support this vulnerable population.

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 scope of services under this contract are critically needed due to the current challenges faced by the local TAY population. YSA provided these services in a satisfactory manner for the last three years.

ALTERNATIVE ACTIONS CONSIDERED

As an alternative action, Council could instead direct staff to conduct a new RFP to competitively solicit a different vendor, or decide to not fund these services.

CONTACT PERSON

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

Attachments:

1: Resolution

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

CONTRACT NO. 32000094 AMENDMENT: YOUTH SPIRIT ARTWORKS

WHEREAS, Mental Health Services Act (MHSA) funds are allocated to mental health jurisdictions across the state for the purposes of transforming the mental health system into one that is consumer and family driven, culturally competent, wellness and recovery oriented, includes community collaboration, and implements integrated services; and

WHEREAS, on July 23, 2019 by Resolution No. 69,033-N.S., City Council authorized the City Manager to approve the MHSA Plan FY2019-2020 Annual Update; and

WHEREAS, within the City Council approved MHSA Plan FY2019-2020 Annual Update was an allocation of \$100,000 for contracted Transition Age Youth (TAY) Case Management and Linkage Services; and

WHEREAS, on December 3, 2019 by Resolution No. 69,194-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2020 in an amount not to exceed \$100,000; and

WHEREAS, on June 2, 2020 by Resolution No. 69,436-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2021 in an amount not to exceed \$217,000; and

WHEREAS, on July 28, 2020 by Resolution No. 69,511-N.S., City Council authorized the City Manager to approve amending Contract No. 32000094 through June 30, 2021 in an amount not to exceed \$317,000; and

WHEREAS, funds are available in the current year budget from the Mental Health Services Act (ERMA GL Code 315-51-503-526-2017-000-451-612990-) and Measure P (011-51-503-523-5002-000-451-636110-).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract amendment with Youth Spirit Artworks for Transition Age Youth case management and linkage services and Tiny House case management adding \$210,046 for a total not to exceed amount of \$527,046, and extending the contract through June 30, 2022. 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
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services
 Subject: Contract No. 32100178 Amendment: California Mental Health Services Authority Help@Hand Participation Agreement

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an Amendment to Contract No. 32100178 for the Help@Hand Participation Agreement with the California Mental Health Services Authority (CalMHSA) to increase the amount of local project funds by \$47,999 for a total amount not to exceed \$400,915 through June 30, 2024, and any amendments.

FISCAL IMPACTS OF RECOMMENDATION

Funding in the amount of \$47,999 from Mental Health Services Act (MHSA) revenue received from the State of California will be available in the FY2022 budget through the Annual Appropriations Ordinance (AAO) in the ERMA GL code: 315-51-503-526-2020-000-451-636110. The City previously committed \$352,916 from the same source to this project.

CURRENT SITUATION AND ITS EFFECTS

The City receives State Mental Health Services Act (MHSA) Innovations (INN) funds on an annual basis that are to be utilized on short term pilot projects that increase learning in the Mental Health field. Help@Hand is a Mental Health Services Act (MHSA) Innovations (INN) funded multi-county collaborative project which provides broad public access to mental health applications.

In the Help@Hand Project, ten counties (and Berkeley, as an MHSA jurisdiction) have come together through the California Mental Health Services Authority (CalMHSA), a Joint Powers Authority (JPA) to fund free access to mental health technology applications (Apps) for individuals who live, work, or go to school in those counties.

In November 2021, a Help@Hand marketing campaign was launched and free access to the HeadSpace and MyStrength Apps became locally available. The total funds that need to be allocated to CalMHSA through the end of the project are now estimated to be higher than originally anticipated. Therefore, the execution of the Help@Hand

Participation Agreement Amendment is required in order to allocate an additional \$47,999 to CalMHSA. Funding will be allocated from the remaining local project funds to cover the additional costs through the end of the project.

BACKGROUND

State of California MHSA funds are provided to mental health jurisdictions to transform the mental health system. One of the five funding components of MHSA is Innovations (INN). The INN component is comprised of annually recurring funds that are to be utilized to implement short-term pilot projects that contribute new learning in the mental health field. To utilize funds a stakeholder informed, locally approved plan is required.

In June 26 2018, per Resolution No. 68,493 –N.S., City Council approved the MHSA INN Technology Suite Project Plan, which has since been renamed, “Help@Hand”. This project allocates \$462,916 of INN funds to make mental health technology apps locally accessible in Berkeley. With Resolution 69,514-NS, the City Council approved entering into a Participation Agreement with CalMHSA and allocated \$352,916 in MHSA INN funds to participate in this project. The remaining amount of funds \$110,000, has been kept at the City level. A portion of the remaining funds has been used on project coordination services from Resource Development Associates. An evaluation conducted by Hatchuel, Tabernik and Associates will also be provided through these project funds.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

As project costs were higher than originally anticipated a Help@Hand Participation Agreement Amendment is needed in order to allocate the additional funds to CalMHSA. The COVID-19 pandemic has increased isolation and limited access to mental health resources for many Berkeley residents. Making these mental health applications available to the community is an innovative approach that will provide individuals with access to mental health resources, information, and supports at this difficult time.

ALTERNATIVE ACTIONS CONSIDERED

The City could refuse to add funds to the project at this point, which could limit or reduce community access to these applications. This action is not recommended because it is not consistent with the City’s MHSA Innovations Plan or Council’s previous direction.

CONTACT PERSON

Karen Klatt, Community Services Specialist III, HHCS, (510) 981-7644

Attachments:

1: Resolution

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

APPROVING AN AMENDMENT TO THE PARTICIPATION AGREEMENT FOR HELP@HAND WITH THE CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY

WHEREAS, the City's Department of Health, Housing & Community Services, Mental Health Division, currently receives Mental Health Services Act (MHSA) Innovations (INN) funds on an annual basis for short term projects that will increase learning in the mental health field through strategies that will either improve the access, quality, or outcomes of services, and/or promote community collaborations; and

WHEREAS, in order to utilize MHSA INN funds, the Mental Health Division must have a stakeholder informed, locally approved plan in place; and

WHEREAS, by Resolution No. 68,493-N.S., the City Council authorized the City Manager to approve the MHSA INN Technology Suite Project Plan to implement technology-based mental health services and supports in Berkeley utilizing \$462,916 by June 30, 2021; and

WHEREAS, the MHSA INN Technology Suite project is part of a multi-county collaborative that utilizes a Joint Powers Authority (JPA), the California Mental Health Services Authority (CalMHSA), as the fiduciary intermediary for the project; and

WHEREAS, the multi-county collaborative renamed the Technology Suite project to the "Help@Hand" project; and

WHEREAS, in order to allocate funds to the fiscal intermediary to participate in the multi-county collaborative, the City of Berkeley was required to enter into a Participation Agreement with CalMHSA; and

WHEREAS, per Resolution No. 69,514-N.S., the City Council authorized the City Manager to enter into a Participation Agreement with CalMHSA and to extend the project to June 30, 2024; and

WHEREAS, the Participation Agreement allocated \$352,916 of Help@Hand project funds to CalMHSA and the remaining \$110,000 project funds were kept locally; and

WHEREAS, project costs are estimated to be higher than originally estimated and an additional amount of \$47,999 of local project funds will be required to be allocated to CalMHSA through the end of the project; and

WHEREAS, in order to allocate additional funds to CalMHSA, the City must execute a revised Help@Hand Participation Amendment; and

WHEREAS, funding will be made available in the FY2022 budget through the AAO in the MHSA Fund Budget code: 315-51-503-526-2020-000-451-636110.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute an Amendment to Contract No. 32100178 for the Help@Hand Participation Agreement and any amendments with CalMHSA to increase the amount by \$47,999, for a total amount not to exceed \$400,915 through June 30, 2024.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services
 Subject: Contract Award: Community Crisis Response Services

RECOMMENDATION

Adopt three Resolutions authorizing the City Manager or her designee to execute contracts and any amendments or extensions with Alameda County Network of Mental Health Clients (Berkeley Drop-in Center), Options Recovery, and Women's Daytime Drop-in Center for Community Crisis Response Services, in an amount not to exceed \$1,200,000.

FISCAL IMPACTS OF RECOMMENDATION

Funds for these contracts in the amount of \$1,200,000 are available in ERMA GL Code 354-51-501-501-0000-000-451-612240-, drawn entirely from the federal American Rescue Plan Act (ARPA) and State and Local Fiscal Recovery Funds (SLFRF).

CURRENT SITUATION AND ITS EFFECTS

Upon releasing a Request for Proposals for non-police crisis bridge services, the City of Berkeley received proposals from three local organizations, Alameda County Network of Mental Health Clients (Berkeley Drop-in Center), Options Recovery, and Women's Daytime Drop-in Center, each with intent to expand their current service offerings. The review committee, consisting of representatives from the Health, Housing and Community Services Department, the Fire Department, the Mental Health Commission, and the Berkeley Community Safety Coalition, recommended funding all three contracts.

These contracts will provide financial support to: 1) Alameda County Network of Mental Health Clients (Berkeley Drop-in Center) to expand their peer support programming for crisis prevention, crisis intervention and post-crisis support 2) Options Recovery for hiring Substance Use Disorder (SUD) Navigators for culturally competent stage-matched interventions, and 3) Women's Daytime Drop-in Center for enhanced mental health care services to the community including assessment, linkages, workshops, and goal-setting.

For all three contracts, funds will be allocated to ensure adequate data collection and evaluation in accordance with the City's preferred evaluation procedures and reporting

required by ARPA. Staff recommend allocating \$50,000 to hire a consultant to evaluate the service model and inform SCU roll out and future initiatives.

Agency/Use	Recommended Funding Allocation
Alameda County Network of Mental Health Clients (Berkeley Drop-in Center)	\$390,000
Options Recovery	\$640,000
Women's Daytime Drop-in Center	\$120,000
Program evaluator – Future RFP	\$50,000
Total funds	\$1,200,000

BACKGROUND

As part of the Re-Imagining Public Safety process, the City has been engaged in planning for a Specialized Care Unit (SCU) that will ultimately become a 24/7 mobile unit designed to respond to and support people who are experiencing a mental health or substance abuse crisis without direct involvement with the police. The SCU is currently in its design phase, with the intention to roll out by Summer 2022.

While this process and foundational work is taking place, there are immediate needs to strengthen non-police relationships and supports on the ground for individuals on the verge of crisis. Therefore, on June 29, 2021, Berkeley City Council allocated up to \$1,200,000 in the FY 2022 budget from the American Rescue Plan in support of services (Community Crisis Response [CCR]), which will provide such supports until the SCU can be implemented. The intention is to put these services in place as soon as possible, while following all federal and City procurement requirements.

Preliminary findings from the SCU planning process suggest that non-violent and non-threatening situations would be much better served through a multidisciplinary, relationship-based response within the caring (rather than enforcement) professions, and should include services such as:

- Crisis counseling/emotional support
- Peer support (i.e. from someone with lived experience)
- First aid and non-emergency medical care
- Substance abuse
- Resource connection and warm handoffs
- Transportation to what is needed
- Crisis respite

The City solicited proposals from community-based organizations and community groups with expertise and the ability to quickly provide the supportive services listed

above that can deepen existing coordinated outreach and respond to individuals on the verge of crisis while the SCU model is being designed and implemented.

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 three agencies referenced in this report were selected through a competitive RFP process, and the evaluation panel for the RFP included both City Staff and community stakeholders. Each agency proposed services that will enhance the City's current capacity for responding to people in crisis. Given their significant experience in providing supportive services and implementing complex projects, these agencies are uniquely qualified to perform the services required.

ALTERNATIVE ACTIONS CONSIDERED

These deliverables could be solicited through a new Request for Proposals process.

CONTACT PERSON

Lisa Warhuus, Director of Health Housing and Community Services, (510) 981-5404
Steven Grolnic-McClurg, Manager of Mental Health Services, HHCS, (510) 981-5249

Attachments:

1: Resolutions

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

CONTRACT: ALAMEDA COUNTY NETWORK OF MENTAL HEALTH CLIENTS
(BERKELEY DROP-IN CENTER) FOR COMMUNITY CRISIS RESPONSE BRIDGE
SERVICES

WHEREAS, on July 14, 2020, the City Council of the City Berkeley passed a package of items providing direction for the development of a new paradigm of public safety in Berkeley that included direction to the City Manager to analyze and develop a pilot program to re-assign non-criminal police service calls to a Specialized Care Unit (SCU); and

WHEREAS, City of Berkeley community members would prefer a 24/7 mental health crisis response system that does not so heavily involve law enforcement; and

WHEREAS, on December 1, 2020 by Resolution No. 69,621-N.S. City Council approved Contract No. 32100082 with Resource Development Associates (RDA) for SCU design; and RDA conducted a comprehensive feasibility study, program design and implementation plan for an SCU to respond to public safety calls that do not require presence of law enforcement; and

WHEREAS, the SCU is currently in its design phase, with the intention to roll out by Summer 2022; and

WHEREAS, the Community Crisis Response services included in this contract will provide necessary supports and enhancement to the mental health system until the SCU can be implemented; and

WHEREAS, services included in this contract aligns with the Strategic Plan goal to champion and demonstrate social and racial equity; and

WHEREAS, Alameda County Network of Mental Health Clients (Berkeley Drop-in Center), was selected through a competitive Request for Proposals process; and

WHEREAS, the City received federal American Rescue Plan Act (ARPA) and State and Local Fiscal Recovery Funds (SLFRF) which can be used to improve the behavioral health system's capacity to serve underserved populations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a contract and any amendments with Alameda County Network of Mental Health Clients (Berkeley Drop-in Center) for Community Crisis Response Bridge services in an amount not to exceed \$390,000. A signed copy of said agreement will be kept on file in the Office of the City Clerk.

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

CONTRACT: OPTIONS RECOVERY FOR COMMUNITY CRISIS RESPONSE BRIDGE SERVICES

WHEREAS, on July 14, 2020, the City Council of the City Berkeley passed a package of items providing direction for the development of a new paradigm of public safety in Berkeley that included direction to the City Manager to analyze and develop a pilot program to re-assign non-criminal police service calls to a Specialized Care Unit (SCU); and

WHEREAS, City of Berkeley community members would prefer a 24/7 mental health crisis response system that does not so heavily involve law enforcement; and

WHEREAS, on December 1, 2020 by Resolution No. 69,621-N.S. City Council approved Contract No. 32100082 with Resource Development Associates (RDA) for SCU design; and RDA conducted a comprehensive feasibility study, program design and implementation plan for an SCU to respond to public safety calls that do not require presence of law enforcement; and

WHEREAS, the SCU is currently in its design phase, with the intention to roll out by Summer 2022; and

WHEREAS, the Community Crisis Response services included in this contract will provide necessary supports and enhancement to the mental health system until the SCU can be implemented; and

WHEREAS, services included in this contract aligns with the Strategic Plan goal to champion and demonstrate social and racial equity; and

WHEREAS, Options Recovery was selected through a competitive Request for Proposals process; and

WHEREAS, the City received federal American Rescue Plan Act (ARPA) and State and Local Fiscal Recovery Funds (SLFRF) which can be used to improve the behavioral health system's capacity to serve underserved populations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a contract and any amendments with Options Recovery for Community Crisis Response Bridge services in an amount not to exceed \$640,000. A signed copy of said agreement will be kept on file in the Office of the City Clerk.

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

CONTRACT: WOMEN'S DAYTIME DROP-IN CENTER FOR COMMUNITY CRISIS
RESPONSE BRIDGE SERVICES

WHEREAS, on July 14, 2020, the City Council of the City Berkeley passed a package of items providing direction for the development of a new paradigm of public safety in Berkeley that included direction to the City Manager to analyze and develop a pilot program to re-assign non-criminal police service calls to a Specialized Care Unit (SCU); and

WHEREAS, City of Berkeley community members would prefer a 24/7 mental health crisis response system that does not so heavily involve law enforcement; and

WHEREAS, on December 1, 2020 by Resolution No. 69,621-N.S. City Council approved Contract No. 32100082 with Resource Development Associates (RDA) for SCU design; and RDA conducted a comprehensive feasibility study, program design and implementation plan for an SCU to respond to public safety calls that do not require presence of law enforcement; and

WHEREAS, the SCU is currently in its design phase, with the intention to roll out by Summer 2022; and

WHEREAS, the Community Crisis Response services included in this contract will provide necessary supports and enhancement to the mental health system until the SCU can be implemented; and

WHEREAS, services included in this contract aligns with the Strategic Plan goal to champion and demonstrate social and racial equity; and

WHEREAS, Women's Daytime Drop-in Center was selected through a competitive Request for Proposals process; and

WHEREAS, the City received federal American Rescue Plan Act (ARPA) and State and Local Fiscal Recovery Funds (SLFRF) which can be used to improve the behavioral health system's capacity to serve underserved populations.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to execute a contract and any amendments with Women's Daytime Drop-in Center for Community Crisis Response Bridge services in an amount not to exceed \$120,000. A signed copy of said agreement will be kept on file in the Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services
 Subject: Contract: Needle Exchange Emergency Distribution (NEED)

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an expenditure contract and any amendments or extensions with the Needle Exchange Emergency Distribution (NEED) in an amount not to exceed \$150,000 for the period July 1, 2021 through June 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract in the amount of \$50,000 is available in FY 2022 budget in the General Fund (Account: 011-51-506-555-0000-000-451-636110-). Additionally, \$50,000 annually will also be included in the Fiscal Year 2023 and Fiscal Year 2024 budgets.

CURRENT SITUATION AND ITS EFFECTS

This contract provides financial support to NEED by reimbursing it for needle exchange services, associated supplies and equipment up to \$50,000 annually for the period July 1, 2021 through June 30, 2024. These services are related to reducing the rate of HIV/ HCV infections through a harm reduction model.

BACKGROUND

Berkeley Public Health Division has a longstanding partnership with NEED, providing funding for needle exchange services in the City of Berkeley. NEED has been providing harm reduction services in the City of Berkeley since its inception in 1990, and has operated for nearly 31 years. NEED's mission is to reduce the harmful consequences of criminalized substance use, including fatal overdose and transmission of HIV, hepatitis C, and other preventable diseases through syringe sharing and other risky practices.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The provision of this needle exchange program also works towards decreasing needle waste throughout the City through actively promoting the proper disposal of used syringes.

RATIONALE FOR RECOMMENDATION

NEED offers new syringes, safer sex supplies, sharps disposal containers, and other health supplies; safely disposes of used syringes; equips community members with the opioid overdose reversal medication naloxone; and connects people who use drugs with other service providers. NEED has expanded their services during the COVID-19 pandemic to include distribution of masks, gloves, and hand sanitizer. NEED contracts with the City to provide these essential public health services free of charge to all members of the community.

ALTERNATIVE ACTIONS CONSIDERED

The City could discontinue its long-standing support of NEED's needle exchange program. Staff recommend continuing the support for this program because it provides an essential service for under-served populations.

CONTACT PERSON

Janice Chin, Public Health Division Manager, HHCS, (510) 981-5212

Attachments:

- 1: Resolution

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

CONTRACT: NEEDLE EXCHANGE EMERGENCY DISTRIBUTION

WHEREAS, Berkeley Public Health Division has a longstanding partnership with Needle Exchange Emergency Distribution (NEED), providing funding for needle exchange services; and

WHEREAS, NEED has been providing needle exchange services in the City of Berkeley since 1990 to reduce the harmful consequences of criminalized substance use, including fatal overdose and transmission of HIV, hepatitis C, and other preventable diseases through syringe sharing and other risky practice; and

WHEREAS, BFC offers their services free of charge to their clients, provided by volunteer staff, to under-served populations; and

WHEREAS, BFC's services complement those provided by the City and supports public health goals of improving the health and well- being of the community; and

WHEREAS, funds are available in the FY22 budget in General Fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an expenditure contract and any amendments or extensions with the Needle Exchange Emergency Distribution (NEED) in an amount not to exceed \$150,000 for the period July 1, 2021 through June 30, 2024 (\$50,000 annually) for the purpose of continuing needle exchange services within the City of Berkeley; ERMA GL Account: 011-51-506-555-0000-000-451-636110. A record signature copy of said contract to be on file in the office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Scott Ferris, Director, Parks Recreation and Waterfront
 Subject: Grant Application: Cal Fire Urban and Community Forestry Grant Program
 (Trees Make Berkeley Better)

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to submit a CAL FIRE Urban and Community Forestry tree planting grant application in the amount up to \$1,104,320; to accept the grant; to execute any resultant revenue agreements and amendments; and authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.

FISCAL IMPACTS OF RECOMMENDATION

The total cost for the “Trees Make Berkeley Better” project is \$1,589,920 and the grant requested is for \$1,104,320 which will cover the costs to plant 800 trees over a three-year period. The remaining portion of the project is \$485,600 which will be provided by the City of Berkeley as an in-kind and cash match. The match is approximately 31% of the total project cost, which exceeds the 25% match required by the grant. The increased match may make the grant application more competitive.

Item	Grant Request	City of Berkeley Match	Total
Project Management	\$105,000	\$85,000	\$190,000
Site Preparation	\$270,000	\$0	\$270,000
Materials	\$110,000	\$15,000	\$125,000
Labor	\$388,000	\$0	\$388,000
Equipment Costs	\$34,000	\$120,000	\$154,000
Other	\$22,000	\$0	\$22,000
Resident Volunteer Hours	\$0	\$110,000	\$110,000
Post-Project Maintenance	\$57,000	\$57,000	\$114,000
Indirect Costs	\$118,320	\$98,600	\$216,920
TOTAL	\$1,104,320	\$485,600	\$1,589,920

Revenue from this grant will be deposited into the One-Time Grants Fund (Fund 336).

CURRENT SITUATION AND ITS EFFECTS

In May of 2021, CAL FIRE announced the current round of Urban and Community Forestry grant funding. The City of Berkeley urban forestry unit has designed a program to create tree planting sites, plant and irrigate 800 new site-specific trees in West and South Berkeley. These 800 new trees will help increase the absorption of greenhouse gases, produce oxygen, add shade, stabilize temperatures, and reduce heating/cooling costs. The proposed planting areas of West and South Berkeley contain the lowest density of forest canopy in the City. Final grant award announcements are expected by January 2022.

BACKGROUND

The CAL FIRE Urban & Community Forestry Program works to optimize the benefits of trees and related vegetation through multiple objective projects as specified in the California Urban Forestry Act of 1978 (Public Resources Code 4799.06-4799.12).

The CAL FIRE grant program funds tree planting in urban areas in order to sequester carbon and provide positive environmental effects. The program places a priority on disadvantaged communities, which are those areas that are disproportionately affected by multiple types of pollution and areas with vulnerable populations. These communities are those that are either at or below 80 percent of the statewide median income, or at or below the threshold designated as low-income by the California Department of Housing and Community Development's (HCD) 2016 State Income Limits.

Over the past two decades, the Parks, Recreation & Waterfront Department has received past grants to plant trees throughout Berkeley from several state agencies. This project would continue the City's current tree planting project funded by a California State Urban Greening grant to create new sites and plant and water 500 new trees in specific Disadvantaged Communities in West Berkeley (tree planting to be completed in 2023).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

One of the City's Climate Action Plan goals is to maintain the urban forest's present canopy coverage and to provide significant environmental benefits in the form of carbon dioxide absorption and oxygen production, as well as storm water retention and climate control. This project will use the natural systems of trees to achieve these goals. Trees also cool temperatures, beautify neighborhoods, add habitat, and provide health benefits to residents and visitors.

This project also continues the Urban Forestry Unit's goal to grow climate change-adaptable trees in well-planned and sustainable sites. Long-lived, low-maintenance trees, growing in appropriate sites to optimize their benefits will reduce the City's emissions and help it adapt to a climate uncertain future.

RATIONALE FOR RECOMMENDATION

This grant will allow the City to expand the urban forest into historically underserved neighborhoods of West Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSONS

Scott Ferris, Director, Parks Recreation & Waterfront, (510) 981-6700

Dan Gallagher, Senior Forestry Supervisor, (510) 981-6687

Attachments:

1: Resolution

RESOLUTION NO. ##-###

APPROVING THE APPLICATION FOR GRANT FUNDS FOR CAL FIRE URBAN AND COMMUNITY FORESTRY GRANT PROGRAM ENTITLED "TREES MAKE BERKELEY BETTER" FOR \$1,104,320 AS SPECIFIED IN THE CALIFORNIA URBAN FORESTRY ACT OF 1978 (PUBLIC RESOURCES CODE 4799.06-4799.12).

WHEREAS, the Governor of the State of California in cooperation with the California State Legislature has enacted the California Greenhouse Gas Reduction Fund, which provide funds to the State of California and its political subdivisions for urban and community forestry programs; and

WHEREAS, the State Department of Forestry and Fire Protection has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing application by local agencies and non-profit organizations under the program, and

WHEREAS, said procedures established by the State Department of Forestry and Fire Protection require the applicant to certify by resolution the approval of application before submission of said application to the State; and

WHEREAS, the applicant will enter an agreement with the State of California to carry out an urban and community forestry project; and

WHEREAS, funds will be deposited into the One-Time Grants Fund (Fund 336).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley:

1. Approves the filing of an application for the CAL FIRE Urban and Community Forestry Project.
2. Certifies that funds under the jurisdiction of the City of Berkeley are available to begin the project.
3. Certifies that said applicant will expend grant funds prior to March 30, 2025.
4. Appoints the City Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).
5. Certifies that applicant understands the assurances and certification in the application, and
6. Certifies that it will comply with the provisions of Section 1771.5 of the State Labor Code, and
7. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, environmental laws and, that prior to commencement of construction, all applicable permits will have been obtained, and
8. Certifies that applicant will work towards the Governor's State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1, and

BE IT FURTHER RESOLVED, that the City of Berkeley authorizes the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.

BE IT FURTHER RESOLVED, that a record signature copy of said agreements and any amendments to be on file in the City of Berkeley's Office of the City Clerk.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Planning and Development Department
 Subject: Berkeley Existing Buildings Electrification Strategy

RECOMMENDATION

Adopt a Resolution approving the Berkeley Existing Buildings Electrification Strategy, as described in Exhibit A.

SUMMARY

Berkeley's Existing Buildings Electrification Strategy ("the Strategy") provides a framework for how to transition to all-electric buildings in a way that includes and benefits all residents, especially members of historically marginalized communities. The report focuses on low-rise residential buildings, the most common building type in Berkeley¹. The Strategy's phased approach includes specific actions, policies, funding mechanisms, and a tentative timeline to transition Berkeley's existing building stock off natural gas as soon as possible and no later than 2045.

The actions in the Strategy are proposed with an equity lens and fall under four policy areas: time of replacement and renovation, time of sale, building performance standards, and neighborhood electrification and gas decommissioning. All four policy areas must be pursued in order to achieve full electrification of Berkeley's existing buildings. In order for these to be successful, the policy areas must first meet the minimum equity requirements set forth in the equity guardrails, and the three supporting pillars of education & outreach, accessible funding & financing, and regulatory changes must be strengthened.

By adopting the Strategy, staff will be able to use this report as a guide to prioritize implementation of the actions identified in the phased approach described, to equitably transition Berkeley's buildings to be all-electric.

FISCAL IMPACTS OF RECOMMENDATION

Adoption of the Berkeley Existing Buildings Electrification Strategy has no direct fiscal impacts. However, many Strategy actions will require funding for implementation.

¹ In Berkeley, low-rise residential buildings account for 91% of all buildings and 65% of total square footage

Priority actions requiring additional funding for implementation will be proposed in future City Budgets.

CURRENT SITUATION AND ITS EFFECTS

In June 2018, the City Council referred a [proposed resolution](#)² to the Energy Commission and Transportation Commission to further implement the Climate Action Plan and establish a goal of becoming a Fossil Fuel-Free City. *Electrification*, defined as the process of switching the fuel source of our transportation vehicles and building appliances and other equipment from fossil fuels to electricity, is a key strategy to achieving this goal. *Beneficial electrification* takes this idea further and ensures that electrification results in reduced greenhouse gas (GHG) emissions, more grid resilience, and lower energy costs for residents. In this report and in Berkeley's Existing Buildings Electrification Strategy (Exhibit A), electrification refers to beneficial electrification.

To address electrification of new buildings, on July 23, 2019 Berkeley became the first city in the nation to adopt a Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).³ In December 2019, the City Council adopted an electric-favored reach code.⁴ As of September 2021, 50 other California cities have adopted gas-free buildings commitments or electrification building codes.⁵ However, electrification of the existing building stock will be more challenging.

On April 24, 2018, Council requested the development of “policies to incentivize energy efficiency and electrification, in support of Climate Action Plan (CAP) goals”. The total budget for this project (\$80,000) was augmented by in-kind technical services from RMI⁶ for cost modeling and analysis, and from the Building Electrification Institute (BEI)⁷ for developing the building stock inventory and consulting expertise on workforce development and equity.

Berkeley's Existing Buildings Electrification Strategy provides a framework for how to transition to all-electric buildings in a way that includes and benefits all residents, especially members of historically marginalized communities. The report focuses on low-rise residential buildings, the most common building type in Berkeley⁸. The Strategy's phased approach includes specific actions, policies, funding mechanisms,

² https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/Documents/06-12_Annotated_Agenda.aspx; see Item 30

³ https://www.cityofberkeley.info/Clerk/City_Council/2019/07_Jul/Documents/2019-07-23_Item_C_Prohibiting_Natural_Gas_Infrastructure_pdf.aspx

⁴ https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-3_Item_20_Adoption_of_Berkeley_Building_Codes.aspx

⁵ <https://www.sierraclub.org/articles/2021/07/californias-cities-lead-way-gas-free-future>

⁶ <https://rmi.org/>

⁷ <https://www.beicities.org/>

⁸ In Berkeley, low-rise residential buildings account for 91% of all buildings and 65% of total square footage

and a tentative timeline to transition Berkeley's existing building stock off natural gas as soon as possible, and no later than 2045.

The development of the Strategy included:

- **Equity and Community Engagement:** Two core priorities of this Strategy development are 1) centering equity, and 2) building community trust and relationships. To achieve these goals, staff from the Ecology Center, a trusted partner within the community, conducted targeted outreach efforts on behalf of the City, meeting with local community leaders and organizations that represent marginalized communities to gather information on how to maximize engagement and get initial feedback on building electrification. While the project team prioritized equity-centered targeted engagement, traditional outreach including public meetings and an on-line survey was also conducted.
- **Building Inventory:** The Strategy includes an in-depth analysis of Berkeley's building stock, conducted with support from BEI. The building stock analysis reveals that many Berkeley buildings have several challenging conditions for electrification. There will not be a one-size solution for all buildings, and a variety of policies and tactics are needed. BEI also helped develop a series of socioeconomic maps of Berkeley, overlaying the building stock with demographic data including race, income, emergency visits due to asthma, gentrification and displacement.
- **Retrofit Cost Analysis:** The cost analysis uses a building-by-building energy model to quantitatively estimate the local costs of electrification based on current market conditions. The cost analysis shows electrification is currently expensive, impacted by factors such as Berkeley's mild climate, high labor costs, current electricity rates, and an older building stock requiring upgrades. However, the cost analysis identifies some opportunity areas that can be cost effective now, including when installing solar, batteries, or electric vehicle chargers; when replacing or installing air conditioning; when purchasing or refinancing homes; and at point of replacement for existing equipment. It is crucial to put the modeled costs in the context of the substantial costs from inaction or delayed action, especially when considering the avoided societal impacts of pollution and climate effects.

Equity Guardrails

In response to the issues raised by communities and advocates, the team developed the concept of equity guardrails, which serve as the foundation of the Strategy and act as minimum standards that must be met for any proposed electrification policy to be considered. The equity guardrails distill the diverse concerns about impacts and equity into a tool that can be used to inform policies and maximize community benefits. The development and implementation of the equity guardrails led to substantial changes to

the Strategy, including the creation of the phased approach, which attempts to meet the urgency of the climate crisis while addressing equity and assuring that solutions include all residents and buildings. The equity guardrails include:



Access to Health and Safety Benefits

Ensure marginalized communities and others most impacted by climate change equitable access to health, safety and comfort benefits from electrification like cleaner air and cooling for hot days for both homeowners and renters. Due to the upfront costs of electrification and lack of incentives for owners of multifamily buildings, many households will need financial support to have access to high quality upgrades and the benefits of electrification, including long-term cost savings.



Access to Economic Benefits

Ensure all community members, especially marginalized communities have equitable access to affordable funding and financing mechanisms, and to highroad job opportunities.



Maximize Ease of Installation

Ensure that incentives and programs for the community provide meaningful support to renters, owners, and marginalized community members to provide a simple process that minimizes the burdens and impacts associated with the installation of high quality electric equipment installed by a fairly paid and well trained workforce.



Promote Housing Affordability & Anti-Displacement

Ensure upgrades don't displace renters or over-burden homeowners. Programs should support housing production, housing preservation, and tenant protections.

Framework for Equitable Electrification

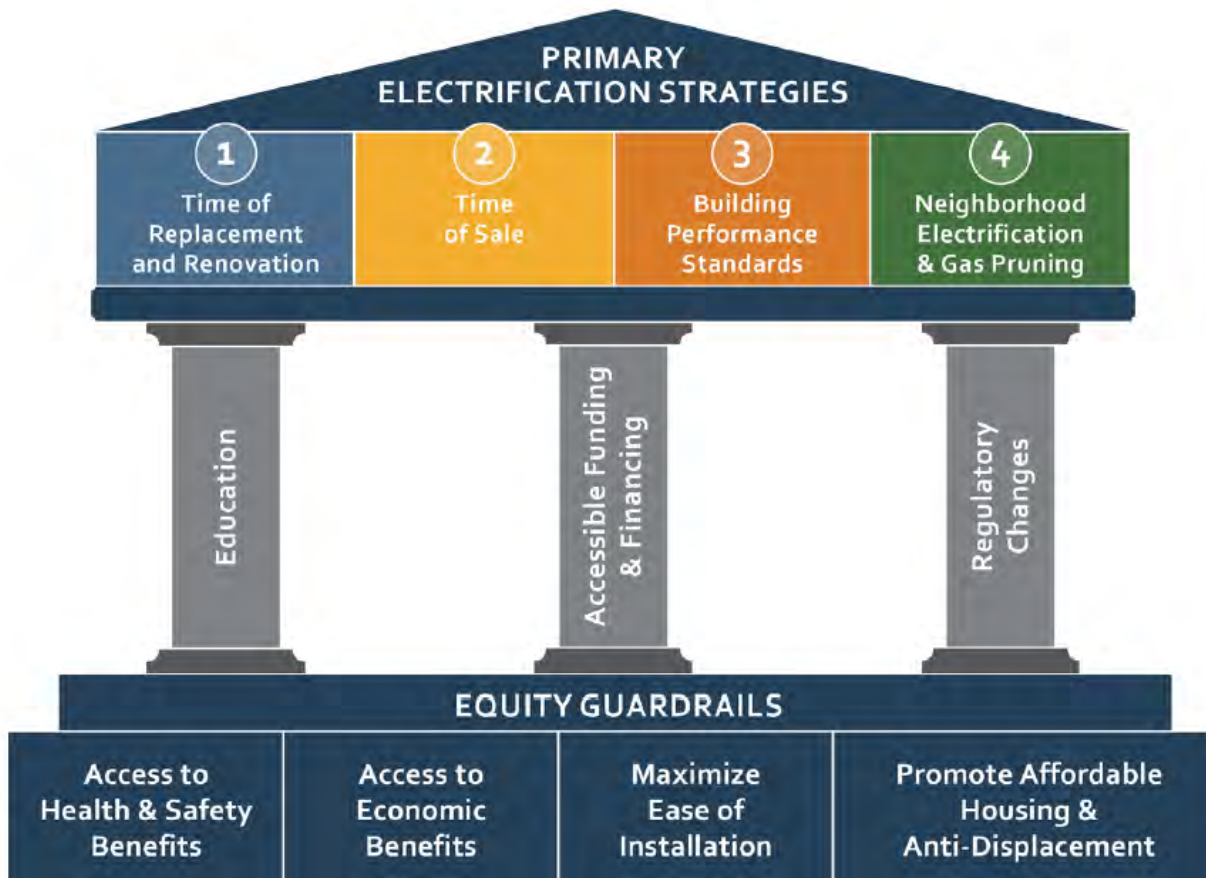
Completely electrifying Berkeley's building stock as quickly as possible, and no later than 2045, will require a combination of new and modified policies by local, state, and federal governments. The Strategy includes four policy areas, with an understanding that no single policy will be sufficient to electrify Berkeley's existing buildings. The policies are:

- Time of Replacement and Renovation:** Replace gas equipment at the end of its useful life, either when the gas equipment fails or when a major building renovation takes place. This is the most cost-effective time to install electric heating/cooling systems and appliances, because the marginal cost (difference between installing electric equipment and replacing with new gas equipment) at this time is smaller than the full cost of installing electric equipment.

- **Time of Sale:** Implement requirements triggered when a building changes ownership. This policy generally applies to single-family homes since they are sold more frequently than other types of buildings. Time of sale requirements are currently required through Berkeley's Building Emissions Saving Ordinance (BESO) and could be expanded to include other required measures such as an electrification-ready panel upgrade, appliance replacement, or whole building electrification and incentives.
- **Building Performance Standards:** Establish building-level requirements such as minimum GHG emissions standards or elimination of gas systems or equipment by a specified date. These standards are generally applied to larger buildings, including multi-family residential and commercial buildings, in order to have the highest impact on the largest energy users. The size and type of building covered could expand over time.
- **Neighborhood Electrification & Gas Pruning:** Create a plan to strategically reduce and eventually eliminate gas infrastructure in the city. Neighborhood-level electrification can be a more equitable way to transition communities than a building-by-building approach, which would leave behind those who cannot afford to electrify with higher gas rates. Larger scale projects also create more opportunities for high road jobs and could incorporate resilience measures such as on-site solar and islandable backup battery storage that could act as a neighborhood micro-grid to improve energy assurance.

These policies require successful support from the three essential pillars of education, accessible funding and financing, and regulatory changes that must be enacted for implementation. The foundation of this work must be grounded in equity, operationalized through equity guardrails. Figure 1 shows a visual representation of this framework structure.

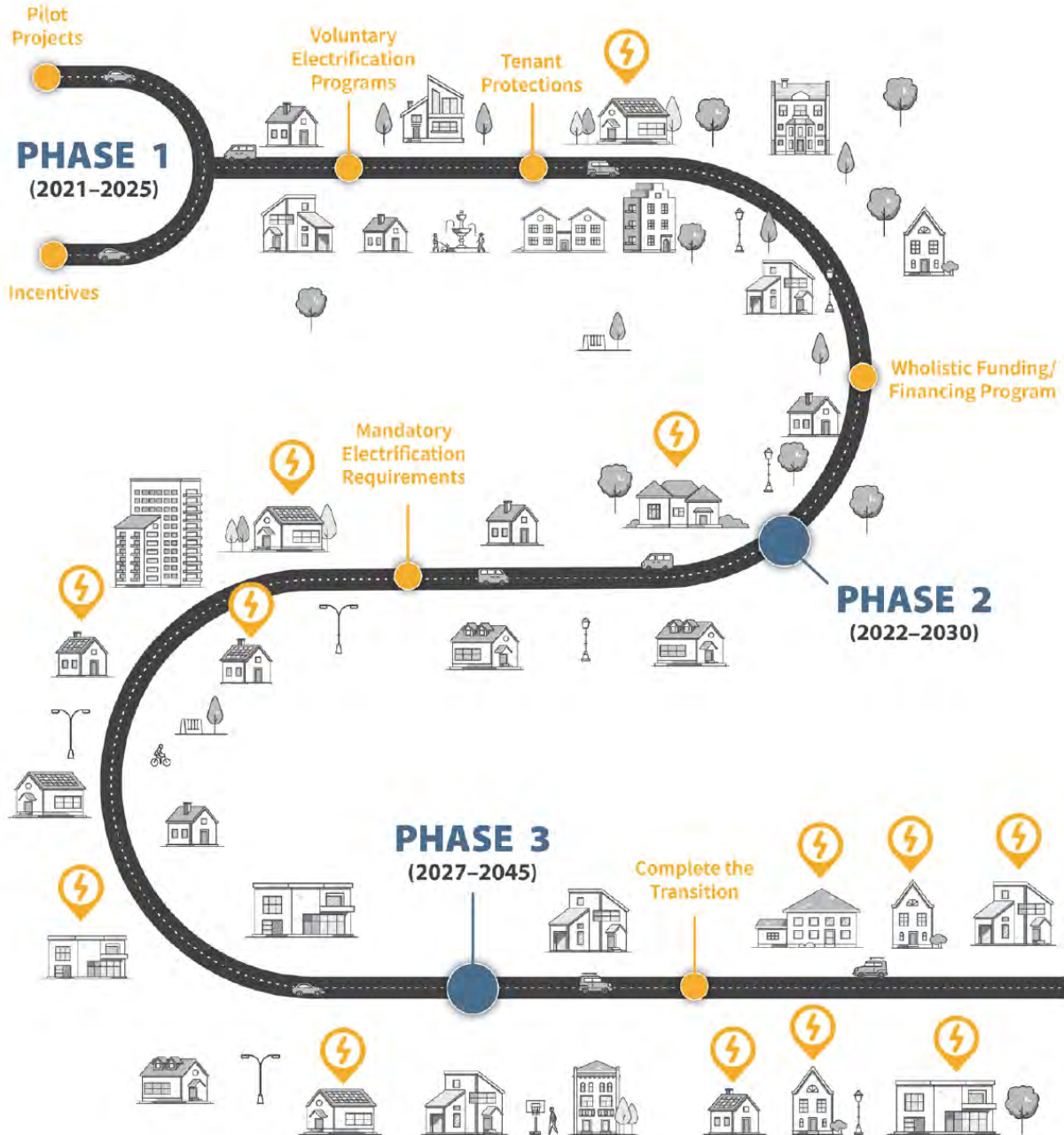
Figure 1 - Framework for Equitable Electrification



Timeline for Implementation

The Strategy includes detailed actions which fall under four primary policies, with the equity guardrails influencing the timing of their implementation. The actions are broken into three phases based on available data, technology, and anticipated equity impacts. Phase 1 focuses on expanding and verifying the identified cost effectiveness and equity impacts implementing foundational programs, and building community capacity.

Figure 2 - Timeline for Existing Building Electrification



Phase 2 increases the stringency of the policies and begins to introduce mandatory measures, once sufficient supports are in place. Finally, Phase 3 policies finalize the move toward all-electric buildings through mandatory measures. Berkeley will need to act quickly to move through the phases and work collectively to support systemic changes, in order to achieve complete building electrification by 2045, or sooner if possible. A summary of the phased actions for each policy area can be found below,

and the comprehensive list of actions can be found in Chapter 4 of the Strategy (Exhibit A):

Summary of Phased Time of Replacement & Renovation (TR) Actions

- TR Phase 1 – Demonstrate leadership on electrifying municipal buildings, educate and engage residents, collaborate to develop low-income pilot programs for electric replacements, incentives and financing, streamline building and zoning permitting for installing electric heat pumps, and protect tenants.
- TR Phase 2 – Develop time of replacement and renovation requirement policies.
- TR Phase 3 – Prohibit gas equipment.

Summary of Phased Time of Sale (TS) Actions

- TS Phase 1 – Identify incentives and funding and financing programs, and develop time of sale energy upgrade options.
- TS Phase 2 – Adopt and implement time of sale energy upgrade requirements and implement permit compliance review program to improve compliance with time of replacement policies.

Summary of Phased Building Performance Standards (BP) Actions

- BP Phase 1 – Develop requirements for building performance standards that lead to the elimination of gas in Berkeley’s large buildings.
- BP Phase 2 – Increase and expand requirements to include more buildings; identify tools, funding and financing to assist building owners to reduce emissions and assure tenant protections.
- BP Phase 3 – Consider emissions fees to pay for electrification for low-income buildings, with tenant protections.

Summary of Phased Neighborhood Electrification and Gas Decommissioning (NE) Actions

- NE Phase 1 – Develop and implement a neighborhood decommissioning pilot program that demonstrates overcoming regulatory and financial barriers, accesses multiple funding sources, provides economic benefits and high road jobs, and protects tenants from displacement.
- NE Phase 2 – Develop gas pruning plan and begin pruning in lieu of repair and replacement.

Cross Cutting (CC) Actions - In addition to the four primary policies for advancing existing building electrification, there are also cross-cutting actions that support the overall success of electrification both in the City and beyond. Many of these actions

cannot be taken by the City alone and will need wider collaboration from regional partners and the State. Summary of phased CC actions:

- CC Phase 1 – Partner with community organizations to build trust and provide education on building electrification; collaborate with state and regional partners to advocate for fair utility rates and accessible funding and financing options; advocate for technology improvements that lead to emissions reductions; develop and measure equity outcomes; expand analysis to commercial and industrial buildings; and, develop high road jobs policies and labor standards to support family-sustaining union construction careers for underrepresented communities.
- CC Phase 2 – Develop programs, such as bans or fees on new gas equipment, dedicated investments, funding and financing for marginalized communities, and bulk purchase programs to reduce costs; collaborate with the City’s Rental Housing Safety Program; and, adopt a no gas reconnection policy for buildings that have gone all-electric.
- CC Phase 3 – Develop time of lease requirement; collaborate with regional and state stakeholders to modernize utility’s Obligation to Serve requirement to exclude gas; and, secure funding and financing needed for low income property owners and renters tied to tenant protections to address split incentive barriers in multifamily buildings.

Energy Commission

The project team presented this project to the Energy Commission numerous times, most recently on October 27, 2021, when the team presented the final strategy. The Energy Commission voted unanimously to recommend the Strategy for Council adoption. [Motion/Second Guliassi, Moore; Ayes: Paulos, Wolf, Currie, Moore, Guliassi, Gil, Zuckerman. Noes: None. Abstain: None. Absent: None.]

BACKGROUND

Berkeley’s path to a clean energy future, free of fossil fuels, starts with reducing the energy used in our buildings and vehicles through efficiency, then by using energy from zero emissions and renewable sources, and finally, electrification of our buildings and transportation by transitioning away from fossil fuels to clean electricity. Natural gas use in buildings is the second largest source of greenhouse gas (GHG) emissions in Berkeley, at approximately 32% of total community emissions in 2019, and 89% of the GHG emissions from all buildings.⁹

In recognition of the climate crisis, the City has added additional climate goals to bolster the Climate Action Plan goal of reducing GHG emissions below 2000 levels by the year

⁹ See Berkeley 2019 Greenhouse Gas Inventory Report, scheduled for City Council November 30, 2021

2050. These local goals include:

- **Fossil Fuel-Free Berkeley:** In June 2018, Berkeley City Council referred a [proposed resolution](#)¹⁰ to the Energy Commission and Transportation Commission to further implement the Climate Action Plan and establish a goal of becoming a Fossil Fuel-Free City.
- **Climate Emergency:** On June 12, 2018, the Berkeley City Council adopted a [Climate Emergency Declaration](#)¹¹.
- **Race to Zero and Net-Zero Carbon Emissions:** On May 11, 2021, the Berkeley City Council adopted a resolution to commit to the C40 Race to Zero Campaign, including a commitment to reaching net-zero emissions in 2045 or sooner.

The City has also taken effective policy actions to meet these goals, including:

- Building Emissions Saving Ordinance (BESO)¹², which requires Berkeley building owners to complete energy efficiency opportunity assessments and report the building's energy efficiency information at time of sale.
- In 2016, the City joined East Bay Community Energy (EBCE), Alameda County's community-based electricity provider committed to providing increased access to affordable and renewable electricity for all customers, resulting in lower emissions from electricity in Berkeley. EBCE has committed to providing emissions-free electricity by 2030.¹³
- In 2019, adopting the Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80).
- In 2019, adopting an electrification "reach code" for new construction¹⁴. A "reach code" refers to a local amendment to the Berkeley Energy Code, which exceeds the energy efficiency standards of the California Energy Code.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

In order to meet the City's ambitious climate goals of becoming a fossil fuel-free city as soon as possible, natural gas must be eliminated from all buildings. The Berkeley Existing Buildings Electrification Strategy provides a pathway towards achieving this ambitious goal, in an equitable way.

¹⁰ https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/Documents/06-12_Annotated_Agenda.aspx

¹¹ https://www.cityofberkeley.info/uploadedFiles/Council_2/Level_3_-_General/Climate%20Emergency%20Declaration%20-%20Adopted%2012%20June%202018%20-%20BCC.pdf

¹² <https://www.cityofberkeley.info/BESO/>

¹³ <https://ebce.org/news-and-events/east-bay-community-energy-commits-to-100-clean-energy-by-2030/>

¹⁴ https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-3_Item_20_Adoption_of_Berkeley_Building_Codes.aspx

RATIONALE FOR RECOMMENDATION

The Berkeley Existing Buildings Electrification Strategy provides a framework for the City's activities to equitably electrify its existing building stock as soon as possible. The Strategy was developed with input from a wide range of stakeholders, including a focus on community engagement with marginalized communities. The phased approach provides flexibility, and attempts to meet the urgency of the climate crisis while addressing equity and assuring that solutions include all residents and buildings.

ALTERNATIVE ACTIONS CONSIDERED

Council could opt not to approve the Berkeley Existing Buildings Electrification Strategy as drafted, in which case staff would continue to pursue building electrification initiatives and infrastructure as staffing permits and opportunities arise. The Strategy provides an integrated, equity-focused framework from which to identify and pursue actions for electrifying existing buildings in Berkeley.

CONTACT PERSON

Billi Romain, Manager of the Office of Energy and Sustainable Development, Planning and Development Department, (510) 981-7432

Katie Van Dyke, Chief Resilience Officer and Climate Action Program Manager, Planning and Development Department, (510) 981-7403

Attachments:

1: Resolution

Exhibit A: Berkeley Existing Buildings Electrification Strategy

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

APPROVAL OF THE BERKELEY EXISTING BUILDINGS ELECTRIFICATION STRATEGY

WHEREAS, natural gas use in buildings is the second largest source of greenhouse gas (GHG) emissions in Berkeley, at approximately 32% of total community emissions in 2019; and

WHEREAS, on June 2, 2009, the Berkeley City Council adopted the Berkeley Climate Action Plan to reduce greenhouse gas emissions by 80% of Berkeley's 2000 emissions level by 2050; and

WHEREAS, Berkeley's Strategic Plan sets the goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment; and

WHEREAS, on April 1, 2016, the City of Berkeley released its Resilience Strategy; and

WHEREAS, on June 12, 2018, the Berkeley City Council declared a Climate Emergency and proposed a goal of becoming a Fossil Fuel-Free City; and

WHEREAS, on July 23, 2019, Berkeley City Council adopted a Prohibition of Natural Gas Infrastructure in New Buildings (BMC Chapter 12.80); and

WHEREAS, on July 21, 2020, Berkeley City Council adopted the first Berkeley Electric Mobility Roadmap; and

WHEREAS, on May 11, 2021, Berkeley City Council adopted a resolution committing the City of Berkeley to the C40 Race to Zero Campaign; and

WHEREAS, development of the Berkeley Existing Buildings Electrification Strategy has been a two-year process of engaging residents and stakeholders, researching the existing building stock, assessing cost implications, assessing barriers, and collaboratively crafting strategies and actions; and

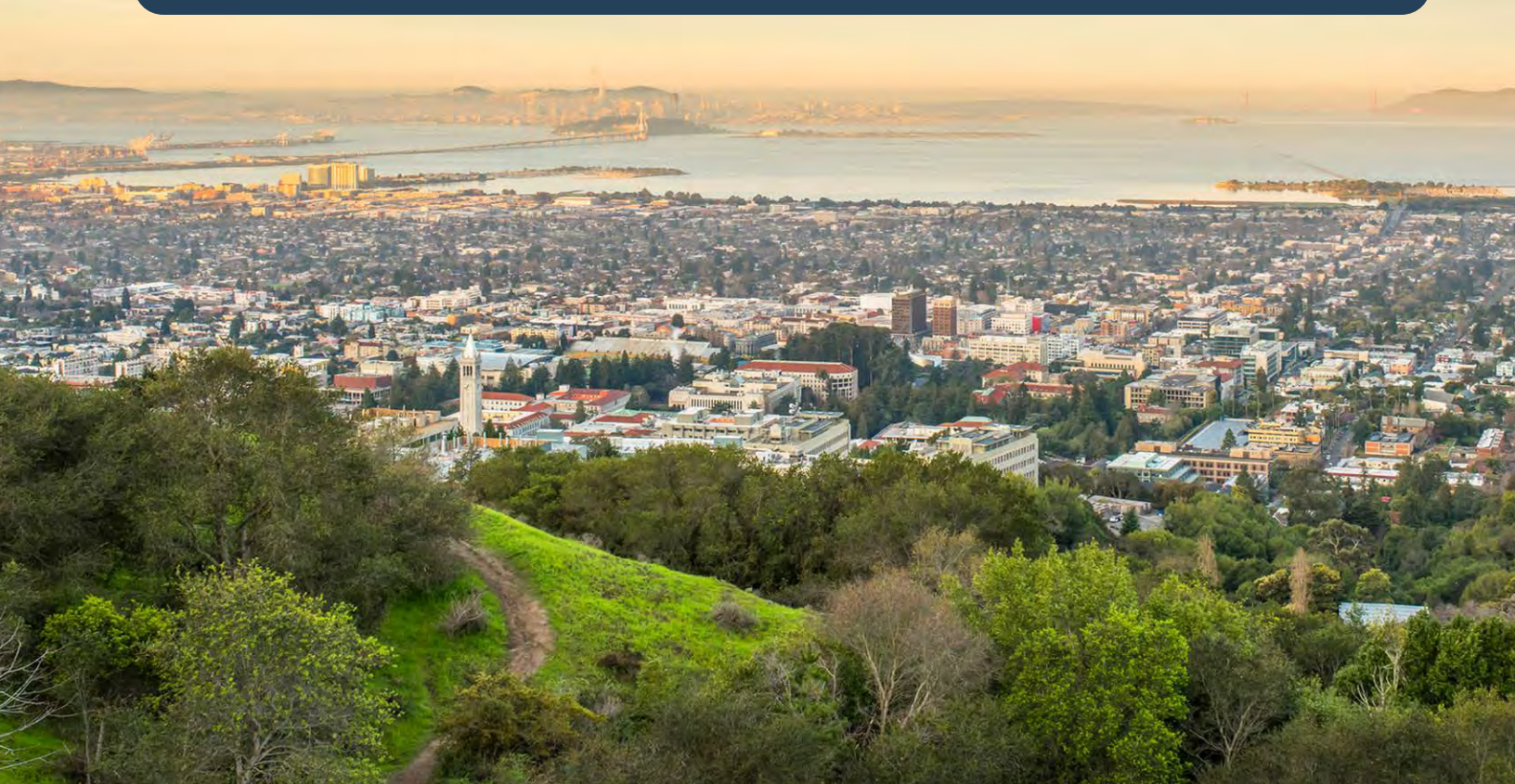
WHEREAS, in keeping with the Strategic Plan goal of championing and demonstrating social and racial equity, the Berkeley Existing Buildings Electrification Strategy is a plan for supporting the transition to all-electric existing buildings that focuses on equitable and affordable access to the benefits of electrification.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby approves the Berkeley Existing Buildings Electrification Strategy, as included as Exhibit A to this resolution.

Exhibit A: Berkeley Existing Buildings Electrification Strategy



Existing Buildings Electrification Strategy

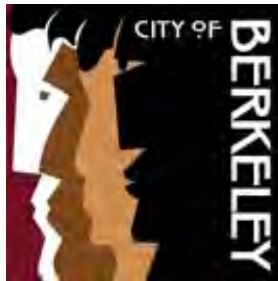


PREPARED BY:

The City of Berkeley

2180 Milvia Street
Berkeley, CA 94704

www.cityofberkeley.info/



IN COLLABORATION WITH:



SPECIAL THANKS TO:



TABLE OF CONTENTS

Executive Summary	E.1
E-1 Introduction	E.2
E-2 Research and Approach	E.4
E-3 Framework for Equitable Electrification.....	E.6
E-4 A Call to Action	E.13
1. Introduction	1
1.1 Reasons for Electrification	5
1.2 Purpose and Goals of the Strategy	19
1.3 Berkeley's Electrification Goal	20
1.4 Focus Areas.....	22
2. Achieving Equitable Building Electrification	23
2.1 Defining Equity	25
2.2 Defining Marginalized Communities.....	29
2.3 Community Engagement Approach.....	38
2.4 Identified Equity Considerations	40
2.5 Equity Guardrails.....	44
2.6 Next Steps and Recommendations for Engagement	47
3. Cost and Technical Analysis	49
3.1 Modeling Electrification Costs for Berkeley's Existing Homes	51
3.2 Opportunities to Target Today	63
3.3 Other Insights for Policy Development.....	71

4. Existing Buildings Electrification Strategy	83
4.1 Existing Buildings Electrification Strategy	84
4.2 Cross-Cutting Actions	107
4.3 Time of Replacement and Renovation.....	120
4.4 Time of Sale.....	132
4.5 Building Performance Standards	138
4.6 Neighborhood Electrification and Gas Pruning	144
5. A Call to Action	153
Appendices	161
Appendix A: Technical Appendix	163
Appendix B: Comments on Draft Strategy.....	179
Appendix C: City of Berkeley Tenant Protection and Anti-Displacement Initiatives	191



EXECUTIVE SUMMARY





E-1 INTRODUCTION

Berkeley's Existing Buildings Electrification Strategy (Strategy)¹ lays out research and recommendations on how to address the climate crisis through beneficial electrification. The report focuses on low-rise residential buildings, the most common building type in Berkeley.² The Strategy provides a framework for how to transition to all-electric buildings in a way that includes and benefits all residents, especially members of historically marginalized communities. The Strategy's phased approach includes specific actions, policies, funding mechanisms, and a tentative timeline to transition Berkeley's existing building stock off natural gas (gas) as soon as possible and no later than 2045. See Figure E-1.

Beneficial Electrification

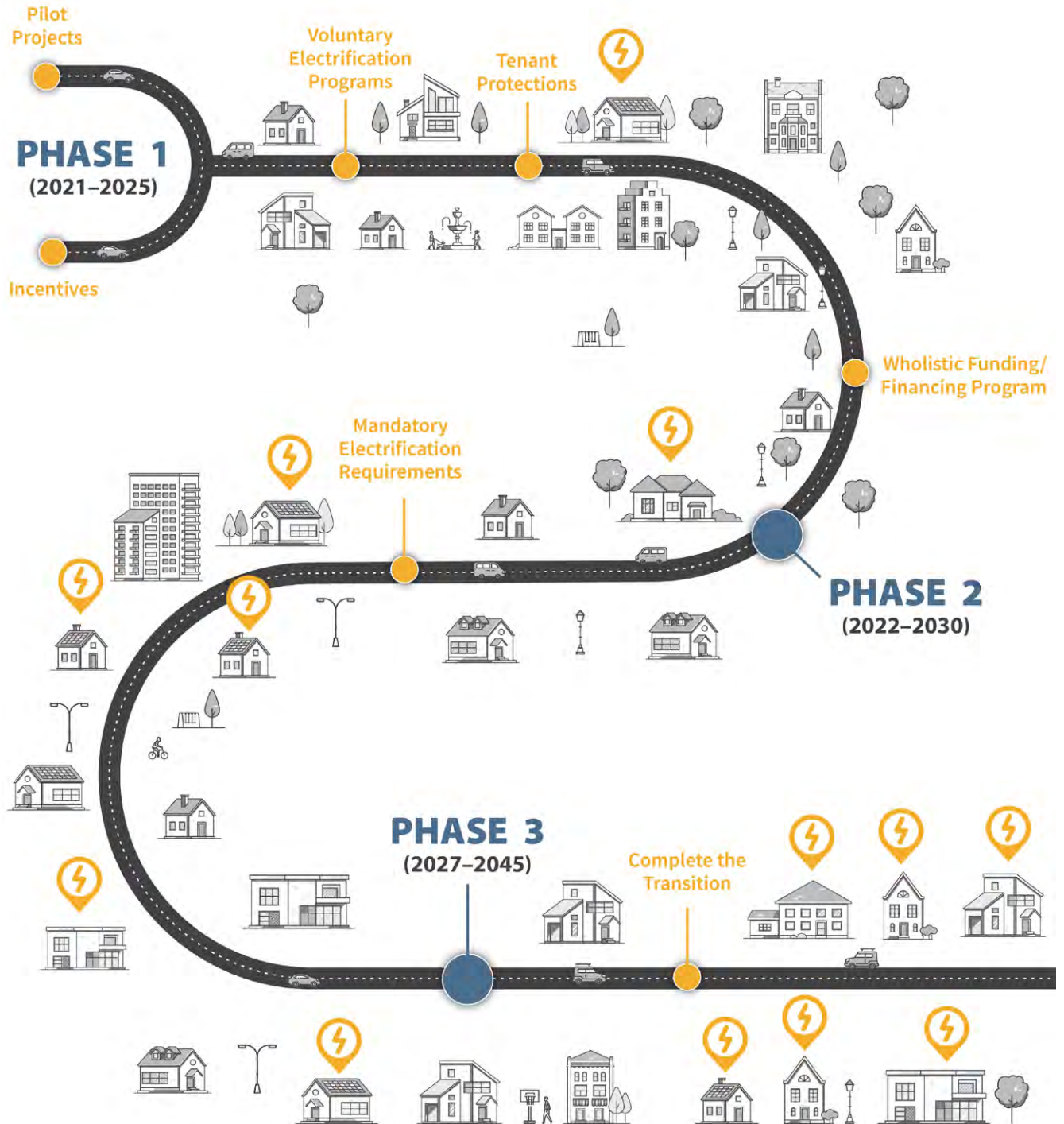
Beneficial electrification means replacing fossil fuel use with electricity in a way that results in reduced greenhouse gas emissions, more grid resiliency, and lower energy costs for residents. In Berkeley's Strategy, electrification refers to beneficial electrification.



¹ Berkeley's Existing Building Electrification Strategy can be found at: www.cityofberkeley.info/electrification

² In Berkeley, low-rise residential buildings account for 91% of all buildings and 65% of total square footage

Figure E-1. Berkeley's Existing Buildings Electrification Timeline





E-2 RESEARCH AND APPROACH

A. EQUITY AND COMMUNITY ENGAGEMENT

Applying an equity approach to the electrification of existing buildings means that all people must have affordable access to the health, comfort, economic and resilience benefits of building electrification – but that low-income and other marginalized communities³ and communities most impacted by climate change should be prioritized. This requires intentionally lifting voices and needs of those who are usually not represented in policy development, and redesigning policies that don't specifically benefit marginalized communities, even if it upends a pre-conceived goal.

Recognizing the impacts that race and deep-rooted racist policies have on socioeconomic and health impacts, the community engagement approach focuses on people of color as a priority marginalized group. The City will continue to work with all communities to further establish the targeted approaches required for successful implementation of the Strategy.

Two core priorities of this Strategy development are 1) centering equity, and 2) building community trust and relationships. To achieve these goals, staff from the Ecology Center, a

trusted partner within the community, conducted targeted outreach efforts on behalf of the City, meeting with local community leaders and organizations that represent marginalized communities to gather information on how to engage the larger community and get initial feedback on building electrification. While the project team prioritized equity-centered targeted engagement, traditional outreach including public meetings and an on-line survey was also conducted.

Definition of Equity

For the purpose of this Strategy, consistent with the Greenlining Institute, equity is defined as:

“Increasing access to power, redistributing and providing additional resources, and eliminating barriers to opportunity, in order to empower low income communities to thrive and reach full potential” and includes “transforming the behaviors, institutions, and systems that disproportionately harm people of color.”⁴

³ *Marginalized communities in Berkeley include Black, Indigenous, Communities of Color (BIPOC), low-income communities, people living with disabilities, non-English speaking communities, immigrants, refugees, seniors, young children, the LGBTQ+ community, and other people groups who have been historically marginalized, under resourced and/or have experienced procedural, distributional, and structural inequalities.*

⁴ <https://greenlining.org/publications/reports/2019/making-equity-real-in-mobility-pilots-toolkit/>

B. BUILDING STOCK ANALYSIS OVERLAID WITH SOCIO-ECONOMIC INDICATORS

The Strategy includes an in-depth analysis of Berkeley's building stock, conducted with support from the Building Electrification Institute (BEI). The building stock analysis reveals that many Berkeley buildings have several challenging conditions for electrification, including poor envelope insulation/sealing, leaky HVAC ducts, knob-and-tube wiring, lower capacity electric panels, and asbestos. Given these challenges, there

will not be a one-size solution for all buildings, and a variety of policies and tactics are needed. BEI also helped develop a series of socioeconomic maps of Berkeley, overlaying the building stock with demographic data including race, income, emergency visits due to asthma, gentrification and displacement. These maps help inform potential implications of electrification policies and potential areas to target programs.

C. RETROFIT COST ANALYSIS

The cost analysis uses a building-by-building energy model to quantitatively estimate the local costs of electrification based on current market conditions. It identifies the opportunities for cost-effective electrification, and proposes policy ideas to make building electrification cost-competitive for all Berkeley residents. This analysis identifies the most cost-effective retrofit packages and investigates potential funding mechanisms for full electrification. The cost analysis shows electrification is currently expensive, with cost-effectiveness impacted by factors such as Berkeley's mild climate, high labor costs, current electricity rates, and an older building stock requiring upgrades. Based on modeling, larger single-family homes with higher energy uses are likely to see greater financial benefits.

Despite the relative high costs for electrification under current market conditions, the cost analysis identifies some opportunity areas, including:

- When installing solar, batteries, or electric vehicle chargers
- When replacing or installing air conditioning
- When purchasing or refinancing homes
- At point of replacement for existing equipment

It is crucial to put the modeled costs in the context of the substantial costs from inaction or delayed action. Appliance electrification is the lowest-cost and least-risky pathway to decarbonize the building sector, especially when considering the avoided societal impacts of pollution and climate effects.

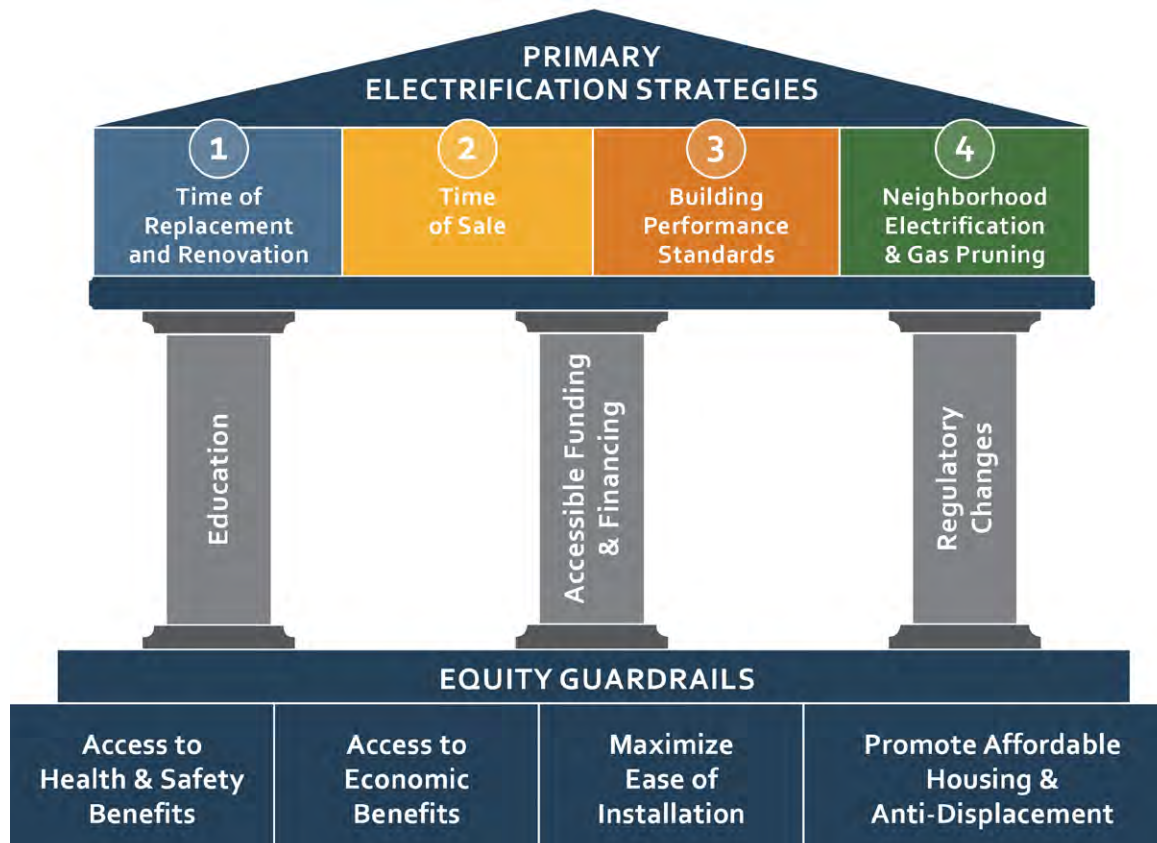


E-3 FRAMEWORK FOR EQUITABLE ELECTRIFICATION

Completely electrifying Berkeley’s building stock as quickly as possible, and no later than 2045, will require a combination of new and modified policies by local, state, and federal governments. The Strategy includes four policy areas, with an understanding that no single policy will be sufficient to electrify Berkeley’s existing buildings. The policies are: Time of Replacement and Renovation, Time of Sale, Building Performance Standards, and

Neighborhood Electrification & Gas Pruning. These policies require successful support from the three essential pillars of education, accessible funding and financing, and regulatory changes that must be enacted for implementation. The foundation of this work must be grounded in equity, operationalized through equity guardrails (described in the next section). Figure E-2 shows a visual representation of this framework structure.

Figure E-2. Existing Buildings Electrification Structural Approach



A. EQUITY GUARDRAILS

In response to the issues raised by communities and advocates, the team developed the concept of equity guardrails, which serve as the foundation of the Strategy and act as minimum standards that must be met for any

proposed electrification policy to be considered. The equity guardrails distill the diverse concerns about impacts and equity into a tool that can be used to inform policies and maximize community benefits.

Access to Health and Safety Benefits



Ensure marginalized communities and others most impacted by climate change equitable access to health, safety and comfort benefits from electrification like cleaner air and cooling for hot days (Chapter 1) for both homeowners and renters. Due to the upfront costs of electrification and lack of incentives for owners of multifamily buildings (see Chapter 2), many households will need financial support to have access to high quality upgrades and the benefits of electrification, including long-term cost savings.

Access to Economic Benefits



Ensure all community members, especially marginalized communities have equitable access to affordable funding and financing mechanisms, and to high-road job opportunities.

Maximize Ease of Installation



Ensure that incentives and programs for the community provide meaningful support to renters, owners, and marginalized community members to provide a simple process that minimizes the burdens and impacts associated with the installation of high quality electric equipment installed by a fairly paid and well trained workforce.⁵

Promote Housing Affordability & Anti-Displacement



Ensure upgrades don't displace renters or over-burden homeowners. Programs should support housing production, housing preservation, and tenant protections.

⁵ For example, many rebate programs require residents to pay up-front costs and get repaid later, but this model does not work for many including low-income communities.



The development and implementation of the equity guardrails led to substantial changes to the Strategy, including the creation of the phased approach, which attempts to meet the urgency of the climate crisis while addressing equity and assuring that solutions include all residents and buildings. After hearing community feedback with concerns about increased utility bills and equipment costs, and the need for additional education, trust-building,

funding and financing options, the Strategy's implementation timeline was adjusted to be phased and flexible to ensure that the electrification transition could be accessible and equitable. Additional themes outlined by the community, such as the need to link electrification to other health and safety home upgrades were integrated into the recommended actions.

B. PRIMARY ELECTRIFICATION STRATEGIES

The Strategy includes detailed actions which fall under four primary policies, with the equity guardrails influencing the timing of their implementation. The actions are broken into three phases based on available data, technology, and anticipated equity impacts. Phase 1 focuses on expanding and verifying the identified cost effectiveness and equity impacts implementing foundational programs, and building community capacity. Phase 2 increases the stringency of the policies and

begins to introduce mandatory measures, once sufficient supports are in place. Finally, Phase 3 policies finalize the move toward all-electric buildings through mandatory measures. Berkeley will need to act quickly to move through the phases and work collectively to support systemic changes (see Section C), in order to achieve complete building electrification by 2045, or sooner if possible. Below is a summary of each policy area and a summary of actions.



1. Time of Replacement and Renovation (TR)

Replace gas equipment at the end of its useful life, either when the gas equipment fails or when a major building renovation is taking place. This is the most cost-effective time to install electric heating/cooling systems and appliances, because the marginal cost (difference between installing electric equipment and replacing with new gas equipment) at this time is smaller than the full cost of installing electric equipment.

Summary of Phased TR Actions

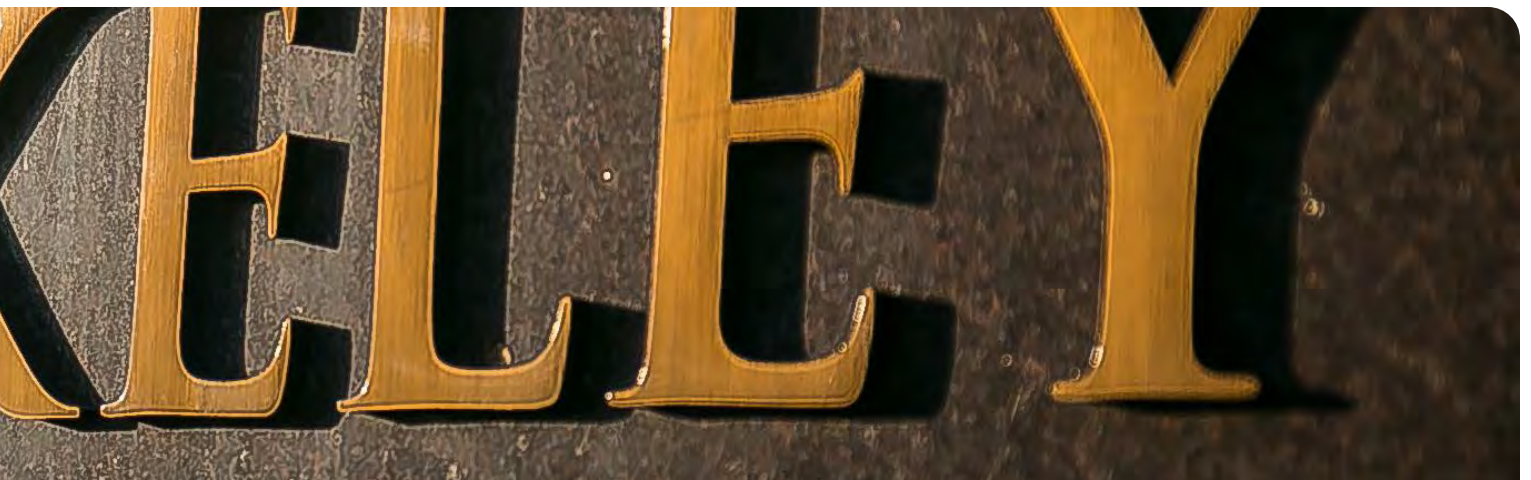
- **TR Phase 1** – Demonstrate leadership on electrifying municipal buildings, educate and engage residents, collaborate to develop low-income pilot programs for electric replacements, incentives and financing, streamline building and zoning permitting for installing electric heat pumps, and protect tenants.
- **TR Phase 2** – Develop time of replacement and renovation requirement policies.
- **TR Phase 3** – Prohibit gas equipment.

2. Time of Sale (TS)

Implement requirements that are triggered when a building changes ownership. This policy generally applies to single-family homes since they are sold more frequently than other types of buildings. Time of sale requirements are currently required through Berkeley's Building Emissions Saving Ordinance (BESO) and could be expanded to include a range of required measures such as an electrification-ready panel upgrade, appliance replacement, or whole building electrification and incentives.

Summary of Phased TS Actions

- **TS Phase 1** – Identify incentives and funding and financing programs, and develop time of sale energy upgrade options.
- **TS Phase 2** – Adopt and implement time of sale energy upgrade requirements and implement permit compliance review program to improve compliance with time of replacement policies.





3. Building Performance Standards (BP)

Establish building-level requirements such as minimum GHG emissions standards or elimination of gas systems or equipment by a specified date. These standards are generally applied to larger buildings, including multi-family residential and commercial buildings, in order to have the highest impact on the largest energy users. The size and type of building covered could expand over time.

Summary of Phased BP Actions

- **BP Phase 1** – Develop requirements for building performance standards that lead to the elimination of gas in Berkeley’s large buildings.
- **BP Phase 2** – Increase and expand requirements to include more buildings; identify tools, funding and financing to assist building owners to reduce emissions and assure tenant protections.
- **BP Phase 3** – Consider emissions fees to pay for electrification for low-income buildings, with tenant protections.

4. Neighborhood Electrification & Gas Pruning (NE)

Create a plan to strategically reduce and eventually eliminate gas infrastructure in the city. Neighborhood-level electrification can be a more equitable way to electrify communities as opposed to a building-by-building approach which will leave those who cannot afford to electrify with higher gas rates. Larger scale projects also create more opportunities for high road jobs and could incorporate resilience measures such as on-site solar and islandable backup battery storage that could act as a neighborhood micro-grid to improve energy assurance.

Summary of Phased NE Actions

- **NE Phase 1** – Develop and implement a neighborhood decommissioning pilot program that demonstrates overcoming regulatory and financial barriers, accesses multiple funding sources, provides economic benefits and high road jobs, and protects tenants from displacement.
- **NE Phase 2** – Develop gas pruning plan and begin pruning in lieu of repair and replacement.



5. Cross Cutting (CC) Actions

In addition to the four primary policies for advancing existing building electrification, there are also cross-cutting actions that support the overall success of electrification both in the City and beyond. Many of these actions cannot be taken by the City alone and will need wider collaboration from regional partners and the State.

Summary of Phased CC Actions

- **CC Phase 1** – Partner with community organizations to build trust and provide education on building electrification; collaborate with state and regional partners to advocate for fair utility rates and accessible funding and financing options; advocate for technology improvements that lead to emissions reductions; develop and measure equity outcomes; expand analysis to commercial and industrial buildings; and, develop high road jobs policies and labor standards to support family-sustaining union construction careers for underrepresented communities.
- **CC Phase 2** – Develop programs, such as bans or fees on new gas equipment, dedicated investments, funding and financing for marginalized communities, and bulk purchase programs to reduce costs; collaborate with the City’s Rental Housing Safety Program; and, adopt a no gas reconnection policy for buildings that have gone all-electric.
- **CC Phase 3** – Develop time of lease requirement; collaborate with regional and state stakeholders to modernize utility’s Obligation to Serve requirement to exclude gas; and, secure funding and financing needed for low income property owners and renters tied to tenant protections to address split incentive barriers in multi-family buildings.





C. SUPPORTING PILLARS

Electrification of existing buildings will require long-term and systematic changes. To ensure successful implementation of the policies, three pillars (education, accessible funding and financing, and regulatory changes) are essential to creating policies that will engage, invest in, and support the entire community through the transition away from fossil fuels.

- **Education** – While electrification is not new, there are new and improved technologies, and many benefits to electrification that are not widely known. Providing ongoing education on new technologies, requirements, incentives, policies, and programs, a need expressed by many community members, is a key step to achieving widespread adoption. Robust and targeted education and outreach need to be provided to a wide range of stakeholders with a focus on marginalized communities.
- **Accessible Funding & Financing** – Ensuring that sufficient funding and financing options are accessible to renters, homeowners, and property owners – with a focus on marginalized communities within each of these groups – will allow the four primary policies to be implemented in an equitable manner.
- **Regulatory Changes** – Phasing out gas from buildings will require significant changes to the regulations and systems that currently support our buildings and infrastructure. These could include policy changes that allow reprioritization of resources, changes to permit requirements, or regulations on appliances and fuel use, while assuring tenant protections. While the City cannot drive this change alone, it can work to coordinate with other jurisdictions and agencies to advocate for these changes.



E-4 A CALL TO ACTION

This call to action outlines some of the key areas that the Berkeley community and partner cities can implement today both as individuals and collectively to advance building electrification.

What Can Berkeley Residents Do Now?

Many existing buildings within the City of Berkeley can be electrified today in a cost-effective manner. While some community members will need funding and access to financing or other support to make electrification feasible there are key situations when electrification should be considered today, such

as when purchasing a new home, at time of renovation or replacement of equipment, and when replacing an old air conditioning unit, furnace and/or water heater or installing a new air conditioning, solar panels, batteries and/or an electric vehicle charger.

What Can Other Cities Do?

The Strategy offers lessons learned and resources that could be leveraged by other jurisdictions to advance electrification of existing buildings, and to encourage collective actions among cities to achieve the large-scale equitable electrification needed to meet our climate goals and address the climate crisis.

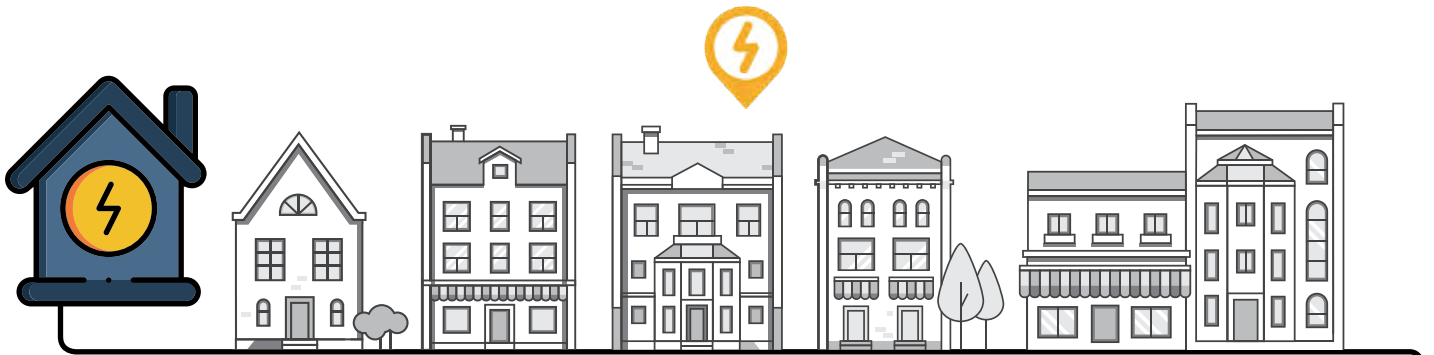
While this Strategy focuses specifically on Berkeley's building stock, climate, and communities, aspects of this Strategy can be applied to other cities. Other cities interested in developing strategies to electrify their existing buildings can start with:

- Community engagement with a focus on marginalized communities.
- Building inventories with socioeconomic mapping overlay.

- Pilot projects and strategic investments with equity focus.

In addition, collective action across the State of California and beyond is needed to accelerate the transition off gas and shift the regulatory and market conditions for large scale equitable electrification. Some topics to address together include:

- Advocate for accessible funding & financing programs.
- Advocate for gas rates that reflect societal costs along with affordable and equitable electric rates including rates for rooftop solar (NEM 3.0).
- Advocate for utility accounting and planning reform that accounts for the true cost of fossil fuels and the climate, health, safety and resilience benefits of electrification.





1. INTRODUCTION





Existing Buildings Electrification Strategy

The City of Berkeley (the City) is actively working to mitigate its greenhouse gas (GHG) emissions and transition towards a fossil fuel-free future in which all community members benefit from clean and affordable energy; healthy, safe and comfortable homes; and inclusive high quality employment opportunities.

The City of Berkeley has a strong history of sustainability leadership. In 2006, the Berkeley community (Berkeley) overwhelmingly voted for a ballot measure to reduce the community's GHG emissions by 80 percent below 2000 levels by 2050, and the City's first Climate Action Plan⁶ was adopted in 2009. The City and the State of California have set various goals to accelerate the transition to a fossil fuel-free, or decarbonized future. In 2018, Berkeley City Council signaled the urgency and importance of climate action by declaring a Climate Emergency and the goal of becoming a Fossil Fuel-Free City as soon as possible. Also in 2018, Governor Brown signed Executive Order B-55-18, committing California to carbon neutrality by 2045.

To reach these goals, the City has implemented programs such as the Building Emissions Saving Ordinance (BESO),⁷ which requires Berkeley building owners to complete energy efficiency opportunity assessments and report the building's energy efficiency information at time of sale. In 2016, the City joined East Bay Community Energy (EBCE), Alameda County's community-based electricity provider committed to providing increased access to affordable and renewable electricity for all customers, resulting in lower emissions from electricity in Berkeley. Most recently, Berkeley became the first city in the Country to prohibit natural gas (gas) in new construction, setting off a wave of similar ordinances across the State. At the time of writing this report, over 49 cities in California have adopted ordinances to ban or limit new gas infrastructure in new construction.⁸ By eliminating fossil fuel use in new construction, Berkeley effectively eliminated gas in new buildings and stopped the expansion of gas infrastructure within its jurisdiction. The next challenge is electrifying existing buildings which are more complex and costly to retrofit than new buildings.

6 <https://www.cityofberkeley.info/climate/>

7 <https://www.cityofberkeley.info/BESO/>

8 As of August 2021: <https://www.sierraclub.org/articles/2021/06/californias-cities-lead-way-gas-free-future>

BENEFICIAL ELECTRIFICATION

As the electricity supply becomes cleaner and EBCE provides access to more renewables, the City has identified existing building electrification as a priority to further decarbonize the community. Electrification is the process of switching the fuel source of our transportation vehicles and building appliances and other equipment from fossil fuels, such as gasoline, diesel, gas, and propane, to electricity. Beneficial electrification takes this idea further and ensures that electrification results in reduced GHG emissions, more grid resiliency, and lower energy costs for residents. With the availability of renewable electricity associated with Senate Bill (SB) 100 and EBCE, this switch to electrification, if done equitably, opens up the potential

for significant benefits including reductions in GHG emissions, improved health and safety, cost savings, and more. In Berkeley's Existing Buildings Electrification Strategy (Strategy), electrification refers to beneficial electrification.

Beneficial Electrification

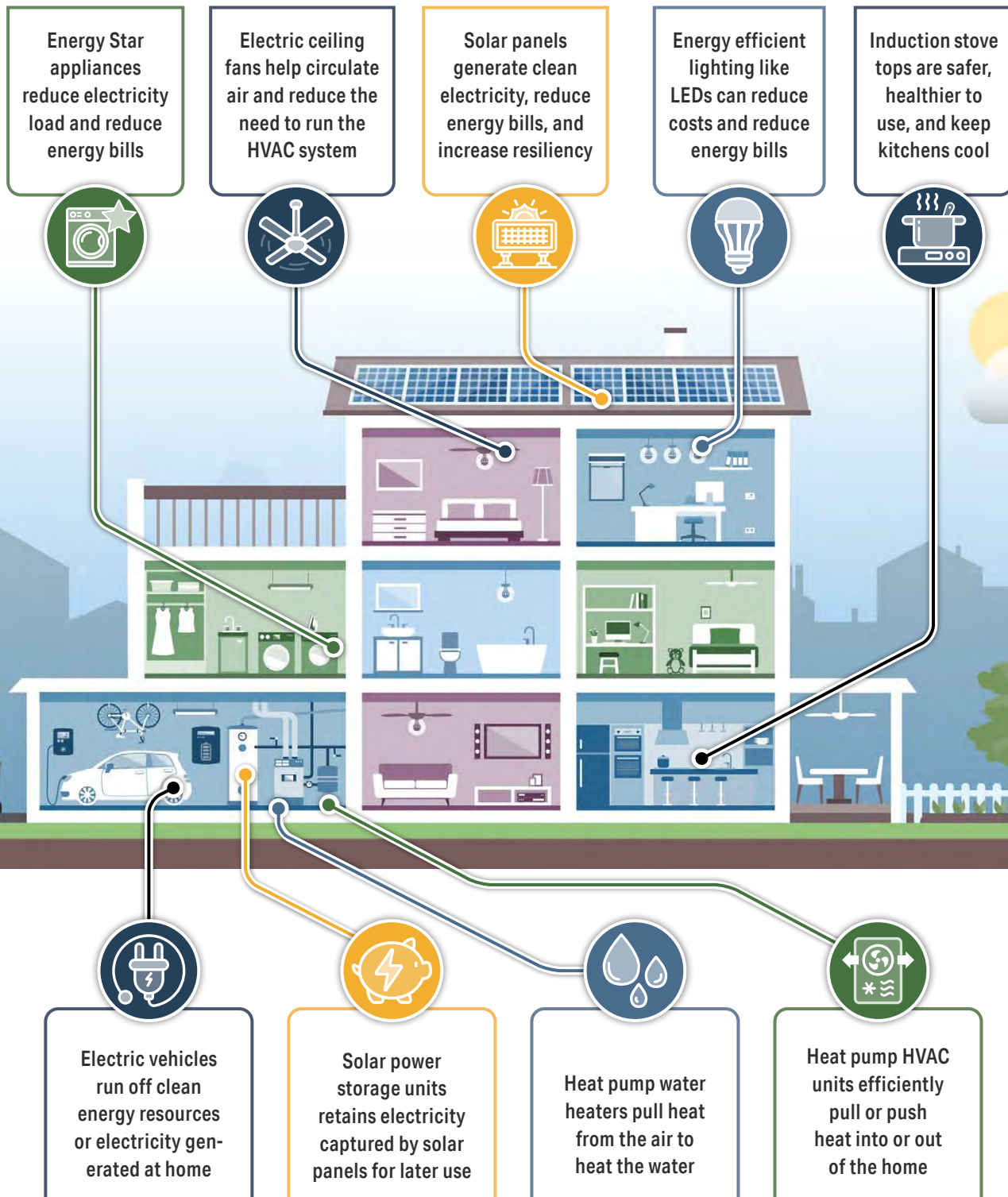
Beneficial Electrification is defined as a switch from fossil fuels to electricity in a way that reduces GHG emissions, and improves cost effectiveness, health and safety, and resilience.





Existing Buildings Electrification Strategy

Figure 1-3. Existing Building Electrification



1.1 REASONS FOR ELECTRIFICATION

This section discusses several benefits to electrification including:

- Greenhouse gas reduction
- Health: Indoor air quality, outdoor air pollution
- A changing climate: Comfort, resilience
- Safety: Earthquakes, aging infrastructure, accidental explosions/fires
- Cost Savings
- High quality job growth
- Equity

GREENHOUSE GAS REDUCTION

Berkeley and the State of California are committed to achieving carbon neutrality as soon as possible, and no later than by 2045. Achieving this goal will require significantly limiting GHG emissions from buildings, which currently represents approximately 37 percent of Berkeley's total annual GHG emissions.⁹ These emissions stem from two primary sources, electricity (6 percent), and gas (31 percent). The benefit of electricity is that it can currently be generated by 100 percent renewable sources like wind and solar. In addition, the City of Berkeley joined its local Community Choice Aggregator, EBCE, which offers the community the option of a 100

percent renewable electricity service. This means that an all-electric building can operate carbon-free, today.

On the other hand, gas has a high carbon content or emission factor,¹⁰ and while increased appliance efficiency can marginally reduce the GHG emissions associated with using gas in our homes, it cannot reach zero. Furthermore, the elimination of gas in buildings will ultimately allow for the strategic decommissioning of gas distribution infrastructure and the associated leakage of methane, the main component of gas. This is significant because methane traps 28-36 times more heat than carbon dioxide over a 100 year period.¹¹

9 According to 2018, as reported in 2020: https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_05_Climate_Action_Plan_pdf.aspx

10 An emission factor is a number that converts a unit of energy into the amount of emissions that it generates. The standard emission factor for gas is 0.00532 Metric Tons of CO₂e per therm of gas combusted (https://www.epa.gov/sites/production/files/2015-07/documents/emission-factors_2014.pdf). Electricity emission factors can vary significantly depending on the source of electricity with renewables and other carbon-free sources having an emission factor of 0.0 Metric Tons of CO₂e per kWh.

11 <https://www.epa.gov/ghgemissions/understanding-global-warming-potentials>



Lower emissions alternatives to extracted gas do exist, including biogas and hydrogen.¹² However, current studies indicate that these technologies will be costly and their limited availability will make it difficult to fully off-set the current gas demand. Instead, these alternative carbon-free fuels and the existing gas infrastructure system needed to transport them will likely be used for buildings that are harder to electrify like industrial facilities, or for electricity generation during times of low renewable power availability.¹³

HEALTH

Negative health impacts related to ambient air pollutants generated by burning of fossil fuels in power plants, vehicles and industrial operations are widely acknowledged.¹⁴ In many cities, Berkeley included, these issues are also linked to equity issues, as the most cases of hospitalization due to asthma occur in West Berkeley which also has poorer air quality,¹⁵ and a higher percentage of communities of color and low income communities.

By contrast, sources of air pollution inside of buildings and related health effects are often overlooked. A number of commonly used appliances that burn gas, including stoves,

The combination of California's GHG emissions reduction goals, current availability of carbon-free electricity, and limited supply of carbon-free alternative gas options, has elevated building electrification as a key strategy in addressing climate change. However, while reducing GHG emissions is one of the primary drivers of electrification it is only one of the many benefits of eliminating fossil fuels from buildings.

heating systems and water heaters, emit substantial amounts of air pollutants, and if not properly ventilated can present significant indoor air quality impacts. Gas-powered appliances are known to emit nitrogen dioxide (NO₂), nitric oxide (NO_x), sulfur oxides (SO_x), particulate matter (PM), carbon monoxide (CO), and formaldehyde (CH₂O). Levels of indoor air pollutants generated by gas cooking generally depend on the age and configuration of burners and ventilation conditions specific to individual homes. The potential health impacts related to cooking with gas appliances can be serious but are generally not widely understood by consumers.¹⁶

12 Biogas refers to methane processed out of biogenic sources like organic waste. The use of biogas while limited in scale, could provide a carbon neutral or even carbon reducing fuel source when coupled with carbon capture and storage. However, this technology is not feasible on a building by building scale and will likely be limited to industrial processes. Hydrogen as well can be made using electricity or biogenic sources.

13 https://static1.squarespace.com/static/58ec123cb3db2bd94e057628/t/5ced6fc515fcc0b190b60cd2/1559064542876/EFI_CA_Decarbonization_Full.pdf

14 <https://www.who.int/airpollution/ambient/health-impacts/en/>

15 <https://news.berkeley.edu/2019/05/22/historically-redlined-communities-face-higher-asthma-rates/> and https://www.city-ofberkeley.info/Health_Human_Services/Public_Health/Public_Health_Reports.aspx

16 <https://ehp.niehs.nih.gov/doi/10.1289/ehp.122-a27>

Indoor Air Quality

The use of gas cooking appliances can be detrimental to indoor air quality, particularly NO₂ pollution. Residences with gas stoves have between 50 percent to over 400 percent higher average NO₂ concentrations than homes with electric stoves.¹⁷ Numerous peer reviewed studies have documented that peak levels of indoor pollution generated by gas stoves can climb well above outdoor air pollutant thresholds. Recent research from Lawrence Berkeley National Laboratory and Stanford University demonstrates that when gas is burned without proper ventilation via range hoods, gas cooking can generate levels of CO and NO₂ inside homes that are in excess of federal and state standards for ambient outdoor air quality.¹⁸ Smaller residences and those that lack range hoods are especially at risk of experiencing poor indoor air quality during cooking. The same study estimates that during a typical week during the winter, 1.7 million Californians could be exposed to CO levels that exceed ambient standards and 12 million could be exposed to NO₂ levels that exceed ambient standards due to combustion of gas inside of homes. Although properly installed and maintained exhaust hoods can reduce levels of NO₂, CO and other pollutants, many buildings are not equipped with well-functioning hoods that vent to the outdoors. Studies suggest many exhaust hoods,

including those that only recirculate air, do not uniformly remove air pollutants, particularly when cooking is done using a stove's front burners.¹⁹

Air Pollution at Home

Burning gas at home without proper ventilation can cause indoor air quality to exceed outdoor air quality standards. Emissions from gas have been linked to asthma and other health issues.

The indoor air pollution that results from the use of gas appliances translates into important health consequences. The United States Environmental Protection Agency (US EPA) recently concluded that long-term exposure to NO₂ is linked to the onset of asthma in children.²⁰ Furthermore, the US EPA has reported that short-term exposure to NO₂ can also lead to respiratory complications and trigger asthma attacks. A 2013 meta-analysis of prior research assessed the impact of indoor NO₂ pollution on asthma in children living in suburban and urban homes. Results demonstrated that children in homes with gas stoves have a 42 percent higher chance of developing asthma symptoms.²¹

17 <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=194645>

18 <https://ehp.niehs.nih.gov/doi/10.1289/ehp.122-a27>

19 <https://rmi.org/insight/gas-stoves-pollution-health/>

20 <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=310879>

21 Weiwei Lin, Bert Brunekreef, Ulrike Gehring. *International Journal of Epidemiology*, Volume 42, Issue 6, December 2013, Pages 1724–1737, <https://doi.org/10.1093/ije/dyt150>



The prevalence of asthma in children locally underscores the importance of improving indoor air quality. Over 2,900 children in Alameda County were hospitalized with asthma related complications in 2012,²² resulting in substantial healthcare costs at the individual and societal levels. Furthermore, the cost of each hospitalization for asthma in California is \$33,000, 65 percent of which is paid with public funds.²³ According to the 2018 Berkeley Health Status Report, asthma is one of the most prevalent chronic health conditions among children and adolescents in Berkeley. Controlling asthma improves quality of life, reduces medical costs, and increases productivity at school. Health issues are also an equity concern. The asthma hospitalization rates for children under 5 for African American children is 10 times higher, and for Latino children is 2.8 times higher than the rate among White children.²⁴

Along with impacts to respiratory health, a growing body of evidence also suggests that indoor air pollution stemming from gas combustion can impact cognitive development of children. A 2009 study found that exposure to indoor air pollution may be related to impaired cognitive function and attention-deficit/hyperactivity disorder (ADHD) in infant through preschool aged children.²⁵

Without proper ventilation, emissions from gas appliances, such as carbon monoxide, can even be deadly. Every year, at least 430 people die in the U.S. from accidental CO poisoning and approximately 50,000 people in the U.S. visit the emergency department due to accidental CO poisoning.²⁶

The importance of transitioning from gas powered to electric appliances is underscored by the fact that on average, Californians spend 70 percent of a given day indoors,²⁷ a condition that has only been exacerbated by the COVID-19 pandemic. As such, the quality of indoor air is a critical factor in determining one's overall health and wellbeing.



22 https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Public_Health_Reports.aspx and http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_10_12_15/HEALTH%20CARE%20SERVICES/Regular%20Calendar/Pay_for_Success_Asthma_Initiative_Health_10_12_15.pdf

23 https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHIB/CPE/CDPH%20Document%20Library/Asthma_Surveillance_in_CA_Report_2017.pdf

24 https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Public_Health_Reports.aspx

25 <https://academic.oup.com/aje/article/169/11/1327/159993>

26 <https://www.cdc.gov/dotw/carbonmonoxide/index.html>

27 <https://www.nature.com/articles/7500165>

Outdoor Air Pollution

Beyond the impacts to indoor quality, use of gas-powered appliances also represents a significant contribution to ambient outdoor air pollution. Ambient air quality is a persistent concern in the Bay Area, with particulate matter in the Bay Area regularly exceeding both state and federal standards.²⁸ Modeling from the California Energy Commission demonstrates that electrification of gas appliances and conventional fireplaces in residential and commercial structures could lead to the largest reduction of particulate matter of less than 2.5 microns in size (PM 2.5) when compared to other sectors, such as transportation and industrial operations.²⁹ Furthermore, a Massachusetts Institute of Technology (MIT) study found that emissions generated by buildings caused more pollution-related premature deaths in California than any other sector, including transportation and electricity generation.³⁰ As the recent California wildfires have led to increased wildfire smoke, creating unhealthy and sometimes hazardous air quality for extended periods in the Bay Area, the value of clean air, and discouraging air pollution, has been made even more apparent. By pursuing building electrification, the City of Berkeley will help improve air quality indoors and out, reducing health impacts at the local and regional scale.



28 https://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en

29 <https://ww2.energy.ca.gov/2019publications/CEC-500-2019-049/CEC-500-2019-049.pdf>

30 <https://www.nature.com/articles/s41586-020-1983-8?proof=trueMay>

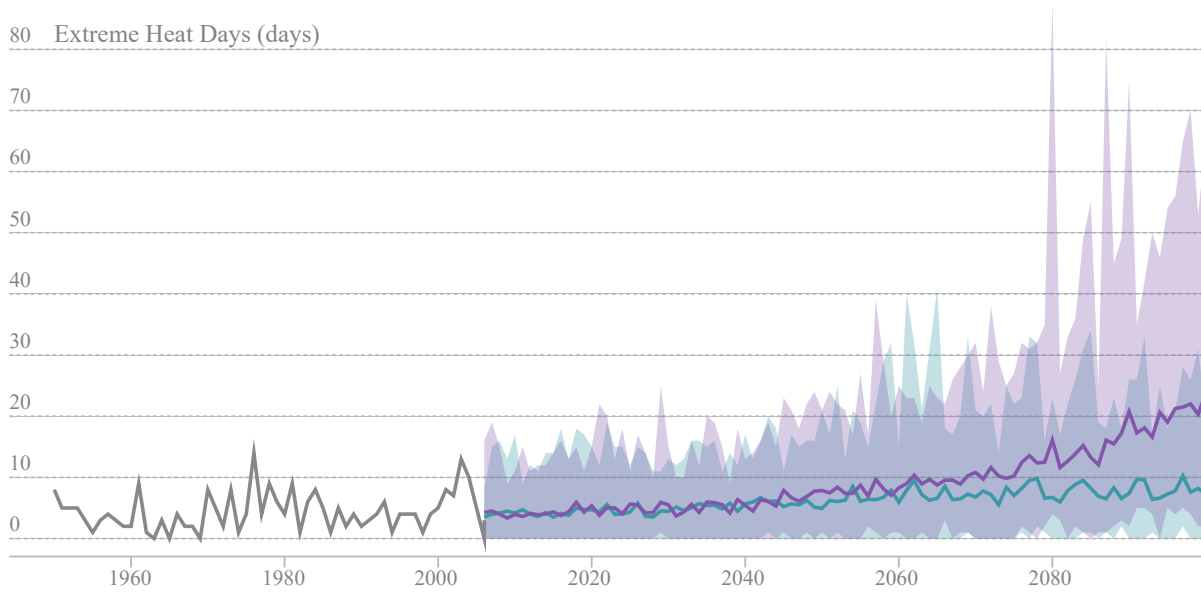


A CHANGING CLIMATE

According to Cal-Adapt, the number of extreme heat days in Berkeley is expected to double by 2070 as shown in Figure 1-4.³¹ Furthermore, the number of warm nights

(when the minimum daily temperature never dips below 61.7 degrees F) is expected to increase from just 4 days per year to approximately 40.

Figure 1-4. Extreme Heat Days



Observed (1961-1990) 30yr Average: 4 days

		30yr Average	30yr Range
Baseline (1961-1990)			
MODELED HISTORICAL	-	3 days	1 - 5 days
Mid-Century (2035-2064)			
MEDIUM EMISSIONS (RCP 4.5)	+3 days	6 days	3 - 10 days
HIGH EMISSIONS (RCP 8.5)	+4 days	7 days	3 - 11 days
End-Century (2070-2099)			
MEDIUM EMISSIONS (RCP 4.5)	+5 days	8 days	5 - 13 days
HIGH EMISSIONS (RCP 8.5)	+12 days	15 days	8 - 33 days

31 <https://cal-adapt.org/tools/extreme-heat/>

In addition, the Bay Area has already experienced significant impacts from regional wildfires, creating unhealthy air quality and threatening vulnerable populations. California's Climate Change Assessment projected an increase in area burned of 77 percent by the end of the century if emissions continue to rise. The electrification of existing buildings is an important opportunity to prepare for these climactic changes.



**AVERAGE AREA BURNED
INCREASE BY 77%
IF EMISSIONS CONTINUE TO RISE**

Comfort

As the climate warms, air conditioning systems may become substantially more popular in the Bay Area. A 2003 study across 39 U.S. cities found a strong correlation between cooling degree days³² and air conditioner (AC) ownership.³³ Climate models suggest that cooling degree days in Berkeley will increase 53-72 percent by 2050, resulting in total AC ownership of 31-44 percent. Modernizing old homes and businesses by retrofitting with new electric appliances can improve comfort for building occupants. Electric air space heat pumps perform the dual purpose of both heating and cooling spaces, allowing building occupants that did not previously have air

conditioning to remain comfortable and safe during extreme heat events. In addition, new electric heat pumps can be far more efficient than older gas fueled heaters, allowing retrofitted buildings to be heated more cost-effectively. While updating old infrastructure with modern electric ones can have a positive effect on comfort, weatherization alongside electrification will be needed in old, drafty buildings to ensure efficiency. However, combining efficiency and electrification upgrades together can significantly improve occupant comfort while also significantly reducing both heating and cooling costs.

³² *Cooling Degree Day*—A cooling degree day (CDD) is a measurement designed to quantify the demand for energy needed to cool buildings. It is the number of degrees that a day's average temperature is above 65° Fahrenheit (18° Celsius).

³³ Sailor et al, 2003 ([https://doi.org/10.1016/S0360-5442\(03\)00033-1](https://doi.org/10.1016/S0360-5442(03)00033-1)). See Figure 1(a).





Resilience

As discussed in Berkeley's Resilience Strategy,³⁴ a city's resilience is defined by the ability of the community to survive, adapt and thrive no matter what acute shock or chronic challenge it experiences. Advancing Berkeley's resilience requires working together to identify solutions that have multiple benefits and address multiple challenges at once. The electrification of existing buildings can result in increased health and comfort, as well as resiliency to the impacts of climate change, including extreme heat and wildfires. All-electric buildings, coupled with solar and battery energy storage, can also mitigate impacts of power outages and utility-led public safety power shutoff (PSPS) events in times of high fire risk.

Efficiency and Resilience

Pairing heat pump HVAC units with good air filtration, and a weatherized and well-sealed home means significant protection from wildfire smoke during fires and cooling on extreme heat days.



Clean backup power is an important asset when the utility grid is down, including earthquakes and PSPS events. Utility-led PSPS events, where the utility proactively turns off electric power during extreme weather events in order to help prevent wildfire, are becoming more regular and remain a concern for Berkeley and much of California – especially for those medically dependent on power. While many people think having gas provides a redundant system during PSPS events, during an electric power shutoff many appliances including gas heaters, stoves and hot water heaters cannot function due to the electric fans and controls they need to operate. During these events, the community members need backup power, and while fossil fuel-powered generators are an option, these are a fire hazard during high fire risk times, cause additional air pollution during periods which often overlap with wildfire smoke / Spare the Air days, and exacerbate climate change and the resulting increase in wildfires. Investing in our electricity grid and clean distributed energy and storage systems like solar and battery storage provide the opportunity to improve resilience overall – and are safer, cleaner, and healthier options. An all-electric building equipped with on-site renewable energy generation and battery storage can allow essential equipment to run without the risk of sparking wildfires when PSPS events are required.

³⁴ <https://www.cityofberkeley.info/Resilience/>

SAFETY

While there are safety concerns associated with both gas infrastructure and the electrical grid, the distribution and use of gas in residential and commercial buildings carries an inherent safety risk due to the volatile nature of gas. As California moves towards electrification, this provides an opportunity to invest in and enhance one safe and reliable electrical

system rather than continuing to manage two systems. Recent accidents in the Bay Area, including the 2010 San Bruno and 2019 San Francisco gas pipeline explosions, demonstrate that serious incidents can happen. The safety and reliability of gas infrastructure is threatened by a number of factors, including:

Earthquakes

As an earthquake-prone city, the potential for seismic impacts to gas infrastructure is elevated in Berkeley. The City is located on the Hayward Fault, which is noted as one of the more dangerous earthquake faults in the United States.³⁵ Depending on the location and intensity of an earthquake, seismic activity could damage gas pipelines, potentially causing destructive fires and disruptions to

service. According to the California Seismic Safety Commission, between 20 to 50 percent of post-earthquake fires are typically caused by gas leaking from damaged pipes.³⁶ Further, in the event of a long-term grid outage as a result of an earthquake, it is expected that electrical service would be restored much quicker than gas service.³⁷

Aging Infrastructure

California's gas distribution systems are among the oldest in the United States,³⁸ adding to overall system vulnerability and failure risk. Older gas pipelines are more likely than electrical lines to sustain damage during earthquakes and are susceptible to leaks, causing inefficiencies and threatening safe

operation. Furthermore, aging pipelines may lose structural integrity over time, becoming vulnerable to catastrophic failure, as experienced in the 2010 San Bruno explosion.³⁹ In addition, recent studies have found that gas infrastructure around the country is leaking substantial amounts of methane, a potent

35 <https://www.sfchronicle.com/bayarea/article/Berkeley-elementary-school-to-move-due-to-14869596.php>

36 https://ssc.ca.gov/wp-content/uploads/sites/9/2020/08/cssc_2002-03_natural_gas_safety.pdf

37 <https://www.onesanfrancisco.org/sites/default/files/inline-files/Lifelines%20Restoration%20Performance%20Report%20Final.pdf>

38 <https://rmi.org/a-new-approach-to-americas-rapidly-aging-gas-infrastructure/>

39 <https://docs.cpuc.ca.gov/publishedDocs/published/Graphics/157326.PDF>



greenhouse gas 86 times stronger than carbon dioxide, into the atmosphere.⁴⁰ Based on the leakage estimates for San Francisco,

GHG emissions from gas in the City of Berkeley may be up to 25 percent higher than current estimates capture.⁴¹

Accidental Explosions/Fires

Gas is highly flammable. A common cause of gas pipeline explosions and subsequent fires is accidental damage during excavation or other subterranean work, as was the case during the 2019 explosion in San Francisco.⁴² Although education and utility-led outreach campaigns have increased awareness around necessary precautions during subterranean construction and maintenance, gas infrastructure poses an inherent safety risk in the event it is accidentally damaged.

Gas can also cause fires in buildings. According to the National Fire Protection Association, local fire departments responded to an average of 4,200 home structural fires between 2012-2016 which started with the

ignition of gas. These fires caused an average of 40 deaths, 140 injuries, and \$54 Million in direct property damage per year. Leaks or breaks were factors in 20 percent of the fires and 54 percent of the deaths, and operating equipment (cooking, water heaters, fixed/portable space heaters, central heat) ignited the gas in 58 percent of the fires and 32 percent of the deaths.⁴³

By pursuing electrification, the City of Berkeley can reduce its dependence on aging and vulnerable gas infrastructure, lowering the probability of a catastrophic incident as experienced in other neighboring Bay Area communities.

40 <https://thegasindex.org/>

41 Emission factor for Gas Combustion – 0.00531 MT CO₂e/Therm. Additional Emission Factor for leakage (<https://thegasindex.org/>) 0.00131 = ~25% higher.

42 <https://www.sfchronicle.com/bayarea/article/Explosion-in-San-Francisco-causes-fire-injuries-13595313.php>

43 <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Hazardous-materials/osNaturalGasPropaneFires.ashx#:~:text=An%20estimated%20average%20of%204%2C200,of%2040%20deaths%20per%20year>



COST SAVINGS

Building electrification – if planned thoughtfully, strategically and equitably – has the potential to provide cost savings both through more efficient appliances, and by eliminating the costs associated with installing and maintaining gas infrastructure. These costs can impact people differently and will vary building by building needs for electrification, electricity rates used, appliances installed, and whether rooftop solar is included.

In terms of the costs of gas infrastructure, a significant portion of the cost of gas is the installation and maintenance of gas infrastructure. The California Public Utility Commission generally allows each gas utility to increase gas rates based on the necessary expenditure to keep gas systems operational, a process which has increased after the San Bruno explosion. While the cost of the gas itself varies depending on usage (as you use less gas, your bill goes down) these fixed infrastructure costs remain the same. It should be noted that there are similar issues of electric rates based on the amount of energy used for fixed utility which need to be addressed.

As California strives to meet its goals of reaching carbon neutrality by 2045 and improving the efficiency of its buildings by 50 percent, the amount of gas consumed in California will significantly decrease.⁴⁴ Without any building electrification or renewable alternatives,⁴⁵ the cost of gas is expected to double from approximately \$1.5 per therm to \$3 per therm by 2050 due to lower gas throughput from more efficient houses and appliances and reinvestment in new gas infrastructure.⁴⁶ These projected increases are already being seen with one California investor owned utility requesting a general rate case increase for 2021 that is 42 percent higher than the increase requested in previous years. In order to meet the State's GHG reduction goals without building electrification, there would be an estimated incremental annual cost ranging between \$19-32 billion in California, mostly due to high costs associated with producing renewable gas alternative forms of gas.⁴⁷ Comparatively, a high building electrification scenario had an incremental annual cost of approximately \$13 billion. Collectively, a proactive transition to electrified buildings in California can be associated with significant long-term cost avoidance by limiting the amount of new gas infrastructure investments.

44 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB350

45 *While state policy goals imply reducing or even eliminating the use of fossil gas in California by 2050, the gas delivery system can continue to play a useful role in supporting the decarbonization of end-uses that cannot electrify by supplying them with biomethane, hydrogen produced using renewable electricity (also called "green hydrogen"), and synthetic gas (SG) produced from green hydrogen and captured carbon dioxide. These fuels are collectively referred to as Renewable Gas (RG).* (https://gridworks.org/wp-content/uploads/2019/09/CA_Gas_System_in_Transition.pdf, pg. 4)

46 <https://www.nrdc.org/sites/default/files/future-natural-gas-distribution-california-06062019.pdf>. The "No Building Electrification" scenario is defined as no electrification in buildings, high electrification of light-duty vehicles; in addition to using all available biomethane, adds hydrogen and synthetic gas in the pipeline and more zero emission vehicle trucks than high electrification scenario; pipeline gas blend remains 56% fossil in 2050, so a large share of the 2050 emissions budget is in buildings.

47 <https://www.nrdc.org/sites/default/files/future-natural-gas-distribution-california-06062019.pdf>



Existing Buildings Electrification Strategy

The transition to all-electric buildings and systematic and managed reduction in gas infrastructure, if done equitably, will help to lower future increases in gas prices, reduce stranded assets (unused gas infrastructure that was installed but seldom used) and

ensure that inclusive electrification opportunities are provided to customers who cannot afford to electrify on their own, so that they are not left behind with on a legacy system with higher gas rates.

HIGH QUALITY JOB GROWTH

High-road workforce development attempts to simultaneously improve the quality of and access to jobs. It is worker-oriented, seeking to invest in the development of human capital for the benefit of the climate, clean energy providers, consumers, and workers.⁴⁸ It is critical that building electrification includes opportunities, policies, funding and support systems to enable good quality jobs and access for under-represented workers and contractors as we transition to a high-road, low-carbon economy.⁴⁹ The transition to all-electric buildings will require work that will employ skilled and trained construction workers. This work includes electrical panel and wiring upgrades, weatherizing buildings, replacing appliances, energy efficiency, and installing batteries and solar photovoltaic power. This will also require planning strategies for a *just transition*, an equitable economic transition to carbon-neutrality that ensures there are opportunities for all, including workers that rely heavily on fossil fuel and the communities most burdened by the climate crisis.⁵⁰ This transition must be

made in consultation with all crafts affected, including but not limited to sheet metal, electricians, carpenters, plumbers and pipefitters.

An Opportunity for High-road Jobs Creation

"High road" in a workforce context means an approach aimed at creating high-quality employment, "good jobs" characterized by family-sustaining, living wages, comprehensive benefits, and opportunity for career advancement.⁵¹

This provides an opportunity for the City to intentionally foster growth of high quality jobs that include family sustaining wages, benefits, safety, and security and worker representation to support a local, diverse, and skilled workforce to be part of a high-road economy. The City can encourage this transition through mechanisms such as workforce agreements, targeted strategies and worker

48 *Inclusive Economics*, prepared for the American Cities Climate Challenge. "High-Road Workforce Guide for City Climate Action". March 2021. https://www.usdn.org/uploads/cms/documents/workforce-guide_4.12.21_form.pdf

49 https://greenlining.org/wp-content/uploads/2019/10/Greenlining_EquitableElectrification_Report_2019_WEB.pdf

50 <https://climatejusticealliance.org/just-transition/>

51 *Inclusive Economics*, prepared for the American Cities Climate Challenge. "High-Road Workforce Guide for City Climate Action". March 2021. https://www.usdn.org/uploads/cms/documents/workforce-guide_4.12.21_form.pdf

skills requirements and labor standards tied to funding mechanisms, prioritized engagement with and strategies for workers with barriers to employment, and strategies to mitigate job loss. Ensuring high-road jobs for building electrification will require significant effort and support for employment of an inclusive unionized workforce, including smaller (low-rise) residential buildings which tend to be served by lower paid nonunion workers. A managed

transition to electric buildings allows Berkeley to facilitate this job growth, ensuring historically disadvantaged communities can participate in the high-road workforce. As electrification expands to other cities in the region, this regional workforce with experience from Berkeley will have the knowledge and expertise necessary to work on the newest and most efficient technologies.

EQUITY

Electrification of Berkeley's existing building stock equates to the modernization of Berkeley's building stock. The electrification process has the potential to significantly improve the health, safety, cost effectiveness, resiliency, and comfort of Berkeley's homes and workplaces. Additionally, this transition creates an opportunity to improve some of the inequities that persist within Berkeley, especially in housing. Existing low-income housing tends to be older and less energy efficient, placing an unequal energy cost burden on low-income households and households of color who spend larger shares of their income on energy bills. Nationally and regionally, research demonstrates that African-American, Latino and low-income households and renters tend to pay more for electricity and gas service per square foot of building space.⁵² As a result of this cost burden, many households cannot afford to pay for adequate heating and cooling, putting

occupants at a higher risk of health complications associated with under-heated homes, (such as arthritis, rheumatism and respiratory complications) and health risks associated with homes without proper cooling (such as heat stroke, dehydration, and respiratory impacts).⁵³ This inequity is perpetuated by existing disparities in funding allocation for energy efficiency projects, which can favor more affluent homeowners.⁵⁴ Affluent consumers have a more opportunity to access and take advantage of existing programs and incentives. This inequality of participation amounts to the implicit subsidization of excess consumption, which is being financed by the general energy utility rate payer. The underlying design assumption behind the majority of these policy programs – that equality of availability will necessarily produce equality of participation – is fundamentally flawed. Estimates show that just 6 percent of national spending on electric energy

52 https://assets.ctfassets.net/ntcn17ss1ow9/1UEmqh5I59cFaHMqVwHqMy/1ee1833cbf370839dbbdf6989ef8b8b4/Lifting_the_High_Energy_Burden_0.pdf

53 <https://climatenexus.org/climate-issues/health/extreme-heat/>

54 <https://online.ucpress.edu/elementa/article/doi/10.1525/elementa.419/112771/On-energy-sufficiency-and-the-need-for-new>

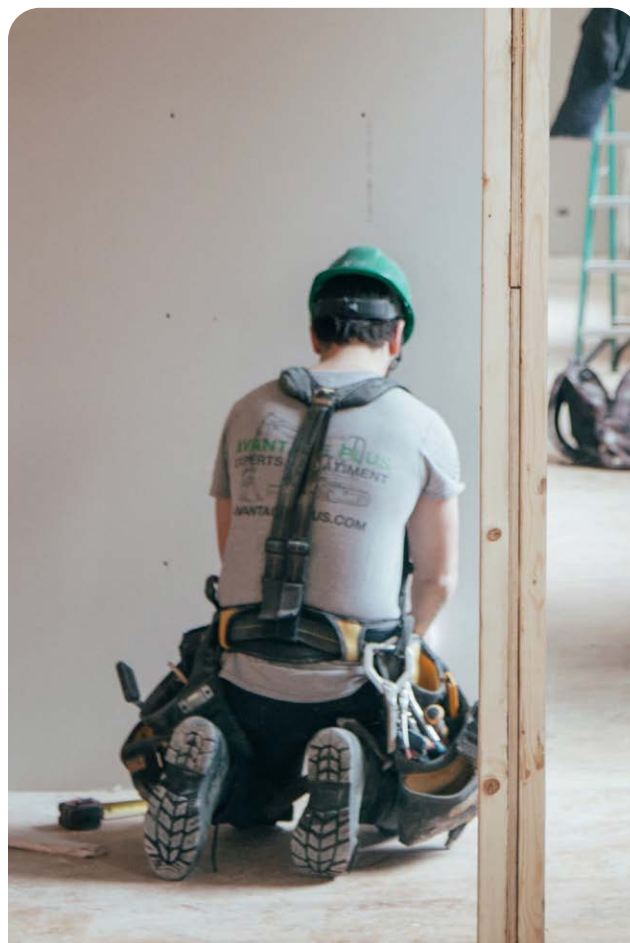


efficiency by utilities through their demand side management (DSM) programs was dedicated to low-income communities in 2015.⁵⁵

Prioritizing electrification of older, inefficient buildings in low-income communities has the potential to enhance housing affordability and quality throughout Berkeley. Modeling demonstrates that most electrified homes retrofitted with heat pumps for heating and cooling use less energy and save on utility bills.⁵⁶ Complete electrification of all building appliances (including stoves and clothes dryers) have cost savings when paired with solar as described further in Chapter 3. Furthermore, savings may be magnified when electrification is paired with upgrades to a building's energy efficiency, such as improved weatherization or replacement of windows. Finally, there are also the many non-financial benefits such as health, safety, and comfort, which should be considered on top of the financial analysis.

However, there are costs associated with modernization. Electrification will be an investment in Berkeley's future, but care will be needed to ensure that the upfront costs of this work are equitably—not equally—distributed across the community. To ensure that existing building electrification does not increase the burden on vulnerable communities, Berkeley has put equity at the very center of the electrification discussion, by prioritizing the needs and voices of historically marginalized communities in the process and outcomes, and utilizing the Equity Guardrails to ensure future programs and policies are

equitable.⁵⁷ Chapter 2 includes the full analysis of Berkeley's current equity challenges and opportunities as they pertain to existing building electrification. Additionally, Chapter 2 summarizes the study's outreach and engagement which led to the development of the Equity Guardrails that refined the Strategy and its associated actions.



55 https://www.edf.org/sites/default/files/documents/liee_national_summary.pdf

56 https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf

57 A full discussion of who these communities are and how they were included in the planning process is included in Chapter 3.

1.2 PURPOSE AND GOALS OF THE STRATEGY

The purpose of Berkeley's Strategy is to analyze the existing building stock of the City, with a focus on low-rise residential, and identify potential pathways for an equitable transition to all-electric buildings. This transition includes replacing gas burning appliances and equipment in existing buildings with high-efficiency electric powered versions. The Strategy is based on an in-depth analysis of Berkeley's building stock and a building-by-building energy model that was used to assess the likely scale of fuel switching process as well as the associated costs (Chapter 3). Based on these results, Berkeley solicited

feedback from a wide variety of stakeholders and community members who helped develop Equity Guardrails to ensure Berkeley's pathway to all-electric buildings not only avoids negative impacts to equity, but strives to improve current conditions (Chapter 2). Based on modeling results and feedback from the community, this report lays out a high-level long-term strategy as well as specific actions, policy changes, and funding mechanisms that Berkeley and other entities can implement or advocate for at the State level (Chapter 4).



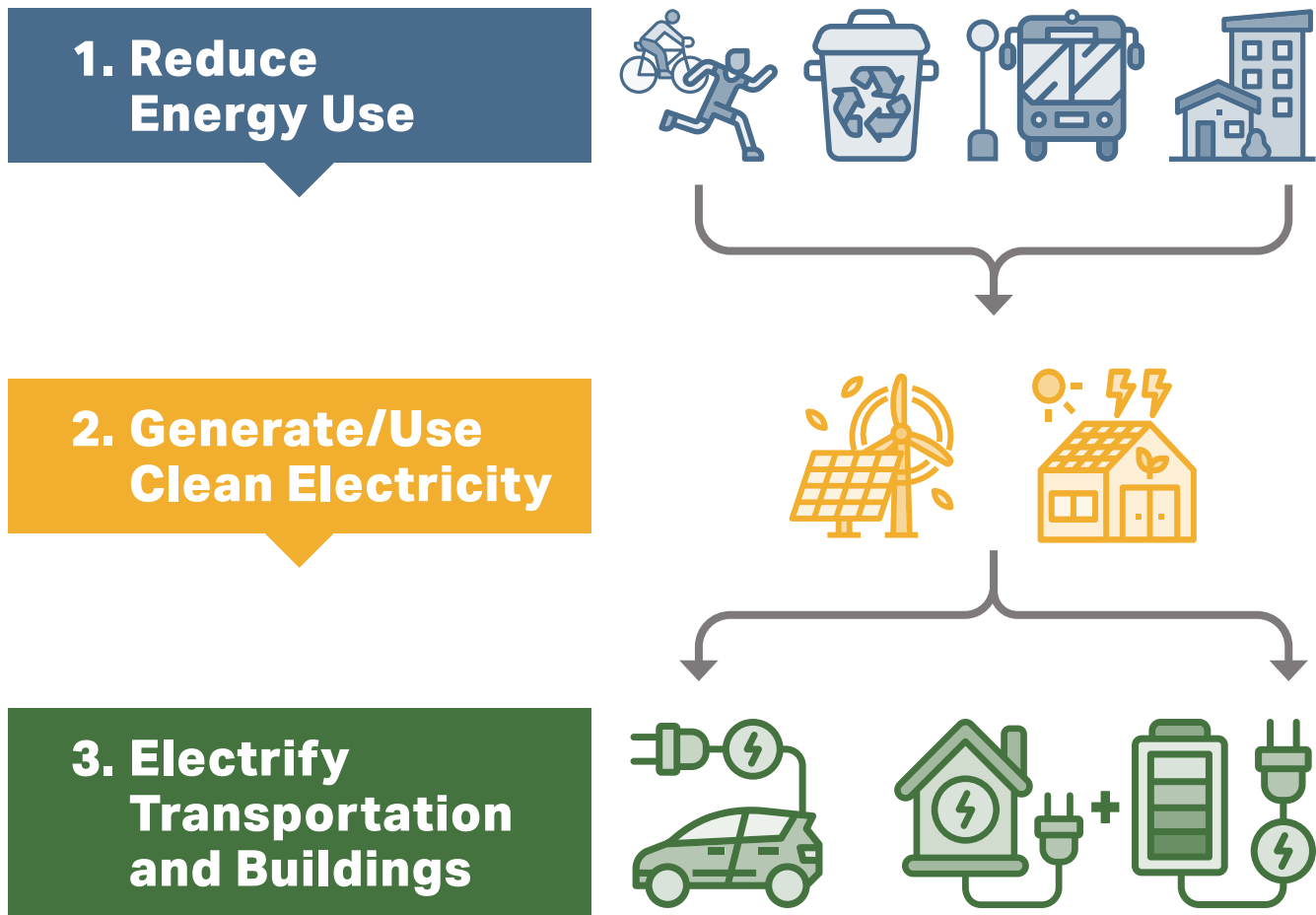


1.3 BERKELEY'S ELECTRIFICATION GOAL

Berkeley's path to a clean energy future, free of fossil fuels, is first to reduce the energy used in our buildings and vehicles through efficiency, then clean the source of electricity

to be zero emissions and renewable, and then finally to electrify our buildings and transportation by transitioning away from fossil fuels to clean electricity.

Figure 1-5. Berkeley's Decarbonization Strategy



The electrification of every building in the City will require a momentous effort, including shifts in financing solutions, funding mechanisms, utility regulation, housing protection, education, and workforce training. The purpose of this study is to identify an equitable and effective path forward, taking potential issues into consideration and determining which programs should be developed and prioritized to ensure an equitable distribution of the costs and benefits associated with electrifying Berkeley's building stock. While the technology exists today, electrifying Berkeley's existing buildings in an equitable manner that does not impose additional financial burden on the Berkeley community will require addressing the upfront costs associated with modernization. The potential issues associated with this change are actively being addressed through this study, but it will take time and collaboration to develop the necessary funding, financing, regulatory, and educational mechanisms to make this process a success. The City can and will continue to take action and begin the transition to fossil fuel-free buildings guided by the Equity Guardrails. A complete timeline for implementation is outlined in Chapter 4 of this Strategy.

Based on the cost analysis and community feedback, the Strategy sets the goal to begin enabling this transition immediately, and to complete electrification of all buildings no later than 2045. The phased approach provides flexibility, and attempts to balance the urgency of the climate crisis with the need to ensure electrification can be scaled to reach all communities equitably. The phases may have some overlap, and the target years serve as guides that may move more quickly with technological, regulatory, or financial advances. This timeline allows for deep consideration of equity into all future programs and allows for all the necessary programs and policies to be put in place, many of which are outside Berkeley's direct control. Without adequate time for planning the transition to all-electric buildings, the risk increases for a further divide between those who can afford to electrify and those who cannot, and inadvertent displacement and other negative impacts to the communities that stand to be helped the most through electrification. As momentum builds across the State and additional funding and financing becomes available, this Strategy may be implemented faster, but will continue to be vetted through the Equity Guardrails and with feedback and engagement with the community.



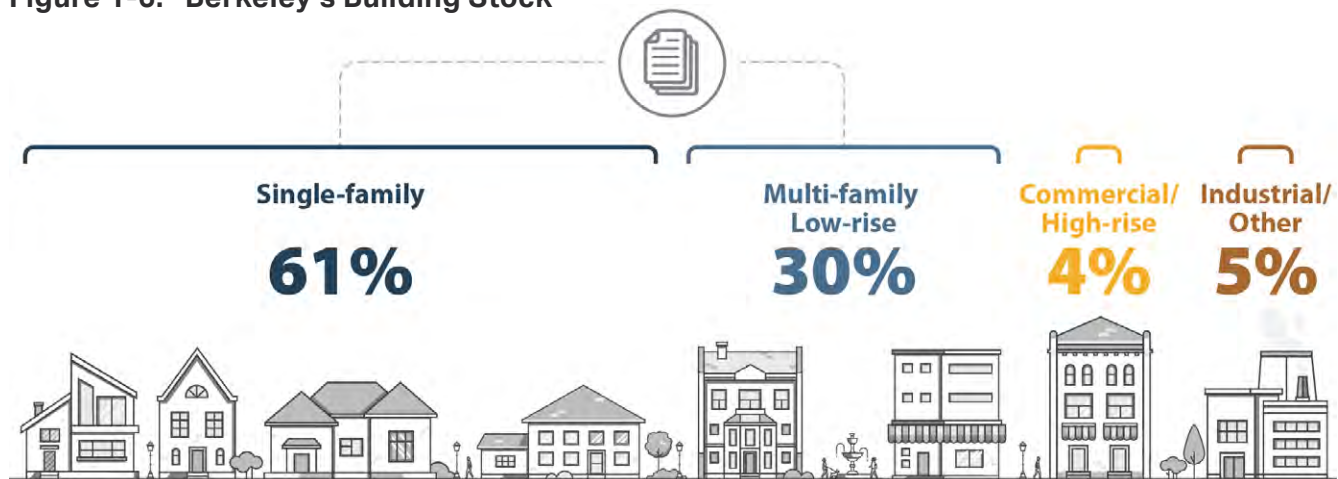


1.4 FOCUS AREAS

The Strategy focuses primarily on Berkeley's most common building type, residential buildings under four stories. According to Figure 1-6, over 90 percent of Berkeley's buildings fall under this definition. Other buildings like residential mid- and high-rise, as well as commercial and industrial buildings were not included in the analysis conducted for this Strategy due to lack of available data and inability of the core building model to run analysis on commercial building stock.⁵⁸ The Strategy is based on a building-by-building

analysis of what is needed to retrofit each of the included buildings, including assessment of the age and history of retrofits, which was collected through historic permit data. This analysis guides the identification of types of the most cost-effective retrofit packages and investigates the costs and funding mechanism that will allow for full electrification. A detailed explanation of Berkeley's building stock and the analysis conducted can be found in Chapter 3, and in Appendix A.

Figure 1-6. Berkeley's Building Stock



While electrification of existing residential buildings over four stories and commercial and industrial buildings were not included in this Strategy, additional work is currently underway to identify the most cost-effective ways to electrify or otherwise decarbonize these building types as well. Lawrence

Berkeley National Laboratory is currently working on additional analysis on the opportunities available to decarbonize larger residential and commercial buildings whose systems may differ from and be less uniform than the low-rise residential stock.

⁵⁸ The analysis largely relies on the ResStock Model and the Radiant Labs tool. At the time of this report, ComStock, the commercial energy model was not integrated into Radiant Labs.



2. ACHIEVING EQUITABLE BUILDING ELECTRIFICATION





Existing Buildings Electrification Strategy

Electrification of existing buildings – the places where we live, work, play, and connect – provides an opportunity to focus not just on upgrading the buildings themselves, but also centering the conversation on the people who inhabit them, especially on those who have been historically marginalized. Beyond changing out appliances and building systems, electrification provides an opportunity to re-think and reform policies in order to make our homes and workplaces healthy, safe, sustainable, and affordable for the people who reside in them, and to correct inequities in our current socioeconomic systems. Housing and the jobs tied to building and maintaining them are important parts of people’s quality of life and significant policy changes require careful forethought to avoid unintended consequences or overly burdening communities

that have been historically marginalized. Therefore, throughout this project, the City engaged with individuals and representatives of communities of color, low-income, senior, and disabled communities throughout Berkeley to better understand the relevant concerns and opportunities and provide a forum for shared learning, trust-building, and collaboration.

This chapter defines the key concepts that have informed the team’s approach and then identifies the priority communities who may be impacted most by electrification policies. It then presents potential risks and opportunities associated with building electrification that have been identified through engagement with the community.



2.1 DEFINING EQUITY

Berkeley's Strategy takes an approach to equity that centers on people and prioritizes strategies that will enable outcomes that benefit historically marginalized communities. For the purpose of this Strategy, consistent with the Greenlining Institute, equity means "increasing access to power, redistributing and providing additional resources, and eliminating barriers to opportunity, in order to empower low-income communities of color to thrive and reach full potential" and includes "transforming the behaviors, institutions, and systems that disproportionately harm people of color."⁵⁸ This recognizes that privilege is not shared equally, and that in order to achieve equal outcomes, more dedicated resources must be allocated to address societal inequities.

Applying this definition to electrification of existing buildings means that all people must have affordable access to the health, comfort, economic and resilience benefits of building electrification – and that marginalized communities and communities most impacted should be prioritized. This also requires intentionally lifting voices and needs of those who are usually not represented in policy

development, and redesigning policies if they don't actually benefit frontline communities, even if it upends a pre-conceived goal.

In order to ensure a comprehensive approach of applying equity to this work in support of Berkeley's marginalized communities, the team used the Kapwa Consulting⁵⁹ framework which focuses on three primary areas:

- Procedural equity is about a fair and inclusive process that centers on those who are most impacted by policies or have had to bear the most burdens of inequities, in order to make better decisions and better policies. For this project, this meant that the team held intentional, targeted conversations with community organizations and representatives to ensure their voices informed the policies. This inclusive outreach resulted in the equity guardrails (Chapter 2.5) which reflect the priorities and concerns of marginalized communities, highlighting the need to protect people against potential unintended consequences of building electrification like gentrification, displacement and other concerns.⁶⁰
- Distributional equity is about how outcomes can differ depending on the community.

58 <https://greenlining.org/publications/reports/2019/making-equity-real-in-mobility-pilots-toolkit/#::~:~:text=Equity%20means%20increasing%20access%20to,thrive%20and%20reach%20full%20potential>.

59 <https://www.kapwaconsulting.com/>

60 **Gentrification:** a process of neighborhood change that includes economic change in a historically disinvested neighborhood—by means of real estate investment and new higher-income residents moving in—as well as demographic change—not only in terms of income level, but also in terms of changes in the education level or racial make-up of residents.

Residential Displacement ("Displacement"): the process by which a household is forced to move from its residence—or is prevented from moving into a neighborhood that was previously accessible to them because of conditions beyond their control. <https://www.urbandisplacement.org/resources>



Policies can create a range of benefits, burdens, and exclusions. Distributional equity does not mean equality (where everyone gets the same thing), but rather that people define their own needs, and those who are least able to bear the costs of a policy do not incur them, while those in most need of the benefits of a policy are able to receive them. An example of how the team addressed distributional equity in this project was to question “who is burdened, who benefits, and who is left out?” throughout the process. In prioritizing the needs of marginalized communities, policies that were deemed to have financial or other burdens were made contingent on the establishment of supporting systems to ensure accessibility and inclusivity. This approach resulted in the phasing of mandatory policies to be contingent on funding and financing programs and a focus on making sure renters, who make up approximately 57% of Berkeley residents, share in the benefits of electrification.

- Structural (intergenerational) equity is about changing systems and paying attention to the ways they intersect. Addressing structural equity requires commitment and dedication to build trust within the communities who have endured past harms from the government and including those communities as partners in creating solutions. To support this shift, the project embedded equity as a core principle from the onset, partnering with the Ecology Center, a local nonprofit organization that has long-standing relationships with grassroots organizations. The team dedicated a significant amount of the overall project resources and funding to community engagement with traditionally under-represented communities and considered how to undo the damages of redlining and exclusive zoning in the proposed recommendations. Support for and continued partnership with representatives from marginalized communities will be key to finding approaches that include all buildings and benefit all the people in them to improve resiliency and eliminate greenhouse gas emissions.



TARGETED UNIVERSALISM

In order to assure that all buildings in Berkeley can eliminate gas, the policies will need to be designed to meet the needs of everyone, including communities who have been historically marginalized and who stand to benefit the most from electrification. And because everyone has different needs, backgrounds, and lived experiences, it is essential to develop strategies targeted to different needs rather than using a “one size fits all” approach.

To design intentional policies that lead to equitable outcomes, the team utilized the Targeted Universalism framework developed by the Othering & Belonging Institute at UC Berkeley. At its core, Targeted Universalism is the practice of setting a universal policy goal (for example, electrifying all existing buildings) while identifying targeted strategies and actions specifically for marginalized communities to ensure that those communities can benefit from the policy goal. As opposed to the concept of Market Transformation that assumes benefits can be evenly distributed by supporting innovation for well-resourced homeowners, targeted universalism starts with the concept that by addressing the needs of the least resourced everyone will share

the benefits. As detailed in the Haas Institute Primer on Targeted Universalism,⁶¹ each “policy is tailored to the needs of the people it aims to serve or protect.” For example, a targeted universalism approach to renewable energy would explore the relative benefits of rooftop solar, community-scale solar, and other strategies for ensuring that marginalized communities will get access to affordable, renewable, energy. Using this framework for the Strategy means that although there is a common goal across the community of transitioning buildings and the energy system off of fossil fuels, in order to succeed at a community-scale there will need to be varying approaches and resources offered depending on which segment of the community is being targeted. As the City begins to implement the actions identified in this strategy, ongoing engagement will be critical to ensuring authentic use of the targeted universalism framework. As more specific policies and programs are developed this framework will continue to help the City work towards equitable outcomes.

61 https://haasinstitute.berkeley.edu/system/tdf/targeted_universalism_primer.pdf?file=1&force=1





GREENLINING INSTITUTE'S EQUITABLE BUILDING ELECTRIFICATION FRAMEWORK

The Greenlining Institute's Equitable Building Electrification Framework addresses the engagement opportunities and challenges that electrification presents for low-income communities.⁶² This five-step framework served as a guide to the City on how to ensure the engagement process was equitable and supported the community's stated goals of resiliency, high quality local jobs, and making housing safer and more affordable. The five steps are:

STEP 1: Assess the Communities' Needs

STEP 2: Establish Community-Led Decision-Making

STEP 3: Develop Metrics and a Plan for Tracking

STEP 4: Ensure Funding and Program Leveraging

STEP 5: Improve Outcomes

Based on this suggested framework, the City began the process by assessing community needs and establishing a community engagement process to solicit feedback and contribute to decisions related to existing building electrification policies and timeline for implementation. The additional steps of developing metrics for tracking of implementation and ensuring funding and leveraging of existing programs are included as future actions in Chapter 4. The final step of improving outcomes will come with the implementation of this Strategy. As these steps are iterative, the City continues to make progress and will continue to utilize this framework throughout implementation of the Strategy.

⁶² <https://greenlining.org/publications/reports/2019/equitable-building-electrification-a-framework-for-powering-resilient-communities/>

2.2 DEFINING MARGINALIZED COMMUNITIES

The idea of Targeted Universalism is to collaboratively unite behind a common goal (in this case, complete building electrification) where strategies such as programs and policies are targeted towards specific groups, based upon how different groups are situated within structures, culture, and across geographies to obtain the common goal.⁶³ This process necessitates identifying specific population groups and analyzing impacts and resource needs for each group. While the number of population groups and sub-groups of people within a community could be almost infinite, through our stakeholder engagement, the team identified certain communities that have been historically marginalized in Berkeley and

who should benefit most from the policies proposed in this Strategy. These communities include Black, Indigenous, Communities of Color (BIPOC), low-income communities, people living with disabilities, non-English speaking communities, immigrants, refugees, seniors, young children, the LGBTQ community, and other people groups who have been historically marginalized, under resourced and/or have experienced procedural, distributional, and structural inequalities. A distribution of race for Berkeley shows that almost half of the population is BIPOC. Areas that were originally redlined in Berkeley now see the highest levels of displacement and gentrification.

63 <https://belonging.berkeley.edu/targeteduniversalism>

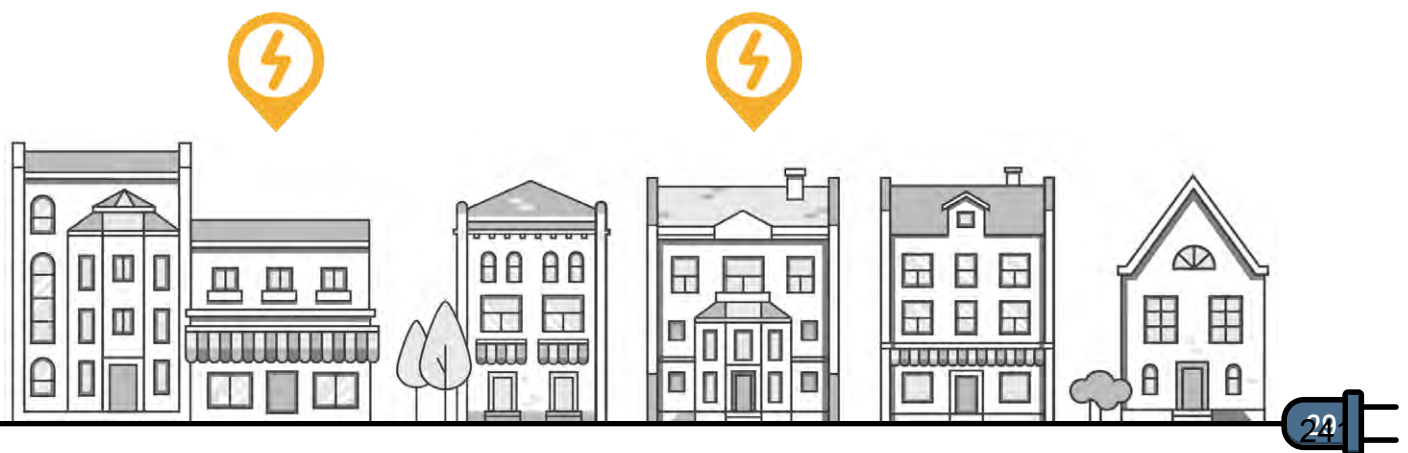
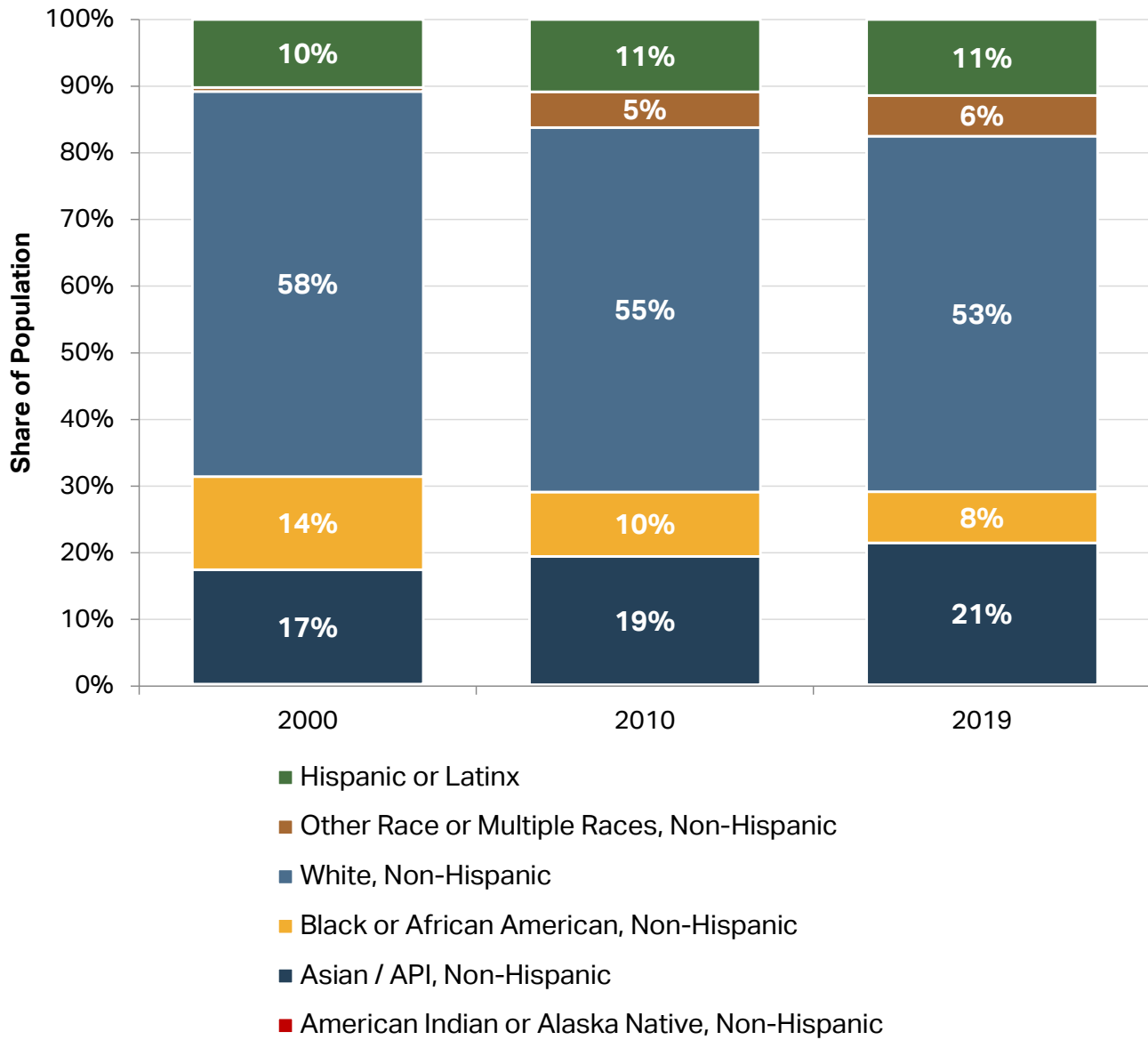




Figure 2-1. Berkeley Population Distribution by Race⁶⁴



Between 2000–2019 the number of African American residents in Berkeley declined by over

40%

64 Data from Association of Bay Area Governments Housing Element Data Package

WHY WE LEAD WITH RACE

Consistent with the Government Alliance on Racial Equity (GARE), the equity analysis for this Strategy leads with race and recognizes racial inequities have been created and perpetuated by government, and that across all indicators of success, racial inequities are deep and pervasive. Additionally, focusing on racial equity provides the opportunity to introduce a framework, tools and resources that can also be applied to other aspects of marginalization.⁶⁵ Historically racist and discriminatory practices such as slavery, Jim Crow laws, racially restrictive covenants, and redlining have been banned, but they have resulted in severe and lasting impacts on communities of color.⁶⁶

For example, due to the persistent legacy of discriminatory housing policies, low-income families of color were denied opportunities to build wealth and are more likely to live in substandard housing with faulty heating or cooling and poor insulation that is unhealthy, unsafe, and results in higher utility bills.⁶⁷ Historically, communities of color with Berkeley have been explicitly discriminated against when it comes to housing. Berkeley has a long history of racial housing discrimination and was the first city to enact single family zoning in 1916, which largely segregated the City early on. Redlining mapped out areas of the city by race. The areas with high populations of people of color were then

“redlined”, and those areas were not eligible for Federally backed Home Owner Loan Corporation guaranteed mortgages, as shown in red in the Thomas Bros map (Figure 2-2). Banks then denied loans, refinancing, and mortgages to property within these redlined areas, preventing people of color from buying homes, one of the main ways people can build generational wealth in America. Impacts from these discriminatory practices are still felt today in patterns of segregation as well as harms to health and wealth to people of color in Berkeley.⁶⁸

According to a report by ACEEE in 2020, low-income, Black, Hispanic, and Native American households all face dramatically higher energy burdens—spending a greater portion of their income on energy bills—than the average household.⁶⁹ High energy burdens are correlated with greater risk for respiratory diseases, increased stress and economic hardship, and difficulty in moving out of poverty. These communities also experience acute systemic inequalities, barriers, and limited access to public and private resources, and they are now being hit the hardest by job losses and health impacts of the pandemic. It is therefore important to elevate the voices and priorities of these communities who are impacted first and worst by climate change.

65 <https://www.racialequityalliance.org/about/our-approach/race/>

66 Simpkin, Noel. “Resilience for All: Applying an Equity Lens to Berkeley’s Seismic Transfer Tax Rebate Program”. May 2020. https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_03_Referral_Response_Ordinance_pdf.aspx

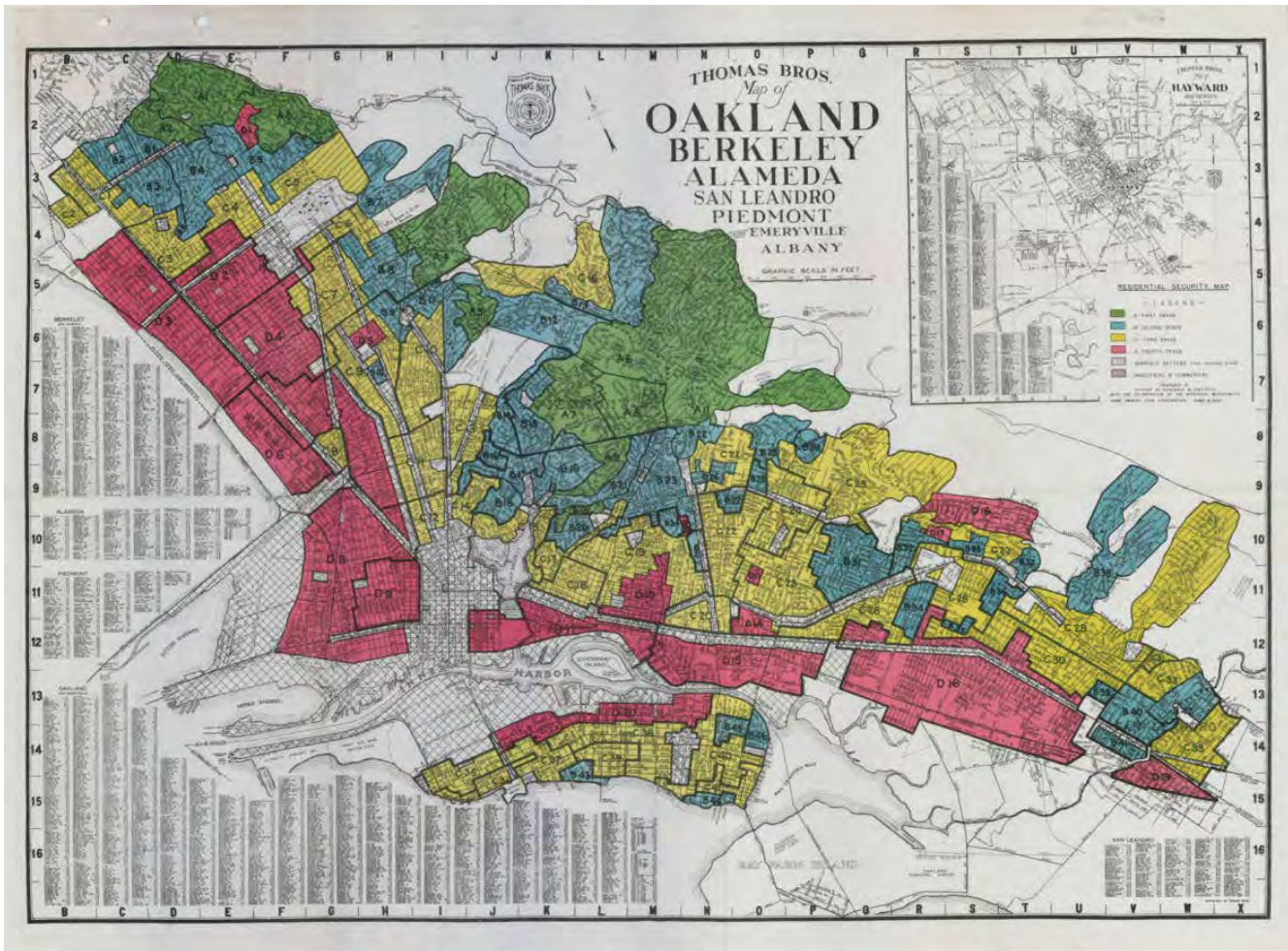
67 The Utility Reform Network (TURN): <https://www.aceee.org/research-report/u2006>

68 <https://www.berkeleyside.com/2018/09/20/redlining-the-history-of-berkeleys-segregated-neighborhoods>

69 <https://www.aceee.org/energy-burden>



Figure 2-2. Berkeley's History of Redlining⁷⁰

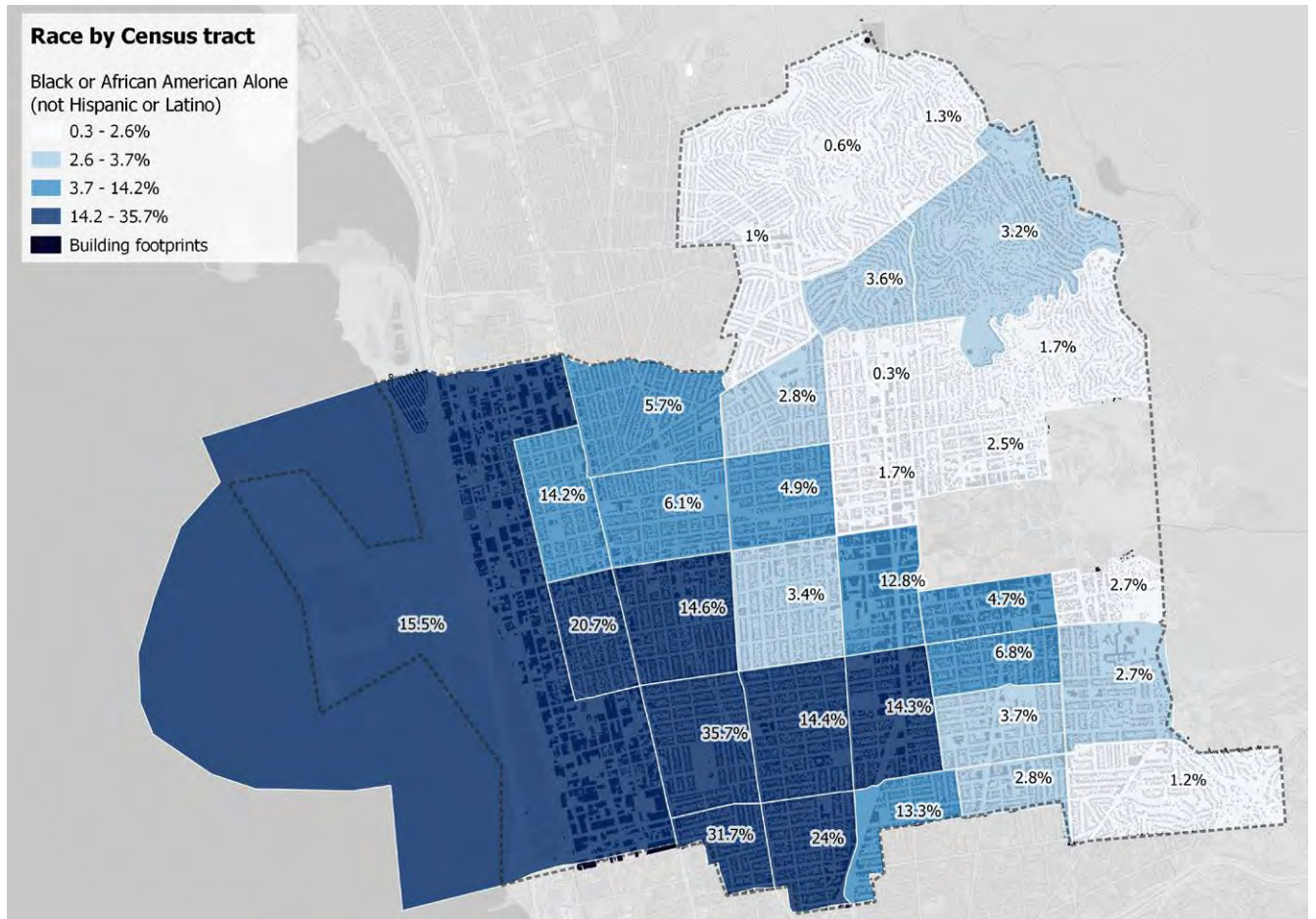


Today, communities of color are suffering the highest rates of displacement and the neighborhoods which had been historically redlined are now the most heavily impacted by gentrification. Gentrification and displacement are occurring in these areas specifically because they were under-invested for so long, and as housing prices have increased significantly, those who can afford to rent or buy (typically wealthier, White people) raise property values, and the people of color are pushed out.

To illustrate the current impacts of these policies, the following maps illustrate present day indicators associated with exclusionary policies. Figure 2-3 shows the census tracts where Black or African American people currently live in Berkeley, a map that largely aligns with the redlined areas in Figure 2-2.

⁷⁰ University of Virginia, Mapping Inequality: <https://dsl.richmond.edu/panorama/redlining/>

Figure 2-3. Race by Census Tract in the City of Berkeley⁷¹



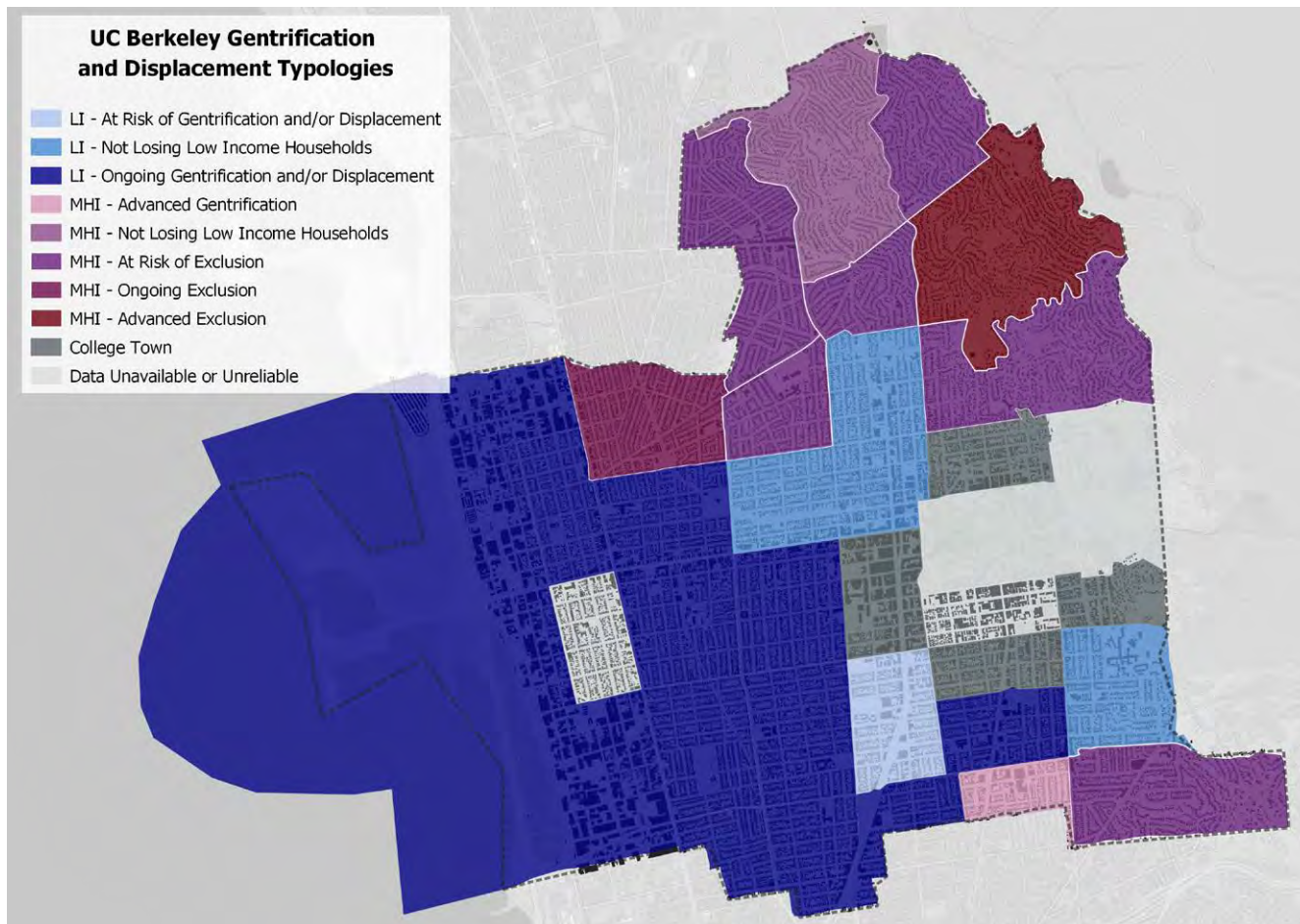
These same areas now see higher rates of gentrification (Figure 2-4) and lower incomes (Figure 2-5).

⁷¹ Based on Census Bureau, American Community Survey 5-year estimate for 2017. Map developed by the Building Electrification Institute.





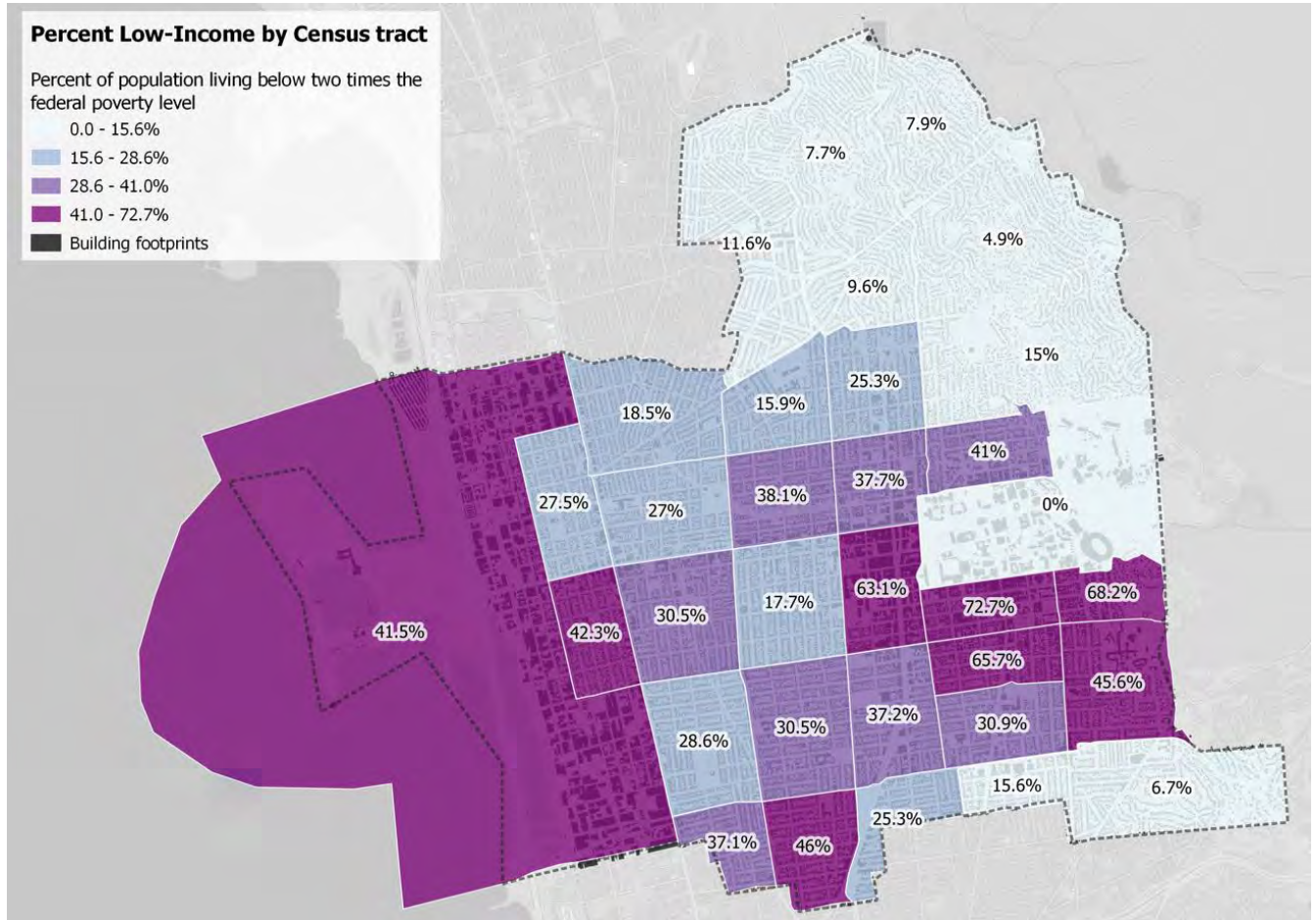
Figure 2-4. Gentrification and Displacement Rates City of Berkeley⁷²



⁷² Urban Displacement Project. Based on Census Bureau, American Community Survey 5-year estimate for 2017. Map developed by the Building Electrification Institute.



Figure 2-5. Percent Low-Income by Census Tract⁷³



Between 2000 and 2010 the largest change to Berkeley’s ethnic diversity was the decline in its African American population (from 13.3 percent in 2000 to 9.7 percent in 2010)⁷⁴ – and this trend has continued in recent years, largely due to gentrification and displacement. The change is even more pronounced

in South and West Berkeley: between 2000 and 2017 the number of African American residents declined by 40 percent. This trend is not only impacting the diversity of Berkeley, but also highlights the continual disenfranchisement of people of color.⁷⁵

73 Based on US Department of Health and Human Services, 2019 Poverty Guidelines. Map developed by the Building Electrification Institute.

74 City of Berkeley Housing Element 2015

75 Simpkin, Noel. “Resilience for All: Applying an Equity Lens to Berkeley’s Seismic Transfer Tax Rebate Program”. May 2020. https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_03_Referral_Response_Ordinance_pdf.aspx

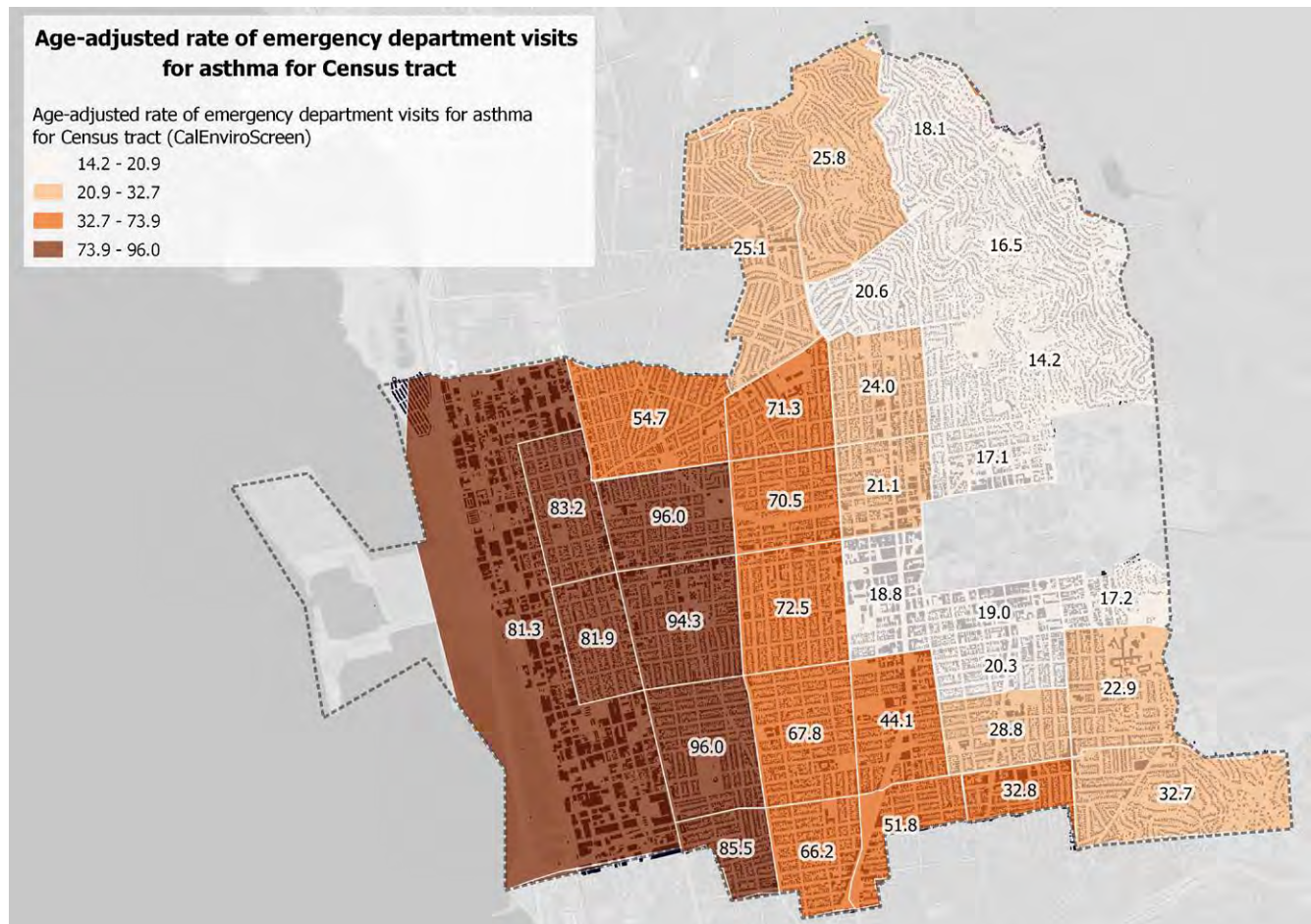


Existing Buildings Electrification Strategy

These same Black and African American communities are also experiencing adverse health impacts as shown in Figure 2-6 and Figure 2-7. As seen in these maps, these health outcomes are correlated with inadequate

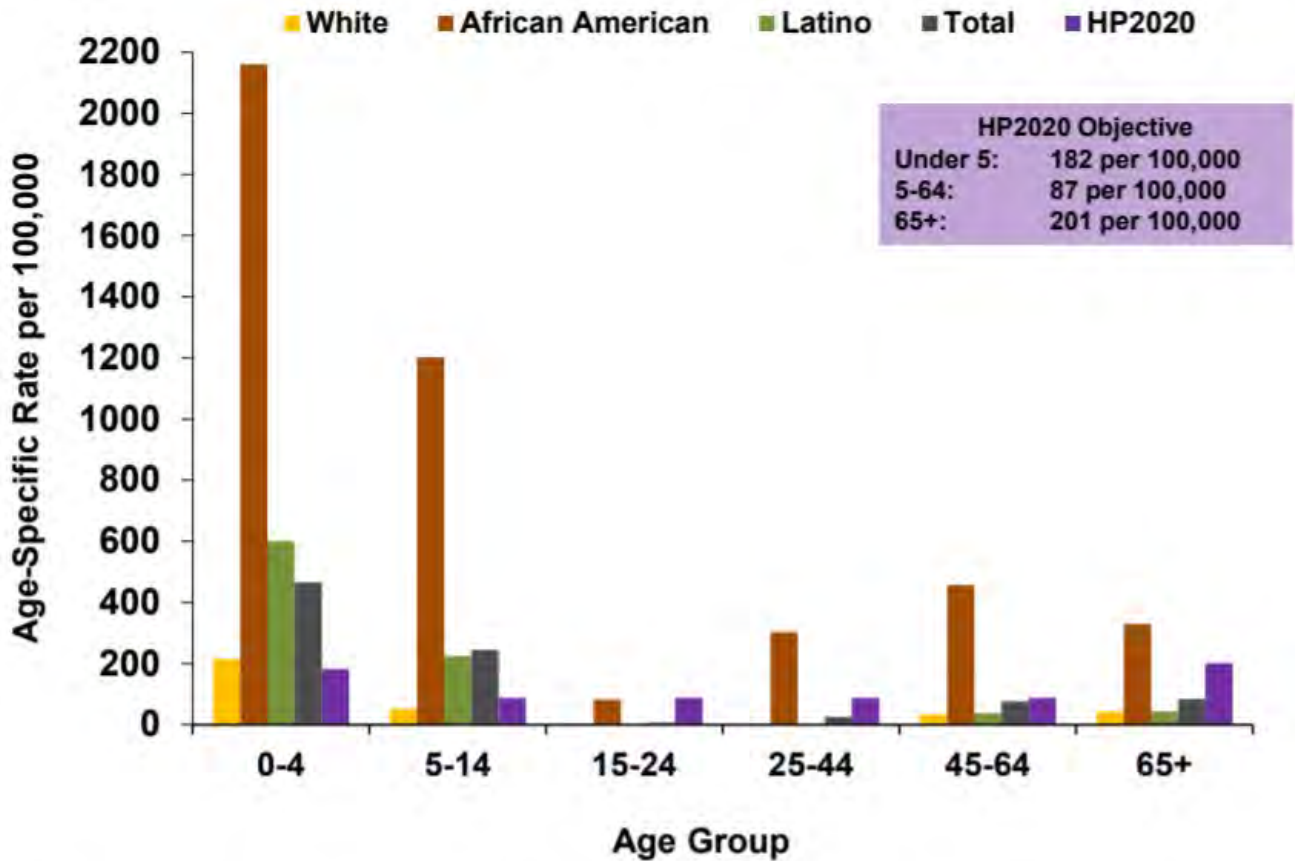
housing, degraded air quality given West Berkeley's proximity to the I-80 freeway, and other environmental factors prevalent in these communities due to historically low investment driven by deep-rooted racist policies.

Figure 2-6. Age Adjusted Rate of Emergency Department Visits for Asthma by Census Tract⁷⁶



⁷⁶ Data from CalEnviroScreen. Map developed by Building Electrification Institute.

Figure 2-7. Age-Specific Asthma Hospitalization Rate by Age Group and Race/Ethnicity in the City of Berkeley (2012-2014)



Source: City of Berkeley Public Health Division, Epidemiology & Vital Statistics; Office of Statewide Health Planning and Development, 2012-2014

Recognizing the impacts that race has on the socioeconomic and health impacts discussed above, the community engagement approach included, but was not limited to, people of color as a priority marginalized group. The

City will continue to work with all communities to further establish the targeted approaches required for successful implementation of the Strategy.



2.3 COMMUNITY ENGAGEMENT APPROACH

Two core priorities of this Strategy development were to 1) center equity, and 2) build community trust and relationships. To achieve these goals, in late 2019 to early 2020 staff from the Ecology Center, a trusted partner within the community began outreach efforts as an intermediary on behalf of the City by meeting with local community leaders and organizations that represent marginalized communities to build trust, gather information on how to engage the larger community, and to get initial feedback on building electrification. This targeted outreach was intended to raise up community voices who have not been historically represented in City policy development.

Next, the Ecology Center connected City staff with interested community contacts so that the City could continue relationship-building even without the Ecology Center as a necessary part of the interactions. Jointly, the City and the Ecology Center continued to meet with community organizations and community leaders throughout the project, and the hope is that these meetings and relationships will continue.

In addition to these one-on-one meetings with community organizations, the City also hosted an equity-focused community meeting with community organizations in November 2020. This intentional and focused engagement helped to inform and impact the

strategy development timeline, structure of the engagement with the broader community, and recommendations.

Beyond the direct, targeted outreach with the community groups, the City also conducted more traditional outreach with leading technical experts, policy experts, and other jurisdictions in order to inform the strategy, including:

- Met with several other Departments within the City to collaborate and dovetail with related work
- Convened a Building Emissions Saving Ordinance (BESO) Technical Advisory Committee (March 2020)
- Convened a Strategy Technical Advisory Committee Meeting with nearly 70 attendees including technical experts, contractors, policy experts, and other local jurisdictions (September 2020)
- Presented to the Berkeley Energy Commission (January 2021, April 2021)
- Convened a public forum to provide input on the Draft Strategy (May 2021)

DEFINING SUCCESSFUL OUTREACH AND ENGAGEMENT

In order for outreach and engagement to be considered equitable, it should affect both the decision-making process and the policy decisions based on what was heard in the community. The community engagement for the Strategy was robust and in-depth but instead of measuring factors such as number of people attended or number of meetings, the more important community engagement metrics of success are the relationships that were established and continued, the quality of information received, and the depth to which that information was integrated into electrification policy recommendations.

The equity-focused community engagement feedback had significant impacts on the outcomes of the Strategy including determining what types of electrification policies could be required, a timeline for when these policies could be implemented, who will be affected, and how to ensure that costs are not concentrated on those least able to afford them and that benefits are experienced by those who need them most.

Community Groups Engaged With During Strategy Development

The community organizations representing marginalized communities that participated in engagement for this Strategy include:

- Accessible Climate Strategies
- African American Holistic Resource Center
- Asian Pacific Environmental Network (APEN)
- Bay Area Hispano Institute for Advancement, Inc. (BAHIA)
- Berkeley Black Ecumenical Ministers Alliance (BBEMA)
- Berkeley Rent Board
- Building and Construction Trades Council of Alameda County (BTC Alameda)
- California Housing Partnership Corporation (CHPC)
- Center for Independent Living (CIL)
- Church By the Side of the Road
- Citizens for a Better Environment
- Coro Northern California
- East Bay Clean Power Alliance (EBCPA)
- Easy Does It
- Energy Democracy Project
- Friends of Adeline
- Green the Church
- Greenlining Institute
- Healthy Black Families
- International Brotherhood of Electrical Workers (IBEW) 585
- La Peña
- Local Clean Energy Alliance (LCEA)
- McGee Avenue Baptist Church
- Plumbers and Steamfitters 342 (UA 342)



Existing Buildings Electrification Strategy

- Rebuilding Together
- Resources for Community Development (RCD)
- Rising Sun Energy Center
- Satellite Affordable Housing Associates (SAHA)
- Sierra Club
- Urban Habitat
- World Institute on Disability

Feedback from these groups brought attention to community-specific concerns, needs, priorities, and considerations regarding electrifying existing buildings, which are summarized below. This feedback informed the final outcomes of the Strategy and informed the creation of the equity guardrails that are discussed further in Chapter 2.5.

2.4 IDENTIFIED EQUITY CONSIDERATIONS

Several themes emerged during discussions with community groups and nonprofits serving marginalized communities, and directly informed this Strategy. While ongoing conversations will continue, a summary of some

of the feedback heard to date from our equity outreach can be found below. Please note these comments represent opinions and feedback from community members.

Cost Concerns

People expressed strong concerns of any increased costs for residents, especially renters and low-income homeowners who cannot afford new electric appliances, associated accessories to use them (i.e., new pots and pans for induction stoves), and any potential increase to utility bills.

- Energy insecurity impacts 25% of California families.⁷⁷
- If gas prices are rising, we need to be sure to protect the low-income community that stays on gas from bill spikes.

- Do not mandate electrification if people cannot afford it. Electrification doesn't matter if people can't pay their bills.
- Make sure financing options do not increase debt—we do not want to offer a loan where people have to take a lien out on their house for the few homeowners of color left.
- Ensure that affordable options are also high quality options and solutions.

⁷⁷ The Utility Reform Network (TURN), http://www.turn.org/wp-content/uploads/2018/05/2018_TURN_Shut-Off-Report_FINAL.pdf

Concerns of Displacement and Housing Affordability

People expressed strong concerns about needing to protect renters and long-term homeowners from displacement and to ensure that building electrification efforts do not further perpetuate displacement, gentrification and the affordable housing crisis.

- There is a need to address the split incentive between landlords (who would have to pay for the upgrades) and tenants (who would benefit from the upgrades, but could be pushed out in order for the landlord to recoup costs and increase rents). Protect renters so landlords can't raise rents, evict, or in other ways push tenants out of their homes.
- Ensure electrification retrofit costs cannot be passed on to renters, which could lead to displacement. Short-term displacement during retrofits should be covered for low-income community members.
- Concern that electrification will limit the creation of additional affordable housing.

Electrification Can and Should Be Linked With Other Needed Building Upgrades

People expressed that many of Berkeley's buildings, especially income-qualified buildings, are in substandard condition and have many physical upgrade needs for health,

safety, and comfort beyond electrification that also need to be addressed and prioritized (such as mold treatment, lead, asbestos, and earthquake retrofits).

Need for Energy Reliability

People expressed that the community is concerned about the reliability of electricity, especially with increased Public Safety Power Shutoff (PSPS) events from PG&E. As we are seeing more frequent and consistent occurrences of PSPS events, and climate change will lead to more extreme weather conditions that could lead to these events, people expressed the need for reliable energy assurance. Some felt that having gas provided redundancy, even though many gas appliances will not work during an electrical outage.

- This is particularly relevant for disabled communities who need electricity to power equipment/wheelchairs, refrigerate medicine, and more.
- Energy supply should be localized and stored through solutions such as solar + battery storage, community microgrids, and resilience hubs.



The City and Others Need to Lead by Example and Build Trust

People expressed that there is a lack of trust with the government, and a history of lack of follow-up. Culturally sensitive education can help build trust in the technology and benefits. We also heard that in order to build trust in electrification, other larger entities like the

City, private companies, and other trusted organizations should lead by example by electrifying their buildings first to prove the benefits, safety and feasibility before asking others to do so.

Need for Culturally-Sensitive Education to Address Steep Learning Curve

People expressed that there is a high need for culturally-sensitive communication, education, and technical assistance around electrification as this is a new topic for many community members, and people want to learn more about the benefits and technology. The City should acknowledge and address varying methods and styles of learning/understanding and seek to meet people where they are.

- Specifically, cooking is a cultural asset, and many feel strongly about cooking with gas stoves. Cooking helps bring community together and food plays an important part in both tradition and culture-making, any disruption to that will need to be addressed thoughtfully and with cultural sensitivity. This will need to be discussed and focused on in the transition, and people of color need to lead the way in education.

Programs and Benefits Need to Be Accessible to All

People expressed that the health, safety, comfort and resilience benefits of electrification, including high quality equipment and renewable energy powering the equipment, should be accessible and affordable to all.

- Existing programs have challenges that need to be addressed including not enough rebates, long wait lists for assistance programs, and primarily benefiting the privileged, leaving no money for those who are disadvantaged.

- Concern that some people such as immigrants may not want to disclose personal information required to access rebates or programs (such as in solar rebates), so ensure programs are accessible to these groups.

The City Needs to Collaborate Closely With Community and Others on Solutions

People expressed that the City needs to work closely with the community to co-create solutions through direct outreach and meeting

people where they are, including those from minority groups and those who cannot attend traditional City-led community meetings.

Workforce

People expressed that we need to support and invest in training programs, businesses, and other supporting networks to train and hire local workers of color and to ensure that electrification jobs are inclusive, high quality, family sustaining and safe, and provide benefits.

- There is a lack of diversity in the contractor workforce to do this work. We need outreach

and training to minority, women, and disadvantaged business enterprise (MWDDBE) contractors to build their capacity.

- We want to be able to see someone who looks like us to invite them into our homes, and spend money on their services.
- The City needs to work with organized and unorganized labor to ensure high quality, family-sustaining jobs.

Feedback on Proposed Policies

- Historically redlined areas for a neighborhood electrification pilot could be a guide to investment. The benefits of a neighborhood approach is that it is an opportunity for community building.
- The African American community is now fragmented in Berkeley, so also consider this in the neighborhood approach that it may be more building-by-building than full neighborhoods to reach people of color.
- Consider that as home prices are high and home ownership has been restricted against people of color, time of sale does not address disparities and displacement for people of color in Berkeley.

In response to this feedback, the City developed four equity guardrails that each potential policy was assessed against. A more detailed description of the equity guardrails is included in Chapter 2.5. These guardrails were used to assess each proposed policy and will continue to be used in the future as new policies are developed.



HOW COMMUNITY FEEDBACK INFLUENCED THIS STRATEGY

Community feedback played a major role in the final policy development and proposed timeline for the electrification of Berkeley's building stock. While some of the themes such as the City taking a leading role in electrification and linking electrification to other upgrades can be and are directly addressed

with additional policy development, others such as sensitivity to increased costs and gentrification/displacement risks require a more comprehensive approach to ensure the potential negative equity impacts associated with electrification policies are addressed.

2.5 EQUITY GUARDRAILS

In response to the points raised by communities and advocates, the team developed the concept of equity guardrails, which serve as the foundation of the Strategy and act as minimum standards that must be met for any proposed electrification policy to be considered. The equity guardrails are meant to distill the diverse and sometimes high level discussions about equity into a mechanism that can be used to inform policy and create concrete change. For example, originally the team anticipated developing an aggressive timeline to require electrification upgrades. However,

after hearing the needs and concerns of the community, the team realized that mandatory measures were not meeting the equity guardrails of addressing cost concerns, and risk for potential displacement. The team stepped back and proposed a phased timeline, allowing time to develop resources, funding and financing programs, and education before requiring people to make these changes. Based on the feedback provided by the community and key stakeholders the following equity guardrails were developed:



EQUITY GUARDRAILS

Access to Health and Safety Benefits



Ensure marginalized communities and others most impacted by climate change equitable access to health, safety and comfort benefits from electrification like cleaner air and cooling for hot days (Chapter 1) for both homeowners and renters. Due to the upfront costs of electrification and lack of incentives for owners of multifamily buildings (see Chapter 2.0), many households will need financial support to have access to high quality upgrades and the benefits of electrification, including long-term cost savings.

Access to Economic Benefits



Ensure all community members, especially marginalized communities have equitable access to affordable funding and financing mechanisms, and to high-road job opportunities.

Maximize Ease of Installation



Ensure that incentives and programs for the community provide meaningful support to renters, owners, and marginalized community members to provide a simple process that minimizes the burdens and impacts associated with the installation of high quality electric equipment installed by a fairly paid and well trained workforce.⁷⁸

Promote Housing Affordability & Anti-Displacement



Ensure upgrades don't displace renters or over-burden homeowners. Programs should support housing production, housing preservation, and tenant protections.

In Chapter 4.0, the process of applying the equity guardrails is further defined and each policy Chapter (Chapters 4.3–4.6) includes an equity guardrails analysis that describes the major opportunities, risks, and potential

solutions that were informed by the analysis. Over time the equity guardrails should continue to be refined, updated, and implemented based on community input.

⁷⁸ For example, many rebate programs require residents to pay up-front costs and get repaid later, but this model does not work for many including low-income communities.



Existing Buildings Electrification Strategy

The development and implementation of the equity guardrails led to substantial changes to the Strategy. Specifically, the project team incorporated the results of the equity guardrail analysis into:

- **Timeline and Phased Approach:** To address the concerns of cost impacts for low- and moderate-income residents, rather than setting a goal of electrification as soon as possible (e.g. 2030) which would be very expensive under current conditions, the Strategy proposes thoughtful phasing to encourage moving forward while ensuring that sufficient structural systems (such as accessible funding and financing, education, and regulatory changes) are in place to make the transition equitable. The City also recognizes the urgent need to address the climate crisis as soon as possible, so these phases can overlap if possible.
- **Specific Policy Actions:** As seen in Chapter 4, the City included specific actions to address the risks identified through community feedback and the equity guardrail analysis.
- **Future Education & Relationship Building:** The relationships built during this process led to a successful grant application that provided funding for one of the community organizations to do additional “train-the-trainer” outreach related to building electrification. We heard that people learn best and absorb more from their peers especially around elements that include cultural shifts (such as cooking). This suggests that education efforts might be most effective if they focus on community ‘nodes’ who can help spread the word within their own circles.



2.6 NEXT STEPS AND RECOMMENDATIONS FOR ENGAGEMENT

The outreach and engagement for this project was conducted during the end of 2019 and throughout 2020 and consisted of both in person workshops and discussions prior to the COVID-19 shelter-in-place orders, as well as virtual conversations and workshops. This engagement coincided with the COVID-19 pandemic and social uprisings in 2020. These compounding struggles added to the economic and other resource constraints of already marginalized communities and further strained the community-based organizations that support these communities. Understanding the reality of these challenges and the collective grief and pressure on impacted communities is key in moving forward in partnership with communities as well as connecting with advocacy organizations.

This engagement process provided critical information from which the City developed an equity framework that substantially impacted the findings of the Strategy. The engagement for the Strategy starts to build a foundation for long-term discussions with the community.

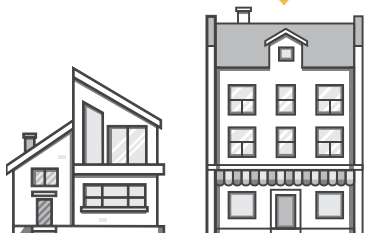
However, there is more to learn, and the City is committed to continuing its equity work as a fundamental part of the process by working with the community to determine the details of the programs and policies and ensure they are equitable. Electrification of Berkeley's building stock will not happen overnight, and as technologies and State policies change, the City of Berkeley and the community will need to continue to collaborate on the best approach for existing building electrification. Continued outreach might take place in the form of workshops and focus groups, individual conversations, or other methods that engage with the community. As the City continues to engage with the community, targeted universalism will be considered in order to ensure all community voices are heard. Chapter 4 outlines specific actions that have been identified to continue and expand on community engagement.







3. COST AND TECHNICAL ANALYSIS





3.1 INTRODUCTION

This chapter identifies the magnitude of resources required to transition all of Berkeley’s low rise residential homes from gas to electricity by modeling upfront and long term costs and savings. The analysis quantifies the costs of electrification for homes in Berkeley given current market conditions, identifies the opportunities for cost-effective electrification under current conditions, and provides insights for policy efforts designed to quickly make building electrification cost-competitive for all Berkeley residents. While market solutions identified in this analysis are an important part of the overall electrification strategy, they do not inherently meet the goals of targeted universalism. Using an equity lens to evaluate these policies determines where the gaps are and where we need

to focus public resources to ensure equity and inclusion, while simultaneously supporting market-based solutions. The magnitude of the climate crisis requires using all tools and policies necessary to eliminate the use of fossil fuels in Berkeley’s buildings.

The analysis in this chapter incorporated an inventory of Berkeley’s housing stock, energy, and cost models for over 35,000 Berkeley homes, and input from a technical advisory committee. Findings helped identify key opportunities for Berkeley policymakers to target today and provided other insights that informed the development of the recommended policies and the three-phase implementation approach described in Chapter 4.



3.1 MODELING ELECTRIFICATION COSTS FOR BERKELEY'S EXISTING HOMES

Methodology

This analysis began with a deep dive into Berkeley's building stock to better understand the distribution of building types and existing conditions. This analysis was followed by

research into electrification measures and costs. This data was used to model different retrofit packages to identify the most cost-effective options.

Building Inventory Analysis

An analysis of the existing building stock was conducted with support from the Building Electrification Institute (BEI), which broke down buildings by square footage, building type, and vintage using Alameda County Assessor data. It's challenging to provide an exact estimating of the number of housing units in the City given limitations in parcel-level data availability— but the BEI inventory, 2017 Alameda County Tax Assessor data, and other available sources suggest a total of roughly 50,000 units within city limits. Also, although Berkeley is a primarily built-out

city, additional housing units are added every year. Under current development conditions, these new units are primarily multi-family and Accessory Dwelling Units (ADUs). As of 2019, new buildings entitled in Berkeley are required to be all-electric.

The decision to focus on residential buildings was a result of this building inventory analysis, which estimated 91 percent of buildings and 65 percent of square footage are residential buildings with three stories or less (low-rise) as shown in Table 3-1.



Table 3-1. Berkeley Building Inventory by Building Type⁷⁹

Typologies	Total Buildings	Total Square Feet	Percent of Buildings	Percent of Square Footage
Commercial, up to 3 floors	1,083	8,279,496	3.1%	9.7%
Commercial, over 3 floors	38	2,268,880	0.1%	2.6%
Industrial/institutional (excluding UCB)	1,146	10,044,605	3%	12%
Total non-residential	2,267	20,592,981	6%	24%
Single family homes	21,582	28,200,352	61%	33%
2-4 unit homes	8,259	13,681,987	23%	16%
5+ multi-family, up to 3 floors	2,476	13,620,735	7%	16%
5+ multi-family, over 3 floors	182	5,797,275	1%	7%
Total Residential	32,499	61,300,279	92%	72%
Missing Data	666	3,794,381	2%	4%
TOTAL	35,432	85,687,641	100%	100%

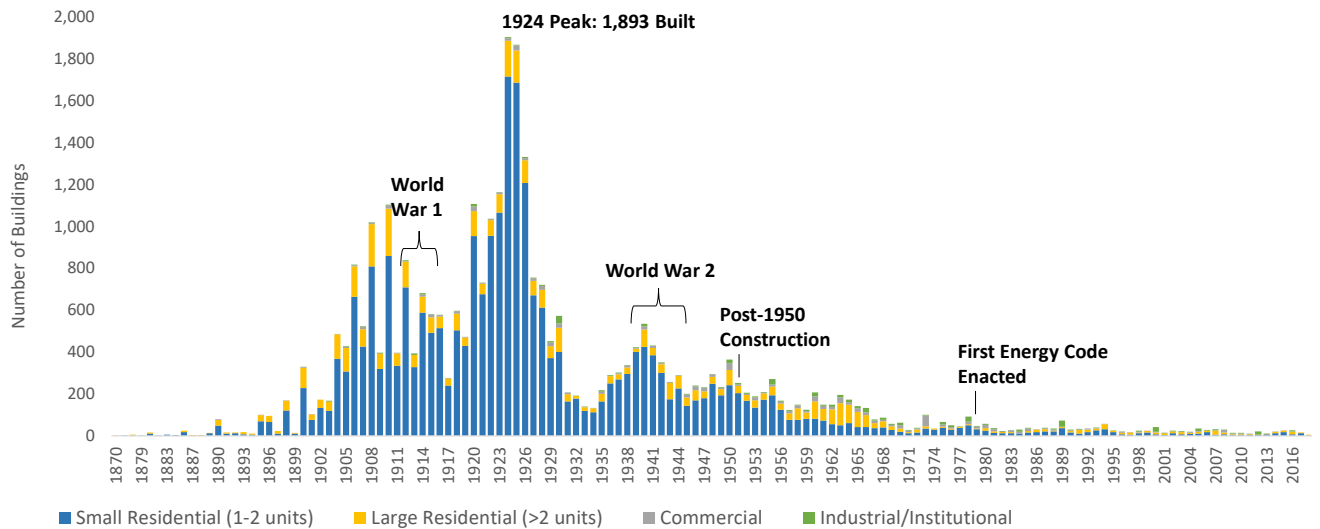
Berkeley buildings range in age from the City's incorporation in 1878 to present, with most homes built between 1905 to 1930 as shown in Figure 3-1. The vintage of these homes provides an indication of potential existing conditions that may influence the scope of an electrification project, including the presence of the items listed below.

- Knob and tube wiring was largely installed from 1880-1940s.
- Wall furnaces were largely installed from 1930s-1960s.
- Lath and plaster remained in use until the 1950s, when it was transitioned to drywall and plywood.
- Asbestos was a common building product until the 1970s.
- Stucco became the siding of choice in the West and Southwest, where brick and stone were too scarce and pricey to use as building materials. In seismically active California, stucco proved to be a perfect sheath.
- Vinyl Siding was introduced to the exterior market in the late 1950s as a replacement for aluminum siding.
- Sliding Glass Doors were most common in the late 1950s and 1960s.
- Aluminum Windows were most common in the 1970s.

⁷⁹ Analysis conducted by the Building Electrification Institute based on multiple data sources, including 2017 Alameda County Tax Assessor data.

Figure 3-1. Berkeley Buildings by Vintage⁸⁰

All Buildings, Year Built



This analysis of building vintages provided insights that many Berkeley buildings likely have the following challenging conditions to overcome during building upgrades, and there is no “one size fits all” approach:

- Poor envelope insulation/sealing
- Leaky HVAC ducts
- Lower capacity electric panels
- Knob-and-tube wiring
- Asbestos

⁸⁰ Analysis conducted by the Building Electrification Institute based on various data sources.



ELECTRIFICATION MEASURES AND COST ASSUMPTIONS

Defining the current costs to electrify Berkeley's housing stock requires an understanding of the existing building stock, the equipment currently in use, and the range of options available for electrifying that equipment. This cost analysis focuses on low-rise (up to 3 floors) residential buildings

and provides a starting point for identifying policy interventions. It should be noted that this cost analysis focuses on the financial aspects of electrification and does not include the non-monetary benefits such as health, comfort, and resilience that also need to be considered.

Electrification Equipment Measures

There are very efficient and high-performing electric appliances that can replace gas stoves, water heaters, HVACs, and clothes dryers. For example, air-source heat pumps or heat pump water heaters are three to five times more energy-efficient than their natural-gas counterparts.⁸¹ A summary of available technologies can be found below:

- **WATER HEATING:** Heat pump water heaters (HPWHs) are highly efficient electric appliances that use electricity to move heat from surrounding air and transfers it to water in an enclosed tank, instead of generating heat directly.
- **AIR SPACE HEATING/COOLING:** Electric air source heat pumps (ASHPs) use electricity to move the heat from the air. This technology can be used to heat a building by moving heat indoors, or cool a building by moving heat outdoors, just like a refrigerator. This means ASHPs have the added benefit of providing both heating and air conditioning, while gas

heating systems only provide heating. As described in Chapter 1, Berkeley will see an increase in temperature and heat waves. ASHPs can help to ensure comfort and safety during high heat days. Additionally, if the ASHP has good air filtration, this filtration can provide clean air during times with poor air quality such as wildfire smoke events.

- **COOKING:** Gas stoves and ovens can be replaced by electric ovens and induction cooktops. Residential induction cooking tops consist of an electromagnetic coil that creates a magnetic field when supplied with an electric current. When brought into this field, compatible cookware is warmed internally, transferring energy with approximately 85 percent efficiency. Furthermore, because the source of heat is the cookware itself, the cooking top surface remains cool to the touch, and less heat is lost to the surrounding air. A cooler cooking top surface also makes induction cooking tops safer to

81 <https://www.greentechmedia.com/articles/read/so-what-exactly-is-building-electrification>

work with than other types of cooking tops. Finally, because the cookware itself is the source of heat, it reaches desired temperatures more quickly and provides faster cook times. The per unit efficiency of induction cooktops is about 5-10 percent more efficient than conventional electric resistance units and about three times more efficient than gas.⁸² Induction cooktops do require compatible cookware and can work with any pots and pans where a magnet clings to the bottom, which includes cast iron.

- **CLOTHES DRYERS:** Gas clothes dryers can be replaced by electric resistance or heat pump clothes dryers. A heat pump dryer works as a closed loop system by heating the air, using it to remove moisture from the clothes, and then reusing it once the moisture is removed. Rather than releasing warm, humid air through a dryer vent to the exterior of the home as a conventional dryer does, a heat pump dryer sends it through an evaporator to remove the moisture without

losing too much heat. Using heat pump clothes dryers can reduce energy use by at least 28 percent compared to standard dryers and dry laundry at low temperatures, so they are gentler on clothes.⁸³

The Berkeley community joined East Bay Community Energy (EBCE) in 2018, and EBCE procures the electricity for these customers. However, PG&E owns and operates the electric and gas systems that serve Berkeley homes and so PG&E still charges Berkeley residents for gas usage as well as certain fees, program charges, low-income discounts, and electric delivery rates for all electricity customers regardless of whether they are on EBCE or not. Gas is the most common fuel for space and water heating across Berkeley, with a smaller proportion of homes also using gas for cooking and/or clothes drying, as seen in the breakdown in Table 3-2. Any concerns about electronics with magnetic fields will be considered based on future regulatory studies and standards.

82 https://www.energystar.gov/about/2021_residential_induction_cooking_tops

83 https://www.energystar.gov/products/heat_pump_dryer





Table 3-2. City of Berkeley Residential Gas-Consuming Equipment Inventory

End Use	Gas System	Electric System	No System/ Other Fuel	Notes
Heating and Cooling	99%	1%	0%	5-10% of homes have central or room A/C
Hot Water Heating	92%	7%	1%	89% tanked gas, 3% tankless gas
Cooking	64%	35%	1%	Electric systems predominantly resistance
Clothes Drying	33%	63%	4%	Electric systems predominantly resistance

Other residential gas equipment including fireplaces, outdoor grills and fire pits, and spa heaters were not considered for this report. Additional details, including a comparison of

building and equipment inventory estimates across a range of available sources, can be found in the Technical Appendix.

Electrification Measure Packages for Units in Low-Rise Residential Buildings

This analysis considers the upfront installation cost and life cycle impacts of nine comprehensive electrification packages with varying levels of appliance efficiency, envelope updates, and solar PV. Measure packages consist exclusively of products that are readily available in Berkeley today and were selected to represent a range of cost and performance. Packages were designed with input from local contractors, energy efficiency experts, supply-side analysts, and City staff. Table 3-3 summarizes the packages that were measured in the cost analysis for low-rise residential homes.

Modeling assumed unitary HVAC and DHW systems for all low-rise multifamily buildings; we did not consider the central systems common in larger buildings. Measure cost models were based on E3’s 2019 report “Residential Building Electrification in California” and updated based on local research. See the Technical Appendix for more information on the modeling process and assumptions.



Table 3-3. Electrification Packages Modeled

#	HVAC	DHW	Clothes Dryer	Cooking Stoves	Envelope Upgrades	Solar PV	Panel Upgrades
1.1	Single-speed HP	50 gal HP	Resistance	Resistance	–	–	Y
1.2	Single-speed HP	50 gal HP	Resistance	Resistance	–	Offset	Y
1.3	Single-speed HP	50 gal HP	Resistance	Resistance	–	NZE	Y
2.1	Variable-speed HP	80 gal HP	Heat pump	Induction	–	–	Y
2.2	Variable-speed HP	80 gal HP	Heat pump	Induction	–	Offset	Y
2.3	Variable-speed HP	80 gal HP	Heat pump	Induction	–	NZE	Y
3.1	Variable-speed HP	80 gal HP	Heat pump	Induction	Y	–	Y
3.2	Variable-speed HP	80 gal HP	Heat pump	Induction	Y	Offset	Y
3.3	Variable-speed HP	80 gal HP	Heat pump	Induction	Y	NZE	Y

Definitions:

- DHW: Domestic Hot Water (Heater)
- gal = gallon
- HP = Heat Pump
- NZE = Net Zero Energy
- Single Speed HP = Central ducted heat pump that utilizes a single-stage compressor, usually lower price but less efficient than variable-speed HP
- Variable-speed HP = Central ducted heat pump that utilizes a dual-stage compressor, usually more efficient but higher cost than single speed HP

MEASURE PACKAGE 1: Package 1 electrifies Berkeley homes at the lowest possible cost. The package includes a single-speed central air source heat pump (ASHP) for heating and cooling, a 50-gallon heat pump water heater, and an electric resistance clothes dryer and stove. These lower-efficiency appliances (especially the electric resistance clothes dryer and stove) minimize upfront cost but have the potential to dramatically increase grid impacts and homeowners' utility bills.

MEASURE PACKAGE 2: Package 2 electrifies Berkeley homes with higher-efficiency equipment meant to represent a sensible balance between installed costs, operating costs, and grid impacts. The package includes a variable-speed central ASHP for heating and cooling, an 80-gallon heat pump water heater, a heat pump clothes dryer, and an induction stove.



Existing Buildings Electrification Strategy

MEASURE PACKAGE 3: Package 3 utilizes the same appliances as package 2 but also incorporates low-cost envelope efficiency improvements to reduce home air leakage (to 7 ACH50) and increase roof insulation (to R-38).

SOLAR: Each measure package developed for this report was modeled alone and with two different rooftop solar PV systems, one

sized to meet the electric load of newly electrified equipment on an annual basis (referred to as "Offset PV" here) and another sized to meet the home's entire electric load including lighting, plug loads, and other existing electricity users (referred to as "Net Zero Energy PV" or "NZE PV" here).

TECHNICAL ADVISORY COMMITTEE FEEDBACK

In addition to targeted community outreach with an equity focus (discussed in Chapter 2), the project team also engaged with over 100 local technical experts, contractors, and policy experts to inform cost and energy modeling assumptions, identify the key challenges and opportunities facing community-wide electrification, and brainstormed solutions.

Technical feedback culminated with a Technical Advisory Committee workshop held in July 2020, where 70 participants provided feedback on an early draft of the analysis and policy strategies covered in this report. Some of the key feedback heard from this group included:

- The group agreed that to electrify all buildings, mandates will be required. However, there was not a consensus from the group on what mandate(s) should be required first, or when they should be required, because there are many technical and financial challenges that require further examination before mandates. The City plans to work with the community and experts to co-create these policies as part of Phases 1 and 2.

- Tariffed on-bill financing (TOBF) is a promising approach to scale electrification without creating more debt, but even with TOBF, there will be a need for public investment and other funding opportunities to support low- and moderate-income community members.
- There is a need to track and monitor equity metrics.
- There is a need to consider building envelope implications and balance between the urgency of the climate emergency and the priority of being in a comfortable and good quality home.
- There is a need to focus solutions for disadvantaged communities, particularly red-lined areas, including grants for Low- and Moderate- Income (LMI) and renters.
- There is a need to better understand grid impacts including how future winter and summer peaks compare, load management, amp budgets, solar, and storage.

KEY MODELING RESULTS

The cost model results for the nine measure packages is shown in Table 3-4.

Table 3-4. Average Results for All Measure Packages

#	Electrification Package	Energy Bill Savings (\$/yr)	Energy Bill Savings (%)	Gross Cost (\$)	Incremental Cost (\$)	Incremental Cost with Current Incentives (\$)	Incremental Cost with Incentives + Financing (\$)
1.1	Economy Appliances	-\$540	-33%	\$19,870	\$7,930	\$7,930	\$12,290
1.2	Economy Appliances + Offset Solar	\$540	33%	\$26,160	\$14,220	\$14,220	\$5,610
1.3	Economy Appliances + NZE Solar	\$1,480	89%	\$32,270	\$20,330	\$20,330	\$1,470
2.1	Mid-Tier Appliances	\$5	0%	\$24,750	\$12,110	\$9,910	\$9,880
2.2	Mid-Tier Appliances + Offset Solar	\$590	35%	\$28,200	\$15,560	\$13,360	\$6,090
2.3	Mid-Tier Appliances + NZE Solar	\$1,510	91%	\$34,270	\$21,630	\$19,430	\$1,700
3.1	Mid-Tier Appliances + Envelope	\$90	5%	\$29,320	\$16,690	\$13,240	\$12,540
3.2	Mid-Tier Appliances + Envelope + Offset Solar	\$600	36%	\$32,350	\$19,720	\$16,720	\$9,470
3.3	Mid-Tier Appliances + Envelope + NZE Solar	\$1,510	91%	\$38,410	\$25,780	\$22,320	\$4,520

Note: Modeled costs are averages and electrification costs may be higher or lower depending on individual building characteristics

Definitions:

- **Energy bill savings:** The net change in year-one utility bills after installing all-electric appliances.
- **Gross cost:** The cost a Berkeley homeowner sees for installing all-electric appliances. This reflects the material, labor, and overhead costs quoted by a local contractor for installation but not existing/future incentives.
- **Incremental cost:** The incremental cost of installing all-electric appliances over the cost of installing new gas appliances

(\$0 would reflect cost parity with gas appliance options).

- **Incremental cost with current incentives:** This line incorporates 2021 incentive offerings from BayREN for specified all-electric appliances and envelope upgrades.
- **Incremental cost with incentives + financing:** The incremental cost a homeowner would pay up-front if financing their all-electric upgrade through a tariffed on-bill financing program (terms detailed in section 3.3).



Any one of these nine packages can achieve a net zero emissions target under EBCE's zero-carbon "Brilliant 100" rate tariff, which is accessible to Berkeley residents and roughly matches the PG&E E-1 tariff modeled for this report.⁸⁴ Electrifying gas appliances would save Berkeley 2.5 tons of CO₂ emissions per home every year.

Several future developments should continue to improve the economics of electrifying Berkeley's housing:

- **INSTALLED COSTS:** Installed heat pump and solar PV costs are expected to drop roughly 10 percent between 2020 and 2030.⁸⁵ Targeted training programs could result in even more significant cost reductions in Berkeley's labor market.
- **UTILITY RATES:** Gas rates are projected to increase 22 percent between 2020 and 2030.⁸⁶
- **ELECTRIC TARIFF OPTIMIZATION:** Time-of-use rates, which are quickly becoming the standard in California, could improve

the value proposition for electric appliances with smart load shifting controls.⁸⁷ Other rate tariff innovations could be designed to support electrification.

- **CLIMATE CHANGE:** Warmer summers increase the need for (and value of) high-efficiency cooling in Berkeley, where A/C ownership is expected to double between 2020 and 2050 (see Section 3.2).

Berkeley cannot mandate building electrification for all residents today without negatively impacting housing affordability and energy security for its residents. But this market is rapidly evolving. The value proposition will only continue to improve, and there are other non-monetary benefits to consider. The remainder of this chapter identifies immediate opportunities to catalyze the building electrification transition and analytical insights to inform policies intended to bridge the gap between current market conditions and cost parity for all Berkeley residents.

⁸⁴ https://www.pge.com/pge_global/common/pdfs/customer-service/other-services/alternative-energy-providers/community-choice-aggregation/ebce_rateclasscomparison.pdf

⁸⁵ <https://www.nrel.gov/docs/fy18osti/70485.pdf>; Kristen Ardani, Jeffrey Cook, Ran Fu, and Robert Margolis, *Cost-Reduction Roadmap for Residential Solar Photovoltaics (PV), 2017–2030* (National Renewable Energy Laboratory, January 2018).

⁸⁶ *Energy+Environmental Economics, Residential Building Electrification in California* (2019). Assumptions calibrated with current PG&E residential gas rate projections for 2020: <https://www.pge.com/tariffs/Residential.pdf>

⁸⁷ An RMI analysis of PG&E's default time of use rates in 2017 found only a 3% savings on annual electricity costs from these load-shifting controls. However, homeowners on opt-in rates with a large spread between peak and off-peak pricing saw a 21% cost savings. Rocky Mountain Institute, *Economics of Electrifying Buildings* (2018).



THE EXTREME COST OF DOING NOTHING

Building electrification is a relative bargain compared to the cost of alternative pathways for achieving building sector climate goals. While the upfront costs of electrifying Berkeley’s existing buildings may exceed status quo fossil fuel replacements under current market conditions, it is crucial to put those costs in the context of the substantial costs from inaction or delayed action. Appliance electrification is the lowest-cost, least-risk pathway to decarbonize the building sector, especially when considering the avoided societal impacts of pollution and climate effects.⁸⁸

In California, buildings are now the leading cause of premature death from combustion emissions.⁸⁹ Most of these emissions come from using fossil fuel appliances, which release pollutants like carbon monoxide, formaldehyde, and nitrogen oxides (NO_x) – a pollutant that creates smog and fine

particulate matter (PM_{2.5}). These pollutants degrade our air and harm our health. Children and lower-income households have a higher risk of health impacts from gas appliance pollution, such as increased risk of asthma and respiratory illnesses.⁹⁰

Research makes clear that using electric appliances can greatly reduce our exposure to toxic pollution. Children living in a home with a gas stove have a 42 percent higher risk of experiencing asthma symptoms and a 24 percent higher risk of being diagnosed with asthma by a doctor, compared to children living with electric stoves.⁹¹ UCLA researchers estimate that if we electrify all of the fossil fuel appliances in the Bay Area, we could avoid over 300 respiratory illnesses, save over 130 lives, and save \$1.2 billion in healthcare costs — every year.⁹² Electrification is essential for our residents’ health and well-being.

88 <https://rmi.org/building-electrification-a-key-to-a-safe-climate-future/#:~:text=In%20order%20to%20achieve%20the,residential%20buildings%20is%20to%20electrify>

89 Irene C. Dedoussi, et al., *Premature mortality related to United States cross-state air pollution*, 578 *NATURE* 264 (2020), available at <https://doi.org/10.1038/s41586-020-1983-8>.

90 Brady Seals and Andee Krasner, *Health Effects from Gas Stove Pollution*, RMI, Physicians for Social Responsibility, Mothers Out Front, and Sierra Club (2020), available at <https://rmi.org/insight/gas-stoves-pollution-health/>

91 Weiwei Lin et al., *Meta-Analysis of the Effects of Indoor Nitrogen Dioxide and Gas Cooking on Asthma and Wheeze in Children*, 42 *International Journal of Epidemiology* 1724 (2013), available at <https://doi.org/10.1093/ije/dyt150>.

92 UCLA Fielding School of Public Health, *Effects of Residential Gas Appliances on Indoor and Outdoor Air Quality and Public Health in California* (2020), Appendix B, Tables B-3 and B-4, available at <https://coeh.ph.ucla.edu/effects-of-residential-gas-appliances-on-indoor-and-outdoor-air-quality-and-public-health-in-california/>.



Electrification is also much less costly compared to alternative pathways to building decarbonization that rely on renewable gas. In California, a renewable gas approach will cost four times as much as an electrification approach.⁹³ For consumers, E3 estimates that an electric heat pump “would cost \$35 to \$53 per month to operate, while renewable gas (RNG) in a gas furnace would cost \$160 to \$263 per month to operate.”⁹⁴ The addition of new electric loads from electrification can also help with rate affordability and may even reduce energy bills.⁹⁵

From a systems perspective, electrification reduces the cost and risk of investing money in gas infrastructure that may ultimately need to retire soon. The State spends nearly \$3.5 billion a year to maintain the existing

gas system.⁹⁶ Berkeley’s ordinance requiring all-electric new construction helps avoid investing in new gas infrastructure, but electrification of existing homes can help evade the need to invest in existing pipeline maintenance and potentially support targeted pipeline retirement. This also demonstrates the value in electrifying sooner rather than waiting. The longer we wait to electrify the building stock, the more money we will have spent in a waning gas system.

By transitioning our buildings from fossil fuels to electric appliances, we achieve the benefits of improving health and air quality, avoiding health and safety risks of gas, addressing climate change, and reducing investments in expensive gas infrastructure.

93 <https://ww2.energy.ca.gov/2019publications/CEC-500-2019-055/CEC-500-2019-055-F.pdf> Page 4

94 <https://ww2.energy.ca.gov/2019publications/CEC-500-2019-055/CEC-500-2019-055-F.pdf> Page 39

95 https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/office-of-governmental-affairs-division/reports/2021/senate-bill-695-report-2021-and-en-banc-whitepaper_final_04302021.pdf Page 8

<https://ww2.energy.ca.gov/2019publications/CEC-500-2019-055/CEC-500-2019-055-F.pdf> Page 5

96 <https://ww2.energy.ca.gov/2019publications/CEC-500-2019-055/CEC-500-2019-055-F.pdf> Page 60



3.2 OPPORTUNITIES TO TARGET TODAY

The financial modeling found that many homes in Berkeley can be cost-effectively electrified today without new financing programs, next-generation technologies, or other policy interventions. These buildings, which are predominantly single-family homes occupied by more affluent community members, are not a priority from a targeted universalism perspective—but they represent essential opportunities to capture in Phase 1 policies for market development. Capturing the trigger points that support or enable

cost-effective building electrification today allows the City of Berkeley to demonstrate success, build local distributor and installer capacity, and learn best practices for future policy before broad mandates are enacted.

Any incentive (financial or other) provided for these short-term market-based efforts should be considered and balanced with resourcing for long-term, more inclusive tactics that are accessible to all buildings to achieve a full transition from gas in the residential sector.





HOMEOWNERS INSTALLING SOLAR, BATTERIES, OR ELECTRIC VEHICLE CHARGERS

Rooftop solar PV has an extremely beneficial impact on the project economics for building electrification in Berkeley. Without solar, some Berkeley homeowners are seeing a utility bill increase after converting to heat pump equipment (depending on the equipment efficiency specified and expected use) due to the electric rates offered through PG&E and EBCE, which are currently 80 percent higher than the national average.⁹⁷ Solar PV is a comparatively low-cost source of electricity, yielding a typical levelized cost of energy (LCOE) of \$0.13/kWh in Berkeley—roughly half the rate of grid-supplied electricity.⁹⁸ This lower cost of electricity has an enormous impact on the economics of electrification in Berkeley.

Google's Project Sunroof estimates that most homes in Berkeley are good candidates for a solar PV system:⁹⁹

- 88 percent of rooftops are considered "solar viable."¹⁰⁰
- 69 percent of all rooftops can support a 5+ kW solar system.
- 58 percent of all roofs are flat or south-facing.
- Solar-viable rooftops produce an average of 1410 kWh/year per kW-DC installed.

The current value proposition for solar suggests that Berkeley can lean on homeowners already considering rooftop solar installations to lead the first phase of the building electrification transition. This is especially true of homeowners installing larger solar systems that rely on a net energy metering (NEM) policy that has, to date, disproportionately benefited higher-income ratepayers (discussed in Section 3.3). These projects can serve as a trigger for less cost-effective electrification or electric readiness requirements—for example, Berkeley could require that these homeowners couple installations with the wiring and panel, battery storage, or heat pump water heaters upgrades to facilitate full electrification in the future. Requiring electric appliance upgrades with solar PV installations provides the synergistic benefit of increasing a home's electric load and allowing homeowners to purchase even larger solar systems without utilizing NEM.

97 <https://www.next10.org/sites/default/files/2021-02/Next10-electricity-rates-v2.pdf>

98 Calculated via <https://www.nrel.gov/analysis/tech-lcoe.html> with a \$3.35/W installed cost, 26% ITC savings, and otherwise default assumptions.

99 <https://www.google.com/get/sunroof/data-explorer/place/ChIJ00mFOjZ5hYARK-l1ppUV6pQ/>

100 Solar-viable: Any rooftop where an installation would reach at least 75% of the efficiency of an optimally oriented and unshaded system.

Other distributed energy resource (DER) projects, including battery energy storage systems and electric vehicle charging stations, provide a similar opportunity for electric-readiness requirements. Battery energy storage systems are particularly advantageous because of the synergistic benefit these products have with solar PV: batteries can allow homeowners to specify larger PV systems (and save more on their utility bills) without relying on NEM policies. Homeowners who value the resilience benefits of battery storage can enable fully off-grid (and zero carbon) operation by electrifying their gas appliances. Additionally, stakeholder engagement in Berkeley has identified increasing community interest for backup power in the face of recent Public Safety Power Shutoff events.

Berkeley will need to re-evaluate the design of any DER-triggered requirements once the NEM 3.0 tariff is finalized. The City must also balance the synergistic benefit of DER-based electrification requirements with the need to provide more equitable access to the economic benefits of these technologies, which to date have been disproportionately utilized by higher-income constituents in owner-occupied homes.





HOMEOWNERS REPLACING OR INSTALLING AIR CONDITIONING

Homeowners replacing or installing new air conditioning systems present an essential opportunity for cost-effective building electrification. Because heat pump upgrades provide both heating and cooling benefits, they can replace both a furnace and an air conditioner. The average whole-house air conditioning system installation costs \$9,500 in Berkeley,¹⁰¹ meaning that a heat pump system can be less expensive than installing a new central furnace and air conditioner alone. Air conditioner installations and replacements can be a particularly advantageous trigger for a heat pump upgrade for two reasons:

- **MORE AFFORDABLE:** Air conditioning installations can be more expensive than furnace replacements, meaning homeowners pay a smaller incremental cost for the heat pump upgrade. Whole house air conditioning is also currently considered a luxury in Berkeley's climate, suggesting that these homeowners may be more able to afford a cost increase for higher-performance products.

- **EASIER INSTALLATION:** Whereas converting a gas furnace to heat pump represents a new electrical power load, homes with older whole-house air conditioners can sometimes reduce their overall power draw with a heat pump conversion. This conversion can protect homeowners from the added cost and time of upgrading their electrical panel.

The incremental cost of replacing a whole-house air conditioning system with a heat pump depends on the assumed value of the heating and cooling systems being replaced. If both the existing gas furnace and air conditioner need to be replaced, both the economy-tier and mid-tier ASHPs modeled for this report can be installed at an upfront cost savings. A mid-tier heat pump upgrade upon A/C failure could save homeowners money on installation if the furnace has less than 4 years of remaining useful life, while an economy heat pump product can save the money if the furnace has less than 12 years of remaining life.¹⁰²

¹⁰¹ Assumes a whole-house air conditioner with two ton (i.e. 24 MBH) capacity per home.

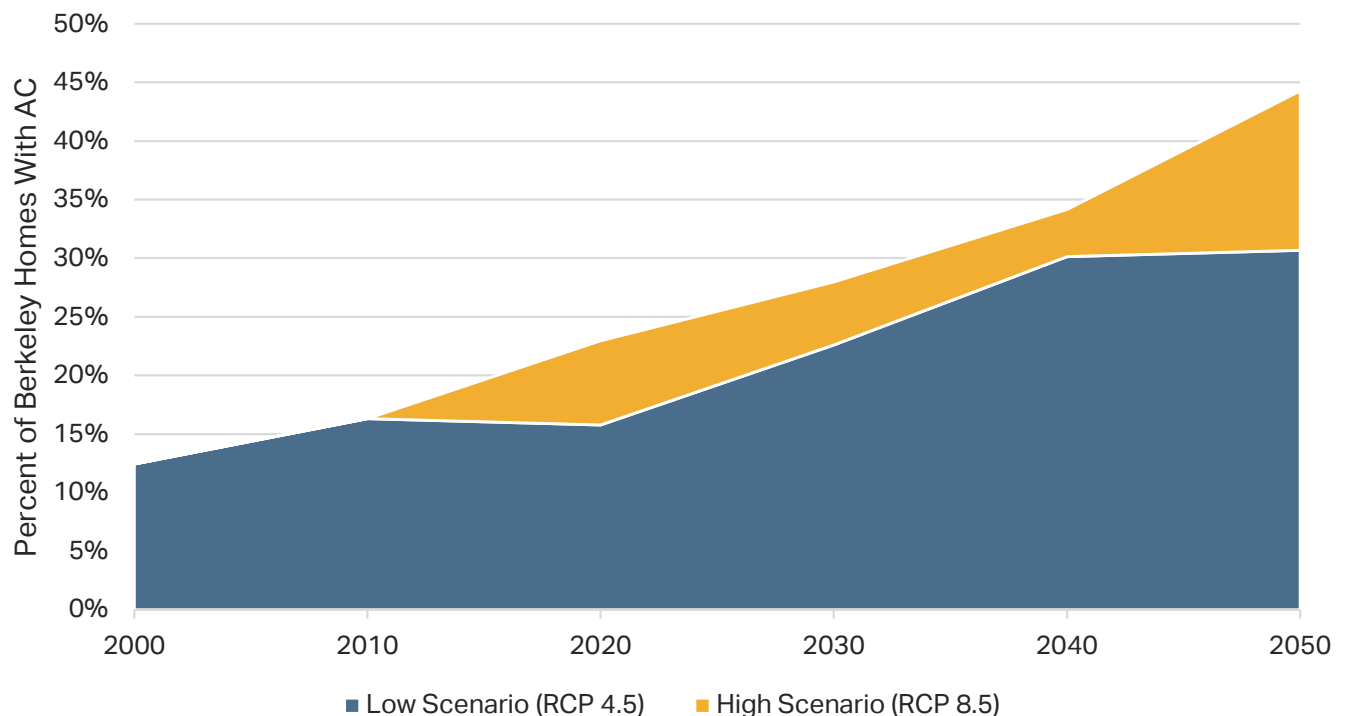
¹⁰² These numbers assume a 40 MBH gas furnace, 2 ton A/C system, and 3.5 ton heat pump system, with the furnace's value depreciating linearly with age.



Fewer than 10 percent of Berkeley homes currently utilize whole-house air conditioning. But as the climate warms, air conditioning systems will become substantially more popular in the Bay Area and will provide greater

climate resiliency. Climate models suggest that cooling degree days in Berkeley will increase 53-72 percent by 2050, resulting in up to 44 percent A/C ownership as shown in Figure 3-2.¹⁰³

Figure 3-2. Projected A/C Ownership in Berkeley Over Time



These projections suggest that over 6,000 existing homes will purchase new air conditioning systems by 2045. Capturing these installations can reduce summer grid peak load, minimizing supply-side costs that

contribute to electricity rate increases for all homeowners. Berkeley should work with A/C installers and heat pump manufacturers to ensure these homes install heat pump systems instead.

¹⁰³ Climate modeling via Cal-Adapt, <https://cal-adapt.org/tools/degree-days/#climatevar=cdd&scenario=rcp45&lat=37.28125&lng=-120.46875&boundary=locagrid&thresh=65&units=fahrenheit>. Correlation to A/C ownership rates defined by Sailor et al, 2003 ([https://doi.org/10.1016/S0360-5442\(03\)00033-1](https://doi.org/10.1016/S0360-5442(03)00033-1)). See Figure 1(a).



HOMEOWNERS PURCHASING OR REFINANCING HOMES

Modeling found that over 50 percent of homeowners could see positive cash flows from day one by financing the incremental cost of electrification package 2.2 (mid-tier appliances with offset solar PV) over a 4 percent APR, 30-year term with just a \$1,000 increase over existing incentives, while virtually all homeowners could cost-effectively finance packages with larger solar systems. These terms are available to both homebuyers and refinancers through green mortgage products like Freddie Mac's GreenCHOICE® and Green Advantage® mortgage products. These products present concerns about financing terms that exceed the expected life of new building equipment—but forward-thinking homeowners may be willing to take on that risk and use these long-term products to cover the added one-time cost of fuel switching if they expect heat pump products to reach cost parity with gas alternatives in the foreseeable future.

Green mortgage products are underutilized today and cannot currently be applied to all building electrification measures, but major lenders including Freddie Mac and Fannie Mae are actively developing pilot programs and recommendations to increase their reach as part of their efforts under the Federal Housing Finance Agency's Duty to Serve Program. The maximum qualifying loan for loans eligible products is currently \$822,375 and the median home sale price in 2021 is \$1.5 million according to Realtor.com. The City of Berkeley is collaborating with efforts by the Department of Energy to expand eligibility for these loans and will need to work directly with local lenders to determine when and how to expand access to these products in Berkeley.



POINT OF REPLACEMENT FOR EXISTING EQUIPMENT

Berkeley should work to ensure that most of its homeowners are able to electrify existing buildings as old gas equipment fails, rather than incentivizing or requiring them to bundle all appliance upgrades into a single project. Project bundling can minimize the cost and complexity of performing multiple equipment replacements, but this benefit is counterbalanced by the lost value embodied in gas equipment that is replaced before failure. Berkeley can reduce the necessary incentive for cost-competitive electrification and mitigate backlash to electrification requirements by targeting situations where homeowners already need to pay for equipment replacement. When Berkeley homeowners pay the

amount that they would otherwise have to pay for gas equipment, they typically cover 50-60 percent of the cost for electrification (not including costs for solar PV). Berkeley could also elect to incorporate upgrade requirements for lower-cost appliances (namely the dryer and/or cookstove) at the time a home's furnace, which represents at least 44 percent of the total value of a home's existing gas equipment, once sufficient incentives are in place to cover the lost value of any early-retired equipment.

Relying on point-of-replacement policies for building electrification in Berkeley does bring its own challenges:

Electrical Capacity Concerns

Berkeley needs to ensure that homeowners have sufficient electric panel capacity and available circuitry for appliance fuel switching projects. These upgrades, which are necessary in over 80 percent of Berkeley's aging housing stock with current technology, can take weeks or even months to complete under current permitting processes and wait times.

Berkeley could help homeowners avoid this engineering challenge by incorporating electrical upgrade requirements into the previously-mentioned trigger points for near-term electrification requirements:

distributed energy resource projects, air conditioning installations, and home sale/refinancing. Berkeley could also focus initial efforts on a community-wide panel upgrade adoption campaign. But the upgrades are costly (potentially over half the incremental cost of electrifying a Berkeley home¹⁰⁴), and the supply-side impacts of dramatically increasing each home's electrical capacity, which force transmission and distribution upgrades and increase operating costs, are significant.

¹⁰⁴ Our models assumed up to \$1,150 per home for wiring upgrades and \$3,000 per home for panel upgrades, and many Berkeley residents have reported higher costs in the current labor market. This cost makes up over 50% of the incremental cost for electrification under measure package 1.1.



Electrical upgrade costs can be minimized or avoided altogether with innovative products and design principles including:

- Newer heat pump products capable of operating on 120 Volt, 15 Amp wiring circuits (commonly already available in existing homes). Note that these products will not necessarily mitigate new wiring costs in homes with knob-and-tube wiring, which may be unsafe to utilize.
- Smart load management solutions that allow homeowners to balance loads on their existing electrical panel (e.g., by only charging their EV when other appliances are turned off)
- Attributing some or all of the panel upgrade cost to other decarbonization technologies likely to become mainstream in Berkeley by 2045 (including solar PV, batteries, and EV charging)

Project Financing Challenges

A focus on point-of-replacement policies suggests that Berkeley homeowners could require financing for several different electrification projects. Financing entities need to find a reasonable way to support these separate projects rather than a single bundled

effort. This issue is complicated by the fact that some electrification measures (namely clothes dryer and cookstove electrification) currently yield zero or negative operating cost impacts.¹⁰⁵

¹⁰⁵ https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf



3.3 OTHER INSIGHTS FOR POLICY DEVELOPMENT

Energy and cost modeling analysis yielded a range of other insights that can inform goal setting and policy development in Berkeley:

ACCESSIBLE FINANCING SOLUTIONS ARE ESSENTIAL

Berkeley residents can use financing programs to cover a significant portion of the added upfront cost for electrifying their homes. An example of a type of financing program which, if developed in an accessible and affordable way can help to scale building electrification, is tariffed on-bill financing (TOBF). In a TOBF program, upgrades (such as electrification and/or efficiency upgrades) are financed not through a loan, but through a utility offer that pays for upgrades under the terms of a new, additional tariff. This tariff includes a cost recovery charge on the bill that is less than the estimated savings. The on-bill charge is associated with the meter at the address of the property or facility where upgrades are installed, and the cost recovery charge is treated as equal to other utility charges on the bill.¹⁰⁶ A tariffed investment does not add to the debt profile of the location

owner the way a bank loan would. A benefit of this model is that it can be utilized by renters and LMI customers, especially those with limited credit or low credit scores, because the utility's investment is based on the cost effectiveness of the upgrades and not the socio-economic status of the bill payer at that location.¹⁰⁷ Furthermore, because the investment is at the meter, the investment and pay-back stay at the property and do not follow the resident if they decide to move.

The amount amortized in Table 3-4 reflects cash flow estimates utilizing the Pay As You Save^{®108} tariffed on-bill financing (TOBF) model¹⁰⁹. This financing vehicle treats the utility as a bank and spreads the cost of a home's energy upgrades over years of utility bills, with occupants guaranteed not to pay

106 [https://www.aceee.org/toolkit/2020/02/bill-energy-efficiency#:~:text=Tariffed%20on%2Dbill%20\(TOB\),less%20than%20the%20estimated%20savings.](https://www.aceee.org/toolkit/2020/02/bill-energy-efficiency#:~:text=Tariffed%20on%2Dbill%20(TOB),less%20than%20the%20estimated%20savings.)

107 https://mk0southeastene72d7w.kinstacdn.com/wp-content/uploads/SEEA_TOBGuide_FINAL_UPDATED_2020_04_13.pdf

108 Pay as You Save[®] (PAYS[®]) is a market-based system developed by the Energy Efficiency Institute (EEI) that provides a platform for TOB investment programs. PAYS is the most widely used form of tariffed on-bill programs for energy efficiency. https://mk0southeastene72d7w.kinstacdn.com/wp-content/uploads/SEEA_TOBGuide_FINAL_UPDATED_2020_04_13.pdf

109 See Building Decarbonization Coalition's 2020 report *Towards an Accessible Financing Solution*



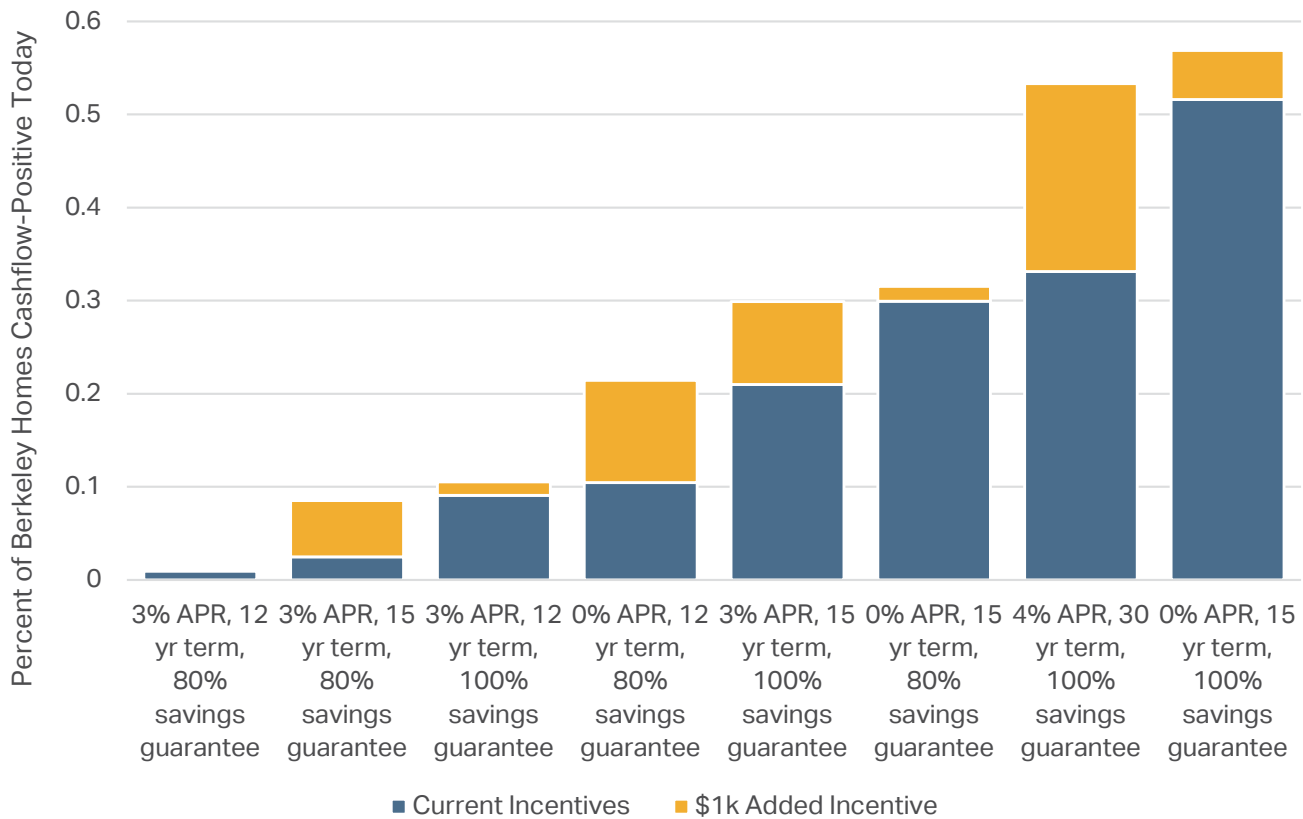
Existing Buildings Electrification Strategy

more than they save on their energy costs. TOBF was modeled in this report with the following terms:

- Rate: 3.0 percent APR
- Term: 20 years for solar PV, 12 years for other measures
- Monthly financing payment capped at 80 percent of modeled energy savings

These terms buy down the cost of all modeled electrification + solar packages by at least 40 percent. More aggressive financing terms can cover even more of that cost and present opportunities for cost-effective building electrification even under today's conditions as shown in Figure 3-3.

Figure 3-3. Impact of Different Financing Terms on Package 2.2 (Mid-Tier Appliances With Offset Solar)



As the most essential driver of cost parity identified in this report, the City of Berkeley must ensure that all residents have access to competitive financing terms to ensure equitable access to the building electrification transition. TOBF programs can meet this requirement by providing a solution that can:

- Finance over long (10+ year) terms
- Address the tenant-owner split incentive in rental properties
- Provide access to residents with lower credit scores and/or irregular income
- Stay tied to location upon sale or ownership transfer
- Provide financial guarantees to participants
- Avoid additional points of contact

There is not currently a TOBF program in California that could be used for building electrification in Berkeley, but establishing one is essential to reducing the cost and time

necessary to decarbonize Berkeley's housing stock. The CPUC, PG&E, and other partners must move to implement a TOBF program (or a similarly accessible financing solution) for Berkeley to follow through on commitments to local, State, and national building decarbonization goals. The CPUC's Clean Energy Financing rule making provide one immediate opportunity to advocate for this solution.

Existing financing programs, including Home Energy Line of Credit (HELOC) loans and green mortgage products, present opportunities for Berkeley residents currently pursuing voluntary fuel switching projects. Local community banks and credit unions may provide other options.

Financing programs need to be paired with other financial incentives for Berkeley residents to electrify cost-effectively. Chapter 4 of this report details potential funding sources and programs aimed at reducing the cost of fuel-switching projects.

ROOFTOP SOLAR PV CONSIDERATIONS

California adopted net energy metering (NEM) policies in 1995 to encourage customers to install renewable energy resources, with SB 656 requiring utilities to compensate customers for renewables such as rooftop solar

(also known as behind the meter resources). Under current "NEM 2.0" rules, customers are paid for the electricity generated by their solar panels at the utility's retail rate and get equal credit for any excess generation





Existing Buildings Electrification Strategy

on their bills. These rules have accelerated the installation of rooftop solar PV systems across California, with customer-owned renewables now making up 11 percent of the State's total electricity production capacity (80 GW). But while NEM has been a vital tool for achieving state-grid decarbonization goals, it has also disproportionately benefited the residents who can most easily access those systems¹¹⁰: the California Public Utilities Commission (CPUC)'s 2021 NEM 2.0 Lookback Study found that "NEM 2.0 participants benefit from the structure, while rate-payers see increased rates."¹¹¹ The CPUC and the state's Independent Emissions Market Advisory Committee both estimate that under the current NEM 2.0 policy, the lowest-income Californians (who are least likely to benefit from NEM) could save \$80 to \$100 per year if the cost of current NEM policies were not included in their bills.¹¹² The value proposition for rooftop solar PV systems needs to change substantially to correct this disparity in outcomes.¹¹³

As Berkeley seeks to elevate measures that support targeted universalism and community-wide solutions, rooftop solar presents a multifaceted strategic planning challenge: Under NEM 2.0 guidelines and electric rates, larger rooftop solar systems can dramatically improve project economics and

make building electrification a cost-neutral investment for over one-third of Berkeley's homes—but at the expense of contributing to increased rates for those left behind across PG&E's service territory. Given this challenge and the impending impact of NEM 3.0, which is expected to diminish the value of solar system overproduction, Berkeley cannot rely on the economics of electrification projects with oversized solar systems to validate policy mandates. The value proposition for those larger systems is also expected to be diminished with the adoption of NEM 3.0 sometime in 2022, which could in turn improve the value of residential battery systems and load-balancing technologies.

Berkeley should only consider the modeled cash flows of electrification packages with smaller PV systems that rarely overproduce (measures 1.2, 2.2, and 3.2 in this report) in defining a long-term approach to building electrification that centers equity. Solar-focused programming must also provide equitable alternatives for residents without easy access to rooftop solar systems. East Bay Community Energy, which currently provides 100 percent renewable electricity rate tariffs for a small premium and is committed to utility-scale and local community-scale renewable development, could provide alternatives.

¹¹⁰ Lawrence Berkeley Labs found that around half of the state's solar adopters are in the highest 20 percent of earners, while only 4 percent come from the lowest 20 percent. See <https://emp.lbl.gov/solar-demographics-tool>

¹¹¹ https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/en-banc/informal-public-comments/pge_white-paper_comments.pdf

¹¹² https://energyathaas.files.wordpress.com/2021/03/n10_ie-charts-f5_0.png, <https://calepa.ca.gov/independent-emissions-market-advisory-committee/>

¹¹³ *Rooftop Solar in California is Ready to Take the Next Step*, Chhabra, Mohit and De Lamare, Julie, NRDC, CleanTechnica, March 17, 2021.

INVEST IN APPLIANCE EFFICIENCY

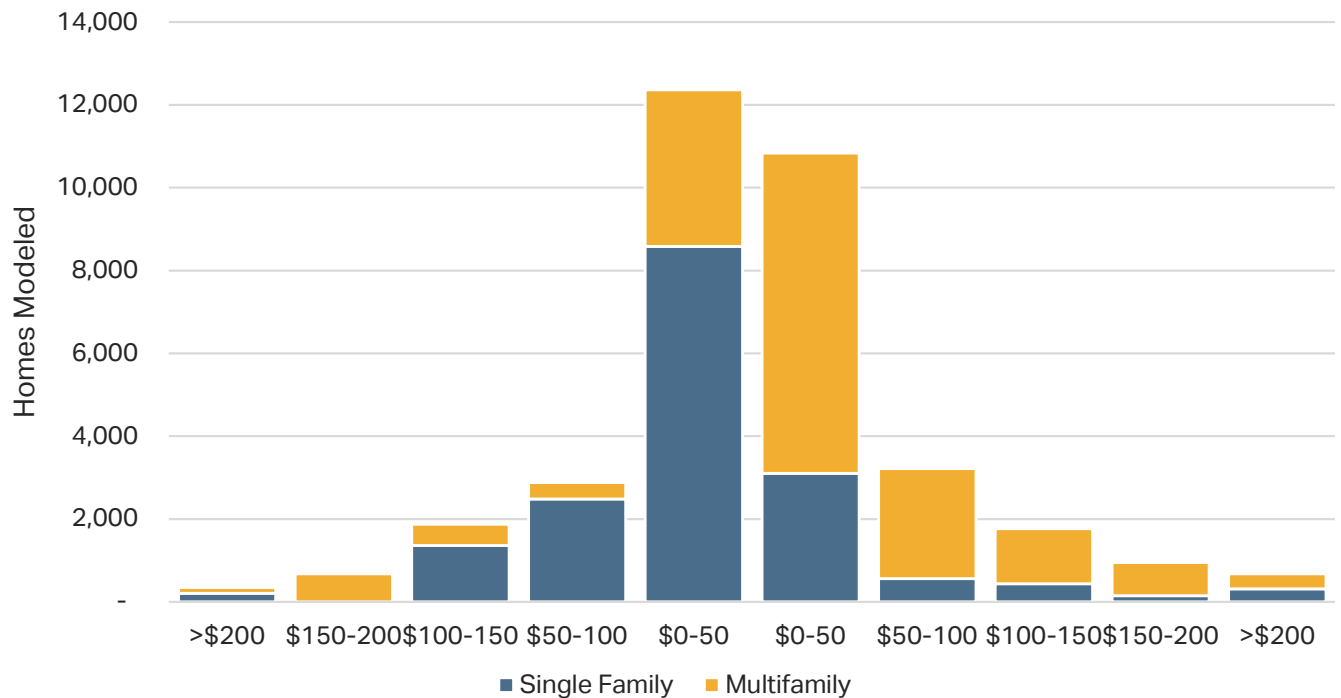
The City of Berkeley needs to ensure that building electrification does not result in higher utility bills to meet its equity guardrails and promote scaling. Modeling results suggest that economy-tier (and less efficient) products like the electric resistance cooktop, electric resistance clothes dryer, and single-speed ASHP modeled in package 1.1 can increase annual energy bills by 10-42 percent.¹¹⁴

Investing in the higher-performance appliances modeled in measure package 2.1, on the other hand, brings the utility bill for an all-electric household to cost parity with typical dual-fuel homes: 49 percent of Berkeley

households saw lower annual utility bills in our modeling, with 86 percent of households seeing bills change by less than 5 percent. The modeled annual energy savings is shown in Figure 3-4.

Impacts vary between Berkeley’s single-family buildings (\$10/year average bill savings) and multi-family units (\$20/year average bill increase). Because multifamily homeowners encounter more hurdles to incorporating solar PV in their home retrofits, this suggests that income-qualified assistance programs like PG&E’s CARE and FERA programs remain an essential part of the solution.¹¹⁵

Figure 3-4. Modeled Annual Savings for Measure 2.1



114 10th and 90th percentile values from modeling.

115 The CARE program as currently designed does not incentivize building electrification because it reduces both gas and electric bills uniformly.

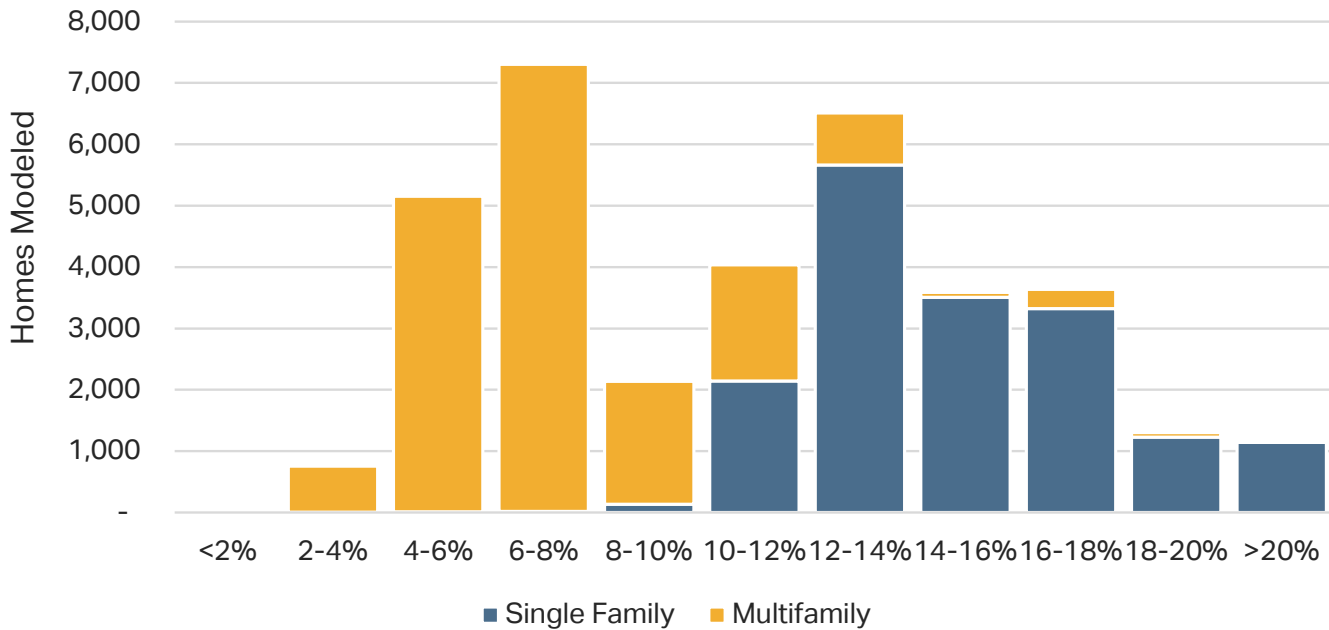


Existing Buildings Electrification Strategy

Purchasing mid-tier electric appliances over economy-tier electric units represented an average incremental cost of \$4,880 per home in the modeling performed for this report. But that investment paid off over time, yielding

a simple return-on-investment (ROI) of 12 percent and reducing the upfront incentive needed for cash flow-neutral financing by over \$2,400 per home as shown in Figure 3-5.

Figure 3-5. ROI for Added Investment in Higher-Efficiency Appliances in Berkeley's Housing Stock



These results are bolstered by the supply-side impacts not modeled in this report. Higher-performance products can minimize future investments in transmission and distribution infrastructure and mitigate grid load management challenges associated with building electrification. Homeowners considering solar and battery storage systems see similar benefits, with the appliance efficiency improvement allowing homeowners to achieve NZE performance with smaller solar systems (1.2 kW smaller on average). Modeling results also ignore the impact these higher-performing products have on user experience, where variable-speed air source

heat pumps and induction cooktops are demonstrably superior to single-speed heat pumps and resistance cooktops.

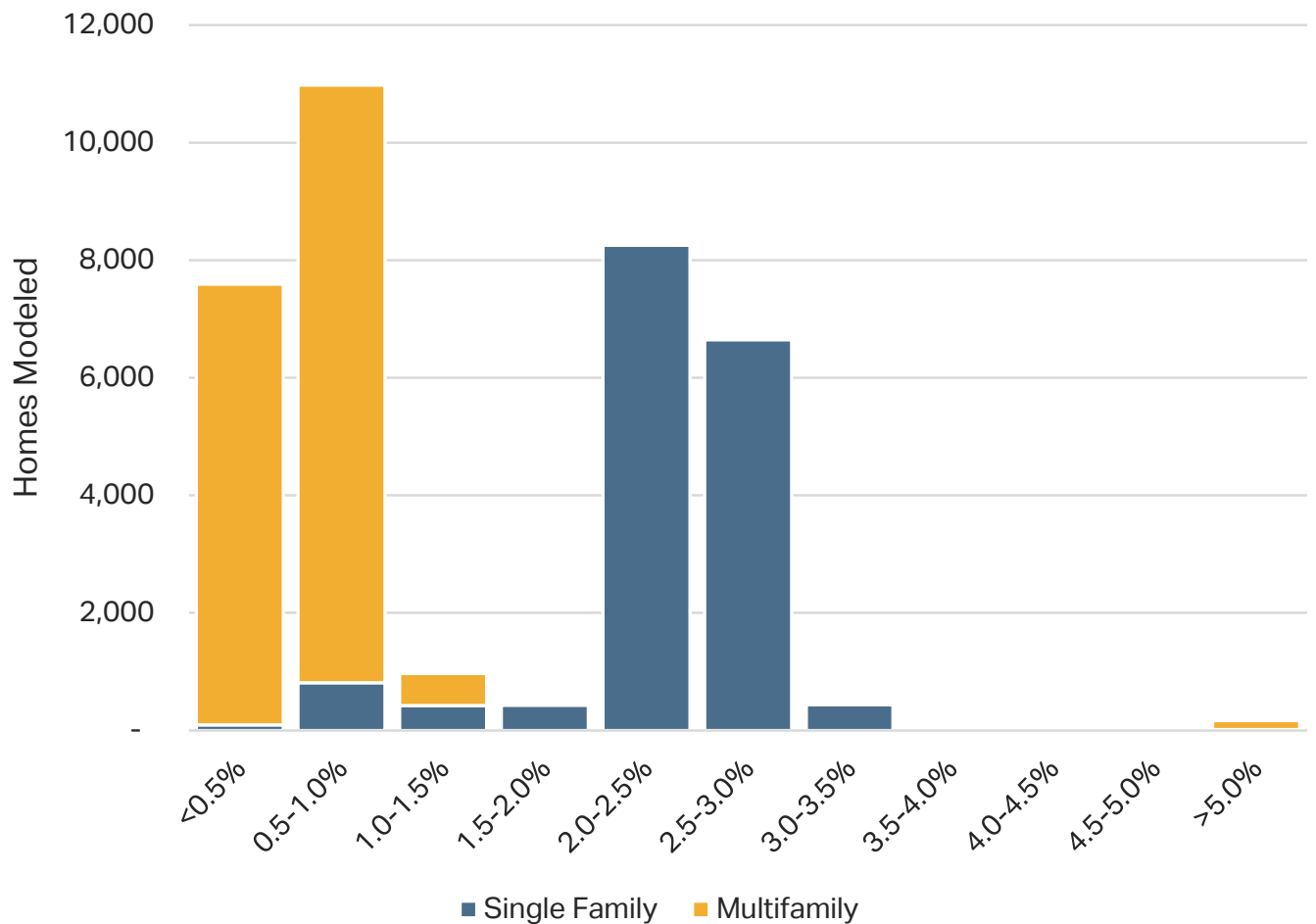
Future analysis should incorporate the supply-side benefits of incentivizing these appliances and even higher-efficiency equipment, especially ductless mini-split heat pumps for heating and cooling. These systems provide unparalleled levels of efficiency and facilitate modular design that may reduce costs in some households, especially those homes where existing ductwork is in disrepair (ductwork repair costs were not considered in this report).

TARGET ENVELOPE UPGRADES FOR THE WORST-PERFORMING HOMES

Berkeley residents can further improve the operational cost impacts of an electrification retrofit by investing in light-touch building envelope upgrades like air sealing and increased roof insulation. As shown in Figure

3-6 energy modeling analysis shows that combining appliance efficiency investments with envelope upgrades yields lower utility bills for 90 percent of Berkeley homeowners.

Figure 3-6. ROI for Added Investment in Envelope Measures in Berkeley’s Housing Stock





However, envelope efficiency upgrades were typically not cost-effective in the modeling for Berkeley, in part due to the Bay Area's mild climate and extreme local labor rates. Envelope efficiency measures fared particularly poorly in single-family homes—this belief may be a result of the greater exterior surface area (and thus greater cost for improvement) in these homes. Envelope efficiency investments fared even more poorly when solar PV was incorporated in the package to reduce the \$/kWh electric rates incurred by Berkeley homeowners.

These modeling results clearly show that envelope investments are regarded as unfeasible financially for the average Berkeley homeowner. However, these upgrades can be a valuable addition for Berkeley's worst-performing homes, with those homes often occupied by the Berkeley constituents who can least afford to pay higher bills. Envelope upgrades in these homes may occasionally allow heat pump installers to size smaller products and can prevent comfort complaints when heat pump ASHPs are installed.

Envelope investments can also provide load reduction and management benefits that will only become more valuable as Berkeley's grid electrifies. Furthermore, envelope improvements provide non-monetary benefits including comfort during extreme temperatures and ability to maintain better indoor air quality during poor outdoor air quality events such as wildfire smoke.

These results suggest that Berkeley should not mandate envelope upgrades until typical project economics improve significantly. In the meantime, Berkeley should consider reserving funds for upgrading the envelopes of the most poorly performing homes. These homes could be effectively targeted through utility meter data analysis or contractor engagement.



MULTIFAMILY AND LOWER-INCOME RESIDENTS NEED TARGETED SUPPORT

Modeling results show that owners of low-rise multi-family housing units and smaller single-family homes can typically electrify gas appliances more cost-effectively than larger single-family homeowners. However, this appears to largely be a result of the PG&E E-1 tiered rate tariff modeled for this report: occupants of larger homes often pay a higher utility rate for newly-electrified loads than residents of multi-family and small single-family homes

under this tariff structure. Multi-family units and smaller homes see their advantage disappear in the more cost-effective electrification + solar packages (e.g., packages 1.2, 1.3, 2.2, and 2.3) that utilize a rooftop solar PV system to manage electricity costs. Table 3-5 shows the different incentive levels required by different housing types for cost-neutral financing under the terms modeled in this report.

Table 3-5. Average Incremental Cost for Electrification With Rebates and Financing¹¹⁶

	Single-family			Multi-family	
	Under 1,500 ft ²	1,500-3,500 ft ²	Over 3,500 ft ²	Under 1,000 ft ²	1,000 ft ² and over
1.1: Economy Appliances	\$12,770	\$15,350	\$19,220	\$9,730	\$11,980
1.2: Economy Appliances + Offset Solar	\$5,710	\$4,130	\$2,770	\$6,550	\$5,940
1.3: Economy Appliances + NZE Solar	\$1,190	\$0	\$0	\$2,770	\$1,300
2.1: Mid-Tier Appliances	\$10,090	\$10,620	\$11,850	\$9,190	\$9,790
2.2: Mid-Tier Appliances + Offset Solar	\$6,100	\$3,970	\$1,990	\$7,550	\$6,500
2.3: Mid-Tier Appliances + NZE Solar	\$1,720	\$0	\$0	\$3,990	\$1,780
3.1: Mid-Tier Appliances + Envelope	\$12,010	\$16,180	\$22,500	\$9,700	\$13,020
3.2: Mid-Tier Appliances + Envelope + Offset Solar	\$8,930	\$10,960	\$14,190	\$8,270	\$10,150
3.3: Mid-Tier Appliances + Envelope + NZE Solar	\$4,300	\$4,310	\$4,870	\$4,550	\$5,090

¹¹⁶ These costs represent the upfront incentive necessary to achieve cost-neutral financing under the terms dictated earlier in this report.



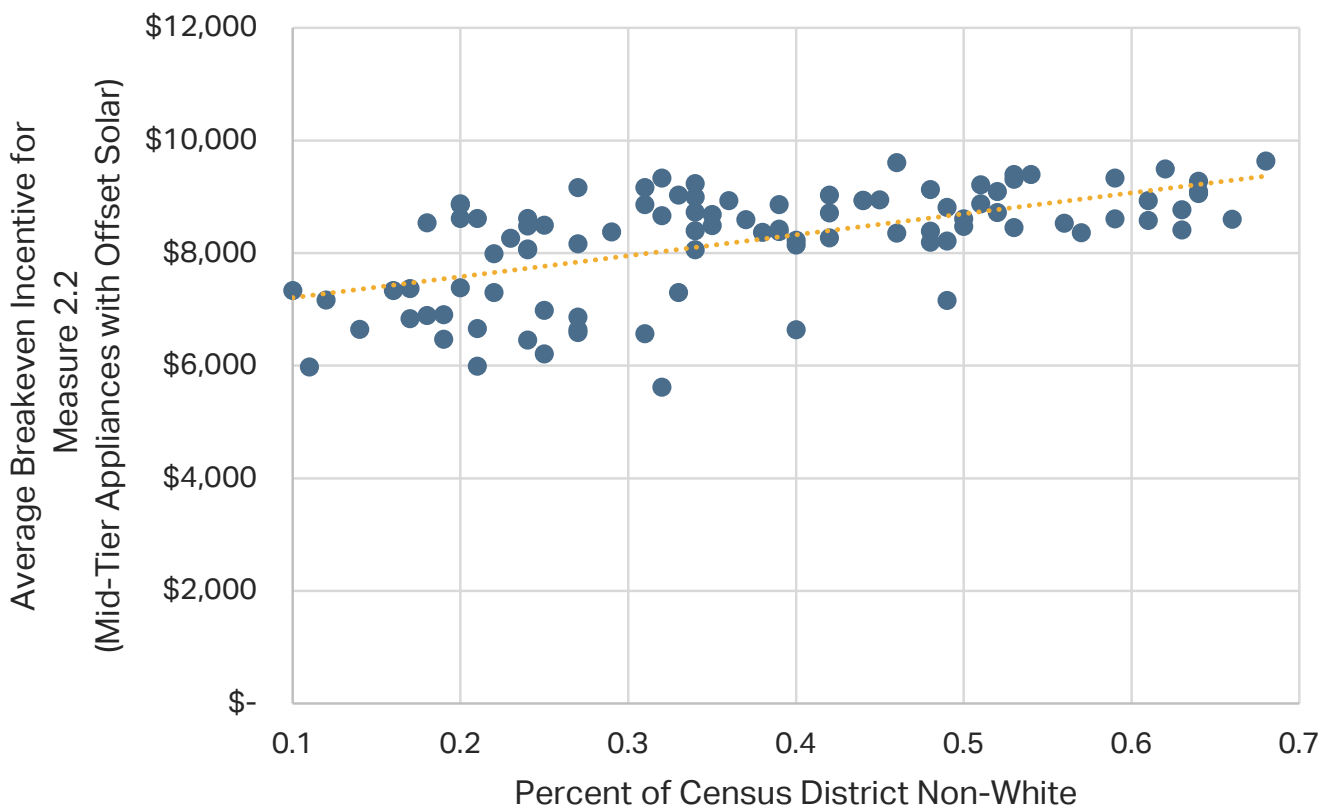
Existing Buildings Electrification Strategy

These results suggest that larger single-family homes are likely to see disproportionate benefits under time-of-use and other non-tiered electric rate tariffs.

The correlation between financial returns and home size and type has serious implications for ensuring an equitable transition toward all electric buildings. Berkeley's smaller homes are disproportionately occupied by lower income residents and BIPOC community members who are more likely to experience energy insecurity¹¹⁷. As a result,

the least profitable candidates for electrification in Berkeley are often occupied by the residents who can least afford to carry that burden. Targeted incentives are necessary to ensure that the financial impacts of building electrification do not diverge along socioeconomic lines. This is exemplified in Figure 3-7, which shows a correlation between the racial makeup of Berkeley communities and the incentive necessary to cost-effectively electrify that community's homes:

Figure 3-7. Cost of Electrification by Racial Makeup in Berkeley Census Districts¹¹⁸



117 Energy insecurity: The inability of a household to meet its basic energy needs. <https://www.nature.com/articles/s41560-020-00763-9>

118 These costs represent the upfront incentive necessary to achieve cost-neutral financing under the terms dictated earlier in this report.

These results do not account for other challenges unique to electrifying multi-family buildings including a greater range in system configurations, the split incentive issues caused by a prevalence of rental properties, between owners and tenants in rented properties, and a lack of access to rooftop solar. Nor do they account for the fact that past programs intended to reduce greenhouse gas emissions and promote renewable energy have been disproportionately utilized

by affluent residents.¹¹⁹ The City also understands that there are varying different types of property owners, including large-scale commercial property owners, property owners with a few small properties, and low-income property owners. Additional support such as funding and subsidies will need to be directed to low income property owners, such as individuals who own a small rent-controlled and/or owner occupied building.

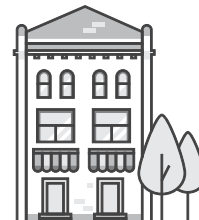
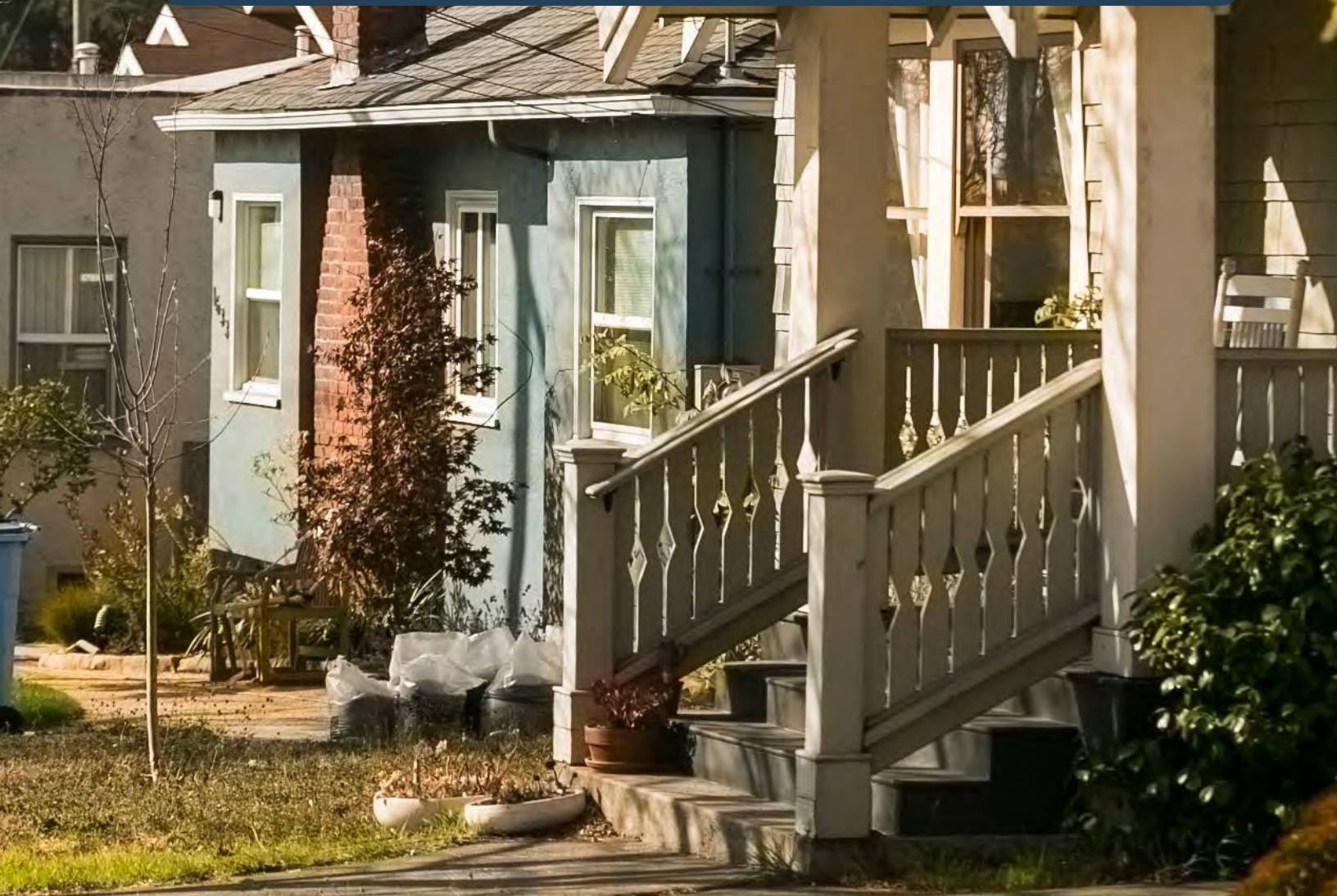
¹¹⁹ Eric Daniel Fournier, Robert Cudd , Felicia Federico , Stephanie Pincetl; *On Energy Sufficiency and the Need for New Policies to Combat Growing Inequities in the Residential Energy Sector*. UCLA's California Center for a Sustainable Economy, June 2020. Accessed at <https://online.ucpress.edu/elementa/article/doi/10.1525/elementa.419/112771/On-energy-sufficiency-and-the-need-for-new>.







4. EXISTING BUILDINGS ELECTRIFICATION STRATEGY





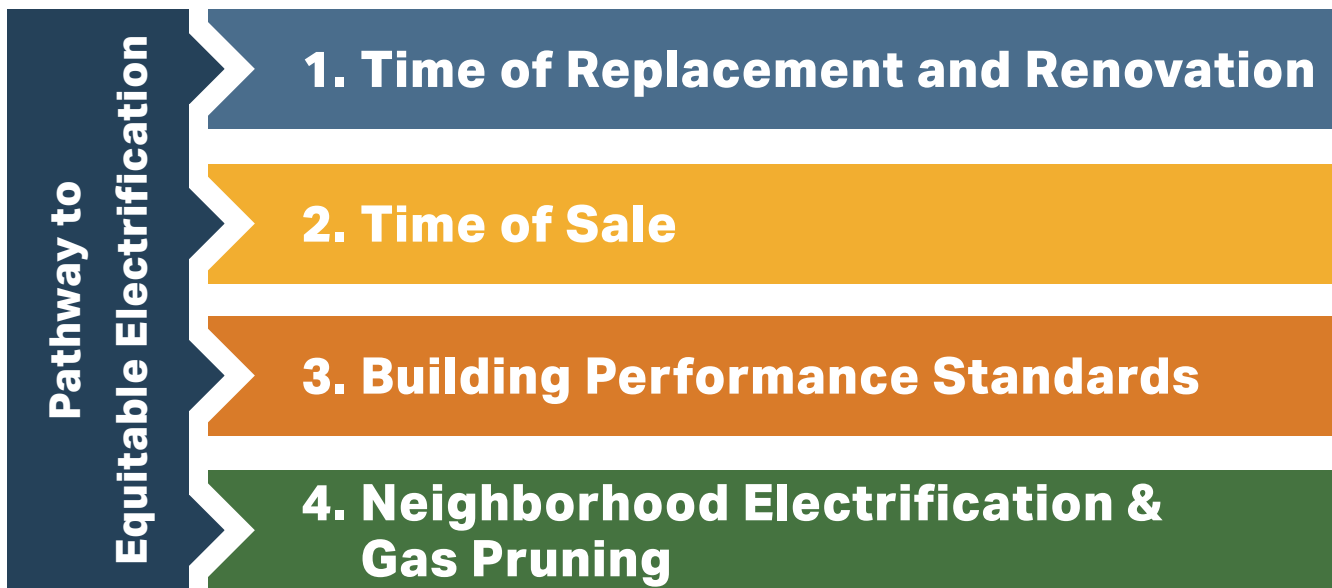
4.1 EXISTING BUILDINGS ELECTRIFICATION STRATEGY

4.1.1 A STRUCTURAL APPROACH TO EQUITABLE BUILDING ELECTRIFICATION

Completely electrifying Berkeley’s building stock will require a combination of new and modified policies by the local, State, and federal governments. Berkeley’s Existing Building Electrification Strategy examines a wide variety of actions and policies to promote or

require electrification of Berkeley’s existing buildings to achieve full scale electrification of buildings—once equitably cost-effective and feasible—by 2045 or sooner if possible. Each of the actions falls under one of four primary policies:

Figure 4-1. Pathway to Equitable Electrification

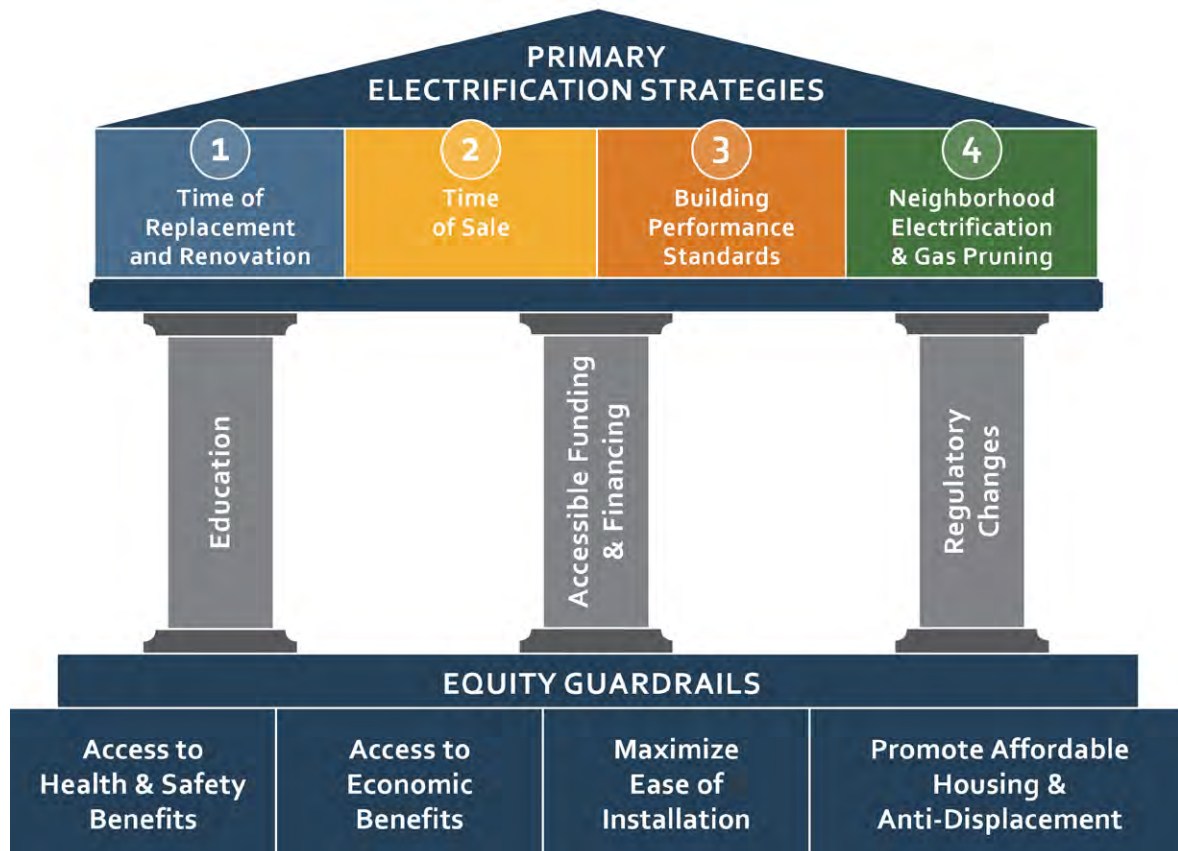


Each of these four policies represents a specific strategy through which the City of Berkeley can incentivize or require building owners to electrify. Each policy has its own specific hurdles and opportunities and will be discussed in more depth in the following chapters.

No single policy will be sufficient to electrify Berkeley's existing buildings by 2045. Rather, a strategic approach to pursuing each of these policies in concert will be required to achieve the goal of a fossil fuel-free Berkeley. As the building electrification area is dynamic and rapidly changing, the City will work with the community and track opportunities at the State and Federal levels to determine how

and when each policy will be used, and the applications to various building types. These policies will require successful support from the three essential pillars that must be built up for implementation—**education, accessible funding and financing, and regulatory changes** (described in Section 4.1.3 below). Most importantly, the foundation of this work must be grounded in equity and in the tenants of targeted universalism defined in Chapter 2.0. Before the policies can be implemented, they must meet or exceed the **equity guardrails**, described in Section 4.1.2. Figure 4-2 shows a visual representation of this structure. Each element is described in the following sections.

Figure 4-2. Existing Buildings Electrification Structural Approach





4.1.2 FOUNDATION ROOTED IN EQUITY

Meeting the goal of transitioning all existing buildings off gas requires a strategy centered in equity and access. The building electrification movement will not be completely successful if it does not directly address and work to reverse systemic inequities seen in the building sector. As discussed in Chapter 2.0, marginalized communities within the City of Berkeley have experienced systematic discriminatory practices in the past that continue to have ramifications today.

Through engagement and collaboration with community members, organizations, and key stakeholders/partners, a set of equity guardrails was developed (Chapter 2.0) to ensure that the electrification of existing buildings does not come at the expense of the communities most adversely impacted and that benefits to those communities are maximized. The equity guardrails are intended to serve as a set of minimum requirements that must be met prior to implementation of the recommendations of this report. Each guardrail is key to becoming a fossil fuel-free city and being carbon neutral by 2045.

For each policy in this report, a review of the equity guardrails has been conducted. For each equity guardrail, the opportunities and risks to equitable implementation of the strategy are highlighted. In addition, potential solutions to the identified risks and the corresponding actions are also identified. The equity guardrails were used to review each policy to identify and mitigate unintended impacts to the community moving forward. The potential solutions (which take the form of additional actions and modified action language) are based on feedback from the community and research by the team. The City will continue to work with the community to identify and co-create additional solutions during the plan's implementation as new approaches, technologies, and impacts are identified and addressed. An example layout of the equity analysis that can be found at the beginning of each policy section. For the complete equity guardrails analysis please see the corresponding policy sections.



One of the major risks associated with a time of replacement ordinance (a requirement to replace a gas appliance with an electric one when it breaks) is the higher upfront costs associated with the electric appliance. While appliances like heat pump HVAC and hot water heaters offer long term savings and benefits like healthier air and built-in AC, the community feedback the City received noted the upfront costs as a significant hurdle for marginalized communities. Because of this, the time of replacement and renovation policy did not pass the Access to Economic Benefits guardrail on its own, since many households

would simply not be able to afford the upfront costs associated with the replacement under current conditions. To help solve this issue, there are specific actions in Chapter 4 to ensure that the time of replacement ordinance would not be mandated until accessible funding and financing mechanisms were in place to support the community in this transition.

This process was followed for each of the policies and served as a mechanism to determine what additional targeted approaches were needed to meet the universal goal of electrification of the building stock.





4.1.3 THREE SUPPORTING PILLARS FOR SUCCESSFUL IMPLEMENTATION

Electrification of existing buildings will require long-term and systematic changes to many of the systems that exist today. The multi-faceted approach highlights the four primary strategies that the City of Berkeley can utilize as the City progresses towards existing building electrification. However, in order to ensure successful implementation of the policies, the three pillars of **education, accessible funding and financing, and regulatory changes** are essential to creating policies that will

engage, invest in, and support the entire community through the transition away from fossil fuels. To ensure each policy can be effective, equitable, and feasible, these pillars must be built up and strengthened. Each action under the policies should support at least one of the essential pillars of effective policy development. The chapters below include detailed descriptions of how each of the pillars will be implemented.

Education

While electrification is not new, there are new and improved technologies, and many benefits to electrification that are not widely known. Induction stoves and heat pump technologies have revolutionized all-electric buildings. On-site solar generation can reduce the cost of electricity and when combined with battery storage can provide back-up power, enhancing resilience. Providing ongoing education on new technologies and their benefits is a key step to achieving widespread adoption, and many community members have expressed this need. Additionally, providing education on new requirements, incentives, policies, and programs as they are phased in will be another critical step to successfully implementing the policies outlined in this

report. Robust and targeted education strategies need to be provided to a wide range of stakeholders including the community with a focus on marginalized communities, renters, landlords, homeowners, contractors, labor unions, and businesses. It is important that this education is culturally relevant and responsive, and that it addresses concerns and/or considerations certain groups have related to how they use their homes/buildings, such as cooking traditions and cultural businesses and practices. With each pilot project and discussion with the community, education strategies can be updated and honed, which in turn will inform the success of future projects and community engagement.

Accessible Funding and Financing

One of the key pieces of feedback the team heard from the community is that costs matter, and that increased costs for equipment, increased bills, and increased debt are all not acceptable or possible for many low- and moderate-income (LMI) people who are already struggling financially. The impacts of COVID-19 are exacerbating these financial challenges.

Upgrading Berkeley's building stock to be all-electric will come with upfront costs to both owners and renters in comparison to standard gas equipment, at least in the short term. Although electrification will likely save money over time, especially as gas prices

are projected to increase, addressing these upfront costs will be critical to the success of the overall program to ensure LMI communities are not left behind paying higher utility costs and not having access to the benefits of electrification. Thus, ensuring sufficient funding and financing options are accessible to renters, homeowners, and landlords—with a focus on frontline communities in each of these groups—is a key measure that will allow each of the four primary policies to be implemented in an equitable manner. For more information on the funding and financing strategies see Section 3.3.

Regulatory Changes

Phasing out gas and other fossil fuels from buildings will require significant changes to the regulations and systems that currently support our buildings and infrastructure. These could include policy changes that allow reprioritization of resources, changes to permit requirements, or regulations on appliances and fuel use, while assuring tenant protections. Berkeley has strong

tenant protections, and all programs and policies should collaborate to elevate existing and future tenant protection programs.¹²⁰ Regulatory change will be required to drive electrification, but only when supported by the other pillars. While the City cannot drive this change alone, it can work to coordinate with other jurisdictions and agencies to advocate for these changes.

¹²⁰ Please see Rent Board comments in Appendix B





4.1.4 FOUR PRIMARY POLICIES

1. Electrification at Time of Replacement and Renovation

The time of replacement policy focuses on replacing fossil fuel equipment at the end of its useful life, either when the gas equipment fails or when a major building renovation is taking place. This policy's major benefit is that time replacement and renovation is the most cost-effective time to install electric heating/cooling systems and appliances, because the marginal cost (difference between installing electric equipment and replacing with new gas equipment) at this time is smaller than the full cost of installing electric equipment. For example, when replacing a malfunctioning gas hot water heater with a heat pump hot water heater, the incremental cost difference between the gas unit and the electric unit is

much lower than the total installation cost of a new heat pump water heater, although the installation may require additional electrical work, such as rewiring and panel upgrade.

A major building renovation is an ideal opportunity for electrification. During major construction, upgrades to wiring, appliances, and electric panels are likely to be more cost effective. Supporting electrification during these times will be a key strategy for cost effective electrification and education about electrification. However, time of replacement electrification can be piecemeal and does not allow for the significant lifecycle savings associated with removing gas infrastructure altogether.

2. Electrification at Time of Sale

Time of sale requirements are triggered when a building changes ownership. This policy area generally applies to single family homes since they are sold more frequently than other types of buildings. Time of sale requirements are included in Berkeley's

existing Building Emissions Saving Ordinance (BESO)¹²¹ and could be expanded to include a range of required measures such as electrification-ready panel upgrade, appliance replacement or whole building electrification and incentives for electrification work.

121 <https://www.cityofberkeley.info/BESO/>



Benefits of a time of sale requirement include the ability to complete work prior to occupancy and the ability to tie the upfront costs of electrification to a building's mortgage. The major drawbacks to time of sale requirements

are the added burden to an already expensive housing market and the relatively low number of buildings covered by the requirements on an annual basis (on average 2–3 percent of buildings are sold in Berkeley).

3. Building Performance Standards

Building performance standards establish building-level requirements such as minimum GHG emissions standards or elimination of gas by a specified date for covered buildings. These standards are generally applied to larger buildings, including multi-family residential and commercial buildings, in order to have the highest impact on the largest energy users. The size and type of building covered by such an ordinance could expand over time. Berkeley has already amended the BESO to include the development of minimum

performance standards for large buildings (buildings over 25,000 square feet) that would be required on a specified schedule. These standards would require buildings to decrease gas usage and electrify to meet their targeted emissions standards. The success of this policy will depend on tenant protections as well as overcoming the financial challenges posed by split incentives¹²² and technical challenges of retrofitting high-rise multi-family, commercial, and mixed-use buildings.

4. Neighborhood Electrification and Gas Pruning

Neighborhood electrification and gas pruning covers a wide range of actions that affect how Berkeley can strategically reduce and eventually eliminate gas infrastructure in the city. Removing gas infrastructure will reduce methane leakage which has health, safety, and climate impacts. Neighborhood-level electrification can be a more equitable way to electrify communities as opposed to a

building-by-building approach which will leave those who cannot afford to electrify first with higher gas rates. It also allows for neighborhood beneficial electrification with a greater potential for high road¹²³ jobs for large scale projects that incorporate resilience measures such as on-site solar and islandable backup battery storage that could act as a neighborhood micro-grid to improve energy

¹²² *Split Incentives occur when those responsible for paying energy bills (the tenant) are not the same entity as those making the capital investment decisions (the landlord or building owner). In these circumstances, the landlord may not be inclined to make the necessary upgrades to building services when the benefits associated with the resulting energy savings accrue to the tenant.* https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/UtilitiesIndustries/Energy/EnergyPrograms/Infrastructure/DC/IOU%20SJV%20Split%20Inc%20Wkshop_Pres_FINAL_01.28.19.pdf

¹²³ *"High road" employers pay family supporting wages, compete based on the quality of their services and products, and engage workers and their representatives in the project of building skills and competitiveness (California Workforce Development Board, 2018: <https://www.cpuc.ca.gov/-/media/cpuc-website/files/uploadedfiles/cpucwebsite/content/utilitiesindustries/energy/energyprograms/infrastructure/dc/sjvsplitincentivejointiou.pdf>).*



assurance. The long-term goal would be to shift public investment from aging gas infrastructure toward neighborhood-scale building electrification.

Infrastructure pruning would take place when a gas line is ready for repair or replacement or otherwise requires investment. Although several legislative hurdles exist today, the potential to reallocate funding from the repair or replacement of a gas line to electrification could be a major funding opportunity in the future. Instead of spending money to replace the gas line, some fraction of that cost could instead be used to electrify the buildings attached to the line. Neighborhood scale electrification could also reduce project costs by benefiting from economies of scale such as bulk purchase discounts and reduced labor

and transaction costs. The challenges of infrastructure pruning include the high upfront cost of neighborhood electrification and finding a location that meets technical, financial, equity, and community considerations.

Additionally, neighborhood level electrification, with potential different impacts to homeowners and renters, requires participation from all property owners and residents. Tenant protection policies would need to be in place to reduce risk of gentrification and/or displacement. The creation of a pilot project could assist in identifying and overcoming regulatory and financial barriers that arise in the decommissioning of gas distribution infrastructure and upgrading electric infrastructure capacity.

4.1.5 CROSS-CUTTING MEASURES

In addition to the four primary policies for advancing existing building electrification, there are also cross-cutting actions that do not fall directly into one of these policies but will support the overall success of

electrification both in the city and beyond. Many of these actions cannot be taken by the City alone and will need wider collaboration from regional partners and the State.



4.1.6 TIMELINE FOR IMPLEMENTATION

The equity guardrails will influence the timing of the implementation of each of the actions and policies. The City will be able to implement a specific action only after a policy can pass the equity guardrails. Therefore, some policies, like mandatory electrification requirements, may not be implementable until other supportive actions such as accessible funding and financing are widely available. Feedback from the community stressed the importance of an application of the equity guardrails over an aggressive timeframe. Rather than a strict implementation schedule, the actions within each strategy have been broken into three phases to lead with equity.

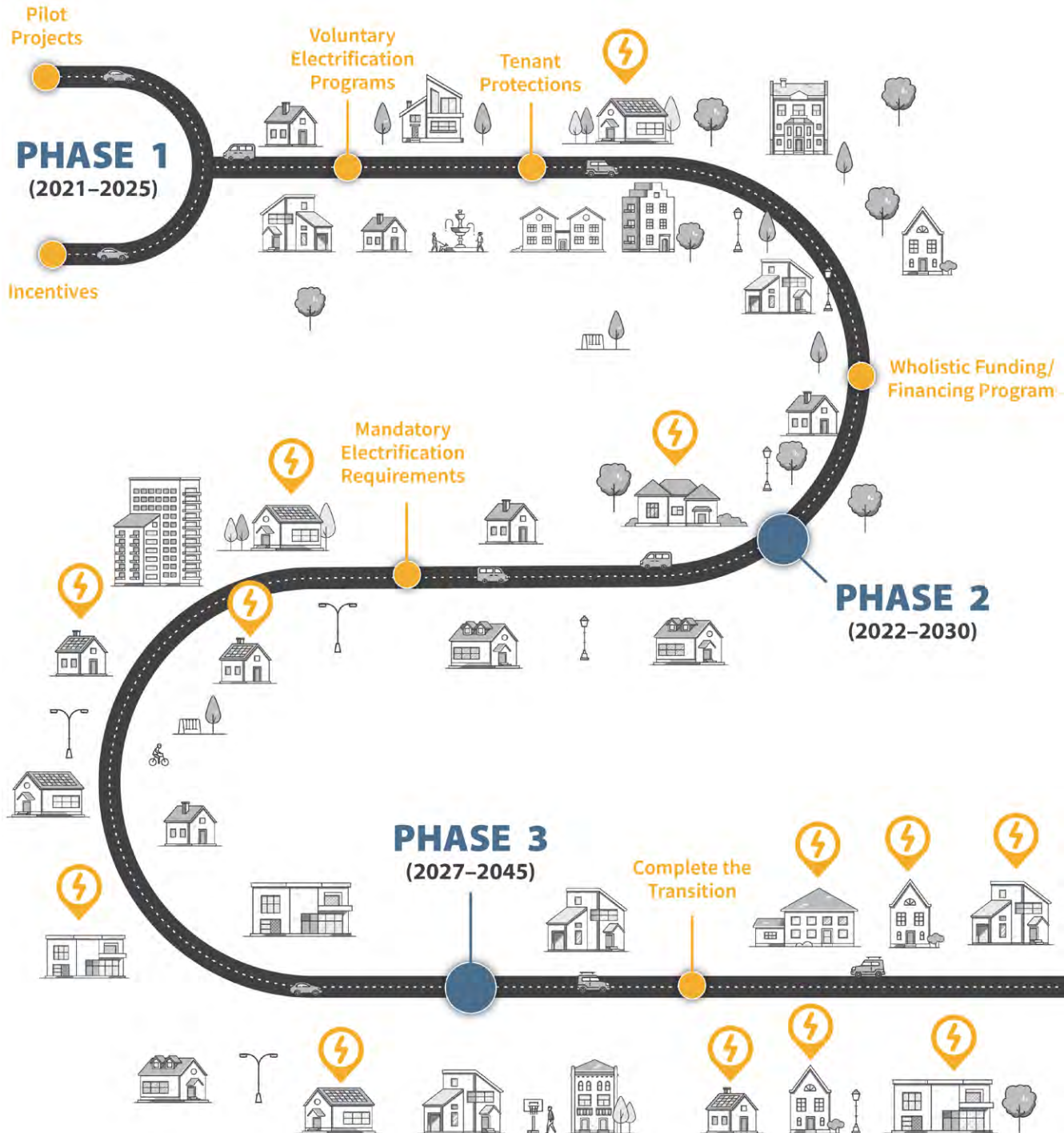
These phases are based on available data, technology, and anticipated equity impacts. Phase 1 focuses on expanding and verifying the cost effectiveness and equity impacts identified in this report, implementing foundational programs, and building community capacity. Phase 2 increases the stringency of the policies and begins to introduce mandatory measures, once sufficient supports are in place. Finally, Phase 3 policies finalizes the move toward all-electric buildings through mandatory measures. Berkeley will need to act as quickly as possible to move through the phases in order to achieve complete building electrification by 2045.¹²⁴

¹²⁴ See Chapter 3 for a full description of level of effort for achieving complete electrification by 2045.





Overview of Building Electrification Timeline



PHASE 1

(2021–2025)

Phase 1 actions will lay the groundwork to support widespread transition to electrified buildings in Berkeley. Policies included in Phase 1 will involve continued community engagement, pilot projects, education campaigns to demonstrate the benefits and feasibility of electrification, collaboration with labor and workforce organizations to advance inclusive high road jobs, alignment of existing programs and incentives, and the development of additional incentive programs as well as larger scale funding and financing programs such as tariffed on-bill financing. The City of Berkeley will work with partners such as East Bay Community Energy and Pacific Gas & Electric (PG&E) to develop larger scale Phase 2 projects. There will also be a need to collaborate with regional and State partners to align State policies to support Phase 2 actions. It is expected that Phase 1 actions would be implemented over the short- to mid-term with a goal of completion by the end of 2025.

PHASE 2

(as soon as possible, no later than 2022–2030)

Policies included in Phase 2 include implementation of the core policies, including mandating specific portions of electrification at points of sale, lease, renovation, and as part of a building performance standards program. This phase would also include advancing neighborhood scale electrification. Phase 2 actions would be implemented after Phase 1 actions have demonstrated feasibility, cost effectiveness, and best practices. Some Phase 2 actions will need to be implemented only after an accessible funding/financing program is in place or upfront costs of electrification reach parity with gas infrastructure. There may be some overlap with Phase 1 and Phase 2 actions.

PHASE 3

(as soon as possible, no later than 2027–2045)

Phase 3 policies complete the transition to full building electrification. Phase 3 policies include bans on the use of gas and other permanent or mandatory measures that define an end to gas use in Berkeley. Phase 3 policies would be implemented once Berkeley is well on its way to complete electrification and the prerequisite actions including pilots, funding and financing programs, and several years of education have been completed. There may be some overlap with Phase 2 and Phase 3 actions.

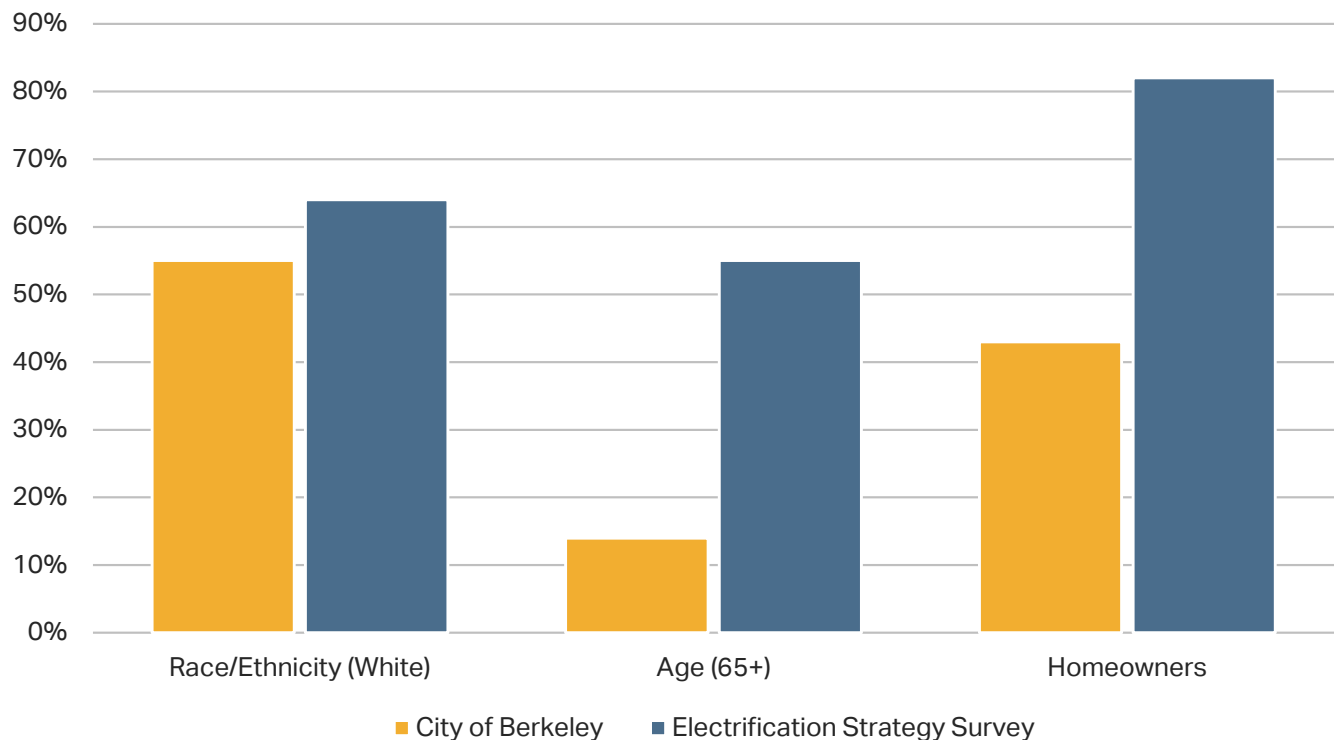


4.1.7 THE IMPACTS OF TARGETED ENGAGEMENT ON STRATEGY DEVELOPMENT

Throughout the course of the development of this report, the team conducted traditional outreach with public meetings, technical advisory meetings and presentations to the Berkeley Energy Commission (see Section 2.5). Additional efforts focused on a targeted approach to community engagement, with in depth discussions with community organizations representing marginalized communities and smaller, often one-on-one meetings, trying to meet people where they are, rather than asking them to come to us. This approach provided opportunities to listen and learn from our communities that do not usually attend more “traditional” outreach events, public forums or online surveys.

When considering feedback from the various methods of outreach and engagement, it is also important to note who participates in more traditional forums, and how priorities compare to the more targeted outreach where the team went to meet community organizations representing marginalized communities. For example, as seen in the figure below, public survey respondents disproportionately represented a higher percentage of White homeowners over the age of 65 than the general population, based on reported demographic information.

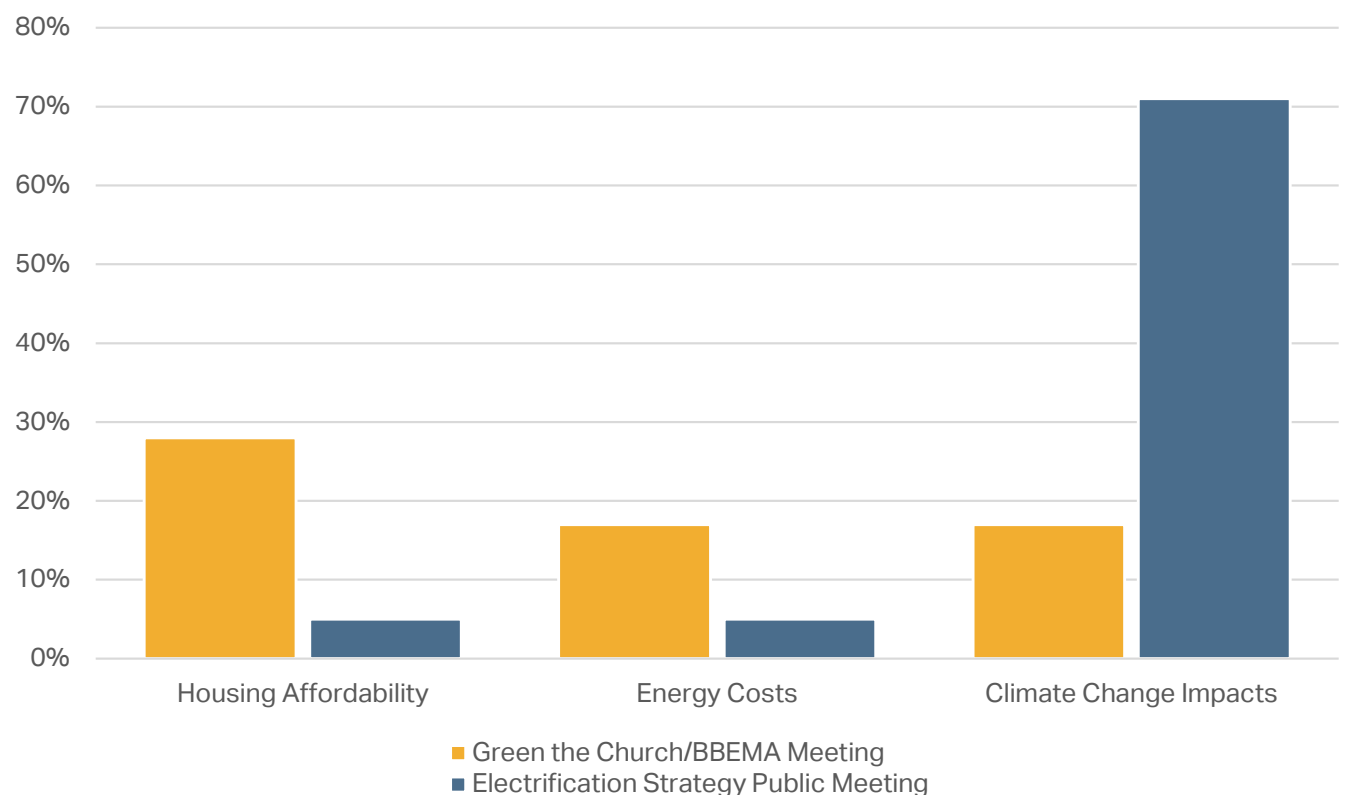
Figure 4-3. Overall Demographics in the City of Berkeley Compared to Survey Respondents



Additionally, a much higher percentage (more than 70%) of those who attended the traditional public meeting focused on building electrification reported climate change impacts as their top priority, as opposed to any other area (such as housing affordability, racial justice, energy costs), whereas at the

targeted engagement meetings with organizations representing people of color, such as the Berkeley Black Ecumenical Ministerial Alliance (BBEMA), attendees named a wide range of priorities, with housing affordability being the most common and climate change impacts being 17%.

Figure 4-4. Green the Church/BBEMA Focus Groups vs. Public Meeting Responses to the Question: “What is Your Long-Term Priority?”



This data serves to show the need for local governments to seek out the voices not usually heard at open traditional meetings focused on climate and environment and outreach tools, such as online surveys, to broaden input on policies and decisions. These unheard voices are critically important, representing the people who have been marginalized and are also those hit first and

worst by climate change. The goal of inclusive and equitable electrification strategies is for this targeted engagement to build trust and ongoing relationships with the City. Engaging all community members in electrification barriers and solutions, ensures that policies and programs will be equitable and able to scale to the entire community.












4.1.8 ELECTRIFICATION POLICIES AND ACTIONS

Table 4-6 provides a summary of the four electrification policies and the supporting actions. The table denotes the expected phase of implementation as well as if it supports the pillars of education, regulatory changes, and accessible funding and

financing. The equity considerations for each action are in the Equity Guardrails Analysis at the beginning of each Policy (Chapters 4.2-4.6). Each Policy Chapter also includes additional detail about the policy, its phasing, and each supporting action.

Table 4-6. Policy and Action Summary Table


Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
Cross-Cutting Measures					
CC-1	Collaborate with regional and State partners to support rate structure changes at the CPUC that fairly reflect the current and future costs of gas and electricity.	1			
CC-2	Continue to analyze cost effectiveness based on evolving electricity rates, including time-of-use rate changes.	1			
CC-3	Expand analysis of building electrification to commercial and industrial buildings.	1			
CC-4	Support technological improvements around battery storage, demand management, and "retrofit-ready" heat pump products.	1			
CC-5	Develop equity performance metrics to gauge success in collaboration with marginalized communities.	1			
CC-6	Collaborate with community organizations to provide culturally-sensitive educational resources to support outreach and engagement.	1			
CC-7	Collaborate with partners such as utilities and other funding entities to develop accessible and affordable financing options (for renters and homeowners), such as tariffed on-bill financing programs.	1			








Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
CC-8	Explore funding opportunities for programs supporting equitable electrification, including integration of electrification measures into housing protection and preservation programs, such as the City's Senior and Disabled Home Loan Program or Section 8 housing voucher program.	1			
CC-9	Leverage and Expand Existing Tenant Protection Programs to Tie Tenant Protections to Electrification Incentives to Ensure Building Upgrades Don't Result in Increased Displacement.	1			
CC-10	Lead city participation in High Road Training Partnership (H RTP) grant for High Road to Residential Building Decarbonization with Rising Sun Center for Opportunity and other partners.	1			
CC-11	Link disadvantaged Berkeley residents to training programs that prepare them to enter and succeed in union construction careers by supporting and collaborating with local MC3 ¹²⁵ workforce partners, employers/contractors, Berkeley Unified School District (BUSD), Peralta Community Colleges and community organizations to develop and sustain inclusive training opportunities and a long-term pipeline of work in the building retrofit market that carries high road labor standards.	1			
CC-12	Collaborate with the Construction Trades Workforce Initiative and the Building and Construction Trades Council of Alameda County to shape policies and labor standards leading to inclusive, family-sustaining union construction careers for underrepresented communities.	1			

125 Multi-Craft Core Curriculum (MC3) Building Trades Curriculum pre-apprenticeship training standard set by the California Workforce Development Board. https://cwdb.ca.gov/wp-content/uploads/sites/43/2019/10/HRCC_Building-a-Statewide-System-of-High-Road-Pre-Apprenticeship-in-California_ACCESSIBLE.pdf













Existing Buildings Electrification Strategy












Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
CC-13	<p>Identify opportunities to advance high road, union jobs with the following tools and labor standards:</p> <ol style="list-style-type: none"> 1. Certification, apprenticeship, or other worker skill requirements to engage a skilled and trained workforce; 2. Healthcare, pension, wage standards, such as prevailing wage requirements; 3. Contractor prequalification based on evidence of a skilled and trained workforce, abidance with building code and labor laws, and a history of quality workmanship; contribution to state-approved and/or Joint Apprenticeship Training Committee (JATC) apprenticeship programs 4. Best-value contracting for public and institutional buildings; 5. Quality assurance and quality control processes to ensure equipment is installed, commissioned, and operating as designed; 6. Regional targeted hire requirements to ensure the participation of disadvantaged workers and/or graduates from approved MC3 pre-apprenticeship programs; 7. Community workforce agreements. 8. Identify public funding, such as a municipal decarbonization bond, to support large scale electrification pilot projects, such as neighborhood scale electrification in historically disinvested communities, with Labor Standards 	1			

Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
CC-14	Support union contractors by: <ol style="list-style-type: none"> 1. Aggregate projects to attract union signatories to bid and build this work. 2. Create a preferred contractors list that promotes the use of union signatory contractors for homeowners. 3. Explore aligning City funding for municipal projects to meet the threshold for Project Labor Agreement project dollar thresholds by aggregating electrification projects to produce high quality work with high-quality jobs. 	1			
CC-15	Create robust monitoring and enforcement programs to monitor employment agreements and assure high road jobs.	1			
CC-16	Explore coordinating and partnering with weatherization program providers to support electrification education and upgrades for eligible households.	1			
CC-17	Develop incentives for businesses that convert to all-electric. Prioritize resources for small and longer standing businesses.	1			
CC-18	Develop public education campaigns and resources to promote new City programs and the benefits of energy efficient systems and appliances; provide information on systems and requirements; and link homeowners to a list of pre-qualified contractors.	1			
CC-19	Enact a fee on gas equipment with equity exceptions for users. Utilize revenue to incentivize electrification.	2			
CC-20	Develop a comprehensive funding/financing plan to direct electrification investments in marginalized communities.	2			



Existing Buildings Electrification Strategy











Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
CC-21	Explore the feasibility of a bulk purchasing procurement program to acquire appliances and electric panels at a discounted rate through a pilot project.	2			
CC-22	Collaborate with the City's Rental Housing Safety Program to explore opportunities to include electrification and energy efficiency requirements in the program. Include accessible funding and financing mechanism to offset marginal cost increases in return for tenant protections.	2			
CC-23	Adopt a "no reconnection to gas" policy as a way to eliminate PG&E's obligation to serve gas to an all-electric building in the future.	2			
CC-24	Develop program for time of new lease and/or rental license electrification requirements.	2			
CC-25	Adopt and implement program for time of new lease and/or rental license electrification requirements.	3			
CC-26	Collaborate with regional and state partners to modernize the California Public Utilities Commission's obligation to serve requirement to refer to the need to provide affordable and reliable energy, without regard to the energy source.	3			
CC-27	Secure funding and subsidies particularly for low-income property owners and renters to reduce upfront costs of electrification and support rent stabilization to prevent displacement.	3			

Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
Time of Replacement and Renovation					
TR-1	Develop programs and incentives to target specific end-uses, such as HVAC or hot water systems.	1			
TR-2	Provide culturally-sensitive education to the community on benefits of electrification at time of replacement/renovation and signal long-term phase out of gas by 2045.	1			
TR-3	Work with partners like EBCE, PG&E, and others to tie incentives for purchasing heat pump water heaters and HVAC units to electric heat pump permits to allow for direct installations, especially for LMI homes.	1			
TR-4	Conduct electrification retrofit pilot with either deed restricted income qualified housing or naturally occurring low income housing with antidisplacement tenant protections.	1			
TR-5	Work with partners like EBCE, PG&E, BAAQMD and others to begin developing an accessible funding/financing strategy for replacement of appliances, like accessible tariffed on-bill financing, to support widespread electrification.	1			
TR-6	Develop policies to enhance tenant protections for adequate, appropriate, accessible housing security during renovations especially for those with disabilities.	1			
TR-7	Develop program to educate community on economic benefits of upgrading HVAC and AC to a single heat pump unit at time of replacement. Consider requiring all new AC installations to be heating and cooling heat pumps.	1			



Existing Buildings Electrification Strategy

Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
TR-8	Allow setback exemptions for heat pump condensing units and conduct a study of heat pump noise levels to exempt any models that fall under noise thresholds to streamline installation.	1			
TR-9	Adopt a time of replacement electrification policy for all municipal buildings.	1			
TR-10	Explore simplifying heat pump hot water heater permits where possible so that only one permit is required, as opposed to both plumbing and electrical permits.	1			
TR-11	Implement a time of replacement requirement for HVAC and hot water heaters once an accessible funding/financing option is available.	2			
TR-12	Implement a mandatory time of renovation upgrade program that provides a menu of upgrade options relating to electrification and efficiency during building renovation.	2			
TR-13	Adopt a reach code for substantial renovation or other electrification requirements at time of building permit.	2			
TR-14	Prohibit installation of gas equipment and/or permitting of any NOx emitting appliances in buildings.	3			
Time of Sale Actions					
TS-1	Consider incentive programs that would accelerate retrofits on residential properties, which could include electrification upgrades at time of sale.	1			
TS-2	Collaborate with private and public partners to develop accessible financing and funding programs for homeowners such as mortgages and refinancing options.	1			

Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
TS-3	Develop mandatory time of sale energy upgrade requirements for BESO.	1			
TS-4	Include a Permit Compliance Review in the BESO Program to Ensure Appliances Were Replaced According to Electrification Requirements.	2			
TS-5	Adopt and implement mandatory time of sale energy upgrade requirements for BESO developed in TS-3, when accessible funding and financing is available.	2			
Building Performance Standards					
BP-1	Develop requirements for building performance standards for Berkeley's large existing buildings (25,000 square feet and over) that lead to the elimination of fossil fuel use, as per 2020 BESO amendment.	1			
BP-2	Adopt and implement performance requirements for buildings developed as part of BP-1.	2			
BP-3	Expand the existing BESO building performance standards (BP-1) requirement for multi-family and commercial buildings to include buildings under 25,000 square feet.	2			
BP-4	Develop tools, funding and financing to assist buildings with meeting building performance standard requirements developed as per 2020 BESO amendment, with extra support and tenant protections for LMI residents and small businesses.	2			
BP-5	Consider applying fees associated with GHG emissions to accelerate elimination of gas and apply revenues to electrify LMI multi-family buildings, while providing tenant protections.	3			



Existing Buildings Electrification Strategy

Action Number	Action	Phase	Education	Regulatory Changes	Accessible Funding and Financing
Neighborhood Electrification and Gas Pruning					
NE-1	Explore public funding mechanisms (e.g., a municipal decarbonization bond or carbon fee), and/or grants to support large scale electrification pilot projects, such as neighborhood scale electrification in historically disinvested communities, with inclusive high road union jobs and workforce development in partnership with organized labor.	1			
NE-2	Develop a pilot project funding plan that allows flexible accounting to allow PG&E to demonstrate potential solutions to current regulatory financial barriers (such as gas vs. electrical assets, capital vs. expense accounting).	1			
NE-3	Tie retrofit funding and financing packages related to neighborhood electrification and gas infrastructure pruning to non-displacement requirements.	1			
NE-4	Conduct a neighborhood electrification and gas pruning pilot with transparent community engagement.	1			
NE-5	Work with PG&E to develop a comprehensive strategy to guide gas infrastructure pruning and update based on changes to foundational issues identified in Phase 1.	2			
NE-6	Begin gas infrastructure pruning in areas where gas line repair/replacement is expected to occur as equity guardrails and foundational issues identified in Phase 1 are addressed.	2			

4.2 CROSS-CUTTING ACTIONS

Strategy Overview

In addition to the four primary policies developed to electrify the City of Berkeley's building stock, the following cross-cutting actions will support the overall electrification goals.

By implementing these actions, the City will be able to remove many of the hurdles building electrification faces including funding and financing, equity impacts, and policy changes.

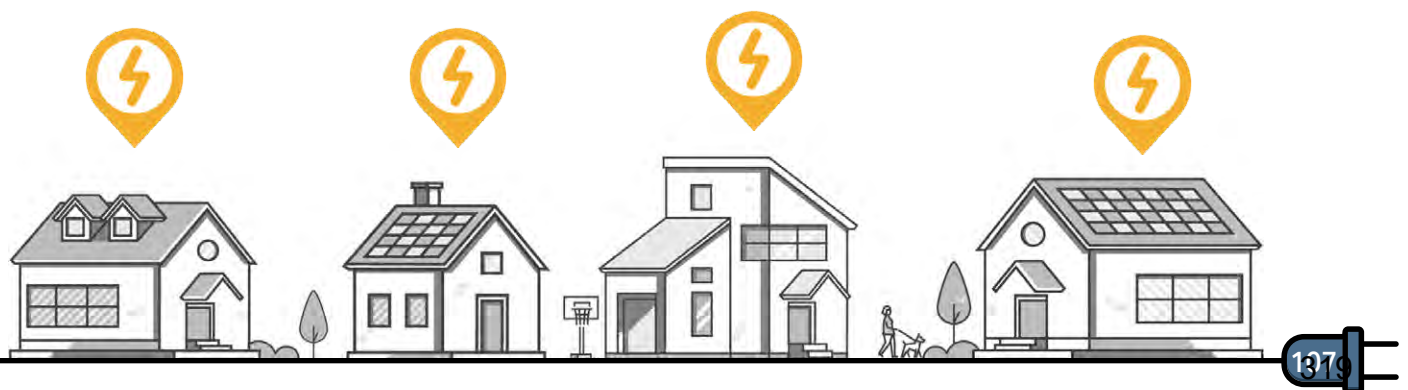
Phasing

Almost all of the cross-cutting actions are Phase 1 and focus primarily on making foundational changes that will pave the way for other more targeted electrification actions.

Some cross-cutting actions will be implemented in later Phases and focus on expanding electrification requirements into hard-to-reach building types like rental housing.

Key Considerations

- High road workforce and job development.
- Contractor and community education.
- Accessible funding and financing programs.
- Tenant protections and affordable housing concerns.
- Regulatory changes.





PHASE 1–Cross Cutting Actions

ACTION CC-1: Collaborate with Regional and State Partners to Support Rate Structure Changes at the CPUC that Fairly Reflect the Current and Future Costs of Gas and Electricity.

Regulated utility rates have a major impact on the economics of electrification. Gas rates do not currently reflect the societal costs to climate, safety, and health and are thus artificially low in comparison to electricity rates, which include costs for social benefits, such

as incentives for rooftop solar. Electricity rates also have inequities that need to be addressed. The City of Berkeley will work with its regional and State partners to support rate structure changes that better reflect the current and future cost of gas and electricity.

ACTION CC-2: Continue to Analyze Cost Effectiveness Based on Evolving Electricity Rates, Including Time-of-Use Rate Changes.

While the Strategy provides a clear snapshot of the economics of existing building electrification today, rapid changes are expected to take place over time. New technologies, rate changes, and other statewide policies are poised to change the cost effectiveness of building electrification in the short term. One major change is the implementation of time-of-use electricity rates. These rates will

change the cost of electricity depending on the time of day, in the hopes of decreasing usage during periods of low renewable generation (early morning and late afternoon/evening). Time of use rates will significantly change the economics of electrification and may substantially increase the value of battery storage that can help eliminate electricity use during high rate charges.

ACTION CC-3: Expand Analysis of Building Electrification to Commercial and Industrial Buildings.

The Strategy focused on Berkeley's residential low-rise buildings which make up over 90 percent of the total buildings stock. However, the analysis did not cover Berkeley's commercial and industrial buildings which will also need to be addressed before the City can be

fossil fuel free. Projects are currently underway to better understand the economics and technologies required to decarbonize these buildings, and future work will develop more robust cost analysis and requirements for these building types.

ACTION CC-4: Support Technological Improvements Around Battery Storage, Demand Management, and “Retrofit- Ready” Heat Pump Products.

New technologies will likely increase the cost effectiveness of building electrification and the City of Berkeley will continue to monitor their development and integrate them into future actions. Battery storage provides a resiliency opportunity, especially for people with disabilities and seniors who may be more vulnerable during power outages. While battery storage currently represents a major added cost to building electrification, the arrival of time-of-use rates may shift these economics in the near future. Additionally,

retrofit ready products that use 120v instead of 220v are becoming available on the market and may reduce the need to include a panel upgrade in many homes. This equates to a savings of \$3,000 or more, which is assumed to be the cost of a panel upgrade in the model used in this Strategy. Additionally, smart meters and other demand management technologies could further shift the need for panel upgrades by managing electricity loads in real time.

ACTION CC-5: Develop Equity Performance Metrics to Gauge Success in Collaboration with Marginalized Communities.

While this Strategy outlines the major equity concerns the team heard from the community and outlines specific actions to address them, performance metrics have not yet been established. The City of Berkeley will continue to work with the community, building

on relationships developed through this process, to identify and co-create quantifiable and trackable metrics to gauge the success of the Strategy implementation and provide accountability.

ACTION CC-6: Collaborate with Community Organizations to Provide Culturally-Sensitive Educational Resources to Support Outreach and Engagement.

Education of the community on the benefits, technologies, and support programs available when electrifying existing buildings will be critical to the success of the overall Strategy. The City will continue to work with the community to develop educational resources that

are culturally-sensitive, understandable, and provide pertinent information to the community. The outreach conducted to develop the Strategy was really the first step in a long process of community engagement and capacity building.



ACTION CC-7: Collaborate with Partners such as Utilities and Other Funding Entities to Develop Accessible and Affordable Financing Options (for Renters and Homeowners) such as Tariffed On-Bill Financing Programs.

The development of accessible funding and financing programs is one of the most critical actions needed to make building electrification equitable and cost effective and will require action from the City as well as other private and public partners. Based on the results described in Chapter 3, building electrification has increased upfront costs but can have long-term savings. Accessible financing has the potential to lower or remove these upfront costs and allow homeowners or tenants to pay for the equipment over time using their savings resulting in many more positive cash flow opportunities. Tariffed on-bill financing is one financing option that can be equitably applied throughout Berkeley

including renters. A tariffed on-bill financing program could pay for some or all of the electrification project that then could be paid back over time through the electricity bill savings. This type of program is tied directly to the home/building and not to a person reducing many of the economic hurdles for LMI households. The City should consider a disclosure requirement for existing tenants prior to any tariffed on-bill financing agreements and in leases for prospective tenants if there is existing tariffed on-bill financing. While not widely available locally right now, tariffed on-bill financing has been applied in other states including the Pay-As-You-Save programs in Kansas, Michigan, and Hawaii.¹²⁶

ACTION CC-8: Explore Funding Opportunities for Programs Supporting Equitable Electrification, Including Integration of Electrification Measures Into Housing Protection and Preservation Programs, such as the City's Senior and Disabled Home Loan Program or Section 8 Housing Voucher Program.

A number of rehabilitation programs are currently available to Berkeley residents which have the potential for expansion to include components that can improve opportunity for electrification.¹²⁷ The City of Berkeley's Small Sites Program, which works with nonprofits to

purchase and rehabilitate existing multi-unit properties for affordable housing, presents opportunity to include electrification measures as part of building rehabilitation. The Senior and Disabled Home Rehabilitation Loan Program, which assists low-income senior

¹²⁶ <https://www.aceee.org/toolkit/2020/02/bill-energy-efficiency>

¹²⁷ See Appendix C for a list of existing City of Berkeley housing protection and preservation programs.

and disabled homeowners in repairing/modifying their homes, also presents opportunity for electrification integration. Through this action, the City would ensure these retrofits

and upgrades that are funded by the City of Berkeley are opportunities to increase electrification of buildings at time of renovation.

ACTION CC-9: Leverage and Expand Existing Tenant Protection Programs to Tie Tenant Protections to Electrification Incentives to Ensure Building Upgrades Don't Result in Increased Displacement.

As funding and financing programs are developed and implemented, Berkeley expects many building owners to receive the support they need to upgrade their buildings, improve efficiency, and lower gas usage. Buildings that are currently in disrepair or in need of substantial upgrades are also the buildings that house Berkeley's LMI community members. The concern is that as these buildings are upgraded, building owners may raise rents or take other actions to displace tenants in order to recoup costs and/or

increase rental income. Therefore, both existing and expanded tenant protection programs will need to be linked to these incentives to ensure that creating better buildings doesn't lead to increased displacement. All rental unit types will need to be considered. The City will continue to leverage existing efforts on tenant protections to mitigate unsafe and disruptive impacts on tenants, including Rent Board's proposed Habitability Plan Proposal and Relocation Ordinance Amendments, and to monitor laws.

ACTION CC-10: Lead City Participation in High Road Training Partnership (H RTP) Grant for High Road to Residential Building Decarbonization with Rising Sun Center for Opportunity and Other Partners.

Building on the relationships developed as part of this Strategy, the City will participate in a State-funded grant to collaborate with

partners on how to advance an inclusive high road job workforce and industry for building decarbonization.





ACTION CC-11: Link Disadvantaged Berkeley Residents to Training Programs that Prepare Them to Enter and Succeed in Union Construction Careers by Supporting and Collaborating with Local MC3¹²⁸ Workforce Partners, Employers/Contractors, Berkeley Unified School District (BUSD), Peralta Community Colleges and Community Organizations to Develop and Sustain Inclusive Training Opportunities and a Long-Term Pipeline of Work in the Building Retrofit Market that Carries High Road Labor Standards.

This action strives to ensure that there are programs for training a local workforce that is eligible for high road employment in the contracting trades. This action may include

pairing training with hiring by facilitating partnerships with Peralta Community College and local partnerships, creating an avenue for employment for program graduates.

ACTION CC-12: Collaborate with the Construction Trades Workforce Initiative and the Building and Construction Trades Council of Alameda County to Shape Policies and Labor Standards Leading to Inclusive, Family–Sustaining Union Construction Careers for Underrepresented Communities.

Berkeley and the State of California have a significant project ahead as buildings throughout the State likely will need to be electrified if the carbon neutrality goal established by B-55-18 is to be obtained. Homes and buildings will need new appliances, weatherization upgrades, carpentry, and electrical work

completed. The City of Berkeley is committed to ensuring that underrepresented communities have equal access to the training that will unlock high road job opportunities in this field. Through collaboration with their partners, the City will participate in and help drive engagement in these communities.

128 Multi-Craft Core Curriculum (MC3) Building Trades Curriculum pre-apprenticeship training standard set by the California Workforce Development Board. https://cwdb.ca.gov/wp-content/uploads/sites/43/2019/10/HRCC_Building-a-Statewide-System-of-High-Road-Pre-Apprenticeship-in-California_ACCESSIBLE.pdf

ACTION CC-13: Identify Opportunities to Advance High Road, Inclusive Union Jobs.

The City of Berkeley will work to ensure the jobs created due to the electrification of existing buildings are high road jobs through the following tools:

1. Certification, apprenticeship, or other worker skill requirements to engage a skilled and trained workforce
2. Healthcare, pension, wage standards, such as prevailing wage requirements
3. Contractor prequalification based on evidence of a skilled and trained workforce, abidance with building code and labor laws, and a history of quality workmanship; contribution to state-approved and/or Joint Apprenticeship Training Committee (JATC) apprenticeship programs
4. Best-value contracting for public and institutional buildings
5. Quality assurance and quality control processes to ensure equipment is installed, commissioned, and operating as designed
6. Regional targeted hiring requirements to ensure the participation of disadvantaged workers and/or graduates from approved MC3 pre-apprenticeship programs
7. Community workforce agreements
8. Identify public funding, such as a municipal decarbonization bond, to support large scale electrification pilot projects, such as neighborhood scale electrification in historically disinvested communities, with Labor Standards

ACTION CC-14: Support Union Contractors.

The City of Berkeley will strive to support union contractors by:

1. Aggregating projects to attract union signatories to bid and build this work
2. Creating a preferred contractors list that promotes the use of union signatory contractors for homeowners
3. Aligning city funding for municipal projects to meet the threshold for Project Labor Agreement project dollar thresholds by aggregating electrification projects to produce high quality work with high-quality jobs





ACTION CC-15: Create Robust Monitoring and Enforcement Programs to Monitor Employment Agreements and Assure High Road Jobs.

The City of Berkeley will work with its partners to monitor and enforce the programs developed to create and maintain high

road jobs. Metrics and monitoring programs will be developed in conjunction with key stakeholders.

ACTION CC-16: Explore Coordinating and Partnering with Weatherization Program Providers to Support Electrification for Eligible Households.

Electrification combined with weatherization improvements provide increased efficiency and comfort benefits to res. The City should explore opportunities to partner with existing organizations that implement weatherization

programs to provide education on electrification, site recommendations, and services. This idea should be further explored with the community and key stakeholders.

ACTION CC-17: Develop Incentives for Businesses that Convert to All-Electric. Prioritize Resources for Small and Longer Standing Businesses.

Many neighborhoods in the City of Berkeley contain businesses that exist in the same building or on the same block as residential units. While the focus of the strategies presented here are to facilitate the conversion of residential buildings to electric, providing incentives for businesses to convert to all-electric would help broaden the scope

of areas in the City where gas pruning can be completed and build trust in the technology. These incentives would be prioritized for smaller and longer-standing businesses, to ensure that businesses who have remained as integral parts of the Berkeley community can also realize the benefits of electrification.



ACTION CC-18: Develop Public Education Campaigns and Resources to Promote New City Programs and the Benefits of Energy Efficient Systems and Appliances; Provide Information on Systems and Requirements; and Link Homeowners to a List of pre-Qualified Contractors.

Connecting the public to information and resources will be key to incentivizing existing building electrification over the short term. The City will continue to maintain and

improve their website and other outreach content to reflect the most current information on contractors, rebates, incentives, and technologies.

PHASE 2–Cross Cutting Actions

ACTION CC-19: Enact a Fee on Gas Equipment with Equity Exceptions for Users. Utilize Revenue to Incentivize Electrification.

This action strives to disincentivize the purchase of gas equipment by creating a fee that makes gas equipment more expensive, encouraging consumers to opt for electric-fueled appliances and equipment. Enacting a new tax or fee would require regional coordination and collaboration to ensure

effectiveness and could negatively impact equity; therefore, an income-based exemption would be built into the program. The revenue generated by this fee could then be redirected for electrification projects or to provide subsidies to low-income residents for electric equipment and retrofits.

ACTION CC-20: Develop a Comprehensive Funding/Financing Plan to Direct Electrification Investments in Marginalized Communities.

In order to achieve electrification in all buildings, a comprehensive funding and financing plan addressing how to direct these resources to marginalized communities, including LMI households, will need to be developed. The City will work with the community, as well as other experts and stakeholders across sectors to develop this plan. The comprehensive funding and financing plan will likely require

a combination of on-bill financing and direct funding to be successful. Any program will need to be viewed through the equity guardrails to ensure that the program is accessible for marginalized communities and do not present the same hurdles as today's programs including upfront costs and housing deficiencies.



ACTION CC-21: Explore the Feasibility of a Bulk Purchasing Procurement Program to Acquire Appliances and Electric Panels at a Discounted Rate Through a Pilot Project.

Potential exists for establishing a bulk purchasing procurement program that would allow the City to purchase equipment needed for time of replacement and renovation electrification and then provide this equipment to the community at a cost that is discounted from retail prices. Procuring appliances and electric panels in bulk may save between

5-30 percent, reducing costs for building owners. While this cost reduction alone may not be enough to make retrofits accessible to low-income and other marginalized residents, it may provide sufficient incentive for moderate-income households and multi-family building owners.

ACTION CC-22: Collaborate with the City’s Rental Housing Safety Program to Explore Opportunities to Include Electrification and Energy Efficiency Requirements in the Program. Include Accessible Funding and Financing Mechanism to Offset Marginal Cost Increases in Return for Tenant Protections.

The City of Berkeley Rental Housing Safety Program already accesses and reviews Berkeley’s rental housing stock to help increase tenant safety. This action directs the City to investigate opportunities to include electrification requirements into the program as applicable once funding and financing programs are in place. For example, a building with an unsafe or non-functioning water

heater or stove could make the switch to electric to improve indoor air quality and safety. In return, the building owner would receive additional support to make the transition, and the tenant would receive rent increase protections for a set period of time. As a Phase 2 measure, the actual nature of this program will be developed through collaboration across the City’s departments and the community.



ACTION CC-23: Adopt a “no Reconnection to Gas” Policy as a Way to Eliminate PG&E’s Obligation to Serve Gas to an All-Electric Building in the Future.

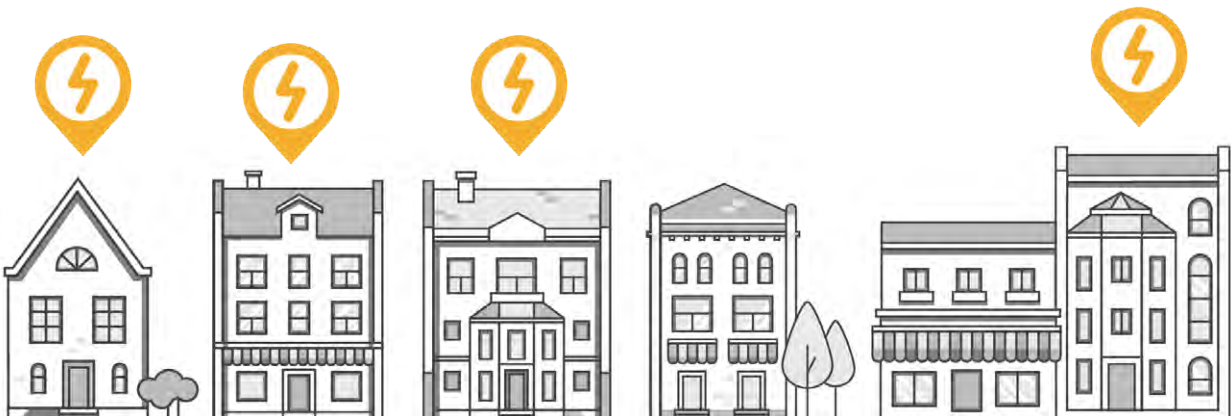
The no-reconnect policy would prevent new gas hookups from being installed in existing buildings that are all-electric. Due to the current “obligation to serve” policy, PG&E is obligated to provide gas services to anyone who wants it (see CC-25 for more information).

This policy could include buildings which have previously been electrified. The no-reconnect policy would prevent any new gas hookups from being installed in existing buildings and pave the way for gas pruning in the future.

ACTION CC-24: Develop Point of New Lease and/or Rental License Electrification Requirements.

In addition to time of sale requirements, the City will also need to address electrification in rental properties which have much longer periods of time between sales and relatively shorter periods between new leases. This action directs the City to develop and include a point of new lease and/or rental license requirement for electrification. The requirements do have the potential to increase costs for building owners who, in turn, could pass

those costs to renters, further exacerbating displacement within the City. Therefore, this action falls under Phase 2 and would only be enacted after accessible funding and financing programs were in place. Although there is a risk of increased costs, this action helps ensure that renters also have an opportunity to access the benefits of an electrified and efficient building.





PHASE 3–Cross Cutting Actions

ACTION CC-25: Adopt and Implement Point of New Lease and/or Rental License Electrification Requirements.

Once the point of new lease and/or rental license electrification requirements are developed and there are sufficient financing and funding opportunities available to make these upgrades affordably, the City will begin implementation during Phase 3. Implementation

should be monitored throughout the process and any unforeseen impacts, especially those related to equity, should be addressed. Extensive community education and outreach will need to be conducted.

ACTION CC-26: Collaborate with Regional and State Partners to Modernize the California Public Utilities Commission’s Obligation to Serve Requirement to Refer to the Need to Provide Affordable and Reliable Energy, Without Regard to the Energy Source.

As discussed in the 2020 paper by the Stanford Law School’s Mills Legal Clinic, and Stanford Woods Institute for the Environment “Removing Barriers to Building Electrification”:

“In California, section 451 of the Public Utilities Code articulates energy utilities’ “obligation to serve” their customers, requiring that they “furnish and maintain . . . adequate, efficient, just, and reasonable service” for customers in their service territories. Ordinarily, utilities cannot terminate service without providing “adequate” substitute service. And this requirement also grants customers certain due process rights, including

adequate notice and an opportunity to be heard prior to service termination. Legal precedent in California has not precisely outlined whether and how utilities can substitute electricity service for gas service. It also remains unclear whether the obligation to serve requires utilities to provide gas in particular, or to support the end uses (e.g., heating and cooking) that gas service enables. ¹²⁹”

The City will collaborate with other stakeholders and partners to address this issue and advocate that the utility’s “obligation to serve” can be met through providing electricity.

¹²⁹ <https://law.stanford.edu/publications/removing-legal-barriers-to-building-electrification/>

ACTION CC-27: Secure Funding and Subsidies Particularly for Low-Income Property Owners and Renters to Reduce Upfront Costs of Electrification and Support Rent Stabilization to Prevent Displacement.

Renters do not have control over the upgrades made to their units—that responsibility and cost lies with the landlord. In order to electrify all buildings, including all rental units in Berkeley, actions will need to ensure that

landlords, especially low-income landlords, are able to afford to make these changes that will ultimately benefit their tenants. Tenant protections would also need to be addressed for any programs with landlords.





4.3 TIME OF REPLACEMENT AND RENOVATION

Strategy Overview

The first primary policy lever for existing building electrification is Time of Replacement and Renovation, which incentivizes/requires the installation of electric equipment and appliances when fossil fueled equipment reaches the end of its useful life and/or when a major renovation is taking place. This policy's major benefit provides the lowest marginal cost of installation of electric heating/cooling systems. The marginal cost is the difference

between a standard replacement and the alternative, which in this case, is all-electric. While a time of replacement and renovation policy can target fossil fuel equipment replacement at a time of least cost to building owners and operators, this will leave potential for gaps in the transition to electrification with non-permitted replacements and residences that have been recently renovated.

Phasing

Phase 1 of the time of replacement and renovation policy will strive for community engagement and education, development of incentive programs for electrification, collaboration with labor and workforce organizations to advance inclusive high road jobs, enhancement of tenant protections for communities at risk of displacement, and electrification of buildings owned and operated by the City of Berkeley. Phase 2 moves to expand the policy to require installation of electric

appliances and equipment at time of replacement and renovation, which will be built upon the equity considerations of actions under Phase 1 to ensure funding and financing options are available for all residents. After several years of education and employment of Phase 1 and Phase 2 actions, the City of Berkeley will further the reach of this policy by prohibiting the installation of gas equipment in buildings as part of Phase 3.

Key Considerations

- Ability to reach all building types including rentals and commercial buildings.
- Focus initially on HVAC and hot water heaters
- Lowest marginal costs but incomplete electrification (some remaining gas uses) means more gas infrastructure will need to remain in use.
- Clear need for accessible funding and financing solutions to lower/remove upfront costs prior to mandatory requirements.





STRATEGY 1– TIME OF REPLACEMENT AND RENOVATION



Access to Health & Safety Benefits

Opportunities

- Time of Replacement and Renovation requirements affect all buildings, including rentals.
- Time of Replacement and Renovation retrofits have practical efficiencies by leveraging work being done, as well as cost efficiencies because the marginal cost to electrify is lower than the full cost.
- Housing upgrades will benefit marginalized communities who have worse health impacts due to substandard housing and climate change impacts.
- Air space heat pumps with good air filtration and envelope improvements can help increase comfort and safety in high heat events and poor air quality days.
- Solar + storage added to electrification provides resilient backup power during grid outages which is particularly important for seniors and people with disabilities.

Risks

- Electrifying buildings in a piecemeal approach does not achieve the same lifecycle savings as doing a complete electrification retrofit (due to potential for stranded gas infrastructure).
- Gas rates are predicted to increase over time, disproportionately affecting those unable to electrify today.
- Electricity rates are also anticipated to increase, and there is uncertainty around the future.
- Potential for reduced permit compliance to avoid requirements.

Potential Solutions

- Development of accessible Tariffed On-Bill Financing can help address upfront costs (CC-7, TORR-5).
- Tie electrification into new and existing programs for building rehabilitation (CC-8, CC-22).
- Conduct affordable housing pilot projects and expand based on the results (TORR-4).



Access to Economic Benefits

Opportunities

- Potential bill savings, avoiding future high gas costs.
- Accessible programs like tariffed on-bill financing can provide opportunities for those who cannot take on more debt.
- Marginal cost of electrifying at Time of Replacement and Renovation is lower than full cost.
- Incentives can be targeted toward specific technologies and households who need it most (CARES)*.
- Opportunity to advance high road jobs with labor standards and other tools.

Risks

- Out of reach for many community members, especially those in historically marginalized/impacted groups.
- Potential for creating low wage jobs if high road job standards are not put in place.
- Potential for increased bills if using low efficiency equipment, no solar, or time-of-use rates without battery storage.

Potential Solutions

- Collaborate with labor and workforce partners to advance high road job opportunities (CC-10 through CC-15).
- Provide accessible funding/financing programs (TORR-5, CC-19, CC-20).
- Work with partners to develop incentives (CC-9, TORR-1, TORR-3).

*—California Alternate Rates for Energy Program (CARE) is a discount energy rate program for eligible customers that provides a discount of 20% or more on gas and electricity rates. Participants qualify through income guidelines or if enrolled in certain public assistance programs.



STRATEGY 1 (CONTINUED)– TIME OF REPLACEMENT AND RENOVATION



Maximize Ease of Installation

Opportunities

- Incentives can be targeted toward specific technologies and households who need it most (CARES).

Risks

- Incentives can traditionally be difficult to access for low-income communities.
- Construction time may be required (moving appliances, panel upgrades, wiring).
- Risk of short-term displacement which can be harmful to many, especially the disability community.

Potential Solutions

- Integrate with existing building rehabilitation programs (CC-8, CC-22).
- Tie permits to incentives (TORR-3).
- Ensure tenant protections for adequate, appropriate, accessible, housing security during renovations, especially for people with disabilities (TORR-6).



Promote Housing Affordability & Anti-Displacement

Opportunities

- Potential to reduce energy burden for people struggling to pay energy bills.
- Potential to pilot anti-displacement protections.

Risks

- Potential for gentrification and displacement, including through loss of unregulated affordable housing, without adequate protections due to upgraded building stock and pass-through costs.
- Potential for bill increases without the use of high efficiency appliances.

Potential Solutions

- Tie tenant protections to subsidies/incentives for electrification (CC-9).
- Conduct electrification pilot of affordable housing with bill reduction/displacement guarantees and expand the program based on results (TORR-4).



PHASE 1—Time of Replacement and Renovation Actions

ACTION TR-1: Develop Programs and Incentives to Target Specific End Uses, such as HVAC and Hot Water Systems

Encouraging the Berkeley community to voluntarily adopt electrification will require financial incentives to purchase electric equipment, as well as a program to market and share their availability. This approach can be targeted to high gas use equipment, such as HVAC and hot water heaters, to provide the most effective reduction in fossil fuel consumption. Without dedicated funding for electrification upgrades, there is potential for lower income households/renters missing out on electrification benefits and for increased rent to offset the upfront cost.

Action TR-1 serves as a Phase 1 action which acts to improve the ability for home and building owners/operators to access the benefits of electrification by reducing the upfront costs of equipment. Including the incentives as part of a larger program which brings more information on the benefits of electrification can help to engage the community and further promote the City of Berkeley's electrification efforts. This action develops the foundational need for funding mechanisms and education through a voluntary program before implementation of mandatory Phase 2 and Phase 3 actions.

ACTION TR-2: Provide Culturally-Sensitive Education to the Community on Benefits of Electrification at Time of Replacement and Signal Long-Term Phase Out of Gas by 2045.

The City of Berkeley has set aggressive targets for the complete phase out of gas and reaching the targets will require action on the side of both the City and community. Community engagement and buy-in will be an essential component of the time of replacement and renovation policy, as community members will need to understand the benefits and impetus of voluntary building electrification. An education campaign that focuses on time of replacement and renovation

electrification will need to be coordinated with the development of incentive programs in order to highlight the potential to address the upfront cost barriers of electric equipment.

Action TR-2 is foundational to the success of the time of replacement and renovation policy by providing education to encourage community members to transition away from fossil fuels and prepare for later mandatory Phase 2 and Phase 3 actions.

ACTION TR-3: Work with Partners like EBCE, BayREN, PG&E and Others to Tie Incentives for Purchasing Heat Pump Water Heaters and HVAC Units to Electric Heat Pump Permits to Allow for Direct Installations, Especially for LMI Homes.

One of the major hurdles many community members face is lack of knowledge regarding incentives and rebates for electric equipment. When an appliance like a hot water heater breaks, there is rarely time to conduct extensive research on the programs available. This action would tie these resources directly to the permit for the appliance. When a permit is pulled for a heat pump hot water heater, that incentive would be given directly

to the installer. This would lower the upfront costs for consumers and further incentivize electrification. Furthermore, this action would help remove the procedural inequities currently experienced by marginalized communities who may not have the time to conduct research or resources to pay the full price of the equipment while they wait for rebates to arrive.

ACTION TR-4: Conduct Electrification Retrofit Pilot with Either Deed Restricted Income Qualified Housing or Naturally Occurring Low Income Housing with Antidisplacement Tenant Protections.

Through implementation of pilot projects, the City can gain firsthand experience in the technical considerations for building electrification, providing opportunity to develop best practices to enable future electrification. This action also provides opportunity for the City to be a leader in electrification, paving the way for the rest of the community. Furthermore, while the City does not own affordable housing in the City, it does fund affordable housing. These locations will be prioritized for investment and electrification with guarantees for tenants on energy bills and housing security.

A project of this type would help the City of Berkeley develop best practices that can be communicated with residents and private building owners and operators, as well as inform future electrification retrofit projects performed by the City. Bill reductions, tenant support, and anti-displacement guarantees would be necessary during and after project completion to ensure this action does not negatively impact residents. This pilot would be funded by the City of Berkeley and act as a first step towards wider electrification in the City. This project would need to be designed in collaboration with the residents, owners, and community.



ACTION TR-5: Work with Partners like EBCE, PG&E, BAAQMD and Others to Begin Developing an Accessible Funding/Financing Strategy for Replacement of Appliances, like Accessible Tariffed On-Bill Financing, to Support Widespread Electrification.

One of the most critical goals of Phase 1 implementation is to identify and ensure accessible funding resources are available to support widespread electrification. This action serves to establish partnerships for making funding and financing for the replacement of fossil fueled equipment with electric equipment. Tariffed on-bill financing (TOBF) is one mechanism that can be implemented through partnership with EBCE and PG&E. TOBF would allow energy customers to finance electrification retrofits by using their energy bill as the repayment vehicle, reducing the upfront costs of electric equipment at time of replacement and renovation. On-bill

financing is also a key equity strategy as it provides a source of financing that is decoupled from personal finances like credit scores and tied to the equipment and the property rather than the person. The City should consider a disclosure requirement for existing tenants prior to any tariffed on-bill financing agreements and in leases for prospective tenants if there is existing tariffed on-bill financing. The unlocking of TOBF and other funding strategies through partnership with utility providers and BAAQMD are an essential component of the time of replacement policy by making electrification affordable and cost effective for Berkeley residents.

ACTION TR-6: Develop Policies to Enhance Tenant Protections for Adequate, Appropriate, Accessible Housing Security During Renovations Especially for Those with Disabilities.

The protection of affordable housing for LMI residents was identified as a core concern of the community and is a high priority in the implementation of electrification policies. Specifically, with time of renovation strategies, there is increased risk of tenants needing to temporarily vacate residences during renovations, especially if tenants rely on home equipment for their health or mobility. This action would include the development

of policies to ensure that temporary housing during renovation is adequate for the tenants' needs and that extended renovations are not used to cause permanent displacement. For example, residents with disabilities may need special accommodations that must be considered when accommodations are arranged for tenants who are temporarily vacating their homes during renovations.

ACTION TR-7: Develop Program to Educate Community on Economic Benefits of Upgrading HVAC and AC to a Single Heat Pump Unit at Time of Replacement. Consider Requiring All New AC Installations to Be Heating and Cooling Heat Pumps.

A benefit of the conversion to electric heat pumps for space heating is that they can provide air conditioning as well as heating. Communicating this fact to building owners may help with heat pump adoption at time of replacement and renovation as it is a significant opportunity for cost savings in buildings that already have AC units near their end of life and for building owners that are considering installation of AC capabilities. This

conversion can also provide improved comfort. As noted in Chapter 3, installing a heat pump HVAC system will likely be less expensive than installing a new central furnace and air conditioner. Including information about the potential for a warming climate and more extreme heat days may also help incentivize building owners to install electric heat pumps for the purpose of adding AC to residences.

ACTION TR-8: Allow Setback Exemptions for Heat Pump Condensing Units and Conduct a Study of Heat Pump Noise Levels to Exempt any Models that Fall Under Noise Thresholds to Streamline Installation.

Air source heat pumps used for space heating and cooling require installation of a condensing unit outside of the building, which may need to be placed in an area that exceeds building setbacks allowed by the current City of Berkeley zoning code. This action would allow for exemption of units that could increase the potential for buildings that are able to install heat pumps at time of replacement and renovation. Additionally, the City

also has a noise ordinance that requires a noise study for many new construction projects including the installation of HVAC condensing units. This action directs the City to conduct a noise study of top heat pump HVAC units and exempt units that fall under the noise thresholds. This would streamline installation of qualified heat pumps, furthering the potential reach of the time of replacement and renovation strategy.

ACTION TR-9: Adopt a Time of Replacement Electrification Policy for All Municipal Buildings.

A time of replacement electrification policy would provide the City of Berkeley with a mechanism to ensure that all future replacements of gas fueled equipment at municipal buildings are converted to electric over

time. This action would provide a cost effective means for the electrification of municipal buildings, as well as demonstrate the City's commitment to building electrification and leading by example.



ACTION TR-10: Explore Simplifying Heat Pump Hot Water Heater Permits Where Possible so that Only an Electric Permit is Required, as Opposed to Both Plumbing and Electrical Permits.

The City will explore streamlining and simplifying the permitting process which could enhance the permit compliance rate and incentivize more electrification projects. By only requiring an electric permit for heat pump hot water heater installation, instead of the electric and plumbing permits that

are currently required, the requirements for installing a heat pump would be reduced. This should translate to less expensive and faster installs which is critical when replacing failed equipment like an emergency hot water heater replacement.

PHASE 2—Time of Retrofit and Renovation Actions

ACTION TR-11: Implement a Time of Replacement Requirement for HVAC and Hot Water Heaters Once an Accessible Funding/Financing Option is Available.

To further the Phase 1 voluntary electrification at time of replacement, this action would make it mandatory to replace fossil fueled equipment with electric heat pumps. This action would be implemented by only approving permits for electric equipment. Mandatory measures for replacement would only be implemented after adequate and accessible funding/financing options are available to all building owners. Implementation will require updating of permit collection requirements

and a significant effort to improve permitting compliance rates. Additional actions under the time of sale strategy would supplement this action by reaching buildings where equipment is replaced without going through the permitting process. As a Phase 2 action, this would only be implemented after extensive community collaboration and when accessible funding and financing options are available.

ACTION TR-12: Implement a Mandatory Time of Renovation Upgrade Program that Provides a Menu of Upgrade Options Relating to Electrification and Efficiency During Building Renovation.

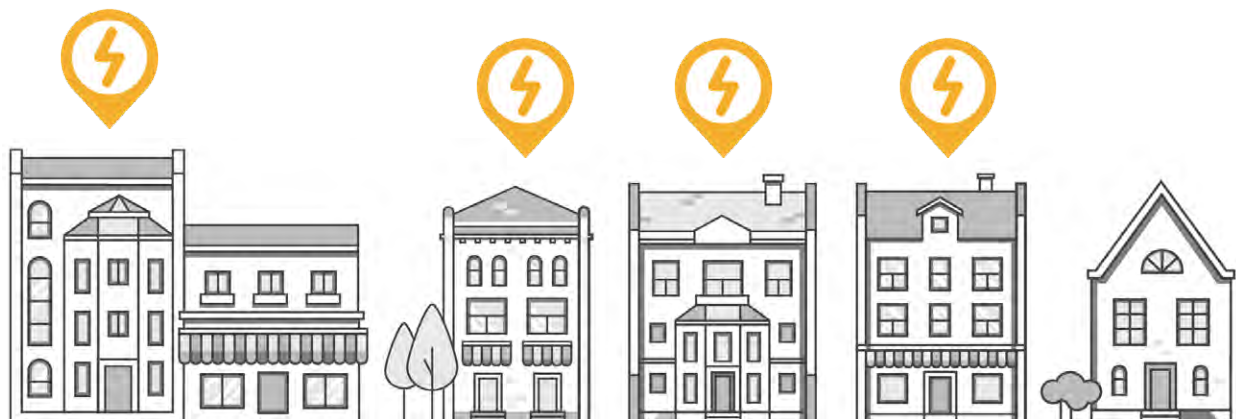
Requiring electrification through a time of renovation program would further the efforts for voluntary electrification actions. This action is tied to existing statewide Title 24 building requirements and would fit into the City's existing permitting process to require electrification when certain building renovations are carried out. The City would provide a selection of electrification and efficiency upgrade options, which would clearly demonstrate

prescriptive and/or performance methods for achieving compliance. Implementation will require updating of permit collection requirements and a significant effort to improve permitting compliance rates. As a Phase 2 action, this would only be implemented after collaborating with the community and when accessible funding and financing options are available.

ACTION TR-13: Adopt a Reach Code for Substantial Renovation or Other Electrification Requirements at Time of Building Permit.

This action directs the City to adopt an ordinance that would require all new building renovations to comply with Berkeley's new construction electrification requirements. This would be an extension of TR-12 but would now require all retrofits over a cost or square foot threshold to electrify effected appliances. Conducting upgrades at time of retrofit will lower overall costs associated with construction by combining electrification work

with the overall retrofit process. As a Phase 3 action, this ordinance would only be put in place once accessible funding and financing is available to help cover the upfront costs of electrification if a cost differential between gas and electric appliances still exist at time of implementation. As a Phase 2 action, this would only be implemented after collaborating with the community and when accessible funding and financing options are available.





PHASE 3—Time of Replacement and Renovation Actions

ACTION TR-14: Prohibit Installation of Gas Equipment and or Permitting of any NO_x Emitting Appliances.

BAAQMD regulations could ban the sale of nitrogen oxide (NO_x)-emitting appliances (those that use gas) within the Bay Area. To ensure effectiveness, this strategy would need to be implemented concurrently with a ban on installation of gas appliances. There is also potential that the City of Berkeley could take this action itself. Cal Health & Safety Code §§ 39002 & 39037 operates as a general background principle for how stationary source air pollution regulation operates across the State. In general, “the governing

body of any city, county, or district” has “the primary responsibility for control of air pollution from all sources other than vehicular sources.” This language suggests that cities, counties, and air districts can set standards on stationary sources. The City will explore these options, and as this is a Phase 3 action, this ordinance will only be implemented after collaborating with the community and when accessible funding and financing options are available.

4.4 TIME OF SALE

Policy Overview

The time of sale policy builds on Berkeley’s successful Building Emissions Saving Ordinance (BESO) to identify opportunities for electrification when a building is being sold. The City understands that buying a home in the City of Berkeley is already difficult with a median home price of approximately \$1.5 million as of 2021. However, the opportunity to include home upgrades in a mortgage is one of the key opportunities for cost effective

retrofitting an existing building to be all electric. As noted in Chapter 3.0, modeling found that over 50 percent of homeowners could see positive cash flows from day one by financing the incremental cost of the electrification package. However, due to the high cost of most Berkeley buildings, many sales are considered “jumbo loans” with no green financing products available to complete this

type of work, and more work will be needed to help develop financing products that meet the needs of homebuyers and sellers in the City.

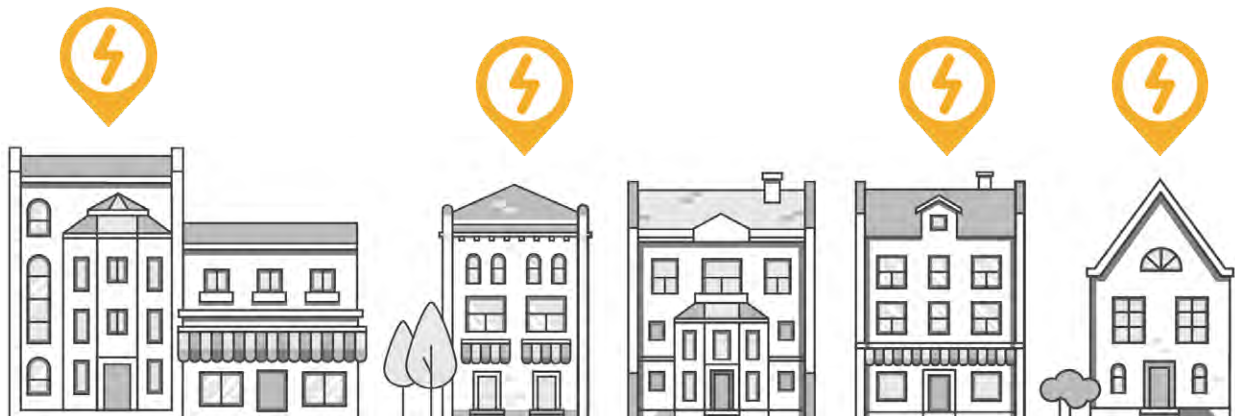
Therefore, the City has focused primarily on voluntary measures, education, and building the correct financing tools needed to enact a more robust Time of Sale strategy over time.

Phasing

Phase 1 of the time of sale policy will include education to new home buyers as well as rebates and incentives to begin electrifying buildings over the short term. In addition, the BESO program will begin the process of developing mandatory energy upgrade requirements to be phased in over time. The City will also work with State, local, and even federal partners to identify green mortgages appropriate for Berkeley's housing market. During Phase 2, the City will begin a permit compliance check at time of sale in order to ensure that time of replacement policies are being followed and to begin the implementation of mandatory time of sale requirements. Finally, during Phase 3, the City will further expand the time of sale policy to include the electrification of equipment nearing or past the end of its useful life.

Key Considerations

- Access to high quality and low cost financing vehicles (e.g., mortgage, refinancing).
- BESO program already well-established.
- Potential equity impacts due to high housing costs (see Equity Guardrail Analysis below).
- People purchasing homes in this current market are in the high wealth and/or high income brackets and tends to exclude frontline community members who have been negatively impacted by structural racism.





STRATEGY 2-TIME OF SALE



Access to Health & Safety Benefits

Opportunities

- Provides opportunities to upgrade homes when changing ownership, which can be a convenient time for making upgrades.

Risks

- Time of sale does not impact most rental properties which have low turnover rates.

Potential Solutions

- Target rental properties primarily through other strategies.
- Collaborate with the City’s Rental Housing Safety Program to explore opportunities to include electrification and energy efficiency requirements in the program. Include accessible funding and financing mechanism to offset marginal cost increases in return for tenant protections (CC-22).
- Implement point of new lease/ or rental agreement electrification requirements (CC-25).
- Develop accessible funding and financing options such as mortgages and refinancing options (TS-2).



Access to Economic Benefits

Opportunities

- Opportunity to advance high road jobs with labor standards and other tools.
- Opportunity to tie upgrades to mortgage.
- Opportunity to advance accessible financing and funding options such as mortgages and refinancing that could provide a low interest rate financing mechanism for electrification.

Risks

- Home prices in Berkeley may be too high for existing mortgage and/or other financing options.
- Potential for creating low wage jobs if high road job standards are not put in place.
- Expensive housing market means many home buyers are already stretched thin financially.

Potential Solutions

- Work to identify accessible financing and funding options such as mortgages and refinancing options that work in Berkeley’s housing market (TS-2).
- Work with local partners to provide training and encourage high road job development (CC-10 – CC-15).



Maximize Ease of Installation

Opportunities

- Time of Sale requirements under BESO will be developed and could include electrification upgrades.

Risks

- Time of Sale can add additional costs or procedural burdens in an already expensive housing market.

Potential Solutions

- Tie permit compliance review to existing BESO requirements (TS-4).
- Begin Time of Sale requirements with voluntary policies like incentives for electrification work (TS-1).
- Collaborate with the City's Rental Housing Safety Program to explore opportunities to include electrification and energy efficiency requirements in the program. Include accessible funding and financing mechanism to offset marginal cost increases in return for tenant protections (CC-21).



Promote Housing Affordability & Anti-Displacement

Opportunities

- Upgraded buildings could lower energy bills and operating costs for tenants.
- Time of Sale represents an opportunity to do building work without displacing residents/occupants.

Risks

- Potential for increased rents and displacement for renters if/when Time of Rental License/Lease Requirements are implemented.

Potential Solutions

- Include accessible funding and financing mechanisms to offset marginal cost increases in return for tenant protections (TS-6).



PHASE 1—Time of Sale Actions

ACTION TS-1: Consider Incentive Programs that Would Accelerate Retrofits on Residential Properties, Which Could Include Electrification Upgrades at Time of Sale.

The City could explore developing incentive programs targeted at low-income and/or first-time home buyers.

ACTION TS-2: Collaborate with Private and Public Partners to Develop and Provide Accessible Financing and Funding Programs for Homeowners such as Mortgages and Refinancing Options.

There are several green mortgage or energy efficiency mortgages available today. However, due to the rather unique makeup of Berkeley's housing market (high cost and fast sale times), it may be difficult to apply one of these mortgages in practice. Many mortgages require an HERS energy efficiency rating to determine the amount of savings available but also allow borrowers to increase the size of the loan for energy efficiency upgrades without needing to qualify for the larger loan. This allows home buyers to finance their upgrades over time and, as noted in Chapter 3.0, see positive cash flows. However, many

of these loans are not available for jumbo loans or home loans over a certain price. Due to Berkeley's current high demand housing market, many of the homes now require these jumbo loans. More work needs to be done to streamline this process and develop accessible financing and funding programs for homeowners that work within the City of Berkeley. This action directs the City to work with local lenders, the State, and other stakeholders to promote new and innovative financing and funding packages like mortgages and refinancing options to promote electrification.

ACTION TS-3: Develop Mandatory Time of Sale Energy Upgrade Requirements for BESO.

During Phase 1, the City will begin developing mandatory time of sale energy upgrade requirements for the BESO program. These time of sale requirements could include panel

upgrades or wiring for new appliances, air sealing and other weatherization, or minimum appliance efficiencies.

PHASE 2-Time of Sale Actions

ACTION TS-4: Include a Permit Compliance Review in the BESO Program to Ensure Appliances Were Replaced According to Electrification Requirements.

One of the major issues affecting a time of replacement ordinance is a lack of permit compliance. In order to sidestep new time of replacement requirements, some homeowners may opt to have work done without a permit, decreasing the effectiveness of the ordinance and causing negative impacts to safety and building stock quality. To remedy this, the City will conduct a permit compliance

check at time of sale. During the BESO review, inspectors will identify any recent equipment replacements and ensure that all work has been performed under a valid permit. Fines will be levied against non-conforming properties, and the fees will be used to fund the inspection program and, potentially, incentivize electrification.

ACTION TS-5: Adopt and Implement Mandatory Time of Sale Energy Upgrade Requirements for BESO Developed in TS-3, When Accessible Funding and Financing is Available.

Once the mandatory time of sale requirements for BESO are developed, and there are sufficient financing and funding opportunities available to make these upgrades affordably, the City will begin implementation during

Phase 2. Implementation should be monitored throughout the process and any unforeseen impacts, especially those related to equity, should be addressed.





4.5 BUILDING PERFORMANCE STANDARDS

Strategy Overview

A building performance standard sets a minimum level of performance that buildings must achieve by set target dates. Performance standards can be set by requiring a minimal level of energy use (efficiency) or GHG emissions per square footage of building or require an overall GHG emissions reduction established from a building's baseline or elimination of fossil fuels by a set date. This strategy will likely only effect commercial and multi-family buildings of 15,000 square feet or larger. The building performance standards would build on the City's existing BESO program and AB

802 which requires large building owners to report the electricity and gas use of their buildings.¹³⁰ The building performance requirements would move past requiring only an energy disclosure to require electrification upgrades to buildings to meet performance standards by specific dates. Building owners would need to either improve their buildings or may be required to pay fees for under-performing buildings. Funds may also be needed to assist low- and medium-income properties to electrify.

Phasing

Phase 1 of the building performance standard would focus on the development of the standard, including whether an energy efficiency or GHG emission standard would be used and what threshold for performance should be set. Phase 1 also includes the development of exemptions, funding and financing support, compliance assistance tools, and other support for building owners. Phase II moves

to implement the policies developed as part of Phase 1. As the program is implemented, the thresholds will be tightened. In Phase 3, additional policy measures to encourage and support non-compliant buildings will be considered, such as fees and subsidies, as well as expanding the performance standards to other buildings.

¹³⁰ https://www.cityofberkeley.info/benchmarking_buildings/

Key Considerations

- Focuses on some of Berkeley's largest energy-consuming buildings.
- Give large building owners time to prepare by phasing in performance standards over time.
- Do not want increased energy costs for tenants.





STRATEGY 3—BUILDING PERFORMANCE STANDARDS



Access to Health & Safety Benefits

Opportunities

- Future building performance standards would affect larger buildings over 25,000 square feet (with the future potential to affect buildings under 25,000 square feet).

Risks

- Some building/workplaces do not have capital to invest in improved equipment, efficiency, electrification.

Potential Solutions

- Develop requirements for building performance standards for Berkeley's large existing buildings (25,000 square feet and over) that lead to the elimination of fossil fuel use, as per 2020 BESO amendment (BP-1).
- Expand the existing BESO building performance standards (BP-1) requirement for multifamily and commercial buildings to include buildings under 25,000 square feet. (BP-3).
- Develop interim requirements for asset management and capital plans to schedule investments in the future.



Access to Economic Benefits

Opportunities

- Building performance standards provide a wide range of options for building upgrades.
- Additional opportunities for high road job generation.

Risks

- The cost of building upgrades could raise rents and disproportionately affect low income tenants.

Potential Solutions

- Develop tools, funding and financing to assist buildings with meeting building performance standard requirements developed as per 2020 BESO amendment, with extra support and tenant protections for LMI residents (BP-4).
- Consider applying fees associated with GHG emissions to accelerate elimination of gas, with tenant protections, and apply revenues to electrify LMI multifamily buildings (BP-5).



Maximize Ease of Installation

Opportunities

- Performance standards and benchmarking provides an opportunity to interface with owners of low-performing buildings and provide supports.

Risks

- Increased burden for building owners and tenants who may not know best technologies, rebates, and incentives.

Potential Solutions

- Develop tools, funding and financing to assist buildings with meeting building performance standard requirements developed as per 2020 BESO amendment, with extra support and tenant protections for LMI residents. (BP-4).



Promote Housing Affordability & Anti-Displacement

Opportunities

- Upgraded buildings may have lower energy bills and operating costs.

Risks

- Upgraded buildings may cause increased rents and displacement.

Potential Solutions

- Develop tools, funding and financing to assist buildings with meeting building performance standard requirements developed as per 2020 BESO amendment, with extra support and tenant protections for LMI residents (BP-4).
- Consider applying fees associated with GHG emissions to accelerate elimination of gas, with tenant protections, and apply revenues to electrify LMI multifamily buildings (BP-5).
- Leverage and expand existing tenant protection programs to tie tenant protections to electrification incentives to ensure building upgrades don't result in increased displacement (CC-9).



PHASE 1—Building Performance Standard Actions

ACTION BP-1: Develop Requirements for Building Performance Standards for Berkeley’s Large Existing Buildings (25,000 Square Feet and Over) that Lead to the Elimination of Fossil Fuel Use, as Per 2020 BESO Amendment.

This Phase 1 action will be the basis for the building performance standard program. As part of the development of the program, Berkeley will need to define the performance metric (energy efficiency, GHG emissions or use of fossil fuels), the minimum performance levels over time to send clear signals

to building owners, and provide sufficient time to align with capital planning. The City will also need to define the timeline for including additional building sizes. The building performance standard will ensure that Berkeley’s commercial, multi-family and mixed use buildings will perform efficiently into the future.

PHASE 2—Building Performance Standard Actions

ACTION BP-2: Adopt and Implement Performance Requirements for Buildings Developed as Part of BP-1.

Once the covered building types, exemptions, and performance standards are developed, the City will begin implementation during Phase 2. Implementation should be monitored throughout the process and any unforeseen impacts, especially those related to equity,

should be addressed, such as impacts on small businesses and LMI tenants. Additional resources and policies may need to be developed over time as the performance standards become more stringent and cover more buildings.

ACTION BP-3: Expand the Existing BESO Building Performance Standards (BP-1) Requirement for Multi-Family and Commercial Buildings to Include Buildings Under 25,000 Square Feet.

As the program is implemented, the City will expand to include smaller buildings. Expansion of the BESO building performance standards will bring more buildings into the program and reduce GHG emissions within the City. However, care will need to be taken

to ensure equitable implementation of the program including management of cost pass-through to tenants and to ensure building owners do not remove amenities to reduce energy consumption (i.e., on-site laundry).

ACTION BP-4: Develop Tools, Funding, and Financing to Assist Buildings with Meeting Building Performance Standard Requirements Developed as Per 2020 BESO Amendment, with Extra Support and Tenant Protections for LMI Residents and Small Businesses.

To help support building owners whose buildings do not meet the current building performance thresholds, the City of Berkeley will develop a suite of compliance assistance tools including incentives, technical assistance on cost effective approaches, and best practices. This information will be provided to the owners of buildings that are currently in the program as well as those who will be phased in over time.

While increasing the efficiency of Berkeley's worst performing buildings through the building performance standard will likely decrease operating costs and save tenants money on

energy bills, there will most likely be upfront costs associated with these upgrades. In addition, building owners may charge more rent for upgraded buildings which could result in increased displacement. To help remedy these potential negative impacts, the City will work to develop exemptions, funding, and financing options, as well as tenant protections to help support Berkeley's LMI renters. One potential source of funding would be fees generated as part of the building performance standard itself, paid for by buildings that do not meet the identified performance thresholds.





PHASE 3–Building Performance Standard Actions

ACTION BP-5: Consider Applying Fees Associated with GHG Emissions to Accelerate Elimination of Gas and Apply Revenues to Electrify LMI Multi-Family Buildings, While Providing Tenant Protections.

The performance metric should become more stringent over time at set intervals to allow building owners to plan their long term

strategies. By 2045 the GHG emissions should be set to zero to allow for the achievement of Berkeley's long-term carbon neutrality target.

4.6 NEIGHBORHOOD ELECTRIFICATION AND GAS PRUNING

Strategy Overview

The neighborhood electrification and gas pruning policy identifies ways that neighborhood-level electrification projects can be completed and gas infrastructure can be strategically eliminated from the City of Berkeley. This policy and supporting actions differ significantly from the other policies as it seeks to gain significant overall cost savings and efficiencies by electrifying entire neighborhoods rather than individual appliances. This approach holds the most promise for reaching the fossil fuel free goals at a large scale community level and includes elimination of gas within buildings and the pruning of the gas distribution system that runs beneath the streets and leaks methane, a potent greenhouse gas 86 times worse than carbon.

Working at the neighborhood scale builds community resiliency and promotes equity rather than a piecemeal, building-by-building approach. For example, if most people on a block electrify but a few do not, the entire block will still need to be served by gas infrastructure, and those left behind will pay higher gas prices. This is also an opportunity to encourage community-scale projects with labor standards and workforce agreements that can advance high road jobs.

While neighborhood electrification can take place without gas pruning, planned decommissioning gas distribution lines offers important benefits including reducing outdoor methane emissions, eliminating investments

in stranded asset, aggregated neighborhood electrification and strategic workforce transition for gas workers. Implementation of this strategy would require regulatory changes at the CPUC to allow for utilities to have more flexibility in reallocating funding from the repair or placement of gas lines to electrification projects. Neighborhood-scale electrification projects would also require complete community buy-in and adequate tenant protections to reduce the potential for

displacement during and after electrification projects. This strategy would also help ensure an equitable transition from fossil fuels by working to electrify all the buildings in a neighborhood, thereby reducing the potential for leaving lower income households stranded with higher gas rates. Gas pruning would also decrease the amount of stranded gas assets and help mitigate the expected gas rate increases.

Phasing

Phase 1 of the neighborhood electrification and gas pruning policy will strive to remove regulatory barriers that prohibit utilities from shifting investment in gas infrastructure to electrification project, identifying funding for neighborhood electrification pilot projects, community outreach and education, and enhancement of tenant protections for communities at risk of displacement. After

overcoming the hurdles of Phase 1, the City will implement Phase 2 actions, which includes the implementation of a neighborhood-scale beneficial electrification projects and gas pruning, development of carbon and fossil fuel fees/taxes to disincentivize use of fossil fuels, electrification incentives for small businesses, and strategic planning for further gas infrastructure pruning.

Key Considerations

- Current CPUC regulations must be addressed to successfully implement neighborhood electrification and gas pruning.
- Gas pruning may have high upfront cost of neighborhood level electrification projects.
- Locations for gas pruning must meet technical, financial, equity and community considerations.
- Neighborhood level electrification requires participation from all property owners and residents.





STRATEGY 4–NEIGHBORHOOD ELECTRIFICATION AND GAS PRUNING



Access to Health and Safety Benefits

Opportunities

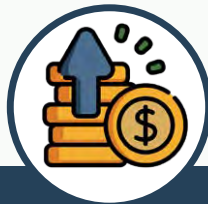
- Neighborhood scale electrification would ensure all buildings within a neighborhood are electrified and receive the related benefits.
- When buildings are electrified in a piecemeal manner, this can cause instabilities in the gas infrastructure system which is pressure-based. By taking a holistic approach to entire sections of the gas infrastructure, this can be a more stable approach.

Risks

- Focus could be put on more affluent neighborhoods due to less financial difficulties.
- This approach requires participation from all residents, who have different needs and priorities, which will require time and resources to ensure equitable access.

Potential Solutions

- Explore public funding mechanisms (e.g. a municipal decarbonization bond or carbon fee), to support large scale electrification pilot projects, such as neighborhood scale electrification in historically disinvested communities, with inclusive high road union jobs and workforce development in partnership with organized labor (NE-1).
- Conduct a neighborhood beneficial electrification with infrastructure pruning pilot project in coordination with PG&E within the City of Berkeley, with a focus on marginalized communities (NE-4).
- Collaborate with community organizations to provide culturally-sensitive educational resources to support outreach and engagement (CC-6).



Access to Economic Benefits

Opportunities

- Opportunity for a larger scale of high road job opportunities related to Neighborhood Electrification to meet the need of larger-scale projects.
- Potential on-bill savings due to electrification.
- Gas pruning could be a source of funding/financing for electrification projects.
- By bringing an entire neighborhood to become all-electric, does not “leave behind” some on gas with higher gas prices.

Risks

- High upfront costs associated with electrification.
- Current policy hurdles prevent reallocation of costs from gas to electric infrastructure.
- Potential burden to small business.

Potential Solutions

- Explore public funding mechanisms, to support large scale electrification pilot projects, such as neighborhood scale electrification in historically disinvested communities, with inclusive high road union jobs and workforce development in partnership with organized labor (NE-1).
- Develop a pilot project funding plan that allows flexible accounting to allow PG&E to demonstrate potential solutions to current regulatory financial barriers (such as gas vs. electrical assets, capital vs. expense accounting) (NE-2).
- Develop a comprehensive funding/financing plan to direct electrification investments in marginalized communities (CC-20).
- Collaborate with labor and workforce partners to advance high road job opportunities (CC-10-15).



STRATEGY 4 (CONTINUED)–NEIGHBORHOOD ELECTRIFICATION AND GAS PRUNING



Maximize Ease of Installation

Opportunities

- Neighborhood scale electrification and gas pruning opens up opportunities for bulk purchasing.
- Neighborhood scale electrification would be a good fit for union and other high road jobs.

Risks

- Current regulatory hurdles prevent reallocation of infrastructure funds.
- Different building owners/tenants will have different appliance needs.
- Short term impacts due to construction in homes/buildings.

Potential Solutions

- Ensure tenant protections for housing security during retrofits (CC-9).
- Collaborate with regional and State partners to update regulations (CC-26).



Promote Housing Affordability & Anti-Displacement

Opportunities

- Cost effective upgrades at the neighborhood scale.
- Inclusion of all homes/rental units/businesses.

Risks

- Increased housing costs/rents due to upgrades.
- Impacts to small businesses.

Potential Solutions

- Collaborate with labor and workforce partners to advance high road job opportunities (CC-10-15).
- Tie retrofit funding and financing packages to non-displacement requirements (NE-3).
- Develop incentives for businesses that convert to all-electric. Prioritize resources for small and longer standing businesses. (CC-17).



PHASE 1–Neighborhood Electrification and Gas Pruning Actions

ACTION NE-1: Explore Public Funding Mechanisms (e.g., a Municipal Decarbonization Bond or Carbon Fee), and/or Grants to Support Large Scale Electrification Pilot Projects, such as Neighborhood Scale Electrification in Historically Disinvested Communities, with Inclusive High Road Union Jobs and Workforce Development in Partnership with Organized Labor.

The City will work to identify public funding including grants from the State and federal level to conduct neighborhood scale electrification projects with a priority in Berkeley’s historically disinvested neighborhoods. Conducting neighborhood scale electrification opens the potential for partnerships with

organized labor, bulk purchasing, and other economies of scale. Creating projects of this size and magnitude will need to leverage extensive outreach, communication, and trust in the City and the technologies employed, all of which will be developed through other actions identified in this Strategy.

ACTION NE-2: Develop a Pilot Project Funding Plan that Allows Flexible Accounting to Allow PG&E to Demonstrate Potential Solutions to Current Regulatory Financial Barriers (such as Gas vs. Electrical Assets, Capital vs. Expense Accounting).

Current utility accounting standards separate between capital dollars and expense dollars and do not allow re-budgeting or re-allocation of these dollars within a 3-year General Rate Case window. These constraints prevent PG&E from redirecting funds for gas projects to investments in electrification, which would

typically be considered expense projects. A pilot project funding plan would allow for exploration of this shift in accounting practices and provide best practices for unlocking funds currently used for gas projects to be reallocated to electrification projects.

ACTION NE-3: Tie Retrofit Funding and Financing Packages Related to Neighborhood Electrification and Gas Infrastructure Pruning to Non-Displacement Requirements.

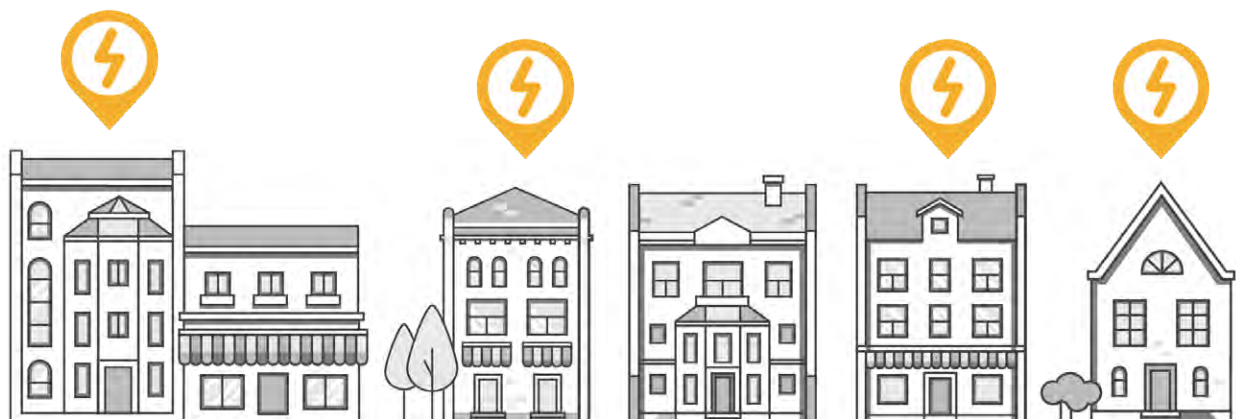
The upfront costs required for electrification retrofits and the resulting higher quality housing generates concern over the potential for displacement of tenants. Building owners who receive funding from infrastructure pruning to upgrade buildings may then see opportunity to raise rents, increasing displacement. This

action serves to create displacement protections by tying non-displacement requirements to retrofit funding and financing packages. This would prohibit property owners from displacing tenants or passing through electrification retrofits costs to increase rents.

ACTION NE-4: Conduct a Neighborhood Electrification and Gas Pruning Pilot with Transparent Community Engagement.

This action includes the planning and completion of a neighborhood electrification and gas pruning pilot project. Even without the ability to divert monies from gas infrastructure upgrades, a proof of concept project would help support the potential for infrastructure pruning in Berkeley and throughout California. A project of this type also provides

opportunity to benefit marginalized communities by providing safe and comfortable housing with lowered energy bills. The funding, technical, and equity aspects of the pilot project could be used to develop best practices and inform future neighborhood electrification and gas pruning projects statewide.





PHASE 2–Neighborhood Electrification and Gas Pruning Actions

ACTION NE-5: Work with PG&E to Develop a Comprehensive Strategy to Guide Gas Infrastructure Pruning and Update Based on Changes to Foundational Issues Identified in Phase 1.

This action would draw on three mechanisms to promote infrastructure pruning.

1. Where appropriate, remove an entire segment of the pipeline.
2. "Extended release": set a target of transitioning a particular segment over 10 years, to allow for electrification upon replacement.

3. Reduce demand in a service territory until transmission line pressure drops to the point it can be downrated to a distribution line, which would be less costly to maintain.

These mechanisms would be further expanded upon based on the regulatory changes in Phase 1 that would allow for infrastructure pruning and would guide development of pruning strategy.

ACTION NE-6: Begin Gas Infrastructure Pruning in Areas Where Gas Line Repair/Replacement is Expected to Occur as Equity Guardrails and Foundational Issues Identified in Phase 1 are Addressed.

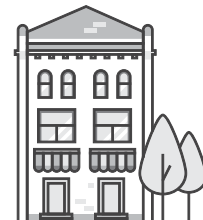
As the foundational regulatory issues are resolved at the State level, the City of Berkeley and PG&E will be able to begin identifying opportunities for gas line pruning. Savings from avoided gas infrastructure maintenance would be used to offset the cost of electrification for building owners. Through this action,

infrastructure pruning would target areas where gas line repair/replacement is expected to occur, thereby using fund for electrification projects that would have been spent on costly maintenance of the gas infrastructure.





5. A CALL TO ACTION





INTRODUCTION

Electrifying all Berkeley's existing buildings is a large and complex undertaking that - if done in an inclusive and equitable way - provides an enormous opportunity to bring many benefits to the community including making our homes and indoor spaces healthier, safer, more resilient, and comfortable, while also taking actions to address the climate crisis and other societal issues such as affordable housing, high road workforce development, and racial equity.

In order to achieve these goals, the work will require collaboration and collective action from the City, community members, community leaders and organizations, the private sector, utilities, and other local, State, and federal entities. This call to action outlines some of the key areas that Berkeley's community and partner cities can take from this Strategy and implement today both as individuals and collectively to advance building electrification.



WHAT CAN BERKELEY COMMUNITY MEMBERS DO NOW?

The modeling conducted for this project shows that many buildings within the City of Berkeley can be electrified today in a cost-effective manner. While some community members will need funding and financing access or other support to make electrification feasible (and it will take some time to develop and scale these solutions), there are key situations when electrification should be considered today. While these solutions are geared toward the City of Berkeley, they may also be applicable to other communities across the State.

Purchasing a New Home

When purchasing a new home in Berkeley, it may be possible to include the costs of electrification in your mortgage as part of a green mortgage or energy efficiency mortgage. Although high-cost housing conditions make these products more challenging in Berkeley, opportunities do exist. Financing electrification could provide positive cash flow upgrades to the home as well as higher comfort.

At Time of Replacement or Renovation

Some incentives are already in place to support replacing gas appliances like water heaters and HVAC units for electric ones. When equipment fails or nears the end of its usefulness, it is worth investigating heat pump technologies and any available incentives.¹³¹ While heat pumps may increase upfront costs in the short-term, the monthly savings will pay off over time. Electrifying at time of renovation could also represent lifetime cost savings due to lower upfront marginal costs. When renovating a kitchen or garage, it may be ideal to ensure 220v wiring exists where an electric appliance like a stove or dryer may be located in the future.

¹³¹ The BayREN Home+ website is a great resource for finding contractors and additional information. <https://bayren-residential.org/>





Install Heat Pump AC When Installing a New AC Unit

Residents who are considering purchasing a new or replacement air conditioning unit, especially those who have an older HVAC unit, should consider making the switch to an efficient heat pump HVAC unit that provides both heating and cooling instead. The incremental cost of adding heating to an AC system is low and provides an opportunity for efficient electric heating. By combining both heating and cooling into one unit, the upfront and operating costs are likely to be lower.

Installing Solar with Battery or Thermal Storage

Homes installing solar and/or battery storage for other reasons like cost savings and resiliency could increase those savings by electrifying more appliances and upsizing the solar array to achieve net zero electricity purchases. In addition to battery storage, heat pump water heaters can act as a thermal battery, “charging” up during the day using solar energy to heat water to a high temperature and providing hot water through the evening hours.

Lower Your Carbon Footprint

Simply put, some community members have the desire and the means to lower their carbon footprint and building electrification is a great way to achieve that. Replacing stoves for induction technologies and HVAC, water heaters, and dryers with heat pumps allows building owners to achieve carbon neutral building operations today when paired with renewable electricity through East Bay Community Energy.

Learn More

Both residential and commercial buildings can take advantage of BayREN significant electrification rebates and resources, and East Bay Community Energy is currently offering a discounted solar and storage program.¹³²

For more information on how to electrify your home including information on rebates and incentives see: <https://www.cityofberkeley.info/electrification/>. Residents can also learn more about electrification at The Switch is On: <https://www.switchison.org/>.

¹³² <https://ebce.org/solar-battery/>



WHAT CAN OTHER CITIES DO?

This Strategy focuses specifically on Berkeley's building stock, climate, and communities, and, therefore, many of the costs and actions developed for this Strategy are specific to the City. However, there are

aspects of this Strategy that could be applied to other cities and can serve as a starting point to build on the analysis completed for Berkeley.

What Can Be Applied to Other Cities?

Equity Guardrails

Many cities in California, similar to Berkeley, are increasing their focus on equity and how to include all of their communities in the decision-making process. While discussing equity in plans and policies is a good place to start, there are not yet many mechanisms to apply equity to electrification policies and actions in a structured way. The development of the equity guardrails and subsequent equity guardrail analysis helps the City to both conduct outreach and engagement with its marginalized communities and provides a process through which to analyze the impacts of a policy or action and identify any shortfalls in the overall approach. While the specific content and priorities of the equity guardrails may vary across cities, refining them in

collaboration with the affected communities and using the guardrails as a mechanism to evaluate potential policies, offers a flexible approach to integrate equity into other policy making documents.

Framework

While the specific actions of this Strategy may or may not apply to other cities, the overall framework and primary policies identified as part of this report are likely also to be the key levers that other cities can pull to incentivize or mandate existing building electrification in their own communities. A foundation built on equity and the supporting pillars of education, funding and financing, and major policy changes will likely be needed to support existing building electrification in every city.

What Can Other Cities do to Get Started?

Building Inventories

The first step that cities should take when formulating a plan for existing building electrification is to get a strong understanding of the existing building stock. Information including

number of and type of buildings, residential units, construction types, vintage, and square footage will be important data points for conducting a cost analysis and prioritizing actions.



Existing Buildings Electrification Strategy

Community Engagement with Equity Focus

The only way cities will be able to achieve full electrification and be free of fossil fuels is to design inclusive policies that include all buildings in an affordable and accessible way. Existing building electrification is an extremely multifaceted topic that impacts how people live and experience their homes and living spaces and requires collaboration and a deep understanding of community needs prioritizing those who have been historically disadvantaged. Building trust within

these communities to collaboratively perform this work is a long-term commitment that requires early and ongoing engagement. The projected costs and other ramifications associated with electrification upgrades should be discussed and fully understood, and policies should be developed in partnership with the communities most impacted. Engaging diverse communities will require dedicated funding and resources that should be included in the scope and prioritized from the very beginning of any development of community scale electrification solutions.

What Can We do as a Group of Cities?

Advocate for Policy Changes

Several policies including the obligation to serve, as well as rules dictating how PG&E and other utilities can allocate funds for gas infrastructure, can be changed to make electrification easier and more cost-effective. One city alone cannot effectively lobby for these statewide changes; however, a coalition of cities can raise these issues more effectively and lobby for constructive change.

Advocate for funding & financing programs

Advocating for accessible funding and financing programs is one of the biggest actions that cities can undertake together. Once a robust set of programs is in place, existing building electrification is going to be a much more equitable and feasible process. For example, a group of cities advocating at the State and local level for an accessible tariffed on-bill financing program would help spur action and accelerate the timeline for implementation of Phase 2 and Phase 3 actions.

Advocate for Equitable Utility Rates

Gas rates - Regulated utility rates have a major impact on the economics of electrification. Gas rates do not currently reflect the societal costs to climate, safety, and health and are thus artificially low in comparison to electricity rates, which include costs for social benefits, such as incentives for rooftop solar.

Electricity rates - As Berkeley seeks to elevate measures that support targeted universalism and community-driven solutions, rooftop solar presents some interesting challenges. While the current Net Energy Metering (NEM) rate structure improves the economics of residential electrification for a customer with solar access and the ability to invest in PV, it also presents challenges that need to be considered in defining a long-term approach that centers on equity.

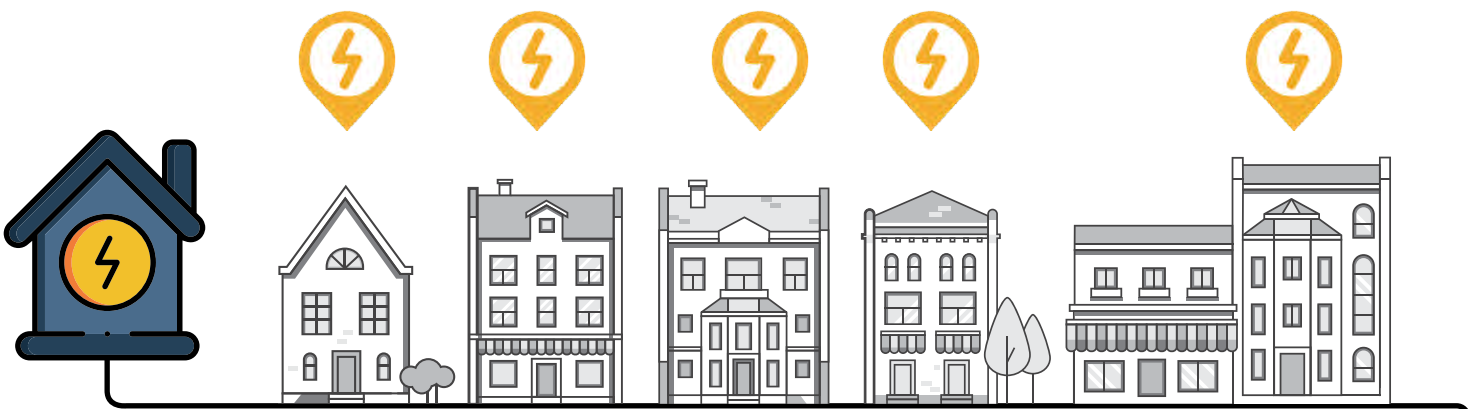
While NEM benefits customers with rooftop solar, it shifts costs for maintaining the electricity grid to other customers, increasing electricity costs.

Together, California cities can advocate for rate structure changes at the CPUC that fairly reflect the current and future costs of gas and electricity rate revisions that continue to support renewable energy sources and are equitable to all rate payers, especially those that cannot utilize rooftop solar.

Pilot Projects

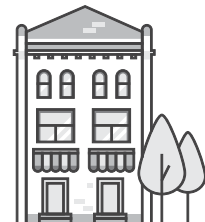
There is still much to learn about the nuances of building electrification. While this analysis took a deep dive on local costs and utilized a detailed energy model to predict costs, there is no substitute for on-the-ground data. As more cities conduct pilots and share outcomes, new approaches will likely be developed to help lower costs and improve the electrification process.







APPENDICES



APPENDIX A: TECHNICAL APPENDIX

Table of Contents

Technical Appendix.....	167
Modeling Process.....	167
Key Inputs	168
Lifecycle Cost Analysis.....	168
Utility Rates.....	168
HVAC System Assumptions.....	169
Existing Fuel Sources.....	169
Electrification Options	169
Domestic Hot Water Assumptions	171
Existing Fuel Sources.....	171
Electrification Options	171
Clothes Dryer Assumptions	172
Existing Fuel Sources.....	172
Electrification Options	172
Stove Assumptions	173
Existing Fuel Sources.....	173
Electrification Options	173
Envelope Improvement Assumptions.....	174
Existing Conditions.....	174
Retrofit Options	174
Electrical Panel Upgrades	174
Existing Conditions.....	174
Retrofit Options	175
Rooftop Solar PV.....	175
Existing Systems.....	175
Electrification Options	176
Additional Electrification Considerations	176

This page intentionally left blank.

Technical Appendix

Modeling Process

The energy and cost analysis that informs this report was performed with a custom tool produced by Radiant Labs Analytics. The tool utilizes a National Renewable Energy Lab (NREL) ResStock modeling engine to develop hourly building energy models for every home in Berkeley based on over 50 prototype models scaled to each individual home's square footage. This tool used a comprehensive building inventory developed by Cadmus Group and the Building Electrification Institute (BEI) that compiled information from a wide range of public and private sources including the Alameda County Tax Assessor's database, Berkeley's Building Emissions Savings Ordinance (BESO), other city departments, federal housing programs, and geospatial data tools.

This analysis addresses the four-primary gas-using building components in existing Berkeley homes: space heaters, water heaters, stovetops, and clothes dryers. These technologies were combined into packages to model the costs associated with electrifying an entire building. Electric vehicle upgrades and ancillary end uses including gas fireplaces, outdoor barbecues, and gas-heated pools were not considered. Battery storage systems were also not included in the modeling.

Measures were defined for three electrification packages¹:

- **Package 1: Economy Products** reflects the most commonly sold products from regional distributors. Measures include a single-speed air source heat pump (ASHP), 50-gallon heat pump water heater (HPWH), electric resistance cooktop, and electric resistance clothes dryer.
- **Package 2: Mid-Tier Products** includes more expensive products with additional energy benefits. Measures include a variable-speed ASHP, 80-gallon HPWH, induction cooktop, and heat pump clothes dryer.
- **Package 3: Mid-Tier Products + Envelope** includes all Package 2 measures in addition to air sealing and roof insulation measures.

Each existing building systems were defined based on information collected through RealQuest or Berkeley's Building Emissions Savings Ordinance wherever possible, and otherwise statistically modelled through ResStock based on the regional trends detailed in the US Energy Information Administration's (EIA's) Residential Energy Consumption Survey.² Electrification upgrades were only applied to homes not assumed to have electric equipment already in place (e.g., we did not model induction stove upgrades for homes with existing electric resistance cooktops).

The ResStock platform utilized EnergyPlus modeling software to model energy and cost impacts for a set of energy measure packages defined to model a range of current technological options for electrifying Berkeley's existing homes. Measure packages and cost assumptions were developed through stakeholder interviews and by profiling the assumptions utilized in past research efforts, most notably E3's 2019 report "Residential Building Electrification in California: Consumer

¹ Note that measures were developed with a focus on the systems that are commonly installed in 1-4 family homes, which make up over 80% of Berkeley's buildings. Some multifamily homes can use these same products, but many are constructed with lower-cost central systems that present a wider range of design options and cost considerations for electrification retrofits.

² <https://www.eia.gov/consumption/residential/>

Economics, Greenhouse Gases, and Grid Impacts”.³ Utilizing these localized analyses was essential for reflecting the uniquely high costs associated with the Bay Area housing and contracting markets.

The methodology and input assumptions behind NREL’s ResStock platform are detailed in NREL’s “Energy Efficiency Potential of the U.S. Single-Family Housing Stock”.⁴ The following contents detail other core assumptions utilized for modeling the impacts of building electrification in Berkeley.

Key Inputs

Lifecycle Cost Analysis

This economic analysis assumes that building systems are replaced at point of failure: paybacks and financed cashflows only incorporate the incremental cost of replacing an end-of-life unit with an electric system (e.g., an air source heat pump) rather than a comparable natural gas system.

Financing cashflows and estimated breakeven incentives assume a Pay As You Save[®] tariffed on-bill financing program. The terms utilized in analysis are detailed in Section 3.3 of the Berkeley Existing Buildings Electrification Strategy. For measure packages with a solar system, the estimated present value of solar production in years 20-25 (which is not covered under typical PAYS[®] terms but can be reliably financed in other programs) is credited to offset upfront costs.

Utility Rates

Savings for each measure are based on modeled energy savings and the following utility rates, modeled after PG&E’s E-1 tiered electricity rate and residential natural gas rate⁵ (Table 1). Time-of-use rate tariffs like PG&E’s E-TOU-C were not for this analysis due to limitations in the modeling software.

Table 1 Assumed Utility Rates

Fuel		Rate
Natural Gas	–	\$1.66/therm
Electricity	Tier 1	\$0.23/kWh
	Tier 2	\$0.29/kWh
	Tier 3	\$0.51/kWh

Daily overproduction from solar systems was compensated with the same tariff structure. This model does not account for non-bypassable charges: these charges, which make up roughly 2.7 cents/kWh under PG&E’s current E-1 tariff⁶, are not included as part of solar overproduction compensation under Net Energy Metering 2.0 rules. All analysis assumes a natural gas rate of \$1.66 per therm based on reported PG&E residential rates at the time analysis was performed.⁷

³ <https://www.ethree.com/e3-quantifies-the-consumer-and-emissions-impacts-of-electrifying-california-homes/>

⁴ <https://www.nrel.gov/docs/fy18osti/68670.pdf>

⁵ <https://www.pge.com/tariffs/Residential.pdf>, https://www.pge.com/tariffs/assets/pdf/tariffbook/ELEC_SCHS_E-1.pdf

⁶ See https://www.pge.com/tariffs/assets/pdf/tariffbook/ELEC_SCHS_E-1.pdf. All charges outside of generation, distribution, and transmission are non-bypassable.

⁷ <https://www.pge.com/tariffs/Residential.pdf>

HVAC System Assumptions

Existing Fuel Sources

As shown in Table 2, Energy Information Administration (EIA) data suggests that virtually all existing homes in Berkeley use natural gas for heating:

Table 2 NREL/EIA Fuel Source Estimates for HVAC in Berkeley

Fuel Type	Number of Buildings	Percentage
Gas	40,994	99%
Electric	362	1%

BESO data covering existing heating systems is limited to a small sample, but generally supports the assumption that most homes have natural gas systems: 45 of the 46 homes surveyed used natural gas furnaces.

Air conditioning ownership in Berkeley is difficult to determine, but available data suggests 5-17% market saturation:

- 60 of 1,281 audited homes (5%) tracked through Berkeley's BESO program had air conditioning systems.
- Permit data suggests that at least 2,130 homes in Berkeley have existing air conditioning systems, roughly 5% of the housing stock. Assuming a permit compliance rate of 30% suggests a true ownership rate of closer to 17%.⁸

Electrification Options

Table 3 shows the two options for electrifying HVAC systems in Berkeley that were considered in this report. The economy package uses lowest-cost appliances while the mid-tier package uses more efficient appliances at a higher installed cost.

Table 3 HVAC Electrification Costs in Berkeley

Package	Cost	Incentive	Details
Economy Package	\$9,036 + \$756/ton	-	Single speed, 14 SEER, 8.2 HSPF
Mid-Tier Package	\$12,125 + \$756/ton	\$1,000	Variable speed, 21 SEER, 13 HSPF; rebate provided by BayREN
Natural Gas Baseline	\$6,903 for furnace \$16,387 for furnace + AC ¹	-	Assumes a 40 MBH furnace (80 AFUE) and 2-ton air conditioner (SEER 14)

¹ The cost of existing/planned whole-house air conditioners is not considered in default economic analysis for electrification measure packages due to a limitation in modeling software.

SEER- Seasonal energy efficiency ratio

HSPF – Heating season performance factor

⁸ A 2012 study found a 30% permit rate for residential air conditioning projects in Sacramento. Source: http://www.calmac.org/publications/HVAC_WO6_FINAL_REPORT_Volumel_22Sept2017.pdf

MBH – Thousand British thermal units per hour
AC – Air conditioning
AFUE – Annual fuel utilization efficiency

The modeling tool utilized for this report auto-sizes HVAC systems for the loads of each home in Berkeley and estimates installed gas (baseline) and heat pump (proposed) system costs based on that sizing.

Heat pump systems can heat a home 3-5 times more efficiently than any natural gas furnace while also providing cooling in summer months. The single-speed central system specified in the economy package is typically sufficient for Berkeley’s mild climate. However, variable-speed systems yield additional consumer and grid benefits:

- **Improved Efficiency.** The mid-tier heat pump modeled in this study used roughly 35% less energy for heating and cooling than the economy product, further reducing utility bills and minimizing grid impacts.⁹ While the utility bill impact is clear, the grid benefit could come in the form of reduced transmission and distribution or supply constraints, as more efficient units will use less energy and contribute less to peak demand.
- **Guaranteed Comfort.** Variable-speed heat pumps scale output based on demand rather than cycling on-and-off, minimizing indoor temperature swings.

Many air source heat pump products are offered with smart controls that enable homeowners on time-of-use rates to reduce their utility bills by operating equipment during lower-cost hours.

The modeling detailed in this report does not incorporate two important alternatives to central ducted systems that warrant consideration in any program design:

1. **Mini split Heat Pumps.** These units were not modeled because they are typically more expensive than ducted central systems and less cost-effective in Berkeley’s mild climate. However, they can be sensible choices in homes with damaged, insufficient, or nonexistent ductwork¹⁰, where central system installation may be more costly. Mini split systems can be substantially more efficient (and thus grid-friendly) than central systems and may warrant utility incentives.
2. **Packaged Terminal Units (PTACs).** Heat pump PTACs simplify installation by combining the indoor and outdoor heat pump components into a single through-wall unit. Some units operate at 120V on 15A panels, meaning that they can even be plugged into an existing outlet. These units mitigate the need for new wiring (an estimated average cost of \$720 per home in Berkeley) and potentially even an electrical panel upgrade. Quality product offerings are currently limited in the United States, but the market share may grow quickly.

⁹ Based on nameplate ratings: SEER 21 and HSPF 13 for mid-tier, SEER 14 and HSPF 8.2 for economy.

¹⁰ Local installers estimate that at least half of Berkeley homes with central furnaces (the most common heating system type) warrant duct replacements or major repairs.

Domestic Hot Water Assumptions

Existing Fuel Sources

As shown in Table 4, EIA and NREL data suggest that roughly 7% of Berkeley homes already use electricity for water heating. The data also suggest that a small number of homes in Berkeley still use fuel oil or propane systems for heating. Buildings using propane or fuel oil represent prime targets for initial electrification due to the higher costs of these fuels.

Table 4 NREL/EIA Fuel Source Estimates for Domestic Hot Water in Berkeley

Water Heating Method	Number of Units	Percentage
Gas Standard	36,942	89%
Gas Tankless	1,244	3%
Electric	2,760	7%
Fuel Oil and Propane	410	1%

BESO data suggests that the number of homes that use natural gas for water heating could be even higher than estimated through the NREL and EIA data: 1,255 of 1,270 homes surveyed (99%) used natural gas, with the remainder using electricity. This number may also be skewed by the number of unpermitted installations, which may more heavily favor non-grid-connected fuel sources like fuel oil and propane.

Many of the existing electric water heating systems are likely electric resistance, and therefore less efficient and more costly to operate than a new heat pump water heater. Converting these units to higher-efficiency heat pump water heaters can be important even though they will not displace gas appliances. Converting from electric resistance to heat pump water heating is often cost-effective. Further, heat pump water heaters typically consume much less electricity, limiting energy supply and transmission and distribution issues if converted across a community.

Electrification Options

The 50-gallon Heat Pump Water Heater (HPWH) systems modeled had a first-hour rating of 70 gallons, which should be sufficient for most homes outfitted with the low-flow fixtures already required by the City.¹¹ However, 80-gallon systems can be paired with smart control systems to further reduce energy costs by using excess capacity to shift operating times to off-peak, lower-cost, and/or less-carbon intensive hours. Some utilities are promoting the technology as a peak load reduction measure.

As shown in Table 5, the economy and mid-tier electrification packages are compared against two different baselines: a 50-gallon tanked natural gas model and a tankless natural gas model, respectively.

¹¹ https://www.cityofberkeley.info/uploadedFiles/Online_Service_Center/Planning/SB%20407%20COB%20Guideline.pdf

Table 5 DHW Electrification Costs in Berkeley

Package	Cost	Incentive	Details
Economy Package	\$3,761	-	50 gallon, 3.0 UEF
Mid-Tier Package	\$4,651	\$1,000	80 gallon, 3.0 UEF; rebate provided by BayREN
Natural Gas Baseline	Economy: \$2,096 Mid-tier: \$2,794	-	Economy: 50-gallon tank, 0.63 UEF Mid-tier: 190 MBH tankless, 0.81 UEF

UEF – Uniform energy factor

Clothes Dryer Assumptions

Existing Fuel Sources

As shown in Table 6, NREL/EIA data suggest that most clothes dryers in Berkeley are already electrically powered (presumably electric resistance rather than heat pump):

Table 6 NREL/EIA Fuel Source Estimates for Clothes Dryers in Berkeley

Clothes Dryer Type	Number	Percent
Gas	13,528	33%
Electric	26,167	63%
None	1,661	4%

Electrification Options

Electrifying gas clothes dryers consistently results in a utility bill increase in PG&E's utility territory, with the technology typically yielding greater bill increases than any other electrification measure. Electric resistance models result in particularly poor bill impacts.¹² Heat pump clothes dryers do yield better bill impacts but are more expensive and can be substantially slower at drying clothes.¹³ Homeowners with time-of-use electric rates can improve these bill impacts by purchasing units with smart controls that only allow runtime during off-peak hours.

Table 7 Clothes Dryer Electrification Costs in Berkeley

Package	Cost	Incentive	Details
Economy Package	\$1,907	-	Electric resistance
Mid-Tier Package	\$2,507	\$300	Heat pump; rebate provided by BayREN
Natural Gas Baseline	\$1,813	-	Natural gas

This analysis does not include shared laundry services in multifamily buildings, which can be converted at a significantly lower per-unit cost than washers and dryers in single family homes.

¹² Energy + Environmental Economics, "Residential Building Electrification in California", 2019. See Figure 3-16.

¹³ <https://www.consumerreports.org/laundry/energy-saving-laundry-tips/>

Higher usage rates for these shared systems may also present a problem for building operators required to use a system type that results in higher utility bills.

Some Berkeley homeowners may also be willing to consider a substantially lower-cost option: drying their clothing on clotheslines. Berkeley's mild climate makes this a relatively reasonable option. Modeling for this report did not consider this option to ensure that building electrification provided an equivalent service to all Berkeley residents.

Stove Assumptions

Existing Fuel Sources

Table 8 NREL/EIA Fuel Source Estimates for Cooking Stoves in Berkeley

	#	%
Gas	26,298	64%
Electric	14,627	35%
Propane	432	1%

Most Berkeley homeowners utilize gas appliances for cooking. Most existing electric cooktops are likely to be either coil top electric resistance or smooth top electric resistance units.

Electrification Options

Table 9 Cooking Stove Electrification Costs in Berkeley

	Cost	Incentive	Details
Economy Package	\$1,827	-	Smooth top electric resistance cooktop and oven
Mid-Tier Package	\$2,057	\$300	Induction cooktop, electric resistance oven. \$300 rebate provided by BayREN.
Natural Gas Baseline	\$1,126	-	Gas range and oven

This analysis did not consider coil-top electric ranges, which can be purchased at significantly lower cost today, because these products are typically considered as substandard in comparison to gas ranges. Smooth top ranges provide a better user experience and can mitigate the significant fire risk associated with coil top ranges.¹⁴

Induction cooktops work by using magnets to heat the molecules in the pot or pan directly, so they deliver heat more quickly and efficiently to the food. They turn on and off instantly and offer more precise control over temperature, providing faster cooking times and more power to customize the heat and rate of cooking. Additionally, induction cooktops pose less of a safety risk from burns or fires than either gas or electric resistance stoves, as they have no open flame and turn off immediately when the pot is not covering the burner. These products are now largely considered superior to gas cooktops by Consumer Reports.¹⁵ Incentivizing a switch to induction cooktops upon

¹⁴ <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/US-Fire-Problem/Fire-causes/oscooking.pdf>

¹⁵ 10 of the top 10 products in Consumer Reports' 2019 Best Cooktops list were induction.

electrification and providing education around the adverse health impacts of cooking with gas could mitigate the backlash associated with losing gas cooking options.

Envelope Improvement Assumptions

Existing Conditions

Each existing home's envelope performance was modeled using NREL's ResStock tool, which assumes levels of insulation and air sealing based on known building traits and regional construction trends.

Retrofit Options

As shown in Table 10, Package 3 incorporates two basic building envelope measures: upgrading roof insulation to R38, and air sealing to reduce the home infiltration rate to 7 ACH50. These measures are applied to each modeled home and priced based on the assumed existing condition:

Table 10 Modeled Envelope Measure Costs in Berkeley

Measure	Existing Condition	Cost	Incentive
Roof Insulation to R-38	Uninsulated roof	\$1.66/sf roof	\$0.75/sf up to \$1000
	R-7 roof	\$1.38/sf roof	\$0.75/sf up to \$1000
	R-13 roof	\$1.20/sf roof	\$0.75/sf up to \$1000
	R-19 roof	\$0.92/sf roof	\$0.75/sf up to \$1000
	R-30 roof	\$0.61/sf roof	\$0.75/sf up to \$1000
Air Sealing to 7 ACH50	Infiltration worse than 7 ACH50	\$1.80/sf conditioned floor area	\$350

Incorporating envelope improvements in package 3 presents an option that results in better occupant comfort, grid impacts, and energy/carbon savings than electrification alone. In some homes, improving envelope efficiency may have enough of an impact on heating loads that HVAC system can be downsized, a significant upfront cost savings opportunity.

Electrical Panel Upgrades

Existing Conditions

Little information is readily available concerning the state of Berkeley's electrical distribution infrastructure, but interviews with local installers and utility representatives suggest that the majority of Berkeley homes do not have the 200A panel necessary for whole-house electrification with standard-sized products. The models utilized for this report assumed that homes constructed before the year 2000 had insufficient panel capacity for whole-house electrification unless a panel upgrade was identified through City of Berkeley building permit records.

Note that research from E3 suggests that only homes constructed before 1978 (the year of initial adoption for Title 24 of California's building code) will require panel upgrades to provide sufficient capacity for electrifying HVAC and hot water heating systems.¹⁶ However, energy and cost models

¹⁶ Energy + Environmental Economics, "Residential Building Electrification in California", 2019.

must also consider the likelihood that these homes will also install EV charging, rooftop solar PV, and/or battery storage systems before the existing panel's end of life.

Retrofit Options

The estimated \$3,000 cost for this upgrade is based on interviews with several local contractors and utility representatives, who reported an overall range of \$1,500 to \$5,000 for upgrades (Table 11). Some homeowners may be able to avoid this cost and complication by instead investing in lower-capacity systems, envelope improvements, and/or “smart” sub-panels to minimize peak power draw.

Table 11 Electric Panel Upgrade Costs in Berkeley

	Cost	Incentive	Details
Panel Upgrade	\$3,000	-	Only applied to homes built before 2000 that do not have an identifiable permit for past upgrades ¹

Modeling for this report assumed that building electrification projects account for the full cost of the panel upgrade. Other modeling efforts have applied some or all the panel upgrade cost to electric vehicle purchases. Future modeling efforts should consider these conversions in parallel to accurately address the cost of panel upgrades.

This analysis does not include the cost of upgrading the knob-and-tube wiring that is prevalent in older Berkeley homes. While homeowners can typically avoid the cost of this upgrade by powering newly electrified equipment with new wires, knob-and-tube wiring represents a safety issue that could be resolved as part of a whole-home electrification retrofit.

Some Berkeley homes will also require an upgrade to the service drop line, or the electrical line between a home's main electrical panel and electrical distribution infrastructure. This cost is typically borne by the utility and spread across by all electric ratepayers.

Rooftop Solar PV

Existing Systems

Berkeley permit data analysis found solar PV systems attributed to 3,231 low-rise residential housing units (8% of the low-rise housing stock).

The modeling platform utilized for this report uses building inventory data and spatial information to model solar system production for each home, although it does not allow users to easily differentiate between homes with good/average/poor solar performance. Google's Project Sunroof suggests that most homes in Berkeley are good candidates for a solar PV system:¹⁷

- 88% of rooftops are solar-viable¹⁸
- 69% of all rooftops can support a 5+ kW solar system
- 58% of all roofs are flat or south-facing
- Solar-viable rooftops produce an average of 1410 kWh/year per kW-DC installed

¹⁷ <https://www.google.com/get/sunroof/data-explorer/place/ChIJ00mFOjZ5hYARk-l1ppUV6pQ/>

¹⁸ Solar-viable: Any rooftop where an installation would reach at least 75% of the efficiency of an optimally oriented and unshaded system.

Electrification Options

This analysis incorporated three solar PV options for each measure package:

- **No PV** does not incorporate new solar PV (existing systems identified through BESO or Permit data are modeled).
- **Offset PV** systems are sized home-by-home to meet the modeled energy consumption of the newly installed electric equipment in any given package. Systems are sized on a home-by-home basis.
- **Net Zero PV** systems are sized home-by-home to meet the modeled energy consumption of the entire home over the course of a year, including all pre-existing electrical equipment.

All three systems use the same cost assumptions summarized in Table 12 below.

Table 12 Solar PV Upgrade Costs in Berkeley

	Cost	Incentive	Details
Solar PV	\$3.35/W-DC installed	\$0.80/W-DC installed	Only applied to homes built before 2000 that do not have an identifiable permit for past upgrades ¹ . Incentive reflects 2020 Investment Tax Credit (ITC) value of 26% of installed cost.

The savings assumed from the federal ITC will disappear as that program sunsets by the end of 2024. But installed costs are projected to continue declining, with total installed costs in 2028 dropping below 2020 net costs.¹⁹ Costs may compress even faster in California due to the installation volume necessary to meet the state's zero energy performance requirement for new homes.

Note that home electrification can dramatically improve the resilience of homes in grid outages if solar PV systems are installed with smart inverters, which allow homes to continue using solar power during grid outages. These systems typically represent an added cost of \$350-400.²⁰ Battery storage systems can further improve resilience.

Additional Electrification Considerations

Electromagnetic Sensitivity and Pacemakers

The City is aware of potential implications of electrification on both electromagnetic sensitivity and pacemakers. The City will continue to monitor guidance from State agencies on these topics and will update the measures and actions as applicable. However, individuals should always consult a medical professional with their specific cases.

Refrigerants

Many refrigerants have a higher global warming potential than carbon dioxide.²¹ Electrification of gas appliances will increase the use of refrigerants due to the use of heat pumps. However, hotter

¹⁹ Rocky Mountain Institute, "Economics of Zero Energy Homes: Single Family Insights", 2018.

²⁰ Justin Dyke, "How to Explain Secure Power Supply to Homeowners," SMA Inverted, last modified May 24, 2016, <http://www.smainverted.com/how-to-explain-securepower-supply-to-homeowners/>

²¹ <https://ww2.arb.ca.gov/resources/documents/high-gwp-refrigerants>

temperatures from climate change will likely increase refrigerant use through air conditioning utilization with or without the efficiency benefits of electrification. The refrigerant issue is not limited to electrification specifically and may not have a discernible impact on Berkeley's overall electrification strategy. The City will continue to monitor opportunities to specify or encourage low global warming potential refrigerants such as carbon dioxide when feasible.

APPENDIX B: COMMENTS ON DRAFT STRATEGY

Comments on Draft Strategy

The team received stakeholder input throughout 2019 and 2020 to develop the Draft Berkeley Existing Buildings Electrification Strategy, which was released in April 2021 for public feedback. The City held a virtual Berkeley Existing Buildings Electrification Strategy Community Meeting on May 4, 2021 to present the draft strategy and hear feedback from the community. Additionally, the public was invited to provide feedback to an online survey and/or submit written comments via email. In response to the draft report, the City received:

- Over 80 Responses to a public survey
- Over 30 Responses via email
- Additional comments provided during the May 4, 2021 community meeting
- Written comments from the Berkeley Energy Commission, the Rent Stabilization Board and the Construction Trades Workforce Initiative

The team reviewed all comments and incorporated feedback into the final Strategy. This appendix includes the written comments received.

April 28, 2021

Draft BEC Comments on Draft BEBES

The Berkeley Energy Commission supports the equity lens staff have taken to understand and to layout policies like the “electrification guardrails” to ensure that electrification doesn’t exacerbate existing health, economic and social inequities. It is unique and well considered approach that will help all Berkeley residents benefit from electrification.

We realize this is a draft and offer our comments in this light. There could be several changes to improve the readability of the report and the ease with which people can access the salient points such as:

- Create an executive summary.
- Use more iconography to highlight primary points.
- Lead with an explanation of what electrification is. Include a single page diagram with main points.
- High road jobs creation is a questionable first call out for a report about reducing GHGs through electrification. First call out should be what is electrification.
- Move the modeling data in the middle of the report to an appendix.
- Include the main conceptual graphics on pages 85 and 94 in the executive summary.

While we appreciate the depth of consideration of various policy and funding options we are concerned that the detail with which the information is presented simultaneously gives these ideas more weight that perhaps they merit and begs more questions such as who is the target of which program, and who or how will it be run. In addition, so much attention to detail tends to obscure the overarching recommendations. We recommend highlighting priorities and perhaps moving the detailed analysis to an appendix.

We are concerned about the static, one size fits all approach recommended for electrification. There is evidence that induction cooktops can reset pacemakers. Clothes dryers and drying racks are the cheapest and most environmentally friendly way to dry clothes. A small 15 amp dryer is a quarter of the price of a heat pump dryer where venting is available. In some cases, electric resistance heat may be a better choice than heat pump space heating and a fraction of the cost.

In addition, technologies are changing rapidly, what works today will be obsolete in a year. For example, the Innova/Ephoca, a European residential unitary heat pump space heater, is better for the environment and half the installed cost of a minisplit. New smaller, more efficient, heat pump water heaters are also coming to the market quickly.

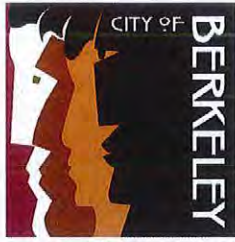
We recommend that the report acknowledge the varied and changing options to electrification. In addition, we are concerned that this narrow set of electrification

strategies and anticipated cost are being given too much weight in the determination city policy, both in terms of the speed at which the city can electrify equitably and what technologies are appropriate. Innovation may cause costs to drop more quickly than we can predict. Again, we recommend more of a summary or highlight approach to the discussion of cost benefits of electrification.

Finally, while electrification of buildings is to acknowledge the broader context of overall climate and environmental impacts and the time value of carbon.

- Almost all heat pumps currently rely on persistent, toxic, high GWP refrigerants. While CARB regulations will slowly lower the GWP of the refrigerants, equipment choices should reflect the potential for leakage of these chemicals. Foam plastic insulations are also toxic, dangerous in fires and some contain high GWP blowing agents.
- Because of these and other high embodied carbon materials, remodeling can lead to high CO₂ emissions before a project is even occupied and CO₂ savings from the efficiency gains may not realized for decades. Because of reinforcing feedback loops (the Time Value of Carbon concept), a pound of CO₂ released today is far more significant than a pound released in 20 or even 10 years.

Thank you so much for your efforts.



Rent Stabilization Board

May 14, 2021

Billi Romain

Manager, Office of Energy and Sustainable Development (OESD)

Katie Van Dyke

OESD Climate Action Program Manager/Chief Resilience Officer

1947 Center St. 1st Floor

Berkeley, CA 94704

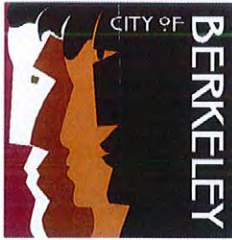
Dear Ms. Romain and Ms. Van Dyke:

The Berkeley Rent Stabilization Board appreciates this opportunity to provide comments on the Draft Existing Buildings Electrification Strategy. The presentation that your team provided at our recent Rent Board meeting was incredibly informative and inspiring. I commend the focus on equity, community input, and tenant impact. Electrifying older, rent-controlled buildings will be complex, and care must be taken to prevent a related escalation in rents and tenant displacement.

1. Berkeley rent control prevents unaffordable pass-through costs on rent controlled tenants but non-rent controlled units will remain unprotected.

The up-front costs of electrification are significant, and many rent-controlled buildings will need infrastructure and envelope upgrades as well. Such expenses will likely qualify as capital improvements under Rent Board Regulation 1267, but given that the Board uses a fair return analysis, most landlords will not qualify for a monetary pass-through. Capital improvements are amortized at 1%, but can only be passed through to existing tenants as a permanent rent increase if monthly vacancy rent increases for the building since January 1, 1999, are less than the eligible pass-through. It is rare, indeed, for most Berkeley rental property to qualify for capital improvement pass-throughs for buildings, since there has been such significant tenant turnover in the city since 1999. For example, if the landlord otherwise qualifies for \$200,000 in capital improvements, \$2000 would be eligible to be passed through. If the total monthly vacancy rent increases since January 1, 1999, for the property exceed \$2000 (a likely scenario), no pass-through is allowed.

Although capital improvement pass-throughs to existing tenants are rare, we are concerned that the costs of electrification will be passed on as vacancy rent increases that make Berkeley even less affordable, especially for lower-income persons, students, the elderly,



persons with disabilities, and historically marginalized populations. In some cases, smaller costs—like new cookware to accommodate induction stoves—will also fall on tenants. While electrification provides energy cost savings over time, many tenants, like our large student population, may not reside in a unit long enough to realize them in a meaningful way. And important but more abstract benefits like healthier air in units can be overshadowed by the immediate and concrete impacts even small rent increases can have on rent-burdened tenants. **We urge the City to secure all possible funding and subsidies, particularly for low-income landlords, to prevent the considerable upfront costs of electrification from being passed on to tenants as rent increases that contribute to Berkeley’s continuing affordability crisis.**

2. Tenant Protections in order to mitigate unsafe and disruptive impacts on tenants.

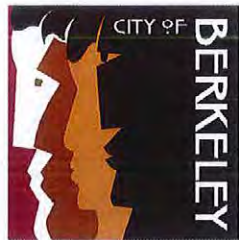
The prolonged construction related to infrastructure and envelope upgrades may result in disruptive and unsafe living conditions, and potentially permanent tenant displacement. It’s important that tenant protection measures are integrated, and have meaningful and accessible enforcement mechanisms. We wish to highlight efforts by the 4 x 4 Joint Committee on Housing—Rent Board & City Council that speak to this issue.

A. Habitability Plan Proposal

Modeled on the City of Los Angeles’ practice, we introduced [habitability plans](#) as a more holistic approach to tenant protection during construction. In Los Angeles, prior to the issuance of permits, owners must obtain approval of a plan that specifies the responsible contractor, affected tenants and their current rents, scope of work, the specific work to be undertaken, and the severity and potential duration of impacts to the tenants or their personal property. Owners must also specify mitigation measures so that tenants can either remain safely in place, or be temporarily relocated during construction. Mayor Arreguín and the other members of the 4 x 4 Committee are currently exploring the possibility of implementing a similar requirement in Berkeley.

B. Relocation Ordinance Amendments

Only landlords or the Building Official can trigger Berkeley’s existing Relocation Ordinance. The Committee has recommended that the Ordinance be amended to, amongst other things: allow a broader range of parties to trigger it, including tenants; strengthen enforcement and appeal mechanisms; and increase the per diem reimbursement rate to current market rates. The Committee also recommended that the City provide funding for



tenant relocation in the event the landlord refuses. Mayor Arreguín is convening a multi-department working group to consider amendments.

3. Monitor new laws.

Lastly, we encourage your support for the Tenant Opportunity to Purchase Act, and efforts aimed at increasing cooperative and nonprofit housing that reduce profit motives and help address split incentives. We also encourage you to monitor proposed state legislation like AB 1139 that would add significant costs to solar and undercut the feasibility of electrification.

Climate change is a critical issue, and we applaud the effort to electrify Berkeley's existing housing stock in a considered way to prevent unintended, harmful impacts. We are especially heartened by the equity guardrails, and the commitment to meet or exceed them before specific policies and programs are implemented. Electrifying Berkeley's rent-controlled housing stock poses special challenges. We look forward to working in partnership to find creative and innovative solutions for building a more sustainable and equitable community while continuing to protect the most vulnerable in our community from displacement.

Sincerely,

A handwritten signature in blue ink that reads "Leah Simon-Weisberg". The signature is written in a cursive, flowing style.

Leah Simon-Weisberg, Chair
Berkeley Rent Stabilization Board



CTWI Policy Recommendations
City of Berkeley Existing Buildings Electrification Strategy
5/14/21

Construction Trades Workforce Initiative (CTWI) and the Alameda County Building Trades Council are committed to supporting the City of Berkeley in its goals of reducing greenhouse gas emissions while ensuring that people who live and work in Berkeley - especially those from historically disadvantaged populations - have access to high-road, family-sustaining careers in union construction associated with existing building electrification and decarbonization.

We thank you for the opportunity to submit the following proposals and recommendations:

I. Policy Recommendations

- A. Address decarbonization overall - building electrification as well as energy efficiency measures - when planning strategies for a “Just Transition” in consultation with all crafts affected, including but not limited to Sheet Metal, Electricians, Carpenters, Plumbers and Pipefitters.
- B. Create programs and identify funding sources to incentivize Berkeley homeowners to replace, upgrade and install systems that will achieve energy efficiency goals.
- C. Require the use of pre-qualified residential construction contractors that will reliably perform high-quality work and provide high-road careers for workers (see Point II below: Pre-Qualified Contractor Proposal).
- D. Link disadvantaged Berkeley residents to training programs that prepare them to enter and succeed in union construction careers by working with and budgeting for ongoing City funding for local Multi-Craft Core Curriculum (MC3) workforce partners, school districts/community colleges and CBOs to develop and sustain a long-term pipeline of work in the residential building retrofit market that carries high-road labor standards.
- E. Develop public education campaigns and resources to promote new City programs and the benefits of energy efficient systems and appliances; provide information on systems and requirements; and link homeowners to a list of pre-qualified contractors (see Point II below).
- F. Include alternative options for homeowners if electrification of all home appliances and systems is not feasible due to limitations of the house structure itself. For example: If a heat pump cannot be installed, an energy assessment should be provided and homeowners should be encouraged and allowed to install a more efficient gas heater than the previous one.
- G. Continue to collaborate with CTWI and the Building and Construction Trades Council of Alameda to shape policies and labor standards leading to family-sustaining union construction careers for underrepresented communities.

II. Pre-Qualified Contractors Proposal

Requiring the use of pre-qualified contractors on existing building electrification/decarbonization construction projects will benefit the City in the following ways:

- Cost savings on permitting and inspection process
- Ensures workers are properly trained and licensed/certified where licensing and certifications exist
- Ensures pathways to apprenticeship opportunities for Berkeley residents
- Long-term cost savings to homeowners ensuring that energy efficiency goals are met through proper installation and quality work
- Enables the City to reach its climate goals in a timely fashion

- A. Pre-Qualification Requirements: Prequalification requirements for contractors shall include documentation that the contractor meets clearly defined minimum standards relating to contractor responsibility, including:
1. Certification that the contractor is in compliance with all applicable licensing, bonding, and insurance requirements;
 2. Certification that the Contractor participates in, makes training fund contributions to, and sponsors apprenticeships from a state-approved apprenticeship program that partners with an MC3 pre-apprenticeship program;
 3. Certification that the contractor provides family health benefits and pension benefits to its workers;
 4. Certification that the contractor has not been convicted of, fined, or penalized for any violation of wage, labor, safety, or building standard requirements within the last five years;
 5. Certification that no surety firm has had to complete a contract or pay for completion of a contract on behalf of the contractor or subcontractor within the last five years;
 6. Certification that the contractor has not had any licenses revoked within the past five years;
 7. Certification that the contractor is not ineligible to bid, be awarded or subcontract on a public works project pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7;
 8. Certification that the contractor has not been cited for any serious, willful or repeat OSHA violations within the last five years as defined under Title 8 of the California Code of Regulations.
 9. Certification that the contractor has a Better Business Bureau rating of “B” or higher.
- B. Create an official certification for contractors that pre-qualify for the list, i.e. a “City of Berkeley Energy Efficiency Contractor” rating to help cultivate a corps of contractors to serve the market.

III. Partnership with CTWI

Through an ongoing partnership between CTWI and the City of Berkeley, CTWI can provide assistance to implement the recommended policies listed below.

- A. Create and compile a list of contractors meeting pre-qualifications and ready to do the work.
- B. Provide education for City Inspectors on the way that systems should be properly installed and maintained.
- C. Create opportunities for Berkeley residents and others in the region with small construction contracting businesses to learn how to become signatory to the unions in their trades and work effectively under workforce agreements.
- D. Provide education for City of Berkeley departments, staff and job seekers on the union construction labor market and workforce development opportunities through MC3 pre-apprenticeship training.
- E. Support with pursuit of funding streams for City decarbonization programs.

**APPENDIX C:
CITY OF BERKELEY TENANT PROTECTION
AND ANTI-DISPLACEMENT INITIATIVES**

City of Berkeley Tenant Protection and Anti-Displacement Initiatives

Housing Protection Policies

Amended excerpt from the City of Berkeley's Department of Health, Housing and Community Services (HHCS) Council Report: Partnership for the Bay's Future and Current Anti-Displacement Initiatives, as of February 23, 2021:

https://www.cityofberkeley.info/Clerk/City_Council/2021/02_Feb/City_Council_02-23-2021_-_Regular_Meeting_Agenda.aspx

Housing Protection Policies	Description
Eviction Moratorium	The Berkeley City Council adopted the Berkeley Emergency Response Ordinance to protect residents from evictions if they are unable to pay rent due to COVID-19's impacts.
Fair Chance to Housing for Formerly Incarcerated People	Property owners are prohibited from using criminal background checks to screen tenant applications.
First Source Hiring	First Source hiring ordinances ensure that City residents are given priority for new jobs created by municipal financing and development programs.
Home Retention/Rental Assistance	The City provides financial assistance up to \$5,000 for low-income residents at risk of eviction to remain in their current living arrangement. Residents impacted by COVID-19 are eligible for up to an additional \$10,000.
Just Cause for Eviction ordinance	Nearly all 26,000 rental units in Berkeley have eviction protections for no-fault causes.
Landlord/Tenant Mediation	The Rent Board offers landlord/tenant mediation to settle disputes and facilitate positive long-term relationships.
Rent Stabilization/Rent Control	Over 19,000 rental units (approximately 70%) are subject to rent stabilization ceilings.
Relocation Protections and Assistance	Tenants who are mandated to vacate their unit temporarily or permanently at no-fault are provided protections (including a right to return) and relocation funding (provided by the landlord).

City of Berkeley Existing Buildings Electrification Strategy
 Tenant Protection and Anti-Displacement Initiatives

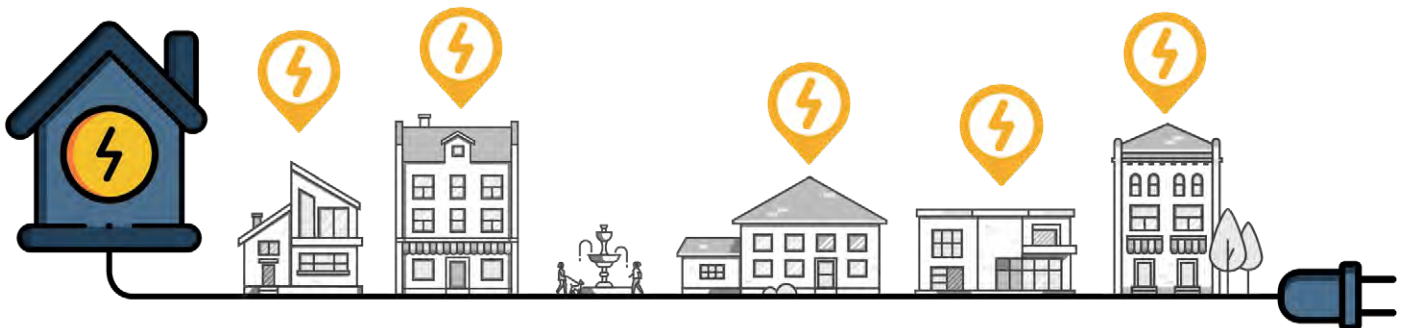
Housing Protection Policies	Description
	Rent Ordinance’s good cause for eviction provisions require relocation assistance payments when tenants are evicted so an owner or qualified relative can occupy a unit.
Rent Stabilization Board	The Rent Board provides education to tenants and landlords on tenant’s rights related to Just Cause Evictions and Rent Stabilization.
Source of Income Protection	Property owners are prohibited from refusing to rent to an applicant based on their source of income (e.g. Section 8 and other Housing Choice Voucher programs, Social Security, disability, unemployment or veterans’ benefits).
Rental Housing Code Enforcement	The Building and Safety Division promotes compliance with applicable housing codes and works to preserve and improve the quality and maintenance of Berkeley’s rental housing stock.
Short-Term Rental (STR) Program	An STR is the use of any Dwelling Unit, authorized Accessory Dwelling Unit or Accessory Building, or portions thereof, for sleeping or lodging purposes by a paying guest for less than 14 consecutive days. Anyone operating an STR in Berkeley must obtain zoning approval for the unit and be in compliance with the STR Ordinance. This includes paying all required taxes and fees, providing information to guests regarding the City's Noise and Smoke-Free Multi-Unit Housing Ordinances, notifying the City of changes to Host or Local Contact information, and listing the Zoning Certificate number on any rental advertisement.
Community Land Trusts Acquisition	Northern California Community Land Trust (NCLT) and Bay Area Community Land Trust (BACLt) serve Berkeley and receive direct support from the City for the acquisition and rehabilitation of local properties as well as organizational capacity building.
Condominium Conversion Regulations	<p>The Condo Conversion ordinance limits the conversion of rental units to condominiums to 100 per year and includes an Affordable Housing Mitigation Fee for each unit converted.</p> <p>Fees generated from condo conversions provided \$3M in revenue for the Housing Trust Fund program since 2009.</p> <p>The City of Berkeley’s Ellis Act Implementation Ordinance, requires relocation assistance payments if tenants are displaced when an owner removes a property from the rental market.</p>

Housing Protection Policies	Description
Senior and Disabled Rehabilitation Loan Program	The City offers deferred, no-interest loans to assist low-income senior and disabled homeowners in repairing/modifying their homes to eliminate conditions that pose a threat to their health and safety and to help preserve the City's housing inventory.
Single Room Occupancy (SRO) Preservation	The Berkeley Housing Authority provides subsidies for 98 SROs.
Low Income Home Rehabilitation Program	The City provides funding to other home rehabilitation programs to provide no-cost ADA accessibility improvements & health and safety repairs to eligible homeowners
Small Sites Program (SSP) Pilot	The SSP Pilot supported the acquisition and renovation of small, multifamily rental properties with up to 25 units. The City received one application during the pilot and awarded \$1.6M to BACLT for the renovation of Stuart Street Apartments.
Tenant Buyout Protections	BMC 13.79.050, Buyout Offers and Agreements, affords protections to tenants who are offered payments to vacate rental units protected by the good cause for eviction provisions of Berkeley's Rent Ordinance.
Foreclosure/Mortgage Assistance	The City participates on the Mortgage Credit Certificate (MCC) Program through Alameda County. MCC recipients may take up to 15% of their annual mortgage interest payments as a dollar for dollar tax credit against their federal income taxes. Qualified homebuyers can adjust their federal income tax withholdings, which will increase their income available to pay the monthly mortgage
Commercial Linkage Fee	This linkage fee on new commercial development generates revenue dependent on the type of development: Office, Retail, and Industrial when greater than 7,500 sf. 20% of fees go towards childcare programs.
Housing Trust Fund (HTF) program	<p>The City supports the development and rehabilitation of non-profit affordable housing properties via the HTF program. The HTF is supported by a combination of federal, state and local sources, including the Affordable Housing Mitigation fee.</p> <p>Voters adopted Measure O in 2018 to provide the City with \$135M in bond funding for affordable housing.</p>

City of Berkeley Existing Buildings Electrification Strategy
 Tenant Protection and Anti-Displacement Initiatives

Housing Protection Policies	Description
<p>Jobs-Housing Linkage fee (Affordable Housing Mitigation fee)</p>	<p>All new market-rate housing developments are subject to an Affordable Housing Mitigation fee (AHMF) for each market rate unit built with an option to provide Below Market Rate (BMR) units onsite in-lieu of the fee. The fee adjusts biennially to reflect the Construction Cost Index (CCI) and is discounted if paid at the time of building permit issuance.</p> <p>The AHMF generates the majority of the City’s local contribution to the HTF program, with over \$12.6M in revenue since 2015.</p> <p>The in-lieu BMR option has provided over 400 permanently affordable units onsite.</p>
<p>Public Land Survey</p>	<p>HHCS conducted a survey to identify opportunities for affordable housing development on City-owned property in 2017 and 2019. West Berkeley Service Center was identified by Council as an opportunity site for future affordable housing development. Vacant City properties were converted into shelters to house homeless individuals at high-risk of COVID-19.</p>

This page is left blank intentionally





Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Department of Planning and Development
 Subject: Cities Race to Zero Campaign: 2030 emission reduction target

RECOMMENDATION

Adopt a Resolution for the Cities Race to Zero Campaign to establish a 2030 emission reduction target that reflects Berkeley's fair share of the 50% global reduction in CO₂e, committing to reduce emissions 60.5% from 2018 levels by 2030.

FISCAL IMPACTS OF RECOMMENDATION

There are no direct fiscal impacts to adopting a 2030 emission reduction target. Funding will be needed to develop and implement programs and policies to meet the ambitious science-based target.

CURRENT SITUATION AND ITS EFFECTS

The establishment of a science-based 2030 emission reduction target for the Cities Race to Zero Campaign¹ is consistent with the Strategic Plan Priorities of advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

The Cities Race to Zero campaign requires Cities to adopt a 2030 science-based interim target in line with the goals of the Paris Climate Agreement and the Intergovernmental Panel on Climate Change's Special Report on Global Warming of 1.5°C. Science-based climate targets must be:

- **Science-driven** – led by the latest climate science
- **Equitable** – consider the different historical contributions of greenhouse gases in the atmosphere and account for differences in socio-economic development, requiring wealthier countries, who have contributed more CO₂e emissions historically, to achieve additional reductions beyond a 50% reduction
- **Complete** – comprehensive and robust, covering city-wide emission sources and multiple greenhouse gases

¹ https://www.c40knowledgehub.org/s/cities-race-to-zero?language=en_US

Berkeley's 2030 science-based target was created by ICLEI, a global network of local and regional governments, using the One Planet City Challenge (OPCC) Methodology² and the 2018 community-wide greenhouse gas emissions inventory. To meet its fair share of the 50% global reduction of CO₂e, Berkeley must **reduce absolute emissions 60.5% from 2018 levels by 2030 (which is a 63.3% per capita reduction)**. "Fair share" reflects a distributed responsibility based on the human development index.

Staff completed the 2019 GHG emissions inventory, which shows that in one year Berkeley reduced total emissions by 4% from 2018 levels. Reaching a 60.5% emissions reduction from 2018 levels by 2030 will be challenging for Berkeley to achieve on its own, requiring collective action at the local, state, and federal levels. Staff will conduct further analysis on the 2030 target and identify necessary actions and funding required to achieve significant emission reductions in line with the 2030 interim target.

BACKGROUND

On May 11, 2021, Berkeley City Council adopted a resolution³ committing the City of Berkeley to the C40 Cities Race to Zero Campaign. Cities Race to Zero Campaign is a global campaign run by the COP26⁴ Presidency and High-Level Climate Champions to rally leadership and support from businesses, cities, regions and investors for a healthy, resilient, zero carbon transition that prevents future threats, creates decent jobs, and unlocks inclusive, sustainable growth. There are five requirements for cities to join the Race to Zero:

1. Endorse the four principles of the Race to Zero Campaign.
2. Pledge to reach net zero in the 2040s or by mid-century at the latest and limit warming to 1.5°C.
3. Plan to set an interim 2030 target consistent with a fair share of 50% global emission reductions.
4. Begin at least one inclusive and equitable climate action.
5. Publish your target and action to a reporting platform and report progress annually.

Council's action on May 11, 2021, endorsed the four principles of Cities Race to Zero, pledged to reach net zero emissions by 2045, and committed to setting an interim 2030 target consistent with a fair share of 50% global emission reductions.

² Science-Based Climate Targets: A Guide for Cities - <https://sciencebasedtargetsnetwork.org/wp-content/uploads/2021/04/SBTs-for-cities-guide.pdf>

³ Commit to Race to Zero Council Report and Resolution, May 11, 2021: https://www.cityofberkeley.info/Clerk/City_Council/2021/05_May/Documents/2021-05-11_Item_19_Commit_to_C40_Race_to_Zero_Campaign.aspx

⁴ The 26th UN Climate Change Conference of Parties: <https://ukcop26.org/>

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Adopting the proposed 2030 emission reduction goal will further the City's commitment to its climate goals and efforts to become a Fossil Fuel-Free City.

RATIONALE FOR RECOMMENDATION

Adoption of the resolution further supports the commitment the City made when it joined the Cities Race to Zero Campaign.

ALTERNATIVE ACTIONS CONSIDERED

The City could withdraw from participation in the Cities Race to Zero Campaign.

CONTACT PERSON

Billi Romain, Manager, Office of Energy & Sustainable Development – Planning Department, (510) 981-9732

Attachments:

1: Resolution to Establish a 2030 Emission Reduction Target

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

ESTABLISHMENT OF A 2030 EMISSION REDUCTION TARGET

WHEREAS, on June 2, 2009, the Berkeley City Council adopted the Berkeley Climate Action Plan to reduce greenhouse gas emissions by 80% of Berkeley's 2000 emissions level; and

WHEREAS, Berkeley's Strategic Plan sets the goal of being a global leader in addressing climate change, advancing environmental justice, and protecting the environment; and

WHEREAS, on April 1, 2016, the City of Berkeley released its Resilience Strategy; and

WHEREAS, on June 12, 2018, the Berkeley City Council declared a Climate Emergency and proposed a goal of becoming Fossil Fuel-Free City; and

WHEREAS, on May 11, 2021, Berkeley City Council adopted a resolution committing the City of Berkeley to the C40 Cities Race to Zero Campaign; and

WHEREAS, the Cities Race to Zero Campaign is a global campaign run by the UN COP26 Presidency and High-Level Climate Champions to rally leadership and support from businesses, cities, regions and investors for a healthy, resilient, zero carbon transition that prevents future threats, creates decent jobs, and unlocks inclusive, sustainable growth; and

WHEREAS, the objective of this campaign is to build momentum around the shift to a decarbonized economy ahead of 26th UN Climate Change Conference of Parties (COP26), where governments must strengthen their contributions to the Paris Agreement; and

WHEREAS, there are five requirements to join the Race to Zero:

1. Endorse the four principles of the Race to Zero Campaign
2. Pledge to reach net zero in the 2040s or by mid-century at the latest and limit warming to 1.5°C.
3. Plan to set an interim 2030 target consistent with a fair share of 50% global emission reductions
4. Begin at least one inclusive and equitable climate action
5. Publish your target and actions to a reporting platform and report progress annually; and

WHEREAS, the City of Berkeley has already taken actions on the other Cities Race to Zero requirements.

NOW THEREFORE, BE IT RESOLVED that the Berkeley City Council commits to the establishment of a 2030 emission reduction target that reflects Berkeley's fair share of the 50% global reduction in CO₂e committing to reduce emissions 60.5% from 2018 levels by 2030.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Public Works
 Subject: Contract No. 112219-1 Amendment: Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 112219-1 with Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance increasing the current contract amount of \$300,000 by \$300,000 for a total not to exceed amount of \$600,000 and extending the term through December 31, 2024.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this contract amendment is available in the FY2022 baseline Building Maintenance Fund 673, General Fund 011, Off Street Parking 627, and Zero Waste Fund 601. Annual funding for subsequent fiscal years will be subject to appropriation.

CURRENT SITUATION AND ITS EFFECTS

Amending the existing contract supports the Strategic Plan Priority of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

The contract with Siemens supports compliance with the maintenance of the City's fire and life safety systems and monitoring equipment. Siemens also performs required inspections and testing of fire alarm and sprinkler systems. Siemens provides on-call assistance and repairs as needed.

BACKGROUND

On September 17, 2015, Public Works released a Request for Proposal (Specification No. 16-10976-c) for fire alarm and safety systems. Three proposals were received and Public Works staff determined that Siemens was the most responsive and responsible bidder that met the specifications.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

RATIONALE FOR RECOMMENDATION

Contracted services are required as the City does not have the personnel or expertise to ensure compliance with testing and monitoring of the fire alarm and life safety systems in City buildings.

ALTERNATIVE ACTIONS CONSIDERED

None. Siemens has provided excellent service and are responsive.

CONTACT PERSON

Joy Brown, Public Works Operations Manager, Public Works, (510) 981-6629

Attachment:

1: Resolution

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

CONTRACT NO. 112219-1 AMENDMENT: SIEMENS INDUSTRY, INC. FOR FIRE AND LIFE SAFETY SYSTEMS MAINTENANCE

WHEREAS, the City of Berkeley buildings require monitoring and testing of installed Fire and Life Safety Systems; and

WHEREAS, the City of Berkeley does not have the specialized training or staff to perform this work; and

WHEREAS, on September 17, 2015, Public Works released a Request for Proposal (Specification No. 16-10976-c) for fire alarm and safety systems; and

WHEREAS, three proposals were received and Public Works staff determined that Siemens was the most responsive and responsible bidder that met the specifications; and

WHEREAS on January 19, 2016, City Council authorized the award of the contract to Siemens Industry Inc., Resolution 67,343 -N.S.; and

WHEREAS, Siemens has continued to provided outstanding service during the contract term; and

WHEREAS, funding is available in the Building Maintenance Fund 673 FY2022 baseline budget, and additional funding from General Fund 011, Zero Waste 601, Off Street Parking Fund 627 will be appropriated as necessary in future Fiscal Years.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute an amendment to Contract No. 112219-1 with Siemens Industry, Inc for fire and life safety testing, monitoring and service, increasing the current contract amount by \$300,000 for a total not to exceed \$600,000 and extending the contract term through December 30, 2024.



Office of the City Manager

CONSENT CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: Contract No. 32100081 Amendment: FirstCarbon Solutions, Inc. for California Environmental Quality Act Compliance for the Solid Waste & Recycling Transfer Station Replacement Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100081 with FirstCarbon Solutions, Inc. for the Solid Waste & Recycling Transfer Station Replacement Project to ensure compliance with the California Environmental Quality Act, increasing the current contract amount of \$500,000 by \$150,000 for a total not to exceed amount of \$650,000 and extending the contract term to June 30, 2022.

SUMMARY

The City of Berkeley has contracted with FirstCarbon Solutions, Inc.'s (FCS), whose staff and subcontractors are experienced in conducting the required studies and soliciting regulatory and community input to comply with California Environmental Quality Act's (CEQA) requirements for the proposed Solid Waste & Recycling Transfer Station (SW&RTS) Replacement Project. FCS's CEQA compliance work will include the two concepts developed by the SW&RTS Feasibility Study. These concepts were reviewed at the City Council's November 5, 2019¹ Work Session.

As part of the CEQA checklist review process, it has been confirmed that the City's Planning & Development Department (Planning) is the Lead Environmental Agency to receive, review and approve CEQA's resulting Environmental Impact Report (EIR). As a part of the EIR process, a Land Use Application (Application) is required to be completed and filed as part of CEQA requirements. This Application was not included in the original RFP for the CEQA contract. The Contract not-to-exceed amount requires a \$150,000 increase to bring the total contract to \$650,000 to fund the completion of this Application.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the study is available in FY2022 baseline budget in Zero Waste Fund 601.

¹ [City Council: 11-05-2019 - Special Meeting Agenda - City of Berkeley, CA](#)

CURRENT SITUATION AND ITS EFFECTS

As a Strategic Plan Priority Project, the Solid Waste & Recycling Transfer Station Replacement Project will advance the City's goals to:

- Be a customer-focused organization that provides excellent, timely, easily accessible services and information to the community,
- Provide state-of-the-art and well-maintained infrastructure, amenities, and facilities, and
- Be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

Without the replacement of the existing facilities, the City cannot meet its Zero Waste or 2009 Climate Action Plan goals. These facilities are beyond their projected and useful service life, and do not meet environmental permitting requirements or safe operational standards. With retention of FCS to comply with CEQA requirements, the Public Works Department is required to file a Land Use Application with the City Planning Department as Lead Environmental Agency.

BACKGROUND

The current Transfer Station was built in 1983 with various recycling facilities added in the 1980s and 90s. This 7.45 acre site handles all of the City's and its contracted vendors curbside collected and self-haul refuse, dual stream recycling, and green/food waste materials. The current facilities are not integrated and operations cannot be coordinated to provide our customers with ease of use and easy access or drop-off of refuse, recyclable and organic waste. These facilities do not meet current seismic requirements, have not been upgraded or improved since their construction, have exceeded their useful and serviceable life and are unable support the City's Zero Waste goal. The goals of the SW&RTS Feasibility Study included:

- Solicit extensive community input. Seven (7) community meetings were conducted throughout the City and resulted in forty plus (40+) hours of active public and stakeholder involvement,
- Document these community-driven ideas and solicit additional community input, and
- Produce a community-driven and supported replacement facility.

This new facility, envisioned by community members and stakeholders, will allow the City to divert materials for reuse and recycling that are currently being landfilled. At the City Council's work session, council feedback was provided on the two concepts developed with extensive general public input for the Solid Waste & Recycling Transfer Station (SW&RTS) Replacement Project.

The two (2) concepts proposed for the site's existing footprint:

- Concept A: Material Recovery Facility (MRF) & Transfer Station (TS) would be combined as one (1) large building which would allow flexibility in both MRF & TS tipping floor footprint and usage.
- Concept B: Material Recovery Facility & Transfer Station in two (2) separate buildings that would replicate existing MRF & TS tipping floor footprint and usage.

For the City to meet previous City and State legislated mandates, sustain and expand its infrastructure required to support the City's waste reduction efforts and to meet its Zero Waste goal, the City will need to replace these significantly aged facilities. Additionally, the city will need to ensure they are integrated and function seamlessly to support the City's Climate Action Plan and Zero Waste goal.

The City Council authorized the award of the Contract on October 13, 2020, Resolution No. 69,584 – N. S².

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This contract amendment is critical to support the SW&RTS Replacement Project. As the City's residents and businesses continue to either reduce material volumes or move recyclable materials from the refuse carts/bins to the recycle and compost carts/bins, the City's Zero Waste infrastructure is in urgent need of replacement. This SW&RTS Replacement Project will support the City's efforts to continuously reduce waste, increase diversion of waste from landfills, and move the City toward its Zero Waste goal with sustainable and environmentally-compliant structures. This contract amendment also supports the efforts to move the SW&RTS to a Net Zero Energy facility and add electric vehicle charging infrastructure to help minimize climate impacts.

RATIONALE FOR RECOMMENDATION

FCS was awarded the Contract for CEQA Compliance for the SW&RTS Replacement Project and their CEQA efforts commenced July 1, 2021. FCS will have developed and compiled the information needed to complete the City's Land Use Application. Therefore, amending the Contract not to exceed amount is the most expeditious and efficient route to complete this Application and keep the CEQA process moving forward.

ALTERNATIVE ACTIONS CONSIDERED

The alternative would be to issue an RFP for the Land Use Application process which would require a delay in the CEQA process and duplication of effort and cost with two distinct consultants working on the CEQA process. Therefore, amending the existing Contract not to exceed amount is the most expeditious and efficient route to complete this Application process.

CONTACT PERSON

² [City Council: 10-13-2020 - Regular Meeting Agenda - City of Berkeley, CA](#)

Contract No. 32100081 Amendment: FirstCarbon Solutions, Inc.
CEQA Compliance for the Solid Waste
& Recycling Transfer Station Replacement Project

CONSENT CALENDAR
November 30, 2021

Greg Apa, Solid Waste & Recycling Manager, Public Works – Zero Waste, (510) 981-6359

Attachment:
1: Resolution

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

CONTRACT NO. 32100081 AMENDMENT: FIRSTCARBON SOLUTIONS, INC. FOR CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE FOR THE SOLID WASTE & RECYCLING TRANSFER STATION REPLACEMENT PROJECT CONTRACT AMENDEMENT

WHEREAS, July 24, 2018, City Council authorized retaining a third party consultant to conduct a Solid Waste & Recycling Transfer Station Feasibility Study with robust and extensive community input; and

WHEREAS, at a November 5, 2019 work session, Council reviewed the two preliminary concepts to provide feedback and direction on the replacement of the Solid Waste & Recycling Transfer Station; and

WHEREAS, February 11, 2020, City Council authorized a Resolution to release a Request for Proposal for California Environmental Quality Act compliance for the Solid Waste & Recycling Transfer Station; and

WHEREAS, October 13, 2021, City Council authorized the award of the contract to FirstCarbon Solutions, Inc. for the CEQA compliance for the Solid Waste & Recycling Replacement Project, Resolution No. 69,584 – N. S.; and

WHEREAS, Without the replacement of the existing facilities, the City cannot meet its Zero Waste or 2009 Climate Action Plan goals. The existing facilities are beyond their projected and useful life; do not meet today's environmental permitting requirements and safe operational standards.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute an amendment to Contract No. 32100081 with FirstCarbon Solutions, Inc. for California Environmental Quality Act (CEQA) compliance for the Solid Waste & Recycling Transfer Station Replacement Project increasing the current contract amount of \$500,000 by \$150,000 for a total not to exceed amount of \$650,000 and extending the contract term to June 30, 2022.



Office of the City Manager

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Department of Public Works
 Subject: Purchase Order: PB Loader Corporation for Two Chipper Trucks

RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (formerly NJPA) Contract No. 052417-PBL bid procedures and authorizing the City Manager to execute a purchase order for two chipper trucks with PB Loader Corporation in an amount not to exceed \$305,900.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of two (2) chipper trucks will not exceed \$305,900 and includes DMV fees, CA tire fees, delivery to City of Berkeley, shipping and sales tax. Funding for this purchase is available in the FY 2022 budget in the Equipment Replacement Fund 671.

CURRENT SITUATION AND ITS EFFECTS

This purchase will replace two (2) F-650 Class 8 chipper trucks, equipment numbers 3274 and 3275. The chipper trucks were originally purchased in 2001 with an anticipated useful life of 15 years. This new purchase eliminates the need for ongoing costly maintenance due to the age and condition of the trucks. The Parks, Recreation & Waterfront Department requires new vehicles to perform tree maintenance in parks, along public right of ways, city property, and in response to emergencies. These vehicles use a commercial grade woodchipper unit that recovers processed debris.

Approval of this item will further the Strategic Plan goal of providing state-of-the-art, well-maintained infrastructure, amenities, facilities, and being a global leader in addressing climate change and protecting the environment.

BACKGROUND

Throughout the year, the Department of Public Works purchases vehicles and equipment for the City's departments. These purchases are paid through the Equipment Replacement Fund; departments contribute annually to this fund so that vehicles can be replaced at the end of their useful life. If the purchase request exceeds \$25,000, the Department of Finance, General Services Division solicits or "piggybacks" off competitively bid contracts to ensure the City receives the best pricing.

The City of Berkeley has been a no-cost member and participant of Sourcewell¹ (formerly National Joint Powers Alliance), a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original statute was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying higher costs associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs. Sourcewell services all educational, government and non-profit agencies nationwide, and offer cooperative contracted products, equipment and service opportunities to government entities throughout the U.S.

All Sourcewell contracts have been competitively solicited nationwide. On April 6, 2017 Sourcewell released Request for Proposal No. 052417 for Roadway Maintenance Equipment with Related Accessories, Attachments, Materials, and Supplies. The solicitation was released for approximately forty-nine days and thirty-three proposals were submitted and received. Upon review, an evaluation committee selected PB Loader Corporation as the best, most responsive proposer to meet the specifications and awarded Contract No. 052417-PBL.

For all contracts, Sourcewell charges an administrative fee based upon the percentage of the sale, and the fee is paid by the contractor directly to Sourcewell. For this purchase, the fee will be paid by contract holder PB Loader Corporation and will not be passed on to the City of Berkeley.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Consistent with the City Council's recently accepted *2020 Municipal Fleet Electrification Assessment*, Public Works contacted industry representatives from Motive Motors, Lightning eMotors, and Ford regarding the availability of a viable electric version of this equipment. These representatives informed staff that electric vehicle equivalents of these vehicles are not available.

The new chipper trucks will be powered by 100% renewable diesel in place of gasoline, reducing greenhouse gas emission by as much as 50-80%. Usage of renewable diesel also complies with the City's Fossil Free recommendations. Additionally, this purchase aligns with the *2020 Municipal Fleet Electrification Assessment* in recognizing the lack of commercially available and viable electric medium and heavy-duty vehicles.

The *Assessment* proposed to install 51 charging stations with 100 chargers and upgrade all 129 vehicles in the light duty fleet to EV by 2030. To date, PW installed 31 charging stations and 61 chargers. In the next two years, another five charger installations are planned and contingent on an additional budget allocation of

¹ <https://www.sourcewell-mn.gov>

\$1,000,000, primarily to ensure sufficient power is delivered to the Corporation Yard to operate many planned charging stations.

In 2020, the fleet included 46 hybrids and 15 plug-in hybrid-electric vehicles. Since then, the fleet has added 6 EV sedans, 3 hybrid SUVs for the Police Departments (PD), and 4 hybrid pickup trucks. In the current fiscal year, the city is ordering 11 EV sedans, 8 PD hybrid SUVs, and likely 6+ electric F-150 pickup trucks. Public Works is on track to complete conversion of sedans and SUVs to EVs by 2028, two years ahead of the assessment's schedule. In addition, the city fleet has reduced its consumption of traditional gasoline by 33% from a high in 2000, in part due to some of the changes above and because so much of the fleet runs on renewable diesel. Twenty one (21) of last year's vehicle replacements were either electric, hybrid, or run on renewable diesel.

RATIONALE FOR RECOMMENDATION

Equipment must be replaced on a reasonable schedule to ensure the Parks, Recreation & Waterfront's Forestry Division can efficiently, safely, and effectively carry out their duties.

ALTERNATIVE ACTIONS CONSIDERED

None. Keeping equipment longer than its useful life results in higher maintenance costs, excessive downtimes, and higher greenhouse gas emissions.

CONTACT PERSON

Greg Ellington, Superintendent, Public Works Maintenance, (510) 981-6469

Attachment:

1: Resolution

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

PURCHASE ORDER: PB LOADER CORPORATION FOR TWO CHIPPER TRUCKS

WHEREAS, two (2) Chipper Trucks are need by the Forestry Division to perform tree maintenance services in parks, along public right of ways, ancillary city property, and emergency response; and

WHEREAS, equipment unit numbers 3274 and 3275 being replaced are 20 years old and has reach the end of its useful life; and

WHEREAS, equipment must be replaced on a reasonable schedule and allows equipment operators to efficiently and effectively carry out their work; and

WHEREAS, City Charter XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through a competitive process; and

WHEREAS, on April 6, 2017 Sourcwell released Request for Proposal No. 052417 for Roadway Maintenance Equipment with Related Accessories, Attachments, Materials, and Supplies. The solicitation was released for approximately forty-nine days and thirty-three proposals were submitted and received. Upon review the Proposal Evaluation Committee selected PB Loader Corporation as the best most responsive proposer to meet the specifications thusly awarding Contract No. 052417-PBL; and

WHEREAS, all Sourcwell contacts have been competitively solicited nationwide and Sourcwell Contract No. 052417-PBL satisfies the procurement requirement of the City of Berkeley; and

WHEREAS, funds in the amount of \$305,900 are available in the FY 2022 Equipment Replacement Fund (671).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley City Manager is authorized to participate in Sourcwell (formerly NJPA) Contract No. 052417-PBL bid procedures and execute a purchase order for two (2) Chipper Trucks with PB Loader Corporation in an amount not to exceed \$305,900.

CONSENT CALENDAR
November 30, 2021

To: Members of the City Council
 From: Mayor Jesse Arreguín (Author) and Councilmember Wengraf (Co-Sponsor)
 Subject: Budget Referral: Berkeley Age-Friendly Continuum

RECOMMENDATION

Refer \$20,000 to the November 2021 Annual Appropriations Ordinance #1 process for the Berkeley Age-Friendly Continuum.

BACKGROUND

The goal of the Berkeley Continuum is to implement an integrated, replicable and citywide continuum of services and supports for older adults and people with disabilities as they navigate the transitions of aging. The Age-Friendly Berkeley Action Plan was published in December 2018, and is the culmination of several years of community and stakeholder input. Staff and community partners are now working to implement the plan. An internal cross-department steering committee has been appointed for the City and the Community Partners Team is also meeting. In 2019, the City of Berkeley was awarded the SCAN Foundation Innovation Award for the State of California for the Continuum's approach to preparing Berkeley for growth in the older population and for people with disabilities.

There are several programs that have been and are in the process of being implemented as a part of the Age-Friendly Continuum:

- The Gateway Program, a prevention/intervention program that helps older adults proactively plan for their aging experience. Three seniors from the community have been trained and are doing well with the visits. An evaluation has been completed and the coming year will focus on how to move this to a sustainable future.
- The project to create a senior portal for easy access to information is in contract with the county vendor and includes collaboration with the county, the Area Agency on Aging, the Berkeley Libraries and the Senior Center.
- The model service linked senior housing/community center project has left the gate and will continue to be developed over the next few years, and the Berkeley Home Match pilot with the University has met its targets and will continue.
-and several other projects are in process.

One of the four priority areas in the Age-Friendly Continuum is health and wellness. COVID-19 continues to be of great concern since it first arrived in the United States in

early 2020. This virus is significantly deadlier to seniors, especially those of a more advanced age and/or with preexisting conditions. Approximately two thirds of deaths in Alameda County from COVID-19 were from residents over 70 years old. Thanks in part to Berkeley's aging services programs, we have been able to vaccinate almost all seniors over the past year. Beyond the health impacts of COVID-19, it also has had an economic and social impacts, in addition to limiting transportation options, which round up the other priority areas of the Age-Friendly Continuum. Continued funding of this program will allow us to further refine our approach to assisting the senior community during these difficult and unprecedented times. Last year, the City Council voted to allocate \$20,000 to the Age-Friendly Continuum during the FY21 budget update.

FINANCIAL IMPLICATIONS

\$20,000 from General Fund Excess Equity.

ENVIRONMENTAL SUSTAINABILITY

Berkeley Age-Friendly Continuum aims to improve the quality of life and the health and well-being of older adults

CONTACT PERSON

Mayor Jesse Arreguin 510-981-7100



Office of the Mayor

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Mayor Jesse Arreguín
 Subject: Reappointment of Dr. P. Robert Beatty to the Alameda County Mosquito Abatement District Board of Trustees

RECOMMENDATION

Adopt a Resolution reappointing Dr. P. Robert Beatty to the Board of Trustees of the Alameda County Abatement District for a two-year term ending on January 1, 2024.

BACKGROUND

Each city in Alameda County is required to appoint a resident to the Alameda County Mosquito Abatement District Board of Trustees. This term lasts for two years. The District has recently notified the City that Dr. P. Robert Beatty's term is expiring at the beginning of 2022.

Dr. Beatty has served as Berkeley's representative on the Board since April 2016, replacing longtime representative Dr. Jan Washburn, who became ineligible to be Berkeley's representative after moving to Oakland. Dr. Beatty is one of fourteen members of the Board, and just one of two scientists. As an infectious disease immunologist, Dr. Beatty has studied mosquitoes worldwide and provided invaluable expertise and information to the Board on dengue, Zika and other mosquito borne diseases. He has taught immunology and infectious disease classes for 20 years in the Department of Molecular and Cellular Biology at UC Berkeley.

FINANCIAL IMPLICATIONS

None for the City of Berkeley. Trustees receive a stipend of \$100 per month paid for by the Alameda County Mosquito Abatement District.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

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

REAPPOINTING DR. P. ROBERT BEATTY AS THE CITY OF BERKELEY'S REPRESENTATIVE TO THE ALAMEDA COUNTY MOSQUITO ABATEMENT DISTRICT BOARD OF TRUSTEES

WHEREAS, Dr. P. Robert Beatty has served on the Board of Trustees of the Alameda County Mosquito Abatement District since 2016; and

WHEREAS, Dr. Beatty is an infectious disease immunologist who has taught immunology and infectious disease classes for the past 20 years in the Department of Molecular and Cellular Biology at UC Berkeley; and

WHEREAS, during his term on the Board of Trustees, Dr. Beatty has provided invaluable expertise and information to the Board on Zika and other mosquito borne diseases.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Dr. P. Robert Beatty is hereby reappointed as the City of Berkeley's representative to the Alameda County Mosquito Abatement District Board of Trustees for the term commencing on January 1, 2022 ending January 1, 2024.

**BEN BARTLETT**

CITY COUNCILMEMBER, DISTRICT 3

CONSENT CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Councilmember Ben Bartlett and Mayor Jesse Arreguín (Authors) and Councilmember Harrison (Co-Sponsor)
 Subject: Budget Referral: Commitment to Habitot Recovery

RECOMMENDATION

Refer to the AAO#1 Budget Process \$100,000 to support the recovery of Habitot and its many agency partners so it can ramp up to pre-pandemic levels and continue to provide its broad services to young children, their parents, and caregivers, and our communities most vulnerable families.

BACKGROUND

Pre-pandemic, for 22 years, Habitot consistently supported itself with an annual budget of about \$700,000. Sixty (60%) percent of Habitot's revenue was earned from memberships, admissions, and fees, with 40% contributed from grants and donations from foundations, corporate sponsors, government, individual donations, and in-kind services. The City of Berkeley has historically contributed 1% of Habitot's annual budget as one of its community service providers and art grant recipients.

Habitot was closed by State order, March 16, 2020, and overnight, lost nearly 100% of its earned income as well as some of its contributors. Habitot also lost its museum space in downtown Berkeley due to building sales and had to break its \$15,000/month lease at its new museum space due to the lost revenue. It received a Cal Relief grant of \$15,000 in 2020 and PPP loans which have been fully expended by retaining staff and paying for minimal operating expenses. Like most children's museums, Habitot was not eligible for Shuttered Venue Operators relief created for arts and culture organizations. The City of Berkeley provided a \$24,000 continuity grant in 2020 and a \$6,794 Civic Arts grant in 2021.

Through 2020-21, the worst year of the pandemic, Habitot pivoted to virtual programming delivering weekly "Habitot-at-Home" activities to an online audience of 4,500 families; distributing hundreds of play and learning kits through social service agency partners to the most hard-hit families in our community; and recently, presenting pop-up events with mobile exhibits in Berkeley City Parks. Sliding scale donation tickets for summer-fall pop-up events sold-out with long waiting lists; over 700 people attended the first three events. It has proven that in-person, outdoor events, and virtual programming can address some of the learning loss and months of social isolation the pandemic has caused.

Children's museums will be the last arts and culture organizations to recover their audiences and financial stability because their core audience remains unvaccinated. All children visiting children's museums are under 12 years of age, and *most are under 5 years old — in Habitot's case, 100% of child visitors are under 5*. Vaccinations for this age group are unlikely to be available any sooner than spring 2022. Even with a vaccine, the roll-out will be slow and parents of young children are likely to remain cautious about visiting indoor children's museums at pre-pandemic levels.

In the meantime, Habitot is ramping up for more in-person community events in 2022, expanding virtual programming with a hands-on kit component; and is looking for temporary exhibit space that will provide a consistent children's museum experience. Meanwhile board and staff work towards re-opening Habitot in a new, permanent location at a more appropriate post-pandemic location.

Since the exhaustion of early relief funds and with the reality that earned revenue remains a fraction of what it once was, Habitot will run a deficit. In order to continue to provide its historic services to the community, the projected budget gap must be closed to remain in a position to reopen when a new facility is found.

RATIONALE FOR RECOMMENDATION

Habitot Children’s Museum is the only children’s discovery museum in the Bay Area’s “East Bay.” Since 1998, Habitot has filled a niche for new parents, grandparents, caregivers, preschool teachers, and social service agencies seeking creative and enriching experiences for young children, ages 0-5, as well as parenting support and community connection. Underlying Habitot’s mission—to *help the broad community of parents and caregivers raise curious, creative, and confident children*—is the knowledge that in the first years of life, stimulating experiences and nurturing, supportive adults are crucially important to building curious minds and lifelong learners. Habitot is a nonprofit, 501(c)3 educational organization.

Habitot’s audience consists of families with 0-5-year-old children, primarily from a 1,600 square mile region encompassing Alameda and Contra Costa Counties, with a combined population of over 2.5 million. Though small relative to other Bay Area museums, over the past 22 years, Habitot has welcomed a socio-economically and racially diverse audience of more than 1.5 million visitors, about 60,000 per year. Sixty-six percent of Habitot visitors identify as multiracial/persons of color, and only 20% are considered upper income. Approximately 30% of visitors are from Berkeley and over 7,500 Berkeley families have been a member.

Its services address a critical need in the East Bay. Fifty-six percent (56%) of children entering kindergarten are not ready or are only partially ready, according to Alameda County First 5’s School Readiness Assessment. Alameda County First 5 formally recognized museum visitation as a “key strategy“ for promoting school readiness for children under five, and their commissioned research indicates that museum visits have a measurable impact on academic readiness. For many children, especially children in underserved families, the COVID-19 pandemic has exacerbated learning delays and even resulted in learning losses. The need is now even greater for Habitot to deliver child and family experiences that enrich lives, promote learning through play, rebuild strong social connections, and add to community well-being.

Before the pandemic, museum programs and administration were implemented by a 30-member staff, half of whom were UC-Berkeley financial aid work-study students handling floor and reception services. Since its closure in March 2020, Habitot has retained two full-time staff (executive, and managing director) and five part-time staff fulfilling membership, grants, fundraising, social media, and art/educational program duties.

Habitot’s founder has served as executive director since opening and ensures ongoing fulfillment of the vision, retains institutional memory and donor relationships; and manages the team. Habitot has completed a full financial audit every few years and financial reviews in between and an independent financial consultant monitors internal controls and oversees its accounting. No significant deficiencies in financial management or internal controls have been found. The Treasurer and Finance Committee prepare and monitor organizational and capital budgets, lead financing goals, ensure external and internal financial reporting and financial compliance. Habitot does not use long-term credit to finance operations and has no debt other than a revolving credit card debt.

Key Initiatives

- *Advocating for Early Childhood Learning through Play* – publicly demonstrating to adults through exhibits and programs that young children learn best through play, and that children become socially skilled and emotionally healthy from play
- *Supporting Preschool Arts* – cultivating children’s natural creativity and imagination from the earliest years with opportunities to create art and by presenting enriching cultural performances from musicians, dancers, storytellers, and singers

- *Fostering Parenting Education* — increasing parent/caregiver understanding of early childhood development and successful parenting to enhance parent-child bonding and family well-being so that children thrive
- *Building Community* — serving as a center for community engagement, parent-to-parent connection, and supportive caregiver networks.

Key Programs

Year-round, free access programs ensure that 6,000 vulnerable families (teen parents, homeless children, foster families, children with special needs, immigrants, refugees, formerly incarcerated parents, and low-income families in general) find welcome, inclusion, and family support at Habitot each year.

- *Art Studio* is a year-round, drop-in program, included with admission, offering a changing variety of age-appropriate, creative, ‘process-not-product’ art-making experiences, including sculpture, painting, and mixed media led by experienced art educators.
- *Hands-on Exhibits* designed for small hands and bodies, and the unique interests of young children in learning about their world, be it a grocery store, a rocketship, or an animal clinic; parent hand-outs are available on how to activate learning in each exhibit area.
- *Early Childhood Safety Campaign* an annual event, since 1999, includes car seat inspections leveraging community resources such as Berkeley Police and Firefighters and the Berkeley Public Health Department to attend a safety fair to educate and demonstrate to parents and caregivers how to keep young children safe from preventable accidents, the #1 cause of injury and death among children under six, according to the American Academy of Pediatrics.
- *Community Access* by participating in Museums for All (which gives free/discounted admission to EBT cardholders), Blue Star Families (which gives free/discounted admission to active military and veterans and their families), and Discover & Go (which gives free admission passes through public libraries), Habitot ensures a wide and diverse audience. In addition, Habitot offers scholarship Memberships to low-income families and presents individual, free admission “Open House” events to families with children with disabilities, foster and adoptive care families, children in the child welfare system, formerly incarcerated parents, their children, and others. Children experiencing homelessness can schedule an all-inclusive birthday party at Habitot and during the pandemic, Habitot provided *Birthday-in-a-Box kits* to ten East Bay family shelters (including three in Berkeley) with enough supplies for 120 birthday children’s parties.
- *Multicultural and Other Events* with input from representative community members, Habitot presents celebrations of diverse cultural events such as Dia de Los Muertos, Diwali, Indigenous People’s Day, Nowruz and others. Habitot presents a month-long Black History Month in February, and Pride Month in June (both were virtual during the pandemic).
- *Preschool Teachers Make a Difference Awards* for seven years, Habitot invited nominations for outstanding preschool teachers in the Bay Area, arranged for judges to select ten winners each year, solicited prizes for teachers, and held well-attended awards ceremonies for families and friends of winners. Over 500 nominations were received, 24 judges were involved, and 70 teachers received awards. (The program is looking for a new sponsor).

FINANCIAL IMPLICATIONS

\$100,000 from excess revenue allocations through the AAO#1 process. The City of Berkeley stands to benefit from Habitot’s recovery. Research by the Association of Children’s Museums found that every \$1 dollar spent at children’s museums created \$3.67 in jobs, salaries, related industries, and contributions to the local economy.

ENVIRONMENTAL SUSTAINABILITY

Not applicable

CONTACT PERSON

Councilmember Ben Bartlett 510-981-7130
James Chang 510-981-7131



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council

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

Subject: Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

RECOMMENDATION

1. Adopt a Resolution establishing:
 - a. a referral to Office of Energy and Sustainable Development (OESD) staff to design and launch a two-year Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program, using pre-qualified contractors meeting minimum labor standards to assist new property owners, renters and existing property owners with transition to zero-carbon plumbing, HVAC, cooking, and related electrical systems, with a preference first for assisting existing affordable housing buildings and assisting households at or below 120% of the Area Median Income; and
 - b. an annual process for the Energy (or successor) Commission and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES), in consultation with community and labor groups, to provide input to staff and Council about eligible *categories* of fund expenditures to maximize equitable emissions reductions and impacts for eligible households while leaving the mechanisms for doing so to staff discretion.
2. Send copies of the Resolution and letters to members of the California Public Utilities and Energy Commissions, Governor Newsom, State Senator Skinner, and Assemblymember Wicks conveying urgent support for a statewide approach to rapidly contract the natural gas distribution system in a way that is safe, economical for remaining customers, and that provides a just transition for affected workers, including gas utility and extraction workers.

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

3. Refer to the November, 2021 AAO budget process:
 - a. \$1,500,000 of general fund monies from the American Rescue Plan Act allocation and other sources as appropriate as seed funding for the two-year pilot, inclusive of staff costs, for FY 2022.

POLICY COMMITTEE RECCOMENDATION

Action: 15 speakers. M/S/C (Arreguín/Harrison) to send the item to Council with a qualified positive recommendation including the following amendments:

Recommendation 2. That part of the recommended funding source is American Rescue Plan dollars and;

Recommendation 1a. Modifying the end of the last sentence to “with a preference first for affordable housing projects and assisting households at or below 120% the area median income.”

Vote: Ayes – Harrison, Arreguín; Noes – None; Abstain – Droste; Absent - None.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

The world is facing a grave climate emergency, requiring municipalities to rapidly transition towards zero carbon economy by 2030. Transitioning Berkeley’s economy will require significant investment on the part of both government and residents. It is in the public interest to establish a direct install financial incentive and “just transition” program using pre-qualified contractors meeting minimum labor standards to assist new property owners, renters and existing property owners with the transition to zero-carbon buildings. This item establishes the general scope of a two-year Existing Building Electrification Incentive Program Pilot and refers to staff to design an equitable program with \$1,500,000 for FY22, inclusive of staffing costs, and contingent on the availability of excess equity, from the General Fund. It also asks the Energy (or successor) Commission and FITES Committee, in consultation with community groups, to provide input to staff and Council on at least an annual basis about categories of fund expenditures that would provide the most benefit for lower-income households, maximize equitable emissions reduction impacts, and support residential construction contractors who will reliably perform high-quality work and provide high-road careers for workers. The establishment of this program is consistent with staff and Council goals and budgetary priorities.

BACKGROUND

According to the best available science, a 50% reduction in emissions must happen worldwide by 2030 or earlier in order to delay extremely catastrophic warming. To meet the U.N.’s global 2050 target to keep emissions as close as possible to 1.5 degrees Celsius,

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

wealthy nations and cities must approach zero by 2030.¹

As a result of the scientific and economic realities of climate change, and despite the people of Berkeley’s average relative wealth, it is not realistic to expect the owners and renters of the city’s approximately 46,000 residential housing units to electrify their buildings in a decade without significant government co-investment. Low-carbon technology can often be out of reach of many lower-income households and, without direct assistance, many will be left behind. Transitioning Berkeley’s economy will require significant investment on the part of both residents and the government. Following Berkeley’s 2019 landmark prohibition on natural gas infrastructure, staff have released a Draft Berkeley Existing Buildings Electrification Strategy that is currently unfunded. Although the City recently invested \$600,000 to seed the Climate Equity Action Fund, the funding is extremely limited and may not be enough for certain electrification retrofit projects.

Additional investments would significantly lower Berkeley’s carbon emissions, at least 37% of which are from buildings, and provide residents with a plethora of health and safety benefits that will likely outweigh upfront costs. The program can be crafted in a way that supports good paying jobs, for example including unionized contractors, workforce development and local hire requirements. The transition to a zero-carbon city thus has the potential to uplift both workers and residents.

Existing Buildings Electrification Strategy

In January 2021, the City’s Office of Energy and Sustainable Development reported to the Energy Commission that the cost of electrifying the City’s entire low-rise building stock (approximately 36,000 units, or 90% of all Berkeley buildings and 65% of floor area) would be between \$700 and \$880 million. An additional \$120 million is needed for efficiency improvements and solar.

¹ IPCC, 2018: Summary for Policymakers. In: *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)]. *World Meteorological Organization, Geneva, Switzerland, 32 pp.* <https://www.ipcc.ch/sr15/chapter/spm/>.

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

Item 9 - Communications
Energy Commission
January 27, 2021
1/27/2021

Draft Total Costs

Approximate total modeled costs for converting Berkeley's low-rise housing stock today:

- Covers 36,000 1-3 floor homes (90% of all Berkeley buildings and 65% of floor area)
- \$280-430 Million more than business-as-usual gas replacements (no solar or envelope improvements)
- Additional \$220-660 Million for envelope efficiency and solar PV

	No Solar	Minimum Solar (Offset)	Maximum Solar (Net Zero Energy)
Economy Appliances	\$700 Million	\$930 Million	\$1.2 Billion
Mid-Tier Appliances	\$880 Million	\$1 Billion	\$1.2 Billion
Mid-Tier + Envelope Improvements	\$1 Billion	\$1.2 Billion	\$1.4 Billion

Table 3-4. Average Results for All Measure Packages

#	Electrification Package	Energy Bill Savings (\$/yr)	Energy Bill Savings (%)	Gross Cost (\$)	Incremental Cost (\$)	Incremental Cost with Current Incentives (\$)	Incremental Cost with Incentives + Financing (\$)
1.1	Economy Appliances	-\$540	-33%	\$19,870	\$7,930	\$7,930	\$12,290
1.2	Economy Appliances + Offset Solar	\$540	33%	\$26,160	\$14,220	\$14,220	\$5,610
1.3	Economy Appliances + NZE Solar	\$1,480	89%	\$32,270	\$20,330	\$20,330	\$1,470
2.1	Mid-Tier Appliances	\$5	0%	\$24,750	\$12,110	\$9,910	\$9,880
2.2	Mid-Tier Appliances + Offset Solar	\$590	35%	\$28,200	\$15,560	\$13,360	\$6,090
2.3	Mid-Tier Appliances + NZE Solar	\$1,510	91%	\$34,270	\$21,630	\$19,430	\$1,700
3.1	Mid-Tier Appliances + Envelope	\$90	5%	\$29,320	\$16,690	\$13,240	\$12,540
3.2	Mid-Tier Appliances + Envelope + Offset Solar	\$600	36%	\$32,350	\$19,720	\$16,720	\$9,470
3.3	Mid-Tier Appliances + Envelope + NZE Solar	\$1,510	91%	\$38,410	\$25,780	\$22,320	\$4,520

Note: Modeled costs are averages and electrification costs may be higher or lower depending on individual building characteristics

Clearly, this relatively modest pilot program paired with the Climate Equity Action Fund would only make a small dent in the City’s retrofit challenge, perhaps facilitating 400-500 retrofits per year. However, the success of this pilot program will likely spur the Council and residents to seek additional federal, state and local funds to expand the program in subsequent years. The expertise and lessons learned through this pilot will help guide future efforts aimed at closing the 46,000 gas-powered residential unit challenge.

Since 2018, the Council has explored opportunities to increase public investment in building electrification retrofits. Councilmember Harrison’s November 27, 2018 referral, following the passage of the Climate Emergency Declaration, requested that the City Manager draft an ordinance expanding eligibility for the existing Seismic Transfer Tax Rebate Program to include electrification and other resiliency measures. Staff

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

subsequently presented the draft ordinance to Council in July of 2020 at the outset of the COVID-19 pandemic with a recommendation to take no action for a year due to COVID-19-related fiscal uncertainty, and the item was held over at the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee (FITES).

At the same time, staff also presented to FITES a related referral to design a companion Resilient Homes Equity Pilot Program that would provide funding for home retrofit improvements to low-income residents. FITES and Council agreed to move the Resilient Homes Equity Pilot Program design and research process forward in November, 2020. The program remains underfunded.

In early 2021, Councilmember Harrison’s office and the FITES Committee worked with City staff to explore opportunities to fund retrofits through general fund transfer tax revenues and establishing a cap on total and per beneficiary allocations. In working with the City Manager, Councilmember Harrison concluded that while the existing transfer tax rebate system is a good vehicle for allocating at point of sale, it does not necessarily provide funding for existing property owners who may need to replace a broken appliance or who want to make voluntary retrofits. A better vehicle is a two-year direct install pilot; this requires fewer staff resources to administer and builds on significant staff experience and expertise administering incentive programs.

This item is a companion to the Seismic Transfer Tax Rebate model in the form of a budget referral and resolution establishing two-year pilot incentive program funded via general fund allocations, which are currently partially funded by transfer tax revenue.

Existing Building Electrification Direct Install Incentive and Just Transition Program Pilot

This item proposes a direct install incentive and Just Transition pilot program that is consistent with recent workforce-focused building decarbonization developments initiatives at the state, regional and local levels that benefit labor, minimize cost, and maximize climate benefits.

On February 22, 2021 the California Workforce Development Board announced a \$8.9 million grant as part of the High Road Training Partnership (H RTP) for “sector-based workforce development projects in several industries and areas that are critical to the state’s strategy for a just recovery from the COVID-19 pandemic and economic crisis while addressing climate change and community resilience.”² According to the

² California Workforce Development Board, “CWDB Announces Grants to Invest in Building Back Better with Equity, Climate and Jobs, February 22, 2021, https://cwdb.ca.gov/wp-content/uploads/sites/43/2021/03/CWDB-PressRelease-H RTP-Open-FINAL-021821_ACCESSIBLE.pdf

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

California Workforce Development Board, “high road” employers include those firms “that compete based on quality of product and service achieved through innovation and investment in human capital, and can thus generate family-supporting jobs where workers have agency and voice.”³

Bay Area-based Rising Sun Center for Opportunity received \$600,000 from the grant to launch a “High Road to Residential Building Decarbonization” project to convene more than 20 Bay Area cities, government agencies, unions, employers, and advisors.⁴ The City of Berkeley along with the Construction Trades Workforce Initiative (CTWI), the non-profit arm of the Building & Construction Trades Councils of Alameda and Contra Costa Counties, were invited to participate in ongoing discussions about ensuring equitable access to high-road jobs in the building decarbonization industry.

To date, these and other ongoing collaborative efforts have been extremely productive—in May 2021 CTWI and the Alameda County Building Trades Council provided helpful feedback and recommendations to the City’s OESD staff regarding the City’s Existing Buildings Electrification Strategy. However, the state grant did not include funding to do the physical work of electrification retrofits. Significantly, CTWI and Trades Council committed to:

“...supporting the City of Berkeley in its goals of reducing greenhouse gas emissions while ensuring that people who live and work in Berkeley—especially those from historically disadvantaged populations—have access to high-road, family-sustaining careers in union construction associated with existing building electrification and decarbonization.”⁵

In addition, their key recommendations to the City of Berkeley’s building electrification strategy include:

1. Address decarbonization overall—building electrification as well as energy efficiency measures—when planning strategies for a “Just Transition” in consultation with all crafts affected, including but not limited to Sheet Metal, Electricians, Carpenters, Plumbers and Pipefitters.
2. Create programs and identify funding sources to incentivize Berkeley property owners to replace, upgrade and install systems that will achieve energy efficiency goals.

³ California Workforce Development Board, “High Road Training Partnerships,” Rising Sun Center for Opportunity, “Rising Sun Convenes Partnership to Promote Equitable Job Access in the Bay Area’s Post-Carbon Economy,” March 29, 2021, <https://cwdb.ca.gov/initiatives/high-road-training-partnerships/>.

⁴ <https://risingsunopp.org/wp-content/uploads/Rising-Sun-HRTP-Press-Release.pdf>.

⁵ CTWI Policy Recommendations City of Berkeley Existing Buildings Electrification Strategy.

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

3. Require the use of pre-qualified residential construction contractors who will reliably perform high-quality work and provide high-road careers for workers.
4. Link disadvantaged Berkeley residents to training programs that prepare them to enter and succeed in union construction careers by working with and budgeting for ongoing City funding for local Multi-Craft Core Curriculum (MC3) workforce partners, school districts/community colleges and CBOs to develop and sustain a long-term pipeline of work in the residential building retrofit market that carries high-road labor standards.
5. Develop public education campaigns and resources to promote new City programs and the benefits of energy efficient systems and appliances; provide information on systems and requirements; and link property owners to a list of pre-qualified contractors.

Since this item was deferred to the November AAO following the June 2021 budget process, Councilmember Harrison’s office has engaged with the CTWI and the Trades to expand the item to incorporate specific recommendations to further refine the proposed incentive program and to enhance benefits to workers and residents.

This Budget Referral and Resolution now support each of the above CTWI and Trades recommendations.

With respect to recommendations 1-3, the \$1.5 million budget allocation would create a “direct install” incentive program. Direct install programs eliminate the need for households to find and manage their own contractors, and therefore can achieve significant cost savings. They also equitably eliminate or reduce the amount of upfront money needed by property owners to conduct retrofits, and eliminate the need to retroactively apply or wait for rebates (e.g., at tax time etc.). For example, the Sacramento Municipal Utility District (SMUD) recently reported the following significant advantages of direct install strategies to the California Energy Commission:

“SMUD has achieved significant societal cost savings by using direct installation in low-income single-family homes. For example, SMUD’s average low-income direct installation cost for a heat pump water heater is \$2,200 whereas for our market rate program, in which SMUD incentivizes \$2,500 and the customer is responsible for hiring a contractor, the average total cost is close to \$3,800. The cost savings may be even greater if the direct-install contractor is able to go door-to-door and convert multiple adjacent homes. Direct installation has only been used for low-income programs to date but could be equally beneficial when applied to any home or neighborhood. While labor costs associated with direct installation can be greater given prevailing wage

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

considerations, direct installation can nevertheless be cost-competitive for the utility in sufficient volume.”⁶

Further, OESD’s draft electrification strategy recommends direct install programs because they streamline permitting and lower barriers to residents:

“One of the major hurdles many community members face is lack of knowledge regarding incentives and rebates for electric equipment. When an appliance like a hot water heater breaks, there is rarely time to conduct extensive research on the programs available. This action would tie these resources directly to the permit for the appliance. When a permit is pulled for a heat pump hot water heater, that incentive would be given directly to the installer. This would lower the upfront costs for consumers and further incentivize electrification. Furthermore, this action would help remove the procedural inequities currently experienced by marginalized communities who may not have the time to conduct research or resources to pay the full price of the equipment while they wait for rebates to arrive.”⁷

Such a direct install program could also include energy efficiency upgrades if paired with utility-based and regional incentives for insulation and other building envelope improvement programs potentially employing the labor of additional trades.

Importantly for workers, the direct install program would incorporate pre-qualified contractors meeting minimum quality and labor standards, similar to the City’s existing project labor agreements. The City would also achieve economies of scale on permitting and inspection processes and ensure workers are properly trained and licensed/certified. Staff should consider the following pre-qualification requirements:

1. Certification that the contractor is in compliance with all applicable licensing, bonding, and insurance requirements;
2. Certification that the Contractor participates in, makes training fund contributions to, and sponsors apprenticeships from a state-approved apprenticeship program that partners with an MC3 pre-apprenticeship program;
3. Certification that the contractor provides family health benefits and pension benefits to its workers;
4. Certification that the contractor has not been convicted of, fined, or penalized for any violation of wage, labor, safety, or building standard requirements within the last five years;

⁶ Sacramento Municipal Utility District, “SMUD Comments on Building Decarbonization and Energy Efficiency,” 21-IEPR-06 and Building Decarbonization, July 27, 2021, <https://efiling.energy.ca.gov/GetDocument.aspx?tn=239016&DocumentContentId=72448>

⁷ OESD, Draft Existing Buildings Electrification Strategy, April, 2021, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Draft_Berkeley_Existing_Bldg_Electrification_Strategy_20210415.pdf

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

5. Certification that no surety firm has had to complete a contract or pay for completion of a contract on behalf of the contractor or subcontractor within the last five years;
6. Certification that the contractor has not had any licenses revoked within the past five years;
7. Certification that the contractor is not ineligible to bid, be awarded or subcontract on a public works project pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7;
8. Certification that the contractor has not been cited for any serious, willful or repeat OSHA violations within the last five years as defined under Title 8 of the California Code of Regulations.
9. Certification that the contractor has a Better Business Bureau rating of “B” or higher.

With respect to recommendation 4, the Resolution also refers to staff to design the program in consultation with labor partners to facilitate apprenticeship opportunities for Berkeley residents, including historically disadvantaged populations. The program would be integrated into the City’s website and existing communications channels pursuant to recommendation 5.

The item also supports the concept of “just transition” off fossil fuels and towards a zero-carbon economy. According to a report by the Climate Equity Network, a just transition includes moving away from fossil fuels “in a manner that protects workers and communities economically dependent on the fossil fuel industry” and involves “those who have historically been excluded from the jobs and economic benefits of the extractive economy and expand the populations who have access to future jobs and economic opportunities.”⁸

While the City of Berkeley and Alameda County are not known for their petroleum extraction industries, the Alameda County Building Trades include Pipefitters, who stand to lose natural gas infrastructure installation and maintenance jobs over time as part of the City’s implementation of the natural gas prohibition (BMC 12.80) ordinance and other electrification initiatives. A 2019 UCLA Luskin Institute study found that 3,100-3,600 jobs statewide could be lost as a result of new construction electrification policies alone. Meanwhile, the study estimated a statewide increase of 64,232-104,060 building

⁸ The Climate Equity Network, “A Roadmap to an Equitable Low-carbon Future: Four Pillars for a Just Transition, April, 2019,
https://dornsife.usc.edu/assets/sites/242/docs/Just_Transition_Final_Report_2019.pdf

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

electrification jobs, including retrofits.⁹ By partnering with organized labor through this pilot program, the City can help support impacted workers new work opportunities and workforce development opportunities, including the electrification of existing buildings.

At the same time, the City acknowledges that absent state leadership and a statewide just transition framework, electrification can adversely impact the livelihoods of gas utility infrastructure and extraction workers and low-income gas customers. Therefore, this item sends copies of the Resolution and letters to members of the California Public Utilities and Energy Commissions, Governor Newsom, State Senator Skinner, and Assemblymember Wicks conveying urgent support for a statewide approach to rapidly contract the natural gas distribution system in a way that is safe, economical for remaining customers, and that provides a just transition for affected workers, including gas utility and extraction workers.

In addition, this item supports expanding opportunities to historically excluded populations in Berkeley through labor apprenticeship programs that recruit directly from impacted populations. It also would provide electrification benefits to lower and moderate-income residents with a preference for those at or below 120% of the Area Median Income.

Budgetary Opportunities

Many economic and public health indicators suggest that the City is entering a more optimistic phase in the pandemic, to include the influx of substantial—but temporary—federal stimulus monies through the 2021 American Rescue Plan Act and the anticipation of a fairly rapid rebound in revenues to pre-pandemic levels. Transfer tax revenues for FY21 are estimated at \$20 million (compared with \$20 million in FY 19) and the city expects to receive a one-time two-year allocation of approximately \$66 million from the 2021 American Rescue Plan Act.

As a result, it is in the public interest to revisit the July 2020 item to see how the City can best move forward with providing residents with critical greenhouse gas reduction incentives in order to address our larger and longer-term crisis: climate change.

According to recent 2020 transfer tax data from OESD, on average between 2014-2019, 845 residential units were transferred per year, generating approximately an average of \$4.6 million total per year in eligible rebates for the Seismic Transfer Tax Program. The

⁹ UCLA Luskin Center, “California Building Decarbonization: Workforce Needs and Recommendations,” November, 2019, https://innovation.luskin.ucla.edu/wp-content/uploads/2019/11/California_Building_Decarbonization.pdf.

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

city has approximately 46,000 occupied housing units, with the vast majority being gas-powered.

Currently, the Council approved amount in transfer tax revenues is allocated to the General Fund (as in the past, at \$12.5 million) and some portion is typically set aside for capital projects (generally at \$2 million). For the first year of this pilot program this item proposes to allocate a total of \$1.5 million in excess Transfer Tax equity which would be inclusive of staff’s administrative costs.¹⁰ On adoption of this proposal, total transfer tax expenditures would amount to approximately \$17 million, including the \$12.5 million typically allocated to the General Fund programs and the \$2 million to capital programs.

While the program will ultimately be designed by OESD staff through administrative regulation, this item also includes a resolution officially establishing the program and providing general parameters for how staff should allocate the proposed \$1.5 million retrofit fund. This program and the \$1.5 million allocation were originally included as a line item in the Planning & Development Department’s Fiscal Year 2022 proposed budget.

New property owners are most likely to remodel their units shortly completing the purchase. Thus, the Draft Berkeley Existing Buildings Electrification Strategy recommends allocating some portion of the fund for transferees of residential properties within two years of point of sale. The City is also exploring opportunities to adopt certain mandatory electrification requirements for transferees of new buildings through its BESO program.

Equitably supporting existing property owners and renters whose appliances, e.g., their water heater, break down suddenly, and those who wish to embark upon voluntary electrification projects to include new appliances, electrical work (e.g., panel upgrades) are also elements of the Building Electrification strategy. This part of the program would be similar to Marin County’s Electrify Marin program which provides residents with income-qualified incentives for building electrification and panel upgrades. Since 2019, Marin has disbursed over \$100,000 in rebates.

Electrify Marin

¹⁰ This amount would be in addition to the separate \$600,000 Climate Equity Action incentive fund proposed by Councilmember Harrison, Mayor Arreguín, and Councilmembers Taplin and Robinson.

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

Appliance Type	Standard Rebate	Income Qualified Rebate
Heat Pump Water Heater	\$1,000	\$2,000
Heat Pump Space Heater		
Central Heat Pump	\$1,000	\$4,500
Mini-Split Heat Pump	\$800	\$3,000
Induction Cooking		
Range (Cooktop & Oven)	\$500	\$500
Cooktop only	\$250	\$250
Service Panel Upgrade	\$500	\$1,200

These incentives would be paired with rebates available through BayRen and EBCE, which are helpful but fall far short of the actual cost. For example, BayRen and EBCE offer \$2,000 for water heaters, which typically cost approximately \$5,000-\$10,000 when one includes the cost of potential electrical and panel upgrades. Berkeley’s incentive program is also needed to pay for space heating electrification, and needed panel and other electrical upgrades for which there are currently no incentives. Electrical, panel and space heating upgrades are typically the most expensive part of any electrification project.

Staff have indicated that they believe an additional incentive of approximately \$2,500 per property owner would be significant to persuade many property owners to electrify.

Alternatives Considered

FITES discussed whether to expand this program beyond building electrification to include fire safety and resilience upgrades. However, at this time, fire programs have separate revenue sources and greenhouse gas reduction is a top priority given the need to reduce emissions to near zero by 2030 per the 2018 IPCC report. For example, fire safety measures have received generous support from the voters through Measure FF, whereas climate is still severely underfunded. In addition, global warming is one of the chief causes of increased fire threats.

FINANCIAL IMPLICATIONS

This item would result in a one-time investment of \$1,500,000 from excess equity to provide initial funding for a two-year Existing Building Electrification Incentive Program Pilot to assist property owners and renters with the transition to a zero-carbon economy. This investment includes staff costs to run the program and to provide support for implementation of the Berkeley Existing Building Electrification Strategy (BEBES): a temporary 2-year FTE, estimated at \$200,000 per year, for a total of \$400,000.

ENVIRONMENTAL SUSTAINABILITY

Supporting incentives for building decarbonization will complement and accelerate

Budget Referral and Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and “Just Transition” Program with Pre-Qualified Contractors Meeting Minimum Labor Standards to Assist New Property Owners, Renters and Existing Property Owners with Transition to Zero-Carbon Buildings

CONSENT CALENDAR
November 30, 2021

Berkeley’s ongoing efforts to reduce carbon emissions at an emergency and equitable pace in line with the Climate Action Plan, Climate Emergency Declaration, and Existing Building Electrification Strategy.

CONTACT PERSON

Councilmember Kate Harrison, Council District 4, 510-981-7140

ATTACHMENTS

1. Resolution

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

RESOLUTION ESTABLISHING A PILOT EXISTING BUILDING ELECTRIFICATION
INSTALLATION INCENTIVES AND JUST TRANSITION PILOT PROGRAM

WHEREAS, the world is facing a grave climate emergency, requiring municipalities to rapidly and justly transition towards a zero-carbon economy by 2030; and

WHEREAS, transitioning Berkeley's economy will require significant investment on the part of both government and residents as staff have estimated that converting Berkeley's approximately 46,000 residential housing units will likely cost hundreds of millions of dollars; and

WHEREAS, low-carbon technology and infrastructure can often be out of reach for many households and, without direct assistance, many will be left behind; and

WHEREAS, moderate and lower-income communities are most impacted by global climate change and have the least financial ability to address it; and

WHEREAS, City's Draft Existing Building Electrification Strategy cites the importance of ensuring equity in access to carbon-free technology; and

WHEREAS, by partnering with labor the City of Berkeley can cost effectively meet its goals of reducing greenhouse gas emissions while supporting elements of a just transition such as ensuring that people who live and work in Berkeley—especially those from historically disadvantaged populations—have access to high-road, family-sustaining careers in union construction associated with existing building electrification; and

WHEREAS, the program would help support Pipefitters and other tradespeople who may be acutely impacted by Berkeley's building electrification policies; and

WHEREAS, direct install programs using pre-qualified contractors meeting quality and labor standards eliminate the need for households to find and manage their own contractors, and therefore can achieve significant cost savings and socioeconomic benefits; and

WHEREAS, it is in the public interest to establish a two-year Existing Building Electrification Direct Install and Just Transition Incentive Program to assist residents with transitioning from a carbon-based city; and

WHEREAS, in adopting this building electrification Pilot Program, the City of Berkeley simultaneously supports local and statewide electrification at an emergency pace (2030) and continued safe, affordable, and reliable natural gas service for Berkeley and California customers who remain on gas service in the interim; and

WHEREAS, despite offering opportunities for certain trades, absent state leadership and a statewide just transition framework, electrification can adversely impact the livelihoods of gas utility infrastructure and extraction workers and low-income gas customers; and

WHEREAS, the City of Berkeley urges the State of California, through the California Public Utilities Commission and the California Energy Commission, to adopt a statewide approach to rapidly contract the natural gas distribution system in a way that is safe, economical for remaining customers, and that provides a just transition for gas utility and extraction workers.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager establish an Existing Building Electrification Installation Incentives and Just Transition Program to invest in zero-carbon plumbing, HVAC, cooking, and related electrical system retrofits as follows, to be further defined by staff:

1. a preference first for assisting existing affordable housing buildings and assisting households at or below 120% of the Area Median Income such as:
 - a. transferees of residential property to include appliance retrofits and electrical upgrades as appropriate;
 - b. existing residential property owners and renters, including rent-controlled tenants, pursuing electrification retrofits or replacing broken or outdated appliances, to include electrical upgrades as appropriate.

2. a nexus with high-road jobs, including:
 - a. use of pre-qualified residential construction contractors that will reliably perform high-quality work and provide high-road careers for workers and meet minimum labor standards;
 - b. consideration of leveraging other local, regional, state or federal climate or energy efficiency incentives, such as building efficiency, to maximize climate benefits and to include other crafts, including but not limited to Sheet Metal, Electricians, Carpenters, Plumbers and Pipefitters;
 - c. linking Berkeley residents who are disadvantaged or disproportionately impacted by climate and environmental injustices to training programs (including apprenticeships) that prepare them to enter and succeed in union construction careers by working with and budgeting for ongoing City funding for local Multi-Craft Core Curriculum (MC3) workforce partners, school districts/community colleges and CBOs to develop and sustain a long-term pipeline of work in the residential building retrofit market that carries high-road labor standards.

BE IT FURTHER RESOLVED that the Berkeley Energy Commission, or successor, and the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee, in consultation with community groups, provide input to staff and Council on at least an annual basis about eligible categories of fund expenditures to maximize equitable emissions reductions and impacts for eligible households.

BE IT FURTHER RESOLVED that any unexpended funds shall carry over from year to year.

BE IT FURTHER AND FINALLY RESOLVED that copies of this Resolution and letters will be sent to members of the California Public Utilities and Energy Commissions, Governor Newsom, State Senator Skinner, and Assemblymember Wicks.

California Public Utilities Commission
San Francisco Headquarters
505 Van Ness Avenue
San Francisco, CA 94102

Re: Urgent Need for Statewide Just Transition for Gas Utility and Extraction Workers and Berkeley's Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Pilot Program

Dear Honorable Commissioners:

As the Berkeley City Council adopts and implements policies phasing out natural gas from new buildings and incentivizing electrification in existing buildings occupied by lower-income residents, it writes to convey its urgent support for a statewide approach to rapidly contract the natural gas distribution system in a way that is safe, economical for remaining customers, and that provides a just transition for affected workers, including gas utility and extraction workers.

The world is facing a grave climate emergency, with the latest science warning that California and municipalities must rapidly and justly transition towards a zero-carbon economy by 2030. California's existing decarbonization policies such as executive order B-55-18 and AB-3232 operate within a 2045 timeline, and are therefore dangerously out of sync with the latest science. It is therefore critical that the Commission and state leaders consider moving up these timelines while also providing funding and plans to facilitate a timely transition that supports all affected workers.

Despite the issuance of critical grants through the California Labor and Workforce Development Agency to support ongoing discussions between labor and municipalities with regard to electrification and other ongoing state-led initiatives, California currently lacks robust plans, funding, and just transition frameworks for workers who are directly impacted by electrification policies. These issues are directly within the jurisdiction of the California Public Utilities and California Energy Commissions.

As a municipality, the City of Berkeley is in the process of decarbonizing its building stock and supporting just transition elements for affected trades as feasible, but is ultimately limited in its ability to adequately support all affected workers, including gas utility and extraction workers. Berkeley looks to the State for its leadership on this critical issue.

For example, the City of Berkeley is in the process of implementing an Existing Building Electrification Strategy and a \$1.5 million two-year pilot program to incentivize direct install electrification projects in lower-income households using minimum labor standards and prequalified contractors. In adopting this pilot, the City simultaneously supports local and statewide electrification at an emergency pace (2030) and continued safe and reliable natural gas service for Berkeley and California customers who remain

on gas service in the interim. While this pilot program has the potential to benefit and support many regional tradespeople who may be acutely impacted by Berkeley's building electrification policies, without state leadership gas utility and extraction workers may be adversely impacted over time.

To this end, Berkeley believes that the State must quickly adopt statewide policies supporting gas utility workers and interim gas ratepayers, including but not limited to:

- establishing programs to retain highly skilled gas utility workers through the transition period;
- incentivizing senior workers to retire at the right time and retrain junior workers;
- establishing a fund for gas worker retention and transition including bridges to retirement for older workers with wage replacement, retraining, and job placement assistance for younger workers;
- targeting subsidies and direct install electrification programs for vulnerable, historically disadvantaged, and low-income gas ratepayers;
- adopting policies that stabilize utility bills for customers who remain on gas service in the interim;
- engaging stakeholders such as ratepayer advocates, labor, the utilities, and other experts in long-term planning to rapidly decommission and contract the natural gas distribution system in California with an emphasis for including all remaining gas customers, especially those low-income and disadvantaged gas customers.

Thank you for your consideration and leadership on this important issue.

Sincerely,

The Berkeley City Council

CC:

Governor Gavin Newsom
Senator Nancy Skinner
Assemblymember Buffy Wicks

California Energy Commission
715 P Street
Sacramento, CA 95814

Re: Urgent Need for Statewide Just Transition for Gas Utility and Extraction Workers and Berkeley's Resolution Establishing a Pilot Existing Building Electrification Installation Incentives and Just Transition Pilot Program

Dear Honorable Commissioners:

As the Berkeley City Council adopts and implements policies phasing out natural gas from new buildings and incentivizing electrification in existing buildings occupied by lower-income residents, it writes to convey its urgent support for a statewide approach to rapidly contract the natural gas distribution system in a way that is safe, economical for remaining customers, and that provides a just transition for affected workers, including gas utility and extraction workers.

The world is facing a grave climate emergency, with the latest science warning that California and municipalities must rapidly and justly transition towards a zero-carbon economy by 2030. California's existing decarbonization policies such as executive order B-55-18 and AB-3232 operate within a 2045 timeline, and are therefore dangerously out of sync with the latest science. It is therefore critical that the Commission and state leaders consider moving up these timelines while also providing funding and plans to facilitate a timely transition that supports all affected workers.

Despite the issuance of critical grants through the California Labor and Workforce Development Agency to support ongoing discussions between labor and municipalities with regard to electrification and other ongoing state-led initiatives, California currently lacks robust plans, funding, and just transition frameworks for workers who are directly impacted by electrification policies. These issues are directly within the jurisdiction of the California Public Utilities and California Energy Commissions.

As a municipality, the City of Berkeley is in the process of decarbonizing its building stock and supporting just transition elements for affected trades as feasible, but is ultimately limited in its ability to adequately support all affected workers, including gas utility and extraction workers. Berkeley looks to the State for its leadership on this critical issue.

For example, the City of Berkeley is in the process of implementing an Existing Building Electrification Strategy and a \$1.5 million two-year pilot program to incentivize direct install electrification projects in lower-income households using minimum labor standards and prequalified contractors. In adopting this pilot, the City simultaneously supports local and statewide electrification at an emergency pace (2030) and continued safe and reliable natural gas service for Berkeley and California customers who remain on gas service in the interim. While this pilot program has the potential to benefit and

support many regional tradespeople who may be acutely impacted by Berkeley's building electrification policies, without state leadership gas utility and extraction workers may be adversely impacted over time.

To this end, Berkeley believes that the State must quickly adopt statewide policies supporting gas utility workers and interim gas ratepayers, including but not limited to:

- establishing programs to retain highly skilled gas utility workers through the transition period;
- incentivizing senior workers to retire at the right time and retrain junior workers;
- establishing a fund for gas worker retention and transition including bridges to retirement for older workers with wage replacement, retraining, and job placement assistance for younger workers;
- targeting subsidies and direct install electrification programs for vulnerable, historically disadvantaged, and low-income gas ratepayers;
- adopting policies that stabilize utility bills for customers who remain on gas service in the interim;
- engaging stakeholders such as ratepayer advocates, labor, the utilities, and other experts in long-term planning to rapidly decommission and contract the natural gas distribution system in California with an emphasis for including all remaining gas customers, especially those low-income and disadvantaged gas customers.

Thank you for your consideration and leadership on this important issue.

Sincerely,

The Berkeley City Council

CC:
Governor Gavin Newsom
Senator Nancy Skinner
Assemblymember Buffy Wicks



Sophie Hahn
Councilmember
District 5

CONSENT CALENDAR
November 16, 2021

To: Honorable Mayor and Members of the City Council
From: Councilmember Sophie Hahn (Author) and Councilmember Harrison (Co-Sponsor)
Subject: Prioritizing Berkeley Unified School District Public Works Service Requests

RECOMMENDATION

Refer to the City Manager to:

1. Work with the Berkeley Unified School District (BUSD) to create a system to better document, communicate, and prioritize Public Works service requests from BUSD schools and facilities; and
2. Establish protocols with BUSD for school principals to coordinate directly with Public Works staff to address school site-related concerns that fall under the City's jurisdiction.

BACKGROUND

Berkeley Unified School District (BUSD) is responsible for educating more than 9,800 students in 11 public elementary schools, 3 middle schools, one comprehensive high school, and an alternative high school. In addition, the district has 3 preschool facilities and an Adult School serving several thousand students each year. While BUSD is responsible for the maintenance of their own properties, the City of Berkeley is responsible for sidewalks, streets, parks and other areas that surround BUSD schools. Thus, BUSD and Berkeley both have important roles to ensure that students, teachers, families, and staff have access to safe and well maintained facilities, whether on or adjacent to BUSD campuses.

In addition, Berkeley has established a Vision Zero Program to eliminate traffic fatalities and injuries while increasing safe, healthy, and equitable mobility for all. A key demographic to prioritize is our school-children, teachers, families, and staff as they travel to and from school campuses.

BUSD is a key partner for the City of Berkeley and the wellbeing of every student is of paramount concern for both the City and BUSD. In addition, students are legally mandated to attend school. They are thus required by law to enter and exit school facilities on a daily basis regardless of the conditions of the streets, sidewalks, and other nearby public facilities. For all of these reasons the City of Berkeley should prioritize requests from BUSD for service and maintenance of City property in the immediate and close vicinity of BUSD campuses.

At the October 13, 2021 2x2 Committee Meeting between Berkeley Unified School District and the City of Berkeley, members discussed the importance of prioritizing the needs of BUSD, and the lack of opportunities for BUSD to access Public Works directly. Currently, service requests for areas around school sites are routed through the City's universal 311 system and may not be identified as school-related, and therefore may not receive appropriate priority. After discussion, the 2x2 recommended creating a dedicated system to communicate and prioritize BUSD requests separate from the 311 system. The Committee further recommended that school Principals be the designated point of contact for such requests and that a form and other protocols be developed to formalize the ability to liaise directly with Public Works.

ENVIRONMENTAL SUSTAINABILITY

Maintenance of safe sidewalks, streets and other facilities surrounding BUSD school sites will encourage students and families to walk and bike to school.

FISCAL IMPACTS

None.

CONTACT INFORMATION

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

ATTACHMENTS

1. San Francisco Unified/MUNI Safe Routes to Schools program incident report



Request For Street Evaluation

**** To report damages to existing infrastructure (such as a broken traffic signal or a sign that has been knocked over), please call 311****

School Name: _____

Requestor Name: _____

Relationship to School (Parent, Principal, Staff, Student, etc.): _____

Email Address: _____

Phone Number: _____

Location to be Evaluated (Street & Cross Street): _____

Day(s) of Week & Time(s) when you are seeing concerning behavior near your school:

Describe Traffic Safety Concern (What is the unsafe behavior you are seeing, such as, speeding, not stopping/yielding at the crosswalk, traffic congestion, etc. For a transit concern, please add the 5- digit Muni Stop ID if applicable, the location of the stop, and the number on the back of the bus. If the bus is passing up students, please indicate if the bus was full or empty.):

SF Safe Routes to School staff name: _____ Date of Request: _____

Submit to: saferoutestoschool@sfmta.com



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
November 30, 2021

To: Honorable Mayor and Members of the City Council
From: Councilmember Wengraf (author)
Subject: Budget Referral to the City Manager to Improve Pedestrian Safety where Sidewalks are Not Provided

RECOMMENDATION

Refer to the Mid-Year Annual Appropriations Ordinance Budget Process \$100,000 to implement steps to promote increased safety for pedestrians of all ages, including seniors and children, on streets lacking sidewalks. This item is requesting the installation of signage to minimize pedestrian-vehicular conflict points at uncontrolled intersections, and to increase driver awareness of pedestrian activity by posting speed limit signs and other signage as a means to improving safe pedestrian access to schools, neighborhood parks, USPS mailboxes, and school and AC Transit bus stops in areas without the benefit of sidewalks.

In addition, this item requests that the City Manager explore the implementation of AB 43 that allows cities to take the safety of vulnerable users into consideration when setting local speed limits. This item requests that the City Manager exercise her authority under the California Vehicle Code to allow for lowering the speed limit to 15 or 20 mph in residential districts where the roadway is less than 25 feet wide.

FINANCIAL IMPLICATIONS

\$100,000

BACKGROUND

Equity and safety are the foundation of the Pedestrian Plan adopted unanimously by the Berkeley City Council in 2020. The vision of the Pedestrian Plan is that, "Berkeley is a model walkable city where traveling on foot or with an assistive device is safe, comfortable, and convenient for people of all races, ethnicities, incomes, ages and abilities."

There are approximately ten linear miles of residential streets in the northeast sector of Berkeley that do not have the advantage of sidewalks to provide safety to residents who choose to walk as a mode of travel for reaching their destination or for recreational enjoyment and physical health.¹ As the volume of vehicles speeding through local

¹ 2020 Pedestrian Plan City of Berkeley, p.9 <https://www.cityofberkeley.info/pedestrian/>

streets in the hills has increased, residents are feeling more vulnerable and unsafe as they try to navigate a walk in their neighborhood; areas that are made up of narrow curvy streets with no buffers or sidewalks to offer protection, blind curves and very few traffic controls at intersections (see map of streets without sidewalks).

In the "Conditions" chapter of the Pedestrian Plan the following description of the North Berkeley Hills is included: "The North Berkeley Hills in the northeast part of town have narrow or non-existent sidewalks on many roads. Given the topography and constrained right-of-way, adding sidewalks likely is not an option on many of these streets."

Everyone should be able to walk safely in their own neighborhood, even if there are no sidewalks. During the recent pandemic we witnessed a new interest in neighborhood streets being utilized by residents for exercise, recreation, and to maintain a good quality of life. Local residential streets in particular are central to the feeling of "community" and "belonging" within a neighborhood and as a City, we should be encouraging walking as an activity. The U.S. Surgeon General recommends at least 30 minutes of physical activity per day, and most people can reach that goal simply by walking.

On the streets without sidewalks, there is no buffer zone between the pedestrian or bicyclist and the vehicle, creating a very risky, unsafe and unfriendly circumstance. Implementing simple, cost-effective steps, like reducing speed limits, and painting and installing signage, can have a beneficial impact on counteracting the car-centric environment that currently dominates our streets. Ideally, crosswalks could be painted to guide pedestrians to the safest place to cross a street. However, ADA compliance conflicts with the creation of a crosswalk in locations where there are no sidewalks, limiting this as a possible mitigation measure.

With approximately 35% of hillside dwellers being over the age of 65, we need to do everything we can to improve access to a less hazardous and more comfortable environment for older residents who choose to walk in their neighborhood. Young school age children should also be able to walk to and from school or school bus stops and parks safely. Several school bus stops in the hills are risky for school buses to reach because of limited visibility. There are no sidewalks for those children to get to or from those bus stops. Cragmont Park, Remillard Park, Glendale La Loma Park and Crescent Park are all hazardous to reach on foot.

The following current conditions have been identified as needing attention:

- * Signage to alert drivers to the presence of pedestrians.
- * Traffic control signage at currently uncontrolled intersections.
- * Signage to increase driver awareness of blind curves and narrow passages.
- * Lowering speed to 15 mph on narrow streets of less than 25 feet and at blind curves.

ENVIRONMENTAL SUSTAINABILITY

Walkable communities have the potential to reduce air pollution and greenhouse gases because people may choose to walk or bike rather than drive.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: [AB 43](#)

2: Map of streets without sidewalks

Assembly Bill No. 43

CHAPTER 690

An act to amend Sections 627, 21400, 22352, 22354, 22358, and 40802 of, and to add Sections 22358.6, 22358.7, 22358.8, and 22358.9 to, the Vehicle Code, relating to traffic safety.

[Approved by Governor October 8, 2021. Filed with Secretary of State October 8, 2021.]

legislative counsel's digest

AB 43, Friedman. Traffic safety.

(1) Existing law establishes various default speed limits for vehicles upon highways, as specified. Existing law authorizes state and local authorities to adjust these default speed limits, as specified, based upon certain findings determined by an engineering and traffic survey. Existing law defines an engineering and traffic survey and prescribes specified factors that must be included in the survey, including prevailing speeds and road conditions. Existing law authorizes local authorities to consider additional factors, including pedestrian and bicyclist safety.

This bill would authorize local authorities to consider the safety of vulnerable pedestrian groups, as specified.

(2) Existing law establishes a prima facie speed limit of 25 miles per hour on any highway, other than a state highway, located in any business or residence district, as defined. Existing law authorizes a local authority to change the speed limit on any such highway, as prescribed, including erecting signs to give notice thereof.

This bill would establish a prima facie speed limit of 25 miles per hour on state highways located in any business or residence district and would authorize the Department of Transportation (Caltrans) to change the speed limit on any such highway, as prescribed, including erecting signs to give notice thereof.

(3) Existing law establishes a speed limit of 65 miles per hour on state highways, as specified. Existing law authorizes Caltrans to declare a speed limit on any such highway, as prescribed, of 60, 55, 50, 45, 40, 35, 30, or 25 miles per hour, including erecting signs to give notice thereof. Existing law also authorizes a local authority, on a section of highway, other than a state highway, where the speed limit is 65 miles per hour to declare a lower speed limit, as specified.

This bill would additionally authorize Caltrans and a local authority to declare a speed limit of 20 or 15 miles per hour, as specified, on these highways.

(4) Existing law authorizes a local authority, without an engineering and traffic survey, to declare a lowered speed limit on portions of highway, as

90

Ch. 690 — 2 —

specified, approaching a school building or school grounds. Existing law limits this authority to sections of highway meeting specified requirements relating to the number of lanes and the speed limit of the highway before the school zone.

This bill would similarly authorize a lowered speed limit on a section of highway contiguous to a business activity district, as defined, and would require that certain violations be subject to a warning citation, for the first 30 days of implementation.

(5) Existing law requires Caltrans, by regulation, to provide for the rounding up or down to the nearest 5 miles per hour increment of the 85th

percentile speed of free-flowing traffic on a portion of highway as determined by a traffic and engineering survey. Existing law requires the Judicial Council to create and implement an online tool by June 30, 2024, for the adjudication of traffic infractions, among other things.

This bill would authorize a local authority to further reduce the speed limit, as specified, and require that certain violations be subject to a warning citation, for the first 30 days of implementation. The bill would, in some circumstances, authorize the reduction of a speed limit beginning June 30, 2024, or when the Judicial Council has developed an online tool for adjudicating traffic infraction violations, whichever is sooner. The bill would require Caltrans to accordingly revise the California Manual on Uniform Traffic Control Devices, as specified.

(6) Existing law defines a speed trap and prohibits evidence of a driver's speed obtained through a speed trap from being admissible in court in any prosecution against a driver for a speed-related offense. Existing law deems a road where the speed limit is not justified by a traffic and engineering survey conducted within the previous 7 years to be a speed trap, unless the roadway has been evaluated by a registered engineer, as specified, in which case the speed limit remains enforceable for a period of 10 years. Existing law exempts a school zone, as defined, from certain provisions relating to defining a speed trap.

This bill would extend the period that a speed limit justified by a traffic and engineering survey conducted more the 7 years ago remains valid, for purposes of speed enforcement, if evaluated by a registered engineer, as specified, to 14 years.

This bill would also exempt a senior zone and business activity district, as defined, from those provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 627 of the Vehicle Code is amended to read: 627.

(a) "Engineering and traffic survey," as used in this code, means a survey of highway and traffic conditions in accordance with methods determined by the Department of Transportation for use by state and local authorities.

90

— 3 — Ch. 690

(b) An engineering and traffic survey shall include, among other requirements deemed necessary by the department, consideration of all of the following:

- (1) Prevailing speeds as determined by traffic engineering measurements.
- (2) Accident records.
- (3) Highway, traffic, and roadside conditions not readily apparent to the driver.

(c) When conducting an engineering and traffic survey, local authorities, in addition to the factors set forth in paragraphs (1) to (3), inclusive, of subdivision (b) may consider all of the following:

(1) Residential density, if any of the following conditions exist on the particular portion of highway and the property contiguous thereto, other than a business district:

(A) Upon one side of the highway, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 13 or more separate dwelling houses or business structures.

(B) Upon both sides of the highway, collectively, within a distance of a quarter of a mile, the contiguous property fronting thereon is occupied by 16 or more separate dwelling houses or business structures.

(C) The portion of highway is longer than one-quarter of a mile but has the ratio of separate dwelling houses or business structures to the length of the highway described in either subparagraph (A) or (B).

(2) Safety of bicyclists and pedestrians, with increased consideration for vulnerable pedestrian groups including children, seniors, persons with disabilities, users of personal assistive mobility devices, and the unhouseed.

SEC. 2. Section 21400 of the Vehicle Code is amended to read: 21400.

(a) The Department of Transportation shall, after consultation with local agencies and public hearings, adopt rules and regulations prescribing uniform standards and specifications for all official traffic control devices placed pursuant to this code, including, but not limited to, stop signs, yield right-of-way signs, speed restriction signs, railroad warning approach signs, street name signs, lines and markings on the roadway, and stock crossing signs placed pursuant to Section 21364.

(b) The Department of Transportation shall, after notice and public hearing, determine and publicize the specifications for uniform types of warning signs, lights, and devices to be placed upon a highway by a person engaged in performing work that interferes with or endangers the safe movement of traffic upon that highway.

(c) Only those signs, lights, and devices as are provided for in this section shall be placed upon a highway to warn traffic of work that is being performed on the highway.

(d) Control devices or markings installed upon traffic barriers on or after January 1, 1984, shall conform to the uniform standards and specifications required by this section.

SEC. 3. Section 22352 of the Vehicle Code is amended to read:

90

Ch. 690 — 4 —

22352. The prima facie limits are as follows and shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:

(a) Fifteen miles per hour:

(1) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along the railway. This subdivision does not apply in the case of any railway grade crossing where a human flagperson is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.

(2) When traversing any intersection of highways if during the last 100 feet of the driver's approach to the intersection the driver does not have a clear and unobstructed view of the intersection and of any traffic upon all of the highways entering the intersection for a distance of 100 feet along all those highways, except at an intersection protected by stop signs or yield right-of-way signs or controlled by official traffic control signals.

(3) On any alley.

(b) Twenty-five miles per hour:

(1) On any highway, in any business or residence district unless a different speed is determined by local authority or the Department of Transportation under procedures set forth in this code.

(2) When approaching or passing a school building or the grounds thereof, contiguous to a highway and posted with a standard "SCHOOL" warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. The prima facie limit shall also apply when approaching or passing any school grounds which are not

separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children and the highway is posted with a standard "SCHOOL" warning sign. For purposes of this subparagraph, standard "SCHOOL" warning signs may be placed at any distance up to 500 feet away from school grounds.

(3) When passing a senior center or other facility primarily used by senior citizens, contiguous to a street other than a state highway and posted with a standard "SENIOR" warning sign. A local authority may erect a sign pursuant to this paragraph when the local agency makes a determination that the proposed signing should be implemented. A local authority may request grant funding from the Active Transportation Program pursuant to Chapter 8 (commencing with Section 2380) of Division 3 of the Streets and Highways Code, or any other grant funding available to it, and use that grant funding to pay for the erection of those signs, or may utilize any other funds available to it to pay for the erection of those signs, including, but not limited to, donations from private sources.

SEC. 4. Section 22354 of the Vehicle Code is amended to read: 22354.

(a) Whenever the Department of Transportation determines upon the basis of an engineering and traffic survey that the limit of 65 miles

90

— 5 — Ch. 690

per hour is more than is reasonable or safe upon any portion of a state highway where the limit of 65 miles is applicable, the department may determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30, 25, 20, or 15 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected upon the highway.

(b) This section shall become operative on the date specified in subdivision (c) of Section 22366.

SEC. 5. Section 22358 of the Vehicle Code is amended to read: 22358.

(a) Whenever a local authority determines upon the basis of an engineering and traffic survey that the limit of 65 miles per hour is more than is reasonable or safe upon any portion of any street other than a state highway where the limit of 65 miles per hour is applicable, the local authority may by ordinance determine and declare a prima facie speed limit of 60, 55, 50, 45, 40, 35, 30, 25, 20, or 15 miles per hour, whichever is found most appropriate to facilitate the orderly movement of traffic and is reasonable and safe, which declared prima facie limit shall be effective when appropriate signs giving notice thereof are erected upon the street.

(b) This section shall become operative on the date specified in subdivision (c) of Section 22366.

SEC. 6. Section 22358.6 is added to the Vehicle Code, to read:

22358.6. The Department of Transportation shall, in the next scheduled revision, revise and thereafter maintain the California Manual on Uniform Traffic Control Devices to require the Department of Transportation or a local authority to round speed limits to the nearest five miles per hour of the 85th percentile of the free-flowing traffic. However, in cases in which the speed limit needs to be rounded up to the nearest five miles per hour increment of the 85th-percentile speed, the Department of Transportation or a local authority may decide to instead round down the speed limit to the lower five miles per hour increment. A local authority may additionally lower the speed limit as provided in Sections 22358.7 and 22358.8.

SEC. 7. Section 22358.7 is added to the Vehicle Code, to read: 22358.7.

(a) If a local authority, after completing an engineering and traffic survey, finds that the speed limit is still more than is reasonable or safe, the local authority may, by ordinance, determine and declare a prima

facie speed limit that has been reduced an additional five miles per hour for either of the following reasons:

(1) The portion of highway has been designated as a safety corridor. A local authority shall not deem more than one-fifth of their streets as safety corridors.

(2) The portion of highway is adjacent to any land or facility that generates high concentrations of bicyclists or pedestrians, especially those from vulnerable groups such as children, seniors, persons with disabilities, and the unhoused.

(b) (1) As used in this section, “safety corridor” shall be defined by the Department of Transportation in the next revision of the California Manual

90

Ch. 690 — 6 —

on Uniform Traffic Control Devices. In making this determination, the department shall consider highways that have the highest number of serious injuries and fatalities based on collision data that may be derived from, but not limited to, the Statewide Integrated Traffic Records System.

(2) The Department of Transportation shall, in the next revision of the California Manual on Uniform Traffic Control Devices, determine what constitutes land or facilities that generate high concentrations of bicyclists and pedestrians, as used in paragraph (2) of subdivision (a). In making this determination, the department shall consider density, road use type, and bicycle and pedestrian infrastructure present on a section of highway.

(c) A local authority may not lower a speed limit as authorized by this section until June 30, 2024, or until the Judicial Council has developed an online tool for adjudicating infraction violations statewide as specified in Article 7 (commencing with Section 68645) of Chapter 2 of Title 8 of the Government Code, whichever is sooner.

(d) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 8. Section 22358.8 is added to the Vehicle Code, to read: 22358.8.

(a) If a local authority, after completing an engineering and traffic survey, finds that the speed limit is still more than is reasonable or safe, the local authority may, by ordinance, retain the current speed limit or restore the immediately prior speed limit if that speed limit was established with an engineering and traffic survey and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established the prior speed limit.

(b) This section does not authorize a speed limit to be reduced by any more than five miles per hour from the current speed limit nor below the immediately prior speed limit.

(c) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 9. Section 22358.9 is added to the Vehicle Code, to read:

22358.9. (a) (1) Notwithstanding any other law, a local authority may, by ordinance, determine and declare a 25 or 20 miles per hour prima facie speed limit on a highway contiguous to a business activity district when posted with a sign that indicates a speed limit of 25 or 20 miles per hour.

(2) The prima facie limits established under paragraph (1) apply only to highways that meet all of the following conditions:

(A) A maximum of four traffic lanes.

(B) A maximum posted 30 miles per hour prima facie speed limit immediately prior to and after the business activity district, if establishing a 25 miles per hour speed limit.

(C) A maximum posted 25 miles per hour prima facie speed limit immediately prior to and after the business activity district, if establishing a 20 miles per hour speed limit.

90

— 7 — Ch. 690

(b) As used in this section, a “business activity district” is that portion of a highway and the property contiguous thereto that includes central or neighborhood downtowns, urban villages, or zoning designations that prioritize commercial land uses at the downtown or neighborhood scale and meets at least three of the following requirements in paragraphs (1) to (4), inclusive:

(1) No less than 50 percent of the contiguous property fronting the highway consists of retail or dining commercial uses, including outdoor dining, that open directly onto sidewalks adjacent to the highway.

(2) Parking, including parallel, diagonal, or perpendicular spaces located alongside the highway.

(3) Traffic control signals or stop signs regulating traffic flow on the highway, located at intervals of no more than 600 feet.

(4) Marked crosswalks not controlled by a traffic control device.

(c) A local authority shall not declare a prima facie speed limit under this section on a portion of a highway where the local authority has already lowered the speed limit as permitted under Sections 22358.7 and 22358.8.

(d) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 10. Section 40802 of the Vehicle Code is amended to read:

40802. (a) A “speed trap” is either of the following:

(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(2) A particular section of a highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects. This paragraph does not apply to a local street, road, school zone, senior zone, or business activity district.

(b) (1) For purposes of this section, a local street or road is one that is functionally classified as “local” on the “California Road System Maps,” that are approved by the Federal Highway Administration and maintained by the Department of Transportation. It may also be defined as a “local street or road” if it primarily provides access to abutting residential property and meets the following three conditions:

(A) Roadway width of not more than 40 feet.

(B) Not more than one-half of a mile of uninterrupted length. Interruptions shall include official traffic control signals as defined in Section 445.

(C) Not more than one traffic lane in each direction.

(2) For purposes of this section, “school zone” means that area approaching or passing a school building or the grounds thereof that is

90

contiguous to a highway and on which is posted a standard "SCHOOL" warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. "School zone" also includes the area approaching or passing any school grounds that are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children if that highway is posted with a standard "SCHOOL" warning sign.

(3) For purposes of this section, "senior zone" means that area approaching or passing a senior center building or other facility primarily used by senior citizens, or the grounds thereof that is contiguous to a highway and on which is posted a standard "SENIOR" warning sign, pursuant to Section 22352.

(4) For purposes of this section, "business activity district" means a section of highway described in subdivision (b) of Section 22358.9 in which a standard 25 miles per hour or 20 miles per hour speed limit sign has been posted pursuant to paragraph (1) of subdivision (a) of that section.

(c) (1) When all of the following criteria are met, paragraph (2) of this subdivision shall be applicable and subdivision (a) shall not be applicable:

(A) When radar is used, the arresting officer has successfully completed a radar operator course of not less than 24 hours on the use of police traffic radar, and the course was approved and certified by the Commission on Peace Officer Standards and Training.

(B) When laser or any other electronic device is used to measure the speed of moving objects, the arresting officer has successfully completed the training required in subparagraph (A) and an additional training course of not less than two hours approved and certified by the Commission on Peace Officer Standards and Training.

(C) (i) The prosecution proved that the arresting officer complied with subparagraphs (A) and (B) and that an engineering and traffic survey has been conducted in accordance with subparagraph (B) of paragraph (2). The prosecution proved that, prior to the officer issuing the notice to appear, the arresting officer established that the radar, laser, or other electronic device conformed to the requirements of subparagraph (D).

(ii) The prosecution proved the speed of the accused was unsafe for the conditions present at the time of alleged violation unless the citation was for a violation of Section 22349, 22356, or 22406.

(D) The radar, laser, or other electronic device used to measure the speed of the accused meets or exceeds the minimal operational standards of the National Highway Traffic Safety Administration, and has been calibrated within the three years prior to the date of the alleged violation by an independent certified laser or radar repair and testing or calibration facility.

(2) A "speed trap" is either of the following:

(A) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

90

(B) (i) A particular section of a highway or state highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within one of the following time periods, prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects:

(I) Except as specified in subclause (II), seven years.

(II) If an engineering and traffic survey was conducted more than seven years prior to the date of the alleged violation, and a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred, including, but not limited to, changes in adjoining property or land use, roadway width, or traffic volume, 14 years.

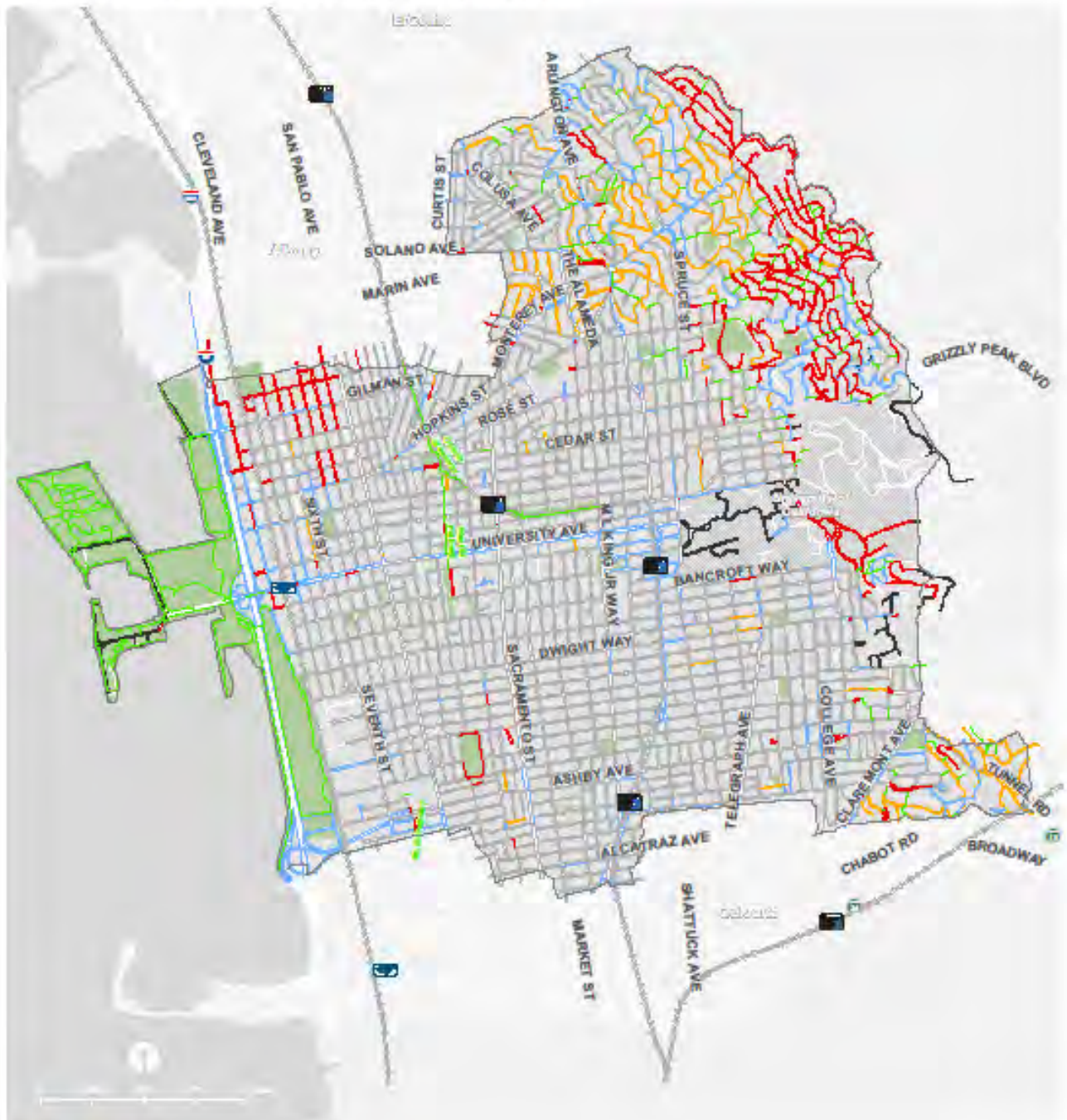
(ii) This subparagraph does not apply to a local street, road, or school zone, senior zone, or business activity district.

O

90

— 9 — Ch. 690

FIGURE 4: EXISTING SIDEWALK COVERAGE IN BERKELEY



- Amtrak Station
- BART Station
- Railroad
- Sidewalks 5 feet or wider
- Sidewalks < 5 feet wide
- Multi-Use Trails/Stateways
- Sidewalk Presence Width Unknown
- No Sidewalk
- No Data Available
- Parks/Recreation
- Berkeley City Boundary



Office of the City Manager

PUBLIC HEARING
November 30, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Jordan Klein, Director, Planning & Development Department
 Subject: Bayer Healthcare LLC – Amended and Restated Development Agreement

RECOMMENDATION

Conduct a public hearing and, upon conclusion, certify the Final Subsequent Environmental Impact Report, adopt Findings and a Mitigation Monitoring and Reporting Program, and adopt the first reading of an Ordinance to approve the Amended and Restated Development Agreement between the City of Berkeley and Bayer Healthcare LLC.

SUMMARY

The City has undertaken a year-long effort to analyze and negotiate an amendment to the existing development agreement that reflects current conditions in the bioscience industry and local land use planning, as well as the desires of the community for the distribution of community benefits.

The result is a proposed Amended and Restated Development Agreement (“DA Amendment”) that would:

- Extend the duration an additional 30 years until February 2052.
- Add Bayer’s South Properties to the property covered by the DA.
- Modify the land use regulations applicable to the project, including use restrictions, development standards, and permit thresholds and processes, consistent with the General Plan and West Berkeley Plan.
- Update the community benefits package provided by Bayer during the term of the agreement, increasing the total 30-year payments from approximately \$10 million during the past 30 years to a total of over \$33 million over the next 30 years.

The resulting agreement would allow buildout of a conceptual development plan that would rearrange the campus layout through phased demolition of nine existing buildings, construction of approximately twelve new buildings for production, laboratory, and administrative uses, and replacement of surface parking with two new parking structures and new underground parking facilities.

FISCAL IMPACTS OF RECOMMENDATION

The DA Amendment includes a community benefits package in consideration of the value it provides for Bayer. The proposed community benefits package (Exhibit D to the DA Amendment) includes a total annual contribution of \$800,000 in year 1, with annual increases, for a total of \$33.1 million over the 30-year extended term. The benefits will support Science, Technology, Engineering, Arts and Mathematics (STEAM) and career technical education, the West Berkeley Fund for community infrastructure and resilience, the City of Berkeley's affordable housing trust fund, the City of Berkeley's affordable childcare trust fund, and the City of Berkeley's Private Percent Art Fund. Furthermore, Bayer's presence in the City provides other fiscal benefits as a result of employment, direct spending, property tax revenues, and other economic impacts and direct revenues for the City of Berkeley.

CURRENT SITUATION AND ITS EFFECTS

The Planning Commission, on October 20, 2021, unanimously adopted a recommendation to approve the DA Amendment and the CEQA documents listed above [Motion: Vincent; Second: Mikiten; Ayes: Ghosh, Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, Vincent, and Wiblin; Noes: None; Abstain: None; Absent: None]. In making this recommendation, the Commission considered the findings established in BMC section 22.16.050.F:

1. Is consistent with the goals, objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan.
2. Is compatible with the uses authorized in, and the zoning district in which the real property is located.
3. Has duly considered City mitigation programs in effect at the time of execution of the agreement.
4. Will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood.
5. Complies with the provisions of the California Environmental Quality Act and City's procedures adopted pursuant thereto.

The Bayer Healthcare LLC DA Amendment is a Strategic Plan Priority Project, advancing the City's goals to:

- Foster a dynamic, sustainable, and locally-based economy.
- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.
- Provide an efficient and financially-healthy City government.
- Create affordable housing and housing support services for our most vulnerable community members.

- Champion and demonstrate social and racial equity.

In accordance with Berkeley Municipal Code section 22.16.050.G-H, staff recommends that City Council conduct a public hearing to receive public testimony on the proposed DA Amendment and CEQA documents. Council may then accept, reject, or conditionally accept the recommendation of the Planning Commission.

BACKGROUND

In 1991, the City of Berkeley prepared the Miles Inc./Cutter Biological Long Range Plan EIR, which discusses the environmental impacts of the existing Development Agreement, which was approved by the City of Berkeley in 1992 and covers development within Bayer's North Properties (described in more detail below). The City approved an amendment to the existing DA along with adoption of an Initial Study and Mitigated Negative Declaration on April 27, 1999. The City also approved a Use Permit (UP#00-10000008) for the South Properties and adopted a Mitigated Negative Declaration for the Use Permit on July 21, 2000.

In March 2020, Bayer HealthCare LLC (successor to Miles/Cutter) submitted application materials for an amendment of the existing DA. The City undertook a rigorous analysis of the proposal, including a zoning analysis, a peer review of the basis of the community benefits, and environmental review.

Project Description

The project site, now generally known as the Bayer Campus, is located approximately 2.5 miles west of downtown Berkeley. The Bayer Campus consists of approximately 46 acres generally bounded by the Union Pacific Railroad to the west, Dwight Way to the north, Seventh Street to the east, and Grayson Street to the south. The project site comprises two primary areas, divided by Carleton Street:

- The North Properties at 800 Dwight Way, which includes 31.9 acres north of Carleton Street; and
- The South Properties at 801 Grayson Street, which includes 14.4 acres south of Carleton Street.

In addition, the project site includes a surface parking lot on a property bounded by Dwight Way, Seventh Street, and Eighth Street.

Bayer currently uses the site to develop and produce commercial biopharmaceuticals that are distributed globally. The campus has approximately 30 buildings, ranging in height from approximately 14 feet to the 100-foot former Colgate-Palmolive tower. The buildings total approximately 1,087,000 square feet of floor area, including 567,000 square feet on the North Properties and 520,000 square feet on the South Properties. The buildings provide space for the following permitted uses: production, laboratories,

warehouse, administration, utilities, and maintenance. The Bayer campus also has eight surface parking lots with a total of 1,100 parking spaces.

In addition to extending the term of the DA by 30 years, the proposed amended DA would include a conceptual development plan that would allow for rearranging the campus layout through proposed phased demolition of nine existing buildings; construction of approximately twelve new buildings for production, laboratory, and administrative uses; and replacement of surface parking with two new parking structures and new underground parking facilities. Several other buildings providing space for manufacturing, warehouses, and maintenance would be renovated and/or expanded.

Overall, as shown in Table 1 below, the project would involve a reduction of the maximum allowable square footage entitled under the current DA and South Properties Use Permit by 128,000 square feet. Within the 30-year time frame, Bayer envisions retaining approximately 820,000 square feet of existing square footage, demolishing nine buildings totaling approximately 267,000 square feet, and constructing approximately 918,000 square feet of new facilities.

Table 1: Existing, Entitled, and Proposed Buildout by Square Footage

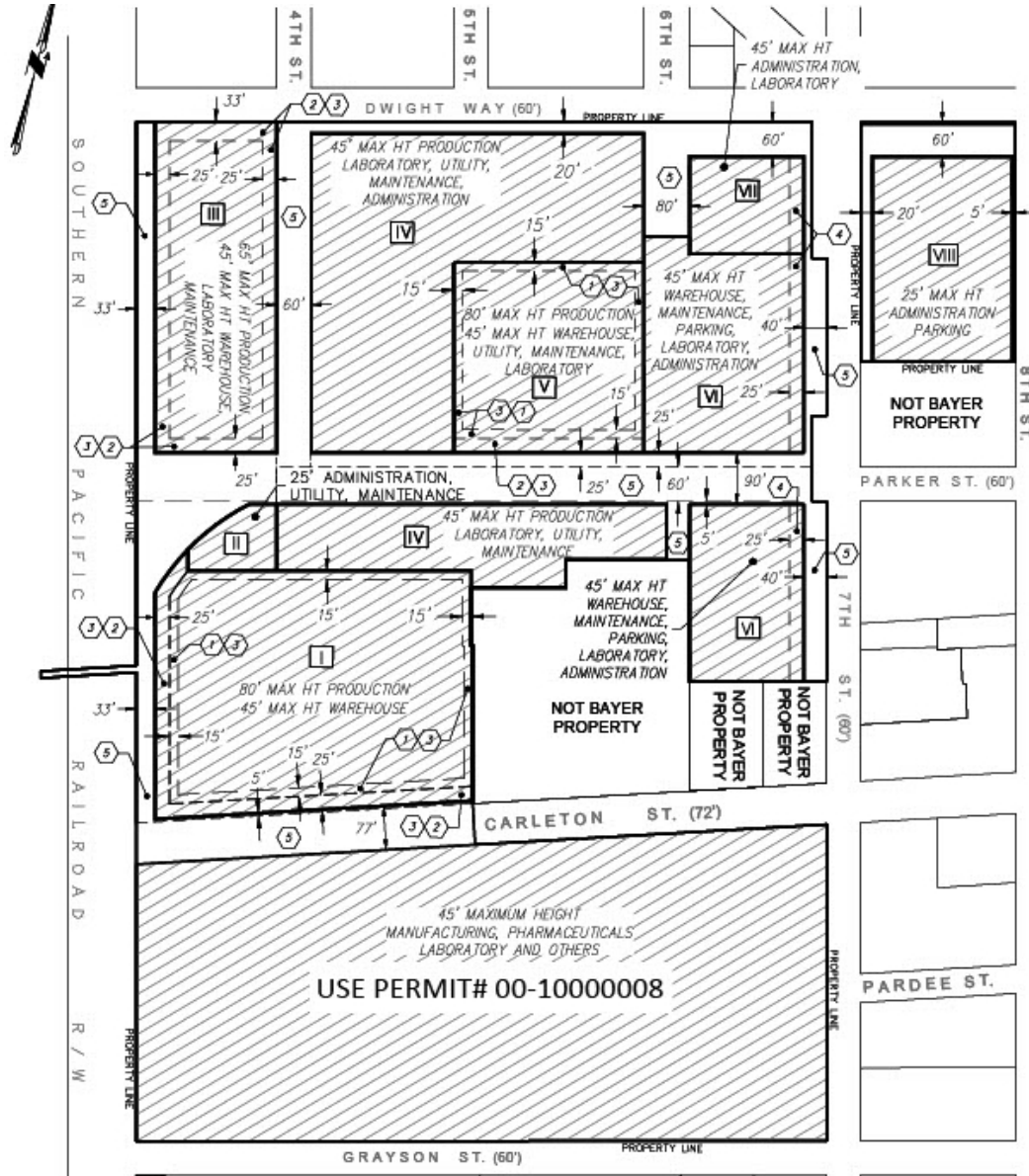
Existing Built Sq. Ft.	Existing Maximum Permitted Sq. Ft.	Proposed Maximum Permitted Sq. Ft.	Existing Sq. Ft. to be Retained	Proposed Sq. Ft. to be Demolished	Proposed Sq. Ft. to be Constructed	Proposed Change from Permissible Sq. Ft.
1,087,000	1,866,000	1,738,000	820,000	-276,000	918,000	-128,000

Under the existing DA, the North Properties were divided into eight different blocks with defined usage requirements and height maximums for each block. The South Properties are subject to Mixed Manufacturing zoning. The DA amendment would reduce the number and configuration of the blocks, as well as revise the development standards by block, as summarized in Table 2 and illustrated in Figures 1 and 2 below. A conceptual development is illustrated in Figure 3.

Table 2: Development Standards

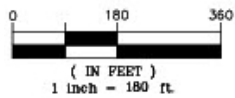
Development Standard	South Campus / MM Zoning BMC 23E.76.070	Existing DA	Proposed DA Amendment
Max. Height	45'	80' for Production 45' for Other Uses	80' for Production 65' for Other Uses
Max. FAR	2.00	0.27 (Block VIII) to 2.00 (Block V)	0.27 (Block D) to 1.37 (Block B)
Setbacks: Zero-Foot Height Zones	None	There are four main "zero ft. height zones" which generally follow street alignments on the project site: West end of Parker St. 90' wide corridor on Parker St. from Seventh St. to Fourth St 60' wide corridor on Fourth St from Parker St. to Dwight Way 80' wide corridor on Sixth St. from Dwight Way to 200 ft. south	Approximately 500,000 sq. ft. of "zero ft. height zones" for combined north and south properties, providing enhanced buffers along Seventh Street and other site boundaries. The main zones include: 33' setback on the western boundary, from Dwight Way to Grayson St. 60' wide corridor on Fourth St. from Dwight Way to Carleton St. 80' setback on Seventh St., from Dwight Way to Grayson St. 60' setback on Dwight Way, from the western boundary to Seventh St. 90' wide corridor on Parker St, from western boundary to Seventh St. 90' wide corridor on Carleton St. from western to eastern boundary. 10' setback on Grayson St. from western boundary to Seventh St.
Automobile Parking: Production / Warehousing	1:1,000 sq. ft. (< 10k sq. ft.) 1:1,500 sq. ft. (> 10k sq. ft.)	Production: 1:1,000 sq. ft. Warehouse: 1:5,000 sq. ft.	No Change
Automobile Parking: Other Uses	1:500 sq. ft.	Laboratory: 1.5:1,000 sq. ft. Admin: 1:500 sq. ft.	Laboratory: 1:1,000 sq. ft. Admin: No Change
Bicycle Parking	1:2,000 sq. ft.	none	1:2,000 sq. ft.

Figure 1: Existing Development Standards



LEGEND

- BAYER HEALTHCARE PROPERTY
- ADJACENT PROPERTY LINE
- 1992/1999 D.A. BLOCKS
- MAX HT
- MAXIMUM HEIGHT



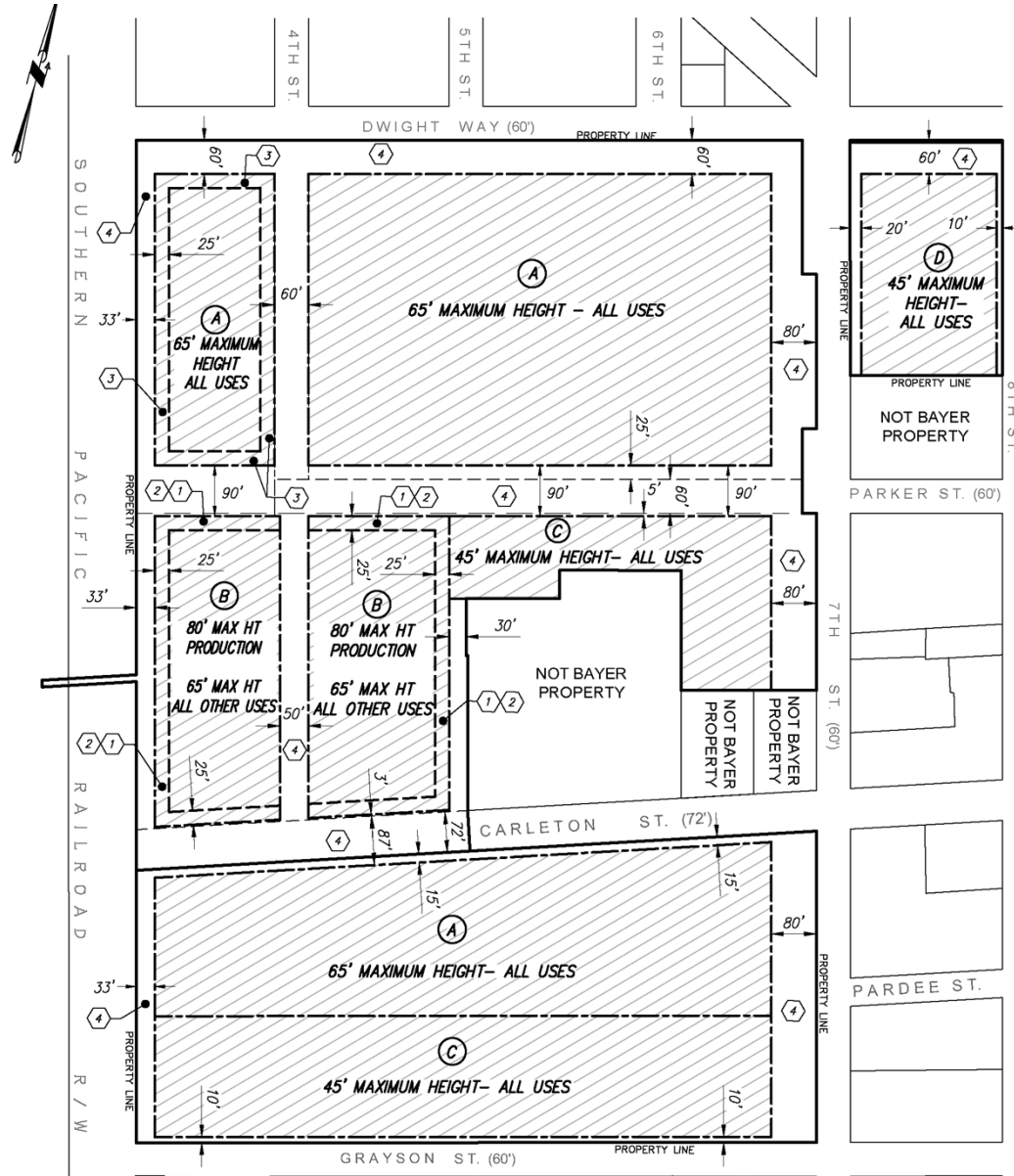
NOTE LEGEND

- 65' MAXIMUM HEIGHT FOR PRODUCTION
- 45' MAXIMUM HEIGHT FOR PRODUCTION
- 45' MAXIMUM HEIGHT FOR WAREHOUSE
- 35' MAXIMUM HEIGHT PERMITTED (OR EXISTING BUILDING)
- 0' HEIGHT

BLOCK LEGEND

- PERMITTED BUILDING HEIGHT 80 FEET (TOP FLOOR MAY NOT EXCEED 50% OF BUILDING FOOTPRINT AND HAS TO STE BACK +15 FT.)
- PERMITTED BUILDING HEIGHT 65 FEET (TOP FLOOR MAY NOT EXCEED 50% OF BUILDING FOOTPRINT AND HAS TO STE BACK +15 FT.)
- PERMITTED BUILDING HEIGHT 45 FEET (OR EXISTING BUILDING)
- PERMITTED BUILDING HEIGHT 25 FEET (OR EXISTING BUILDING)

Figure 2: Proposed Development Standards



LEGEND

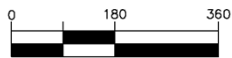
- BAYER HEALTHCARE PROPERTY
- - - ADJACENT PROPERTY LINE
- - - SITE DEVELOPMENT BOUNDARY
- - - BUILDING HEIGHT STEPDOWN

NOTE LEGEND

- ① 65' MAXIMUM HEIGHT FOR PRODUCTION
- ② 50' MAXIMUM HEIGHT FOR OTHER USES
- ③ 50' MAXIMUM HEIGHT FOR ALL USES
- ④ 0' HEIGHT

BLOCK LEGEND

- Ⓐ 65' ALL USES
- Ⓑ 80' PRODUCTION, 65' OTHER USES
- Ⓒ 45' ALL USES
- Ⓓ 45' ALL USES



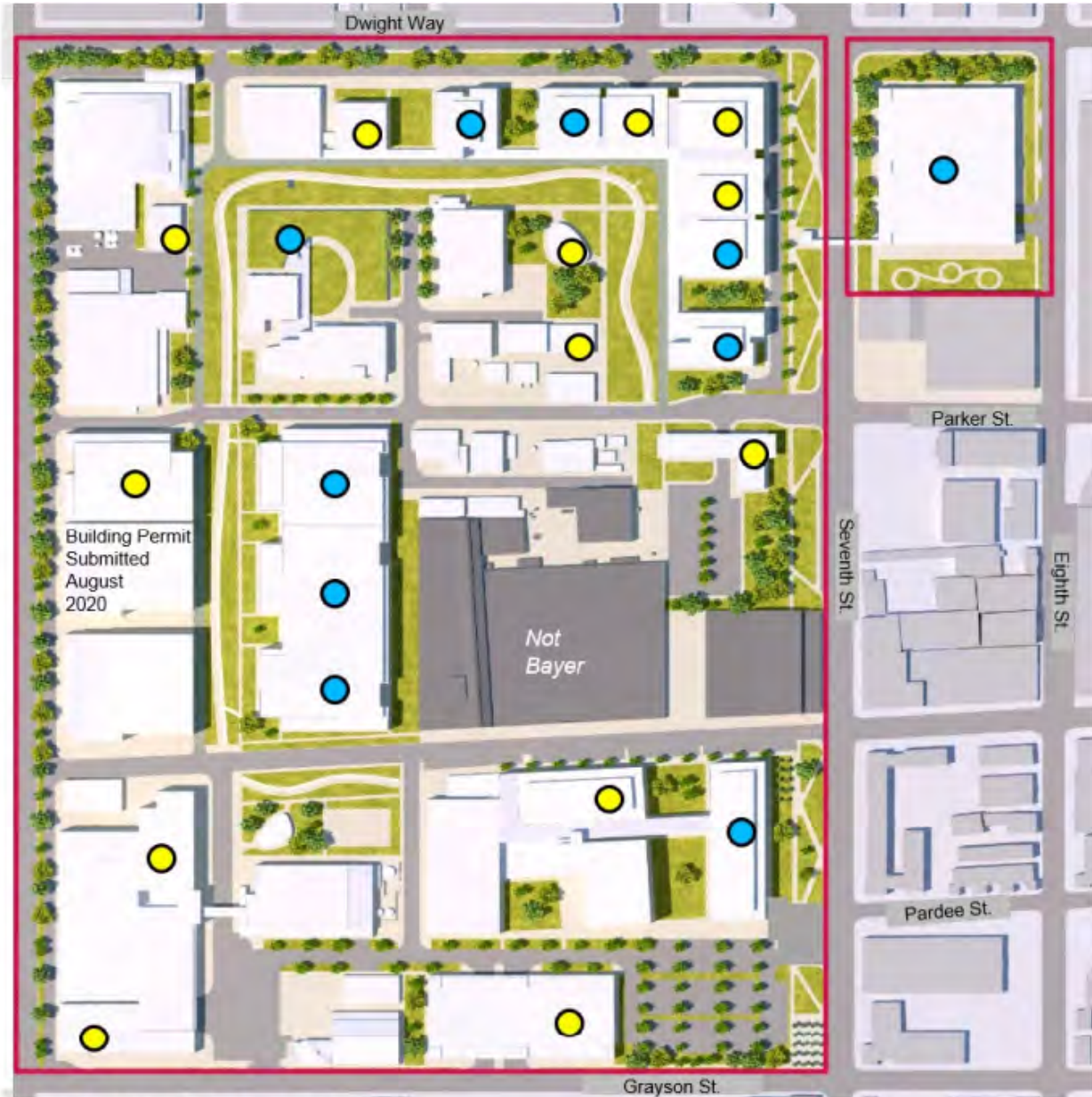
(IN FEET)
1 inch = 180 ft.

CITY OF BERKELEY

ALAMEDA COUNTY

CALIFORNIA

Figure 3: Conceptual Development



Existing buildings do not have circles.

- New at Year 30
- New at Year 10

Environmental Review

The City prepared a Draft Subsequent Environmental Impact Report (SEIR; see Link 1 below) and circulated it for a 45-day public comment period that ended on July 6, 2021. The Draft SEIR analyzed new or increased impacts associated with the proposed amended DA, taking into account changes to the conditions of the site and surroundings and changes to the regulatory environment since certification of the 1991 EIR.

Pursuant to Section 15126.4(a)(1) of the CEQA Guidelines, an EIR must describe feasible measures which could minimize significant adverse impacts. The Draft SEIR identifies several mitigation measures that would reduce impacts associated with the project related to aesthetics, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, transportation, public services, recreation, and tribal cultural resources. Some of the measures are carried over directly from the 1991 EIR (with modifications and updates) and some are new mitigation measures.

Table ES-1 in the Executive Summary Section of the Draft SEIR provides the full impact statements and mitigation measures. The Draft SEIR did not identify significant environmental impacts that could not be mitigated to less than significant levels.

As required by Section 15126.6 of the CEQA Guidelines, the Alternatives section of the Draft Subsequent EIR examines a range of reasonable alternatives to the proposed project that would feasibly obtain most of the project objectives and avoid or substantially lessen many of the project's significant environmental impacts. The following alternatives are evaluated in the Subsequent EIR:

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

Other than the No Project/No Construction Alternative, Alternative 3 would be environmentally superior because it would result in fewer vehicle trips, which would incrementally reduce impacts related to air quality, GHG emissions, noise, and transportation. These impacts would remain less than significant with mitigation incorporated under this alternative. Nonetheless, because the proposed project would not have any significant and unavoidable impacts, the alternative is not necessary to avoid such impacts. Chapter 6, Alternatives, of the Draft SEIR includes a complete discussion of these alternatives and of alternatives that were rejected for various reasons.

Final SEIR and Response to Comments

The Final SEIR consists of the Draft SEIR and the Response to Comments document (RTC; see Link 3 below). The City received 13 written comments. In addition to the

written letters, members of the public and Planning Commissioners provided verbal comments on the Draft SEIR at the June 2, 2021 Commission meeting.

The RTC includes a list of the agencies, organizations, and individuals that submitted written comments, and notes the verbal comments received at the public meeting on the Draft SEIR; reproductions of written comments and summaries of verbal comments, and responses to CEQA-related comments received; and revisions to the Draft SEIR in light of public comments received and responses provided.

The following issues were of particular concern to interested members of the public and board/commission members during the environmental review process (see the RTC for full responses to comments received):

- Impacts related to biohazards and bioethics
- Impacts related to bird strikes
- Impacts to Aquatic Park
- Impacts related to transportation and bicycle and pedestrian safety.

Revisions to the Draft SEIR

As described in the RTC, several revisions were made to the Draft SEIR in response to comments received and to make corrections or clarifications. None of the revisions constitute significant new information as defined in CEQA Guidelines Section 15088.5 or change the conclusions of the analysis; therefore, the SEIR does not need to be recirculated.

CEQA Findings

Section 15091 of the CEQA Guidelines provides that the City may not approve the project unless it makes written findings related to significant effects identified in the SEIR. The Council is being provided with draft findings, including the following (please see Exhibit B to the Ordinance):

Less than Significant Effects: Impacts that were determined to not require mitigation.

Effects Determined to be Mitigated to Less than Significant Levels: Effects that could be potentially significant, but can be mitigated to less than significant levels.

Feasibility of Project Alternatives: Alternatives and whether they would be more or less impactful than the project and why they may be infeasible for the specific economic, social, or other considerations.

MMRP

CEQA requires that, when mitigation measures are adopted, they be monitored. A Mitigation Monitoring and Reporting Program (MMRP) is included in the Final SEIR to illustrate how and when mitigation measures would be implemented and monitored, and by whom. The MMRP is Exhibit E to the draft amended Development Agreement.

Community Benefits

The amended DA, by establishing a shortened land use entitlement timeline and providing greater certainty by granting vested rights over an extended term, would confer monetary value to Bayer. In early 2021, Bayer submitted to city staff an analysis of the economic value of the amended DA to Bayer, and an estimate of the value of community benefits that Bayer could provide as part of the DA amendment. To assist in its negotiations with Bayer, the City engaged the consulting firm Economic & Planning Systems (EPS) to conduct a review of Bayer's economic analysis. In addition, in spring 2021 Mayor Jesse Arreguín and Councilmember Terry Taplin convened a panel of community members and stakeholders to provide input and feedback on community benefits associated with the DA amendment.

In response to the EPS peer review and feedback from City staff and community members, in June 2021 Bayer submitted a revised analysis of the economic value of the DA amendment to Bayer and a proposal for community benefits associated with the DA amendment. The June proposal included a total annual contribution of \$720,000 per year through the extended 30-year term, inclusive of all development impact fees and required public art contributions, to be increased annually by 2%. That contribution would be allocated towards Science, Technology, Engineering & Math (STEM) and career technical education, affordable housing, and community infrastructure investments and resilience programs. The June proposal was presented at a series of workshops at the Zoning Adjustments Board (July 8, 2021), Planning Commission (July 14, 2021), and City Council (July 20, 2021). Elected officials, commissioners, and community members provided a broad range of feedback regarding the total value of the community benefits package, the types of investments, potential in-kind and non-monetary contributions and that could be incorporated into the agreement, and Bayer's overall role as part of the West Berkeley community.

In September 2021, Bayer submitted a revised proposal, outlined in Exhibit D of the amended Development Agreement. It includes a total annual contribution of \$800,000 per year through the extended 30-year term to be increased annually by 4.04% in year 2, 2% in years 3 through 29, and 2.88% in year 30. The contributions would be allocated towards Science, Technology, Engineering, Arts & Math (STEAM) and career technical education,¹ the West Berkeley Fund for community infrastructure and

¹ Exhibit D has been amended to clarify that Berkeley residents are to be the beneficiaries of the STEAM benefit.

resiliency, the City of Berkeley's affordable housing trust fund, the City of Berkeley's affordable childcare trust fund, and the City of Berkeley's Private Percent Art Fund. The proposed allocation of community benefits by category and payment schedule over the 30-year extended term is illustrated in Table 3 below. The annual contribution in year 30 of the extended term would be \$1,461,537, and the monetary payments for the entirety of the extended 30-year term would total \$33.1 million.

Table 3: Proposed Community Benefits Allocations and Payment Schedule

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

2050	29	\$1,420,676	\$689,028	\$284,135	\$284,135	\$56,827	\$106,551
2051	30	\$1,461,537	\$708,845	\$292,307	\$292,307	\$58,461	\$109,615
	Total	\$33,100,001	\$16,053,500	\$6,620,000	\$6,620,000	\$1,324,000	\$2,482,500

The parameters governing the investments in STEAM and career technical education, and the investments in the West Berkeley Fund, are established in Exhibit D to the DA amendment. The investments to support affordable housing, affordable childcare, and public art would be contributed to the corresponding City of Berkeley municipal funds, administered and disbursed in accordance with the City's regulations and policies for those funds, and would be applied to satisfy the project's obligations for the associated fees. The resolutions establishing the Affordable Housing and Childcare fees provide that the City Manager may modify the payment schedule for these fees, and will do so to facilitate the implementation of the community benefits package outlined in Exhibit D. It is projected that the annual payments will meet or exceed the required fee amounts. In the event there is a shortfall, Bayer will make up the difference upon issuance of each building permit, with those additional payments credited toward future contributions required by the community benefits agreement. Exceedances accumulated during any years will be banked for future permits.

The community benefits agreement outlined in Exhibit D also includes a list of non-monetary, in-kind contributions including specific commitments related to volunteerism, local hiring outreach and promotion, community building events, and sustainability commitments beyond the required mitigation measures identified through the CEQA process.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The amended DA would further the City's sustainability goals by providing for on-site open space, infrastructure improvements, contributions toward environmental programs, and transportation demand management program elements.

RATIONALE FOR RECOMMENDATION

Amending the existing DA is in accordance with the provisions of Berkeley Municipal Code 22.16.080 Development Agreement Procedures – Amendment or Cancellation.

ALTERNATIVE ACTIONS CONSIDERED

The City could allow the existing DA to lapse in February 2022, in which case the property would be governed by the underlying Mixed-Manufacturing (MM) zoning district and the approved Use Permit for the South Properties.

CONTACT PERSON

Jordan Klein, Director, Planning & Development Department, (510) 981-7534

Steven Buckley, Land Use Planning Manager, Planning & Development Department,
(510) 981-7411

Attachments:

1: Ordinance

Exhibit A: Development Agreement Amendment and Exhibits A-I

Exhibit B: CEQA Findings

2: Public Hearing Notice

LINKS:

1. Draft Subsequent EIR:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/Draft%20Subsequent%20EIR%20_%20Bayer%20HeathCare%20DA%20Amendment.pdf

2. Bayer Development Agreement page including DSEIR Appendices A-J:

https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/Bayer_Development_Agreement.aspx

3. Responses to Comments / Final SEIR:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2021-10-20_Bayer%20DA%20Amendment_Responses%20to%20Comments.pdf

ORDINANCE NO. -N.S.

APPROVING DEVELOPMENT AGREEMENT AMENDMENT WITH BAYER
HEALTHCARE LLC

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

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

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

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

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

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

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

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

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

h. Within ten (10) days after the date upon which the City Manager executes the Development Agreement on behalf of the City, the City Clerk shall record the Development Agreement and this Ordinance with the County Recorder of the County of Alameda.

Section 2. Building Height Standards

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

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

c. In the event of any apparent conflict between the Site Development Plan or Site Development Standards contained in the Development Agreement, on the one hand, and any provision of the City of Berkeley Zoning Ordinance, on the other hand, such apparently conflicting provisions shall be harmonized if possible. In the event that such provisions are in irreconcilable conflict, the Site Development Plan and Site Development Standards, being more specifically tailored to the Project Site, shall control over the Zoning Ordinance.

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

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

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

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

c. The City Council finds that the Development Agreement, in requiring a total of \$2,482,500.00 to be paid to the Private Percent Art Fund over its term, will

provide a significant and meaningful contribution toward providing public art and cultural services to the community at large.

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

Section 4. Adoption of SEIR.

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

Section 5. Definitions.

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

Section 6. Expiration.

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

Section 7. Posting.

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

Exhibits

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

B: CEQA Findings

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

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

RECITALS AND FINDINGS

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

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

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

- C. The current West Berkeley Bayer Campus, and the surrounding Berkeley neighborhood, are subject to the West Berkeley Plan, which was adopted as an amendment to the General Plan in 1993. The principles of the West Berkeley Plan were enshrined in the City's legislatively sanctioned 1991 "Preferred Land Use Concept" for the West Berkeley Area Plan, which preceded formal adoption of the West Berkeley Plan. The purpose of the West Berkeley Plan is to set forth guidelines for a range of land uses in West Berkeley, and to provide important points of reference in making land use decisions on specific projects. (See West Berkeley Plan, Land Use Section, at "Goals and Policies.")
- D. Both the 1991 "Preferred Land Use Concept" for the West Berkeley Area Plan and the West Berkeley Plan set forth a "Large Site Development Process" for sites of at least 5 acres in West Berkeley that propose to use a development agreement as an alternative land use entitlement.
- C. Pursuant to Berkeley Municipal Code sections 22.16.030(E), the City Council, on April 16, 1991, determined that a development agreement was the appropriate form of entitlement for the buildout of a West Berkeley Campus for Miles, Inc., now owned and operated by Bayer, under Berkeley Municipal Code sections 22.16.010 et seq. and the 1991 "Preferred Land Use Concept," which would subsequently become the West Berkeley Plan. Accordingly, on February 25, 1992 City entered into a development agreement with Miles Inc. ("1992 Development Agreement"). Miles Inc. subsequently changed its corporate name to Bayer Corporation. Bayer HealthCare LLC is an affiliate of Bayer Corporation and is a successor in interest to the Project Site as defined herein and to the rights and obligations of the 1992 Development Agreement.
- D. The 1992 Development Agreement recitals stated that the Miles Inc. (now Bayer) campus was a large-site development project, and further concluded that the use of a development agreement for the site was appropriate under the April 9, 1991 version of the Preferred Land Use Concept for the West Berkeley Area Plan, and was consistent with the City's General Plan. The 1992 Development Agreement recitals further stated that the agreement was being entered pursuant to Ordinance No. 6033 (subsequently codified as Berkeley Municipal Code Chapter 22.16).

- E. In 1993, the City of Berkeley formally amended the Berkeley General Plan to adopt the West Berkeley Plan.
- F. On June 10, 1999, City entered into the First Amendment to Development Agreement between the City of Berkeley and Bayer (A Corporation Formerly Named Miles Inc.) ("1999 Amendment"), which amended the 1992 Development Agreement to reallocate square-footage assigned for production and utilities uses to administration and laboratory uses, change permitted uses within particular blocks of the Bayer Campus, and change planning and architectural design guidelines along public right of ways, in all affecting 230,000 square feet of building space. On July 21, 2000, independent of the 1992 Development Agreement as amended, the City approved Use Permit #00-10000008 for 14.4 acres of property owned by Bayer located west of Seventh Street and south of Carleton Street ("South Properties Use Permit").
- G. Bayer HealthCare LLC is a corporation duly organized under the laws of the State of Delaware, is in good standing thereunder, and is duly qualified to conduct business in the State of California. Bayer represents that on the Effective Date it possesses a legal or equitable interest in Parcels 54-1770-8-1, 54-1773-3-4, 54-1777-1, 54-1777-2, and 54-1748-2-1, within the City of Berkeley, collectively consisting of approximately 46 acres generally bounded by the Union Pacific Railroad to the west, Dwight Way to the north, Seventh Street to the east, and Grayson Street to the south, as well as a parcel located at the southeast corner of the intersection of Dwight Way and Seventh Street (collectively, "Project Site"). The Project Site consists of The North Properties at 800 Dwight Way, which comprises 31.9 acres north of Carleton Street; and The South Properties at 801 Grayson Street, which comprises 14.4 acres south of Carleton Street.
- H. The Project Site is currently home to the Bayer Campus, consisting of 36 buildings developed under the 1992 Development Agreement, the 1999 Amendment, and the South Properties Use Permit.
- I. City and Bayer have reached accord on, and desire to express herein, an Amended and Restated Development Agreement, extending the initial term of the 1992 Development Agreement by 30 years. This accord builds upon the 1992 Development Agreement and

associated relationship between the City and Bayer and is designed to permit the continued development and operation of the Bayer Campus at the Project Site pursuant to conditions that are in the best interests of the public and the City, and at the same time facilitate an economically feasible development. It is the intent of the City to grant certain development and use rights in the Project Site to Bayer and obligate Bayer to limit its scope of development in accordance with this Agreement, which governs permitted uses, density and intensity, height, and requirements for Subsequent discretionary actions, and to provide additional public benefits in the form of environmental mitigations, community benefits, fees, property dedications, and public improvements.

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

potential new pharmaceutical product, through regulatory approval, to initial commercialization. As a consequence, long range planning and the expedition of various stages of manufacturing is essential to Bayer's ability to deliver therapies to patients as quickly as possible.

- L. Bayer wishes to continue to use its current site in Berkeley as a world-wide center for the development and implementation of the methods and facilities discussed above. Bayer further wishes to maximize its ability to attract and retain top talent and partners by ensuring that the campus' physical configuration and design support this goal and facilitate and enhance the Project Site's existing and future ability to support the biotech development and manufacture of medicines that improve patient outcomes. In order to accomplish this, Bayer seeks to maximize the productive utilization of the land areas and current buildings to take new treatments through biotech development and manufacturing, with a priority on commercializing new therapies using new and innovative technologies.
- M. Bayer intends to apply for various land use and building approvals in connection with the implementation of the Project during the term of this Agreement, including one or more zoning certificates, administrative use permits, design review approvals, building permits and certificates of occupancy as described more fully in this Agreement.
- N. Continued development of the Project Site in a comprehensive fashion as contemplated in this Agreement will result in substantial public benefits to West Berkeley and the City at large, its residents, and surrounding communities. Among other public benefits, the Project will further cement Berkeley's standing as a destination for research and development of therapies providing a large biotech anchor to:
 - (1) enable the continued productive use of industrial property in the City;
 - (2) expand the City's property tax base;
 - (3) provide publicly accessible open space in West Berkeley;
 - (4) continue to conduct and evolve operations in a sustainable manner that will assist in reducing greenhouse gas emissions, including the continuation and enhancement of

Bayer's Transportation Demand Management Program, as outlined in **Exhibit H**, and sourcing of 100 percent renewable energy by 2030; and

- (5) support a variety of community programs as set forth in the Exhibits to this Agreement, including funding for STEAM/career technical education, affordable housing, childcare, public art, initiatives to advance carbon neutrality, initiatives to address inequities in health status among Berkeley residents, and programs designed to support locally-owned businesses, entrepreneurship, and/or general wealth building for disadvantaged members of the community.
- O. In consideration of the approval of vested and other development rights under this Agreement, the City has negotiated for and shall receive from Bayer the community investments and benefits set forth in **Exhibit D** and **Exhibit H** of this Agreement, in the full amounts and on the schedule specified therein. The City finds these investments will benefit the public welfare and reflect the priorities of the City Council and the community.
- P. **[PLACEHOLDER FOR CITY PLANNING COMMISSION ACTION ON AMENDED AND RESTATED DA AND CITY COUNCIL ACTION ON SEIR]**
- Q. **[PLACEHOLDER FOR CITY ACTION ON AMENDED AND RESTATED DA ORDINANCE]**.
- R. **[PLACEHOLDER FOR CITY FINDING OF CONSISTENCY, IF SO FOUND]**: The City Council finds that this Development Agreement furthers, and is not detrimental to, the public health, safety, and general welfare, including the health safety and welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood; that the Agreement is consistent with the City's current General Plan and the West Berkeley Plan; that the mitigations adopted in the Project's Mitigation Monitoring and Reporting Program, as identified in **Exhibit E**, have been duly considered by the City; that the Project's Subsequent Environmental Impact Report completely and accurately identifies and properly mitigates the impacts of the Project; and that this environmental review complies with the provisions of the California Environmental Quality Act. This Agreement has been approved in accordance with the City's ordinances, rules and regulations for the approval of development agreements.

AGREEMENT

ARTICLE 1: DEFINITIONS

Section 1.1. "Bayer" refers collectively to Bayer HealthCare LLC, a limited liability company organized and existing under the laws of the State of Delaware. As used in this Agreement, the term "Bayer" includes any successor in interest to Bayer HealthCare LLC, as authorized and permitted under this Agreement.

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

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

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

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

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

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

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

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

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

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

Section 1.12. "Ordinances" means the ordinances, resolutions, codes, rules, regulations and official policies of the City governing the permitted uses of land, density, design, improvement, and construction standards and specifications applicable to the use and development of the Project Site. Said Ordinances include without limitation the City's General Plan, the West Berkeley Plan, Zoning Ordinances, and building standards.

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

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

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

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

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

applicable to the Project, unless otherwise exempt from a discretionary approval by this Agreement:

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

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

ARTICLE 2: LIST OF EXHIBITS

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

ARTICLE 3: DEVELOPMENT OF PROJECT SITE

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

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

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

(d) *Conflicting Ordinances.* For purposes of this Agreement, an Ordinance or condition shall be deemed to conflict with this Agreement or Existing Ordinances if (1) there is an express inconsistency between the language of the Ordinance or condition and the terms of this Agreement or Existing Ordinances that makes it impossible for Bayer to comply with its obligations thereunder, or (2) implementation of the Ordinance or condition would materially limit the ability of Bayer to construct and operate the Project according to the terms of the Agreement and/or the Existing Ordinances. Examples of Future Ordinances or conditions that would conflict with the terms of this Agreement and/or Existing Ordinance include, without limitation, Future Ordinances or conditions that modify permitted uses of the Project Site, the density and intensity of such uses, the maximum height and size of proposed buildings, the requirements for reservation and dedication of land for public purposes, requirements associated with Subsequent discretionary approval processes (including without limitation the imposition of new discretionary permitting or approval processes), fee calculation methodologies, development standards, design guidelines, amendments to the City's Natural Gas Prohibition Ordinance under Berkeley Municipal Code Chapter 12.80 or the imposition of other energy requirements that render construction or operation of the Project technologically or otherwise infeasible, and any regulations materially interfering with Bayer's ability to undertake the scope of activities set forth in the Exhibits to this Agreement. However, Future Ordinances addressing solar infrastructure requirements, energy conservation, water conservation, or recycling requirements would not be in conflict with the Agreement.

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

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

be necessary or appropriate so long as they are consistent with such provisions of **Exhibit C** and any of the Ordinances that apply as set forth in this Article 3.

Section 3.4. Processing of Subsequent Approvals. The parties recognize that in order to implement the further development of the Project Site as contemplated in this Agreement, Bayer must obtain Subsequent land use and building approvals from City including, without limitation, administrative use permits, zoning certificates, design review approvals, building permits, demolition permits, and/or certificates of occupancy. Provided that Bayer exercises reasonable diligence, acts in good faith, pays all required processing fees, and files full and complete applications in conformity with this Agreement and Applicable Ordinances, as set forth in this Article 3, City shall expeditiously review and process all applications for Subsequent approvals required to develop the Project. City shall use its best efforts to process and act upon all such applications within the following time periods following submission of a complete application to City and completion of any required CEQA review, or as soon thereafter as is reasonably practicable:

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

occupancy shall issue within five business days of a final inspection confirming improvements substantially comply with approved plans.

- (f) Applicable engineering and/or utility permits. Such permits shall be subject to the schedule for ministerial permits identified in section 3.4(e).

The above time periods shall be extended if necessary to achieve compliance with the California Environmental Quality Act or other applicable State or Federal laws or regulations. Notwithstanding the above, the City agrees to make best efforts to process any necessary negative declarations or mitigated negative declarations within six months of determining a project application is complete (or such application being deemed complete), and any environmental impact reports within one year of determining a project application is complete (or such application being deemed complete). Provided that the City makes best efforts to meet the timelines set forth in this Section, the failure to meet any such timeline shall not be a breach of this Agreement.

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

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

Section 3.6. Other Governmental Permits. At its sole expense, Bayer shall apply for and obtain such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the

development of, or provision of services to, the Project consistent with this Agreement. To the extent City has approved an application for a Subsequent Project approval, it shall cooperate in good faith by providing any information, documents, or consents within the City's control that are consistent with the City's approvals that are reasonably necessary for Bayer to process applications for such other government approvals. The requirements of this Section shall not be construed as limiting the City's discretion to approve or deny any Subsequent Project approval or as obligating the City to undertake any new studies or analyses.

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

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

Section 3.9. State and Federal Requirements. This Agreement shall not preclude the application to the development and use of the Project Site of changes in Ordinances, the terms of which are specifically mandated by, or are necessary for the City to come into compliance with, State or Federal laws or regulations, as provided in Government Code section 65869.5. In the event that State or Federal laws or regulations, or actions by any governmental jurisdiction other than City,

prevent or preclude compliance with one or more provisions of this Agreement, or require changes in approvals issued by City, this Agreement shall be modified, extended or suspended to the extent reasonably necessary to comply with such State or Federal laws or regulations or the regulations of such other governmental jurisdiction.

Section 3.10. Bayer's Obligations. The City Fees, any dedications of land, construction and financing of public improvements, and other community benefits and environmental mitigations and monitoring programs to be undertaken by Bayer in connection with the development of the Project Site shall be as set forth in Exhibits D, E, G, and H to this Agreement. The community benefits and mitigation measures in the foregoing Exhibits constitute the community benefits that Bayer is obligated to perform, and any and all exhibits to the 1992 Development Agreement and the 1999 Amendment are superseded and void. All monetary payments to be made by Bayer for dedications of land, construction and financing, benefits, and environmental mitigations and monitoring programs under this Agreement shall be adjusted for inflation. Such adjustments shall be applied as of the first business day of each new year following the Effective Date except that no adjustment shall be made at the beginning of 2022. Adjustments for inflation and deflation shall be based upon the U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for the Bay Area (San Francisco-Oakland-Hayward), not seasonally adjusted, using the Effective Date as a baseline for calculations, except to the extent specifically provided for in this Agreement.

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

with this Agreement. This section does not limit or modify the procedures and remedies described in Article 4.

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

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

Section 3.12. General Provisions With Respect to Financing Public infrastructure. Insofar as applicable state and federal laws and City Ordinances require the construction of public infrastructure necessary to address demands and/or impacts of Bayer and third parties, and to the extent Bayer wishes to construct such public infrastructure in advance of governmental plans under an applicable capital improvement program or other plan, City and Bayer agree to cooperate in good faith to explore the use of reimbursement agreements and/or public financing mechanisms for the provision of public infrastructure relating to the Project Site. To the extent public infrastructure is not a negotiated benefit of this Agreement, Bayer reserves its rights to seek reimbursement for amounts exceeding its fair share contribution to the subject public infrastructure from the appropriate governmental entity.

ARTICLE 4: PERIODIC REVIEW OF AGREEMENT

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

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

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

The parties understand that the Site Development Standards and Design Guidelines (Exhibit C) reflect the maximum allowable buildout envisioned for the Project and that failure to achieve the maximum allowable buildout as reflected in the Site Development Plan shall not constitute failure to make reasonable progress toward buildout of the Project. Failure of the City to conduct a periodic review shall not constitute a waiver by the City of its rights to otherwise enforce the

provisions of this Agreement, nor shall Bayer have or assert any defense to such enforcement by reason of such failure to conduct a periodic review.

ARTICLE 5: AMENDMENT

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

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

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

Section 5.4. Approved Changes under Conceptual Plan. The Site Development Plan, including all its components as listed in **Exhibit C**, contemplates specific flexibilities in the implementation of the Project, including without limitation the transfer of certain developable areas among

blocks within the Site Development Plan, the movement of internal roads, and the issuance of variances of development standards and design guidelines. Exercise of these authorized changes to the Site Development Plan in accordance with the procedures and criteria set forth in Exhibit C shall not be deemed a Major or Minor Amendment.

ARTICLE 6: GENERAL PROVISIONS

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

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

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

Section 6.3. Default: Remedies. Failure by either party to perform any obligation under this Agreement within thirty (30) business days after written notice thereof from the other party shall constitute a default under this Agreement, subject to extensions of time by mutual consent in writing. Said notice shall specify the nature of the alleged default and the manner in which said

default may be satisfactorily cured. If the nature of the alleged default is such that it cannot reasonably be cured within the thirty (30) business day period, the breaching party shall not be in default if it commences of the cure within such time period and diligently prosecutes the cure to completion. Upon a party's default, the other party, at its option, may institute legal proceedings to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation or enforce by specific performance the obligations and rights of the parties hereto. In no event shall either party or its officers, agents or employees be liable in damages for any breach or violation of this Agreement (except to the extent the action seeks specific performance of a party's obligation to pay monetary amounts under the Agreement), it being expressly understood and agreed that the sole legal remedy available to either party for a breach or violation of this Agreement by the other party shall be a legal action in mandamus, specific performance, or injunctive or declaratory relief to enforce the provisions of this Agreement. Notwithstanding the above, in the event of default by the City, Bayer shall alternatively have the right to terminate this Agreement by giving City thirty (30) Days prior written notice of its intent to terminate. Upon giving notice of intent to terminate, City may suspend the processing of any pending permit or other application for development of the Project, and any such application shall be deemed withdrawn upon termination of this Agreement.

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

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

Section 6.5. Cooperation in the Event of Third-Party Legal Challenge. In the event of any legal or equitable action or proceeding instituted by a third party challenging the validity of any provision of this Agreement or the procedures leading to its adoption or the issuance of Subsequent approvals for the Project, the parties hereby agree to cooperate in defending said action or proceeding. Bayer agrees to diligently defend any such action or proceeding and to bear the litigation expenses of defense, including attorney's fees. City retains the option to employ independent defense counsel at its expense. Bayer further agrees to hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments, or other losses (including without limitation, attorneys' fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval of this Agreement or approval of any Reserved Discretionary Approval. Bayer shall have a right to terminate this Agreement by written notice of termination to the City in the event a third party files a legal challenge to the City's adoption of this Agreement or any concurrent approval so long as the notice of termination is given no later than one hundred and eighty (180) Days after the Effective Date so long as the City files a Notice of Determination with respect to its certification of the Project's Subsequent Environmental Impact Report and, otherwise, no later than two hundred and seventy (270) Days after the Effective Date, and Bayer has not constructed any Project facilities. Upon giving notice termination, any pending permit or other application for development of the Project shall be deemed withdrawn.

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

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

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

Section 6.8. Construction of Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of California and City, as they may be amended, provided that such amendments do not substantially alter the rights granted to the parties by this Agreement. Both parties and their legal counsel have reviewed this Agreement and agree that any rule that ambiguities are to be construed against the drafting party shall not apply. This Agreement, including the text and all exhibits hereto, is intended to be interpreted as an integrated whole. Where provisions appear to be in conflict, they will be harmonized if possible. In the event that an irreconcilable conflict exists between the Agreement text and one or more of the exhibits, the text shall control.

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

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

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

Section 6.12. Further Documents. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement.

Section 6.13. Notices. Any notice or communication required hereunder between City or Bayer must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) business days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. Notwithstanding the foregoing, if due to shelter-in-place restrictions or any other reason a party requests in writing to receive notices by electronic mail, then notices to that party thereafter shall be given by electronic mail until such time as the party rescinds the request, provided that if notice sent electronically to the address given is blocked, returned, or otherwise undeliverable, the party may be noticed by the other methods prescribed in this section. Each Party representative noticed by email shall

provide acknowledgement of receipt as soon as reasonably possible, and notice by electronic mail shall be deemed given on the date acknowledged. If the sender does not receive an acknowledgement within five (5) business days, that notice will nevertheless be deemed to have been received when originally sent by email if no more than ten (10) business days later the sender delivers a written copy of that notice as otherwise provided in this Agreement. If a party sending an email notice under this Agreement receives a machine-generated message that delivery has failed, written notice shall be provided as otherwise set forth in this Agreement. Any party hereto may at any time, by giving ten (10) business days' written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth on the below:

If to City:

City Manager
2180 Milvia Street
Berkeley, CA 94704

With copy to:

City Attorney
2180 Milvia Street
Berkeley, CA 94704

If to Bayer:

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

With copies to:

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

Section 6. 14. Assignment. Bayer has represented to City that it possesses the experience, qualifications and financial resources to carry out the Project and develop the Project Site in the manner specified in the Development Plan. It is because of such qualifications and representations of Bayer that City is entering into this Agreement. Accordingly, certain

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

Section 6.15. Right to Lease Project Facilities. The parties acknowledge and agree that Bayer, as owner of the real estate, has the right to lease, sublease or license any portion of the real estate situated at the Project (each a "Project Component") to affiliated or third parties for any purpose consistent with the terms of this Agreement, including, but not limited to constructing, operating, subleasing, and any other use related to producing therapies and medicines. Any

such lease, license, or sublease ("Lease") of a Project Component shall require the tenant or occupant to comply with the obligations and requirements of this Agreement that would be applicable to such tenant or occupant, including without limitation obligations to limit activities to those set forth in **Exhibit G** of this Agreement and the handling of materials subject to Biosafety Level 1 and Biosafety Level 2 standard practices, as defined by the United States Department of Health and Human Services Centers for Disease Control and Prevention and National Institutes of Health and set forth in more detail in **Exhibit G**. Bayer shall provide City with at least thirty (30) Days prior notice of any such Lease of a Project Component. No consent by the City is required to the extent the aggregate square footage of a Project Component or Project Components subject to a Lease or Leases would comprise, cumulatively, less than three hundred and fifty thousand (350,000) of the usable floor area on the Project Site (the "350,000-square-foot Threshold"). To the extent a Lease would convey rights to use space in excess of the 350,000-square-foot Threshold, the City shall have the right to disapprove the conveyance if it determines, in its reasonable discretion, that the lessee lacks sufficient experience, qualifications, or financial resources to comply with the terms of this Agreement, and the City gives Bayer notice of the disapproval within thirty (30) Days after the City's receipt of the foregoing notice. Notwithstanding any Lease of a Project Component, Bayer shall remain fully liable for its obligations under this Agreement.

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

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

Section 18. Warranty of Authority. The person(s) executing this Agreement on behalf of each of the parties hereto represent and warrant that (i) such party, if not an individual, is duly

organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which such party is bound.

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

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

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

[SIGNATURE BLOCKS TO FOLLOW]

**EXHIBIT A
Property Map**

[TO BE PROVIDED IN FINAL DEVELOPMENT AGREEMENT]

**EXHIBIT B
Legal Description**

[TO BE PROVIDED IN FINAL DEVELOPMENT AGREEMENT]

EXHIBIT C

Site Development Standards and Design Guidelines

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

Table of Contents

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

1. Administration and Implementation

1.1 Purpose and Intent

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

1.2 Special Determinations

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

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

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

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

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

1.3 Steps in Discretionary Permit Application Process

Table 1 – Permit Requirements

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

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

Notes:

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

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

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

I. Building Permit issued.

1.4 List of Required Items for Complete Reserved Discretionary Approval Applications

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

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

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

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

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

2. Zoning and Permitted Uses

Table 2 – Permitted Uses within the Site

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

Table 3 – Definitions of Permitted Uses within the Site

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

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

3. Development Standards

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

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

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

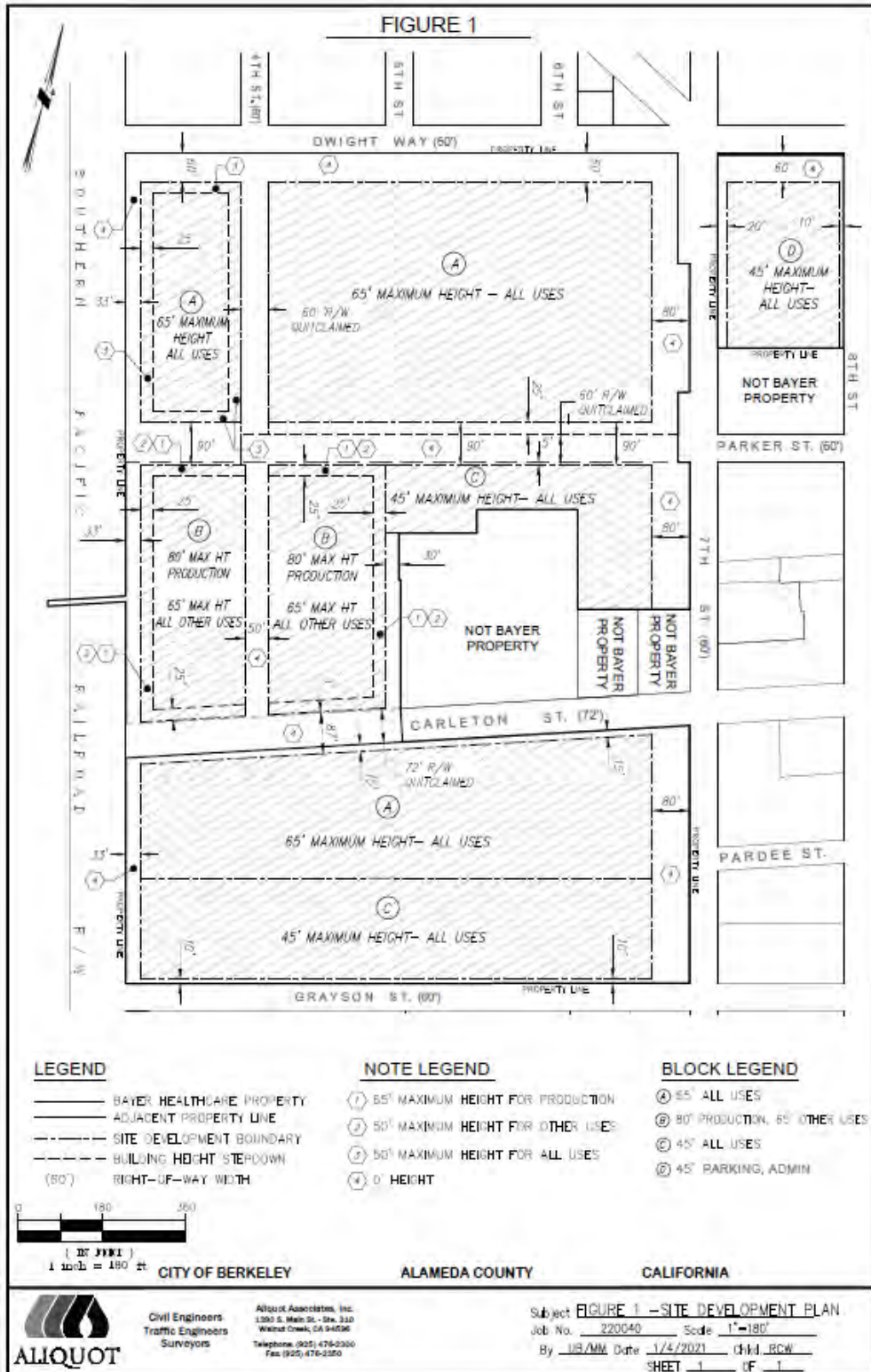
3.1 Building Design: Development Standards

Table 4 – Building Development Standards

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

Note: See Section 3.1.2 for instructions on measuring height.

Figure 1 – Site Development Plan



3.1.1 Height Districts

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

3.1.2 General

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

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

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

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

3.1.4 Building Footprint, Setbacks, and Stepbacks

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

3.1.5 Projections

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

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

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

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

3.2 New Construction Limits: Development Standards

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

Table 5 – Total Maximum Allowed Development

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

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

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

3.3 New Construction and Demolition Phasing: Development Standards

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

3.4 Parking and Loading: Development Standards

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

Table 6 – Parking Requirements

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

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

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

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

3.5 Landscape and Open Space: Development Standards

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

Table 7 – Allowed Uses for Open Spaces within the Site

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

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

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

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

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

Figure 2 – Conceptual Open Space Areas



3.6 Access and Circulation: Development Standards

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

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

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

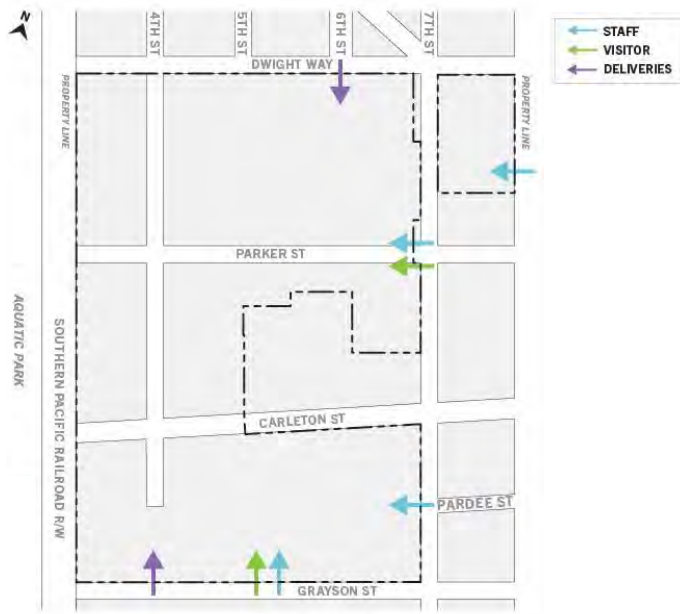
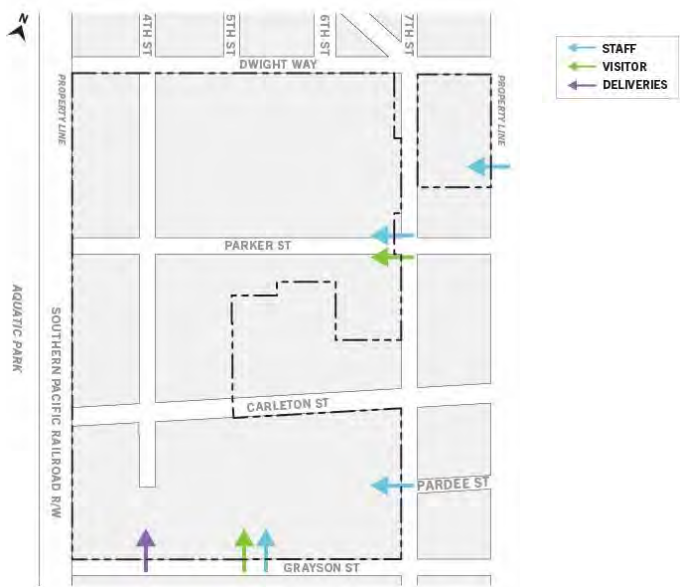


Figure 3b – Campus Access Points Year-30 of Development



3.7 Signage: Development Standards

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

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

4. Design Guidelines

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

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

4.1 Signage: Design Guidelines and Approval Process

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

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

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

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

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

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

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

Figure 4 – Service and Utility Zones

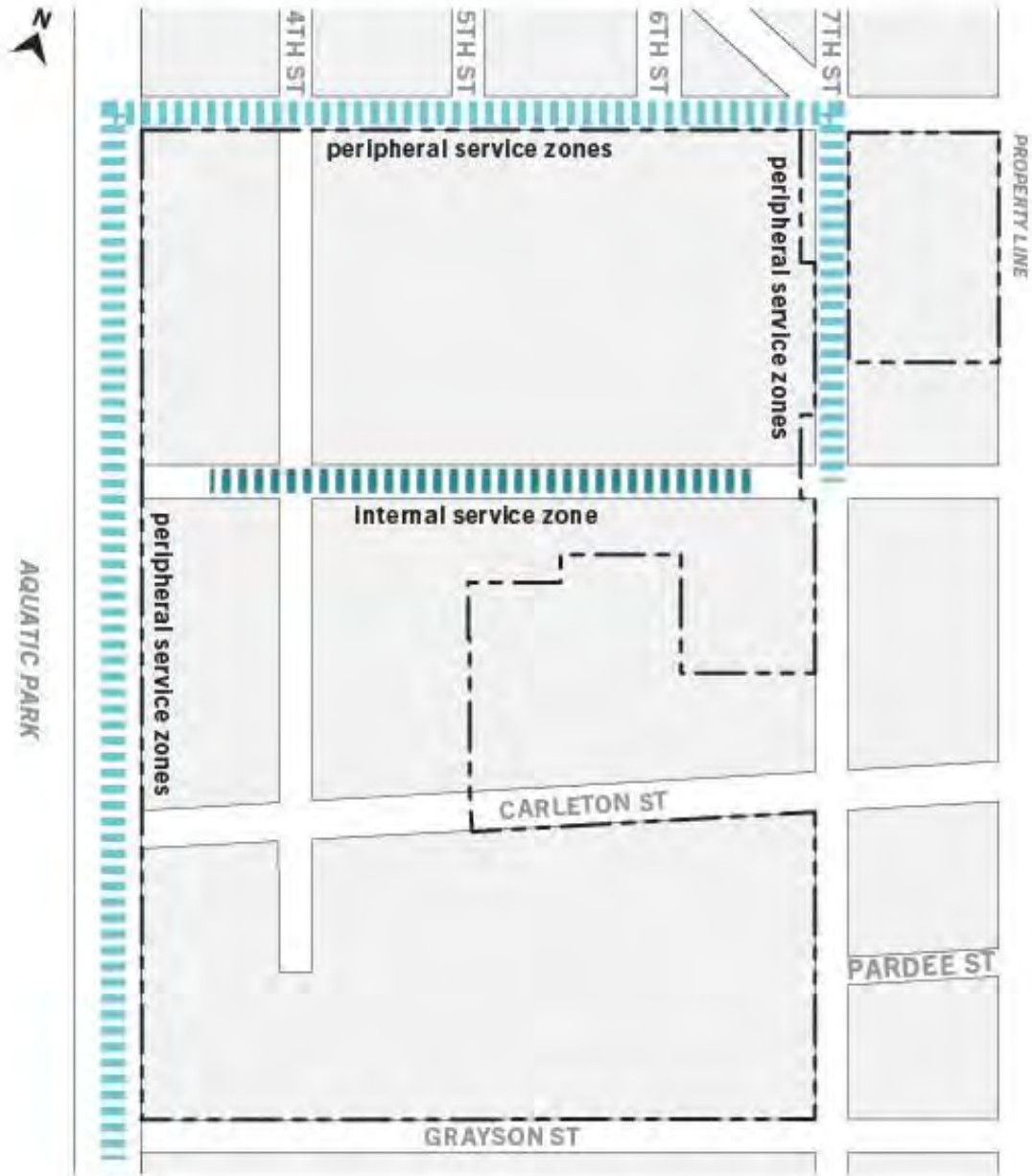
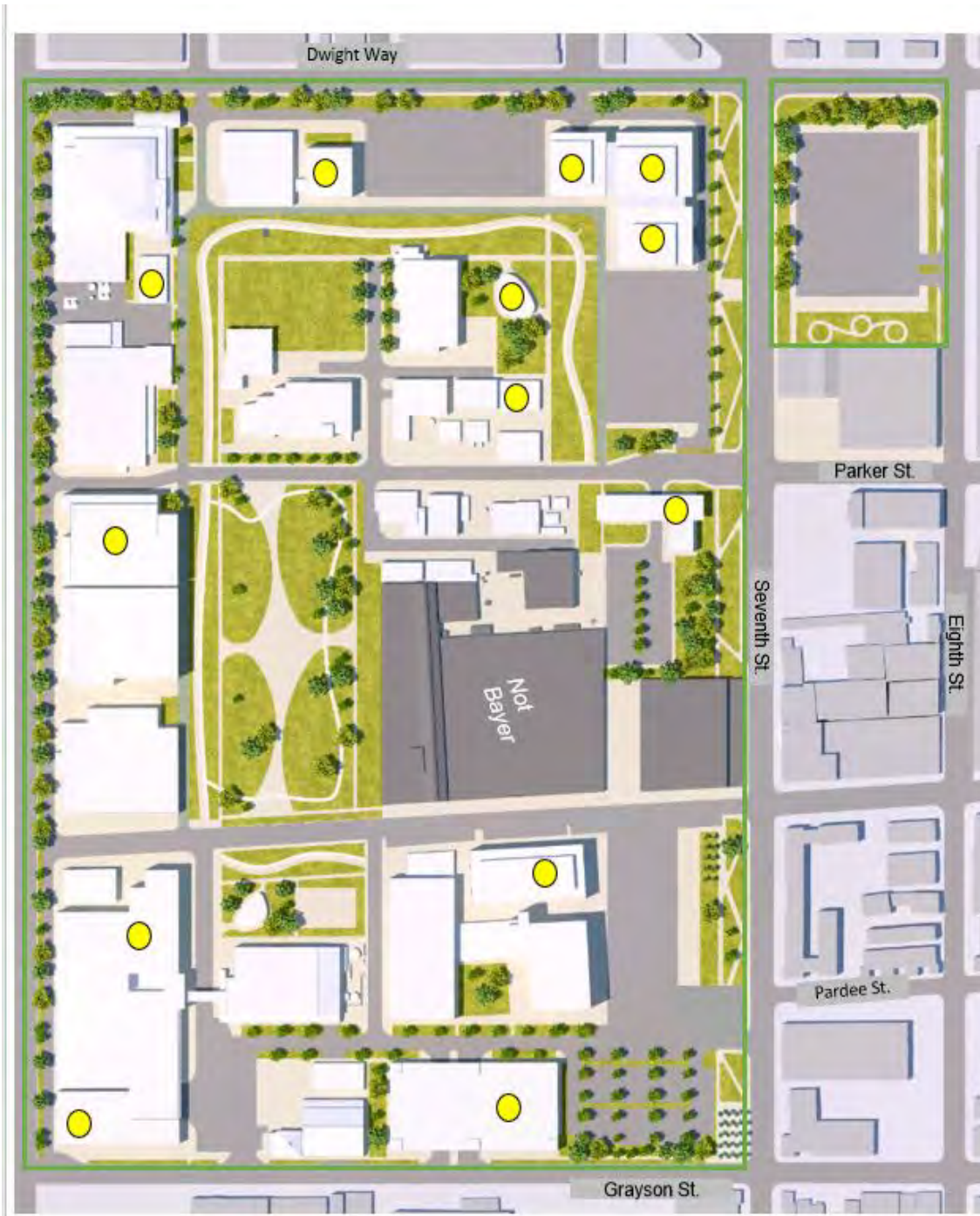


Figure 5 – Conceptual Year-30 Plan



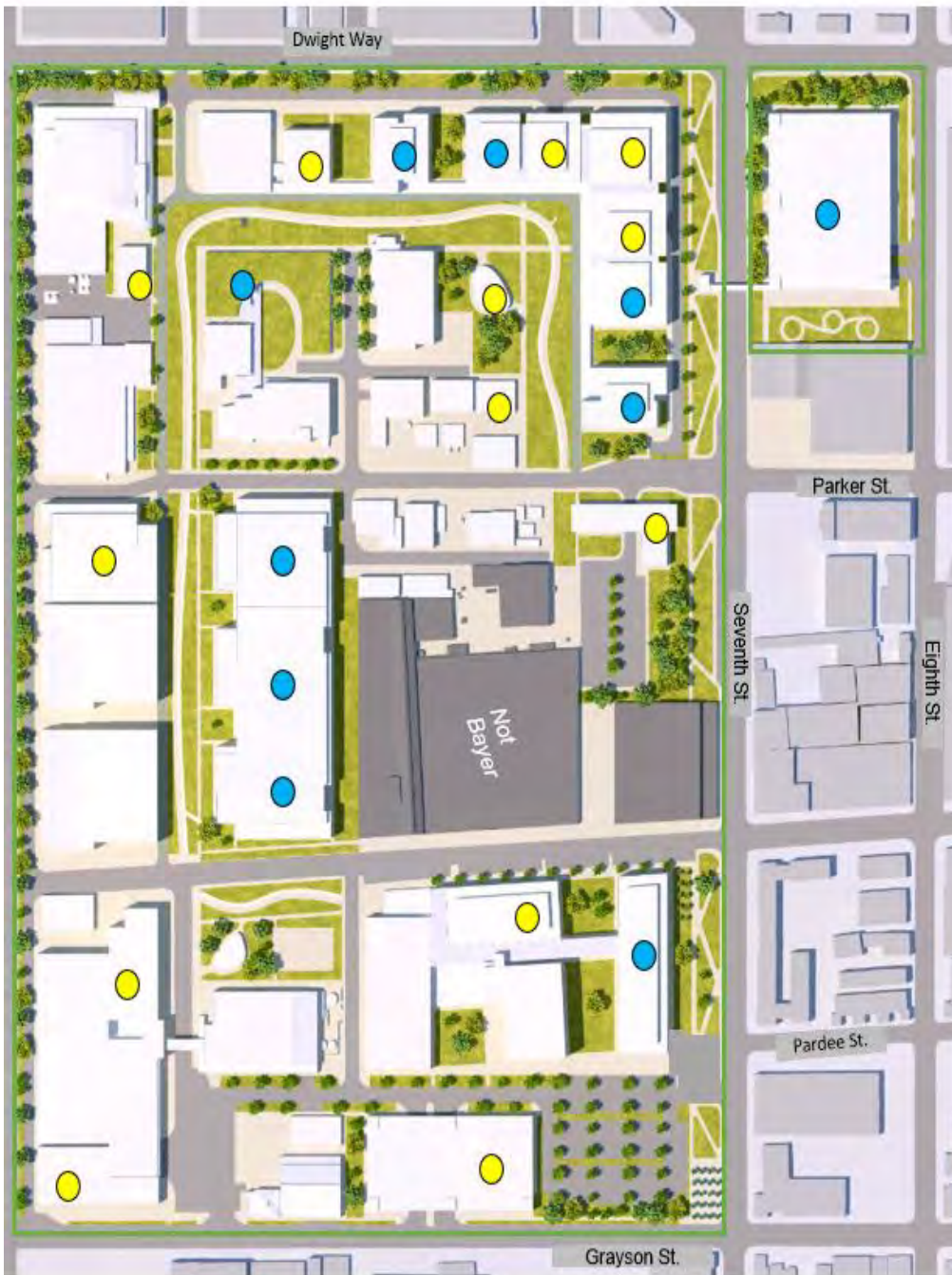
- RETAIN BUILDINGS
- REPURPOSE/ REFURBISH
- FUTURE DEMOLISH

Figure 6 – Conceptual Year-10 of Development



● New at Year 10

Figure 7 – Conceptual Year-30 of Development



- New at Year 30
- New at Year 10

Appendix A: Development Standards Conformity Review

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

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

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

EXHIBIT D Community Benefits

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

I. ANNUAL COMMUNITY INVESTMENT

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

Investment Schedule			
Year	Investment No.		Amount
2022	1	\$	800,000
2023	2	\$	832,320
2024	3	\$	848,966
2025	4	\$	865,946
2026	5	\$	883,265
2027	6	\$	900,930
2028	7	\$	918,949
2029	8	\$	937,328
2030	9	\$	956,074
2031	10	\$	975,196
2032	11	\$	994,699
2033	12	\$	1,014,593
2034	13	\$	1,034,885
2035	14	\$	1,055,583
2036	15	\$	1,076,695
2037	16	\$	1,098,229
2038	17	\$	1,120,193
2039	18	\$	1,142,597
2040	19	\$	1,165,449
2041	20	\$	1,188,758
2042	21	\$	1,212,533
2043	22	\$	1,236,784
2044	23	\$	1,261,519
2045	24	\$	1,286,750
2046	25	\$	1,312,485
2047	26	\$	1,338,734
2048	27	\$	1,365,509
2049	28	\$	1,392,819
2050	29	\$	1,420,676
2051	30	\$	1,461,537
Total			33,100,000

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

- B. The aggregate amount of those investments set forth in Section I.A during the thirty-year (30-year) term of the Agreement amounts to thirty-three million, one hundred thousand dollars (\$33,100,000).² Nothing in this Exhibit shall be construed to require Bayer to make investments exceeding this amount.
- C. Except as otherwise provided herein, any City actions or approvals required or authorized by this Exhibit D shall be undertaken by the City Manager on behalf of the City..

II. ALLOCATION OF FUNDS

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

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

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

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

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

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

Figure 1

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

III. IMPACT FEES

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

associated with a construction and/or demolition proposal under the Agreement ("**Implementation Project**"). The impact fees for each Implementation Project shall be paid in a single lump sum due upon issuance of the Occupancy Permit for the building shell.

- B. Bayer's impact fee payments shall be calculated in accordance with the affordable housing and affordable childcare impact fee requirements in effect as of the Effective Date (City Council Resolutions 66,617 N.S. and 66,618 N.S., or "**Existing Fee Requirements**"), subject to annual adjustments based on the Consumer Price Index, All Urban Consumers, San Francisco Bay Area ("**CPI**"), as required by the Existing Fee Requirements. Per Existing Fee Requirements, impact fees shall be assessed on new construction⁴ associated with each Implementation Project under the Agreement.
- C. Under the Community Benefits investment schedule set forth in Figure 1, Bayer will be making annual investments in the Affordable Housing Trust Fund and Affordable Childcare Trust Fund. These annual investments may be made in advance of the time when the affordable housing and childcare impact fees will be due for a given Implementation Project. Accordingly, Bayer shall receive a credit toward the applicable impact fees for all such investments made before the fees are due. That is, investments to the Affordable Housing Trust Fund shall be credited toward the affordable housing mitigation fee, and investments to the Affordable Childcare Trust Fund shall be credited toward the affordable childcare mitigation fee, as such fees become due. The amount of available credit for application to a fee due shall be the sum of all annual Housing Investments or Childcare Investments, as applicable, made prior to the due date of the fee, less the amounts previously applied to earlier fees. In calculating that sum, the amount of each Housing Investment and Childcare Investment shall be adjusted annually by CPI for the period of time between when such an Investment was made and the time of calculation. If the available credit exceeds the amount of fees due, the exceedance shall be carried over and be applied as a credit to future impact fees, if any. If the credits are insufficient to pay the amount of fees due, Bayer shall pay the difference, and the amount of the difference shall be subtracted in full from the amount Bayer is required to pay for its next Housing Investment or Childcare Investment, as applicable, and if the difference exceeds the amount of that payment, the exceedance will be carried over and subtracted in full from the following Housing or Childcare Investment, and so on, until the full amount of the difference has been applied, or all of the Housing or Childcare Investments have been completed.
- D. Because the Project will be developed in multiple phases spanning numerous Implementation Projects, it is possible that a particular Implementation Project may include more demolition than new development, resulting in a net decrease in new gross floor area. Similarly, an Implementation Project may include a net increase in new gross floor area, but the increase may be below the threshold amount that ordinarily triggers the fee requirement. The parties acknowledge that impact fees are intended to apply to the cumulative net development actually built for the Project. Accordingly, if a particular Implementation Project does not include a net increase in gross floor area in excess of the threshold 7,500 square feet that triggers the fee requirement (or if it includes a remodel of less than 7,500 square feet that would otherwise qualify for impact fees), then any net increase or net decrease in gross floor area, or any square footage of the remodel, associated with that Implementation Project (a "**Gross Floor Area**

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

Carryover”) shall be carried over and applied to the calculation of new gross floor area for the next Implementation Project.

- E. The Parties expect that the total amount to be paid into the Affordable Housing and Affordable Childcare Trust Funds over the life of the Agreement, \$7,944,000.00 in nominal dollars, will substantially exceed the aggregate amount of impact fees likely due over the life of the Agreement, which is estimated at \$4,952,230.00 in nominal dollars. The ultimate amount of impact fees that will be due will depend on a number of factors, including the timing and extent of each Implementation Project, and the possibility of minor amendments to the site plan or phasing plan that do not require amendment of the Agreement. To the extent the approximately \$3,000,000 of payments in excess of expected impact fees is not needed to satisfy impact fees due, it shall be retained by the City as an additional Community Benefit investment towards affordable housing. In the unlikely event that the actual aggregate amount of impact fees due exceeds \$7,944,000, Community Benefit monies shall be reallocated per the City’s direction to the Affordable Housing and/or Affordable Childcare Trust Funds, as applicable, in the amount of the deficiency.⁵
- F. The City shall maintain a ledger (“Ledger”) to account for the payment of monies into the Affordable Housing and Affordable Childcare Trust Funds, the annual CPI adjustment of those payments, and amounts credited or paid to satisfy Bayer’s impact fee obligations. The Ledger shall also account for any Gross Floor Area Carryover as described in Section III.D. Within thirty (30) days of submittal of annual investments by Bayer, the City shall provide Bayer with an updated Ledger confirming the City's receipt of the annual investments, that such investments have been placed in the appropriate trust funds, the cumulative amount of credits, if any, to be carried forward, and any floor area Carryover for each use category set forth in the Existing Fee Requirements, including with respect to any replacement Implementation Projects.⁶

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

A. STEAM Education / Career Technical Education Partners

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

- 1. Subcategories for investment include: Transitional Kindergarten to 8th Grade; high school career technical education and paid internships; and community college STEAM career pathways and paid internships. Investments shall benefit Berkeley residents. Monies allocated toward STEAM Education under this Section shall be sub-allocated as follows:
 - a. Transitional Kindergarten through 8th Grade programs – Ten Percent (10%)
 - b. High School career technical education and paid internships – Fifty Percent (50%)

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

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

- c. Community college STEAM career pathways and paid internships – Forty Percent (40%)
2. Bayer shall convene a committee charged with administering the issuance of grants for the purposes and according to the allocations set forth in this Section IV.A, subject to the following terms:
- a. A grant committee of stakeholders shall include representatives from Bayer, education experts, and community leaders. Grant committee members shall serve on a volunteer basis. Such committee is not a municipal committee and is not exercising any municipal authorities (and is not authorized to do so), but is a private committee of individuals per the terms of this Exhibit, and for the grant award purposes set forth in this Exhibit.
 - b. The grant committee shall consist of nine (9) or fifteen (15) persons, as the parties may mutually agree.
 - c. The City shall have the right to select one or more community leaders and one or more education experts to serve on the private committee, constituting 1/3 of the committee membership. The City and Bayer, by mutual agreement, shall have the right to select one or more community leaders and one or more education experts to serve on the private committee, constituting 1/3 of the committee membership. Representatives from Bayer selected by Bayer shall constitute 1/3 of the committee membership. Grant committee members shall each serve terms of four (4) years, and shall be reappointed or replaced upon expiration of their terms (or earlier replaced for cause) in the manner described above for their appointment.
 - d. Grant committee members shall meet at least annually and shall not make any decision unless a quorum of committee members participate, where a quorum shall be fifty (50) percent of committee members. Decisions of the grant committee shall be made by majority vote.
 - e. Grant award protocols shall be established by written policies and procedures established by the grant committee. The policies and procedures shall provide that the issuance and/or award of grants, the evaluation of awardees against performance standards, and the termination of grants shall be made on the basis of criteria and performance standards established in writing and provided to prospective grantees and incorporated as applicable into grant agreements.
 - f. To the extent feasible and consistent with the terms of the Agreement, the parties shall establish the grant committee within six (6) months of the Effective Date, and in no event later than 60 days prior to the first required Community Benefits payment.

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

B. West Berkeley Fund Committee

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

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

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

C. Affordable Housing Trust Fund

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

D. Affordable Childcare Trust Fund

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

E. Private Percent for Art Fund

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

V. IN-KIND CONTRIBUTIONS

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

- A. Bayer employee volunteerism hours and mentorships. To this end, each year Bayer shall:
1. Maintain its commitment to provide mentors for up to:
 - a. Fifteen (15) high school summer internships of at least one hundred and twenty (120) hours each, on an annual basis.
 - b. Eight (8) community college year-round internships of at least eight hundred (800) hours each, on an annual basis.
 2. Provide at least six hundred and twenty (620) volunteer hours on an annual basis in Berkeley, including at least twenty (20) hours to support requested teacher development support and/or student career exploration engagement.
- B. Local hiring outreach and promotion. To this end, Bayer shall:
1. Commit to focused community outreach about Bayer's open career positions to Berkeley residents via social media, local publications, job fair participation and engagement at Berkeley educational institutions. Any hiring decision must comply with applicable law, and Bayer strictly prohibits hiring discrimination on any basis protected by local, state, or federal law.
 2. Report annually, in conjunction with annual review processes that apply to the Amended and Restated Development Agreement, on hires from among:
 - a. Berkeley residents; and
 - b. Graduates of Bayer-funded high school and community college internships.
- C. Promotion of neighborhood events (e.g., community-building events, community meetings, and mailers for Bayer sirens and alarm systems). To this end, Bayer shall:
1. At the request of City leaders or community partners, promote at least two West Berkeley neighborhood community-building events per year to Bayer employees and encourage volunteerism.
 2. Mail postcards to Bayer neighbors with information on Bayer's siren and alarm systems in an annual basis, where such postcards will be delivered to postal addresses of residents living south of University Avenue, north of Ashby Avenue, and West of San Pablo Avenue.
 3. Host biennial community meetings (virtual or in person, at Bayer's discretion) to connect with neighbors on issues of shared concern and to report on Bayer's community engagement.

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

EXHIBIT E

Mitigation Monitoring and Reporting Program

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

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

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

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

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

BIOLOGICAL RESOURCES

Mitigation Measure BIO-1: Nesting Bird Surveys and Avoidance

<p>Demolition, grading, construction and tree removal activities shall be conducted outside of the migratory bird nesting season (February 1 through August 31) to reduce any potentially significant impact to birds that may be nesting in the project site. If construction and tree removal activities must occur during the migratory bird nesting season, an avian nesting survey of the project site shall be conducted for active nests of protected migratory birds. The avian nesting survey shall be performed by a qualified wildlife biologist within seven days prior to the start of ground or vegetation disturbance or building demolition activities. The survey will consist of a qualified biologist conducting a visual inspection of the disturbance area plus a 200-foot buffer and vicinity, as is feasible depending on possible access and/or line-of-site</p>	<p>If construction and tree removal activities must occur during the migratory bird nesting season, review and approve avian nesting survey.</p> <p>If an active bird nest is found, review all demolition, grading, and</p>	<p>Prior to issuance of building and engineering permits</p>	<p>City of Berkeley Department of Planning & Development</p>			
--	--	--	--	--	--	--

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

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

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

CULTURAL RESOURCES

Mitigation Measure CR-1: Architectural History Evaluation

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

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

Prior to issuance of building permits

City of Berkeley Department of Planning & Development

Mitigation Measure CR-2: Architectural History Mitigation

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

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

Prior to issuance of building permits

City of Berkeley Department of Planning & Development

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PUBLIC SERVICES

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

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

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

TRIBAL CULTURAL RESOURCES

Mitigation Measure TCR-1 Worker’s Environmental Awareness Program

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

Monitor compliance with WEAP training.

Prior to ground disturbing activities

City of Berkeley
Department of
Planning &
Development

Mitigation Measure TCR-2 Native American Monitoring

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

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

Prior to issuance of building permits.

City of Berkeley
Department of
Planning &
Development

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

EXHIBIT F

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

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

March 29, 2021

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

Dear Ms. Mendez:

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

EXECUTIVE SUMMARY

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

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

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

Leslie Mendez
March 29, 2021

LIFE SCIENCES OPERATIONS

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

A. Life Sciences Equipment Accommodation and Maintenance

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

B. Flexibility of Multiple Product Types

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

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

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

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

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

C. Flexibility to Pivot

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

Leslie Mendez
March 29, 2021

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

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

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

CCTC Modular Design

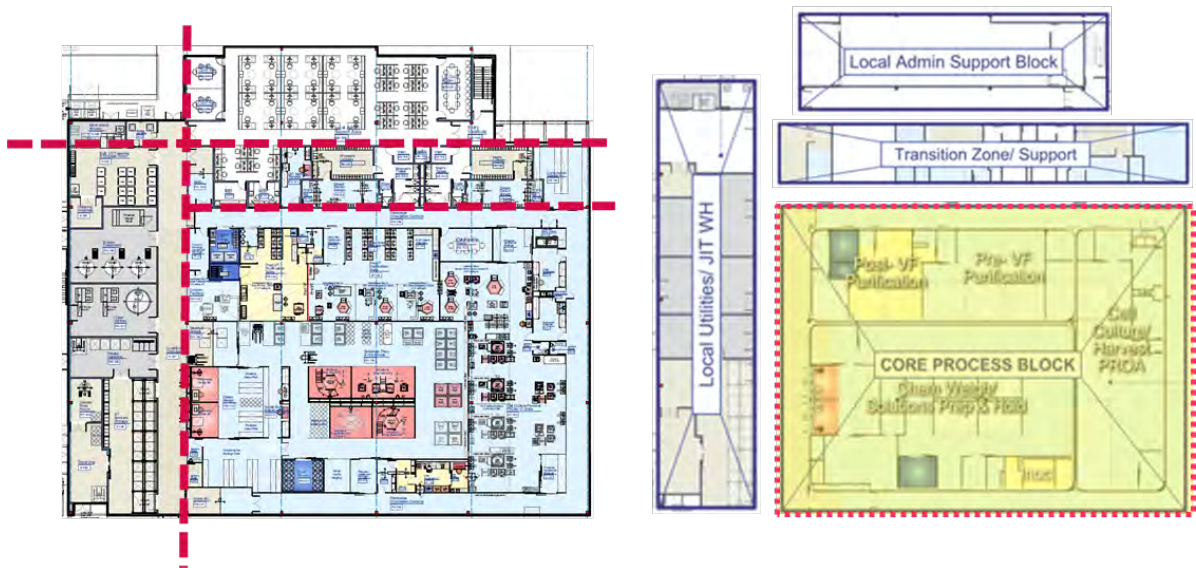


Figure 1: CCTC2/3 Module Configuration

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

D. Time Sensitive Testing

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

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

Leslie Mendez
March 29, 2021

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

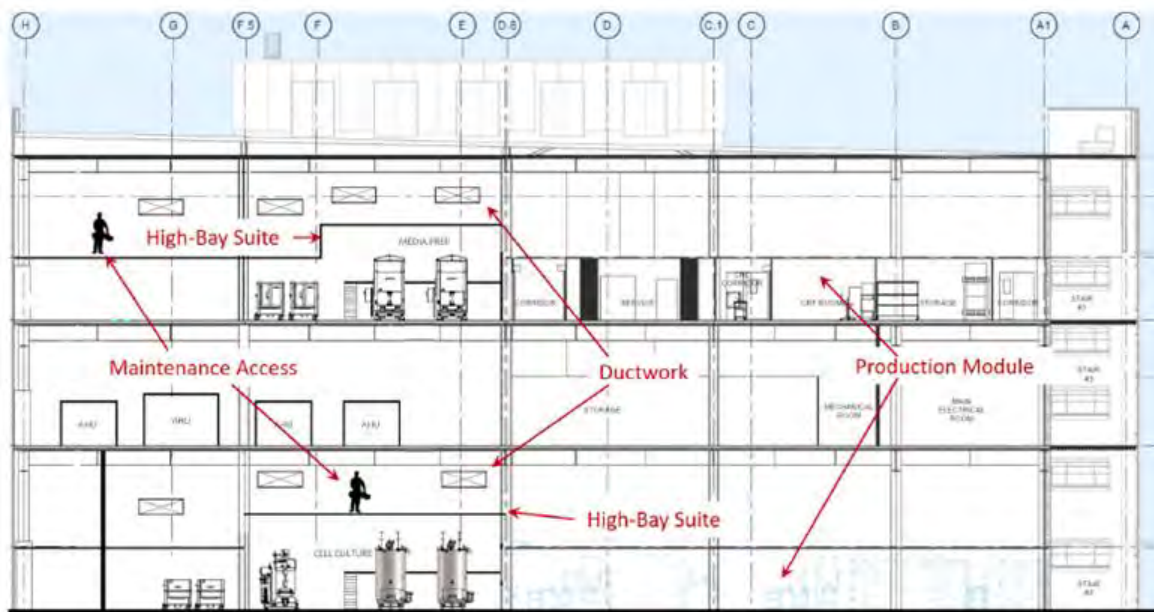


Figure 2: CCTC2/3 Building Configuration

E. Reduction of Cross-Contamination

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

Leslie Mendez

March 29, 2021

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

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

F. Other Operational Support Functions

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

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

Leslie Mendez
March 29, 2021

INCREASED OPEN SPACE AND LANDSCAPING

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

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

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



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



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

Leslie Mendez
March 29, 2021

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

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



Figure 6: Bayer Campus under Baseline Conditions

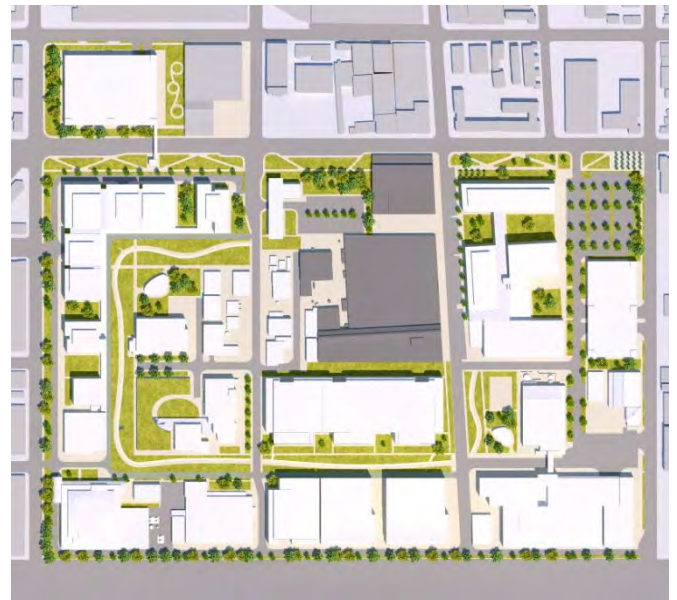


Figure 5: Bayer Campus under Proposed Conditions

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

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

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

Leslie Mendez

March 29, 2021

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

ACQUIRING AND MAINTAINING TALENT

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

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

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



Figure 7: Gilead's Planned Private Park

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



Figure 8: Genentech Campus in South San Francisco

Leslie Mendez
March 29, 2021

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

AESTHETICS

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

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

Leslie Mendez
March 29, 2021

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

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



Figure 9: Existing View of Bayer Campus from Berkeley Hills



Figure 10: Proposed View of Bayer Campus from Berkeley Hills



Figure 11: Existing View from Carleton and Seventh Street



Figure 12: Proposed View from Carleton and Seventh Street



Figure 13: Existing View from Grayson Street



Figure 14: Proposed View from Grayson Street



Figure 15: Existing View from Aquatic Park Trail



Figure 16: Proposed View from Aquatic Park Trail



Figure 17: Existing View from Southern Aquatic Park



Figure 18: Proposed View from Southern Aquatic Park



Figure 19: Existing View from Northern Aquatic Park



Figure 20: Proposed View from Northern Aquatic Park

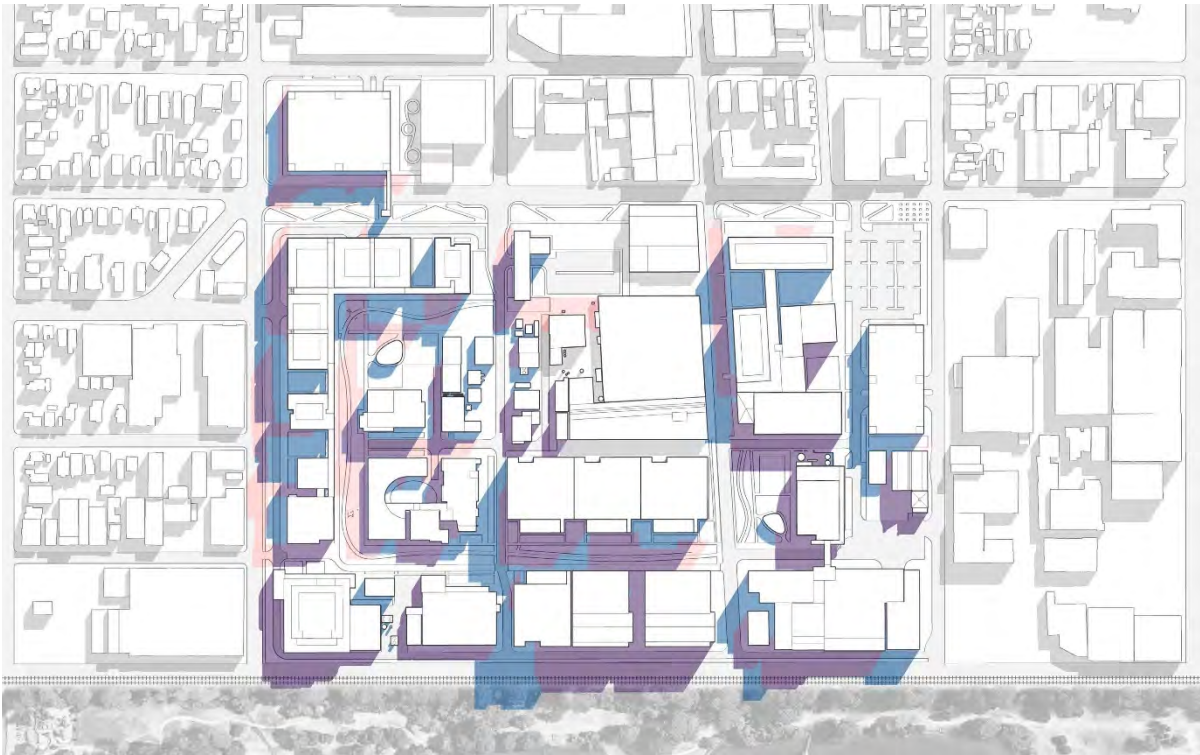


Figure 21: Proposed Shadow Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT H

TRANSPORTATION DEMAND MANAGEMENT PROGRAM

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

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

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

B. *Pre-Tax Commuter Benefits.*

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

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

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

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

3. **On-site Amenities:**

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

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

5. **Bicycle Measures:**

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

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

D. *Bicycle Promotion and Education.*

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

6. City Review:

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

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

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

C. ***Review Upon Submission of Building Permits.***

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

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

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

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

EXHIBIT I
Copy of Existing Ordinances

[TO BE PROVIDED IN FINAL DEVELOPMENT AGREEMENT]

DRAFT CEQA Findings
PLANNING COMMISSION

Bayer HealthCare LLC Development Agreement Amendment Project

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

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

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

TABLE OF CONTENTS

SECTION 1: INTRODUCTION2

SECTION 2: THE BAYER HEALTHCARE LLC DEVELOPMENT AGREEMENT AMENDMENT PROJECT 4

SECTION 3: EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS6

SECTION 4: EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT23

SECTION 5: FEASIBILITY OF PROJECT ALTERNATIVES26

SECTION 6: ENVIRONMENTAL REVIEW PROCESS AND CONTENTS OF THE SEIR

DRAFT CEQA FINDINGS
PLANNING COMMISSION

SECTION 1: INTRODUCTION

1.1 Statutory Requirements for Findings

Section 15091 of the *CEQA Guidelines* states that:

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

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

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

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

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

1.2 Record of Proceedings

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

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

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

² Public Resources Code Section 21081(b).

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

1.3 Organization / Format of Findings

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

SECTION 2: THE BAYER HEALTHCARE LLC DEVELOPMENT AGREEMENT AMENDMENT PROJECT

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

2.1 Project Objectives

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

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

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

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

2.2 Project Description

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

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

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

DRAFT CEQA FINDINGS

PLANNING COMMISSION

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

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

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

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

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

2.3 Alternatives

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

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

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

3.1 Aesthetics (Initial Study)

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

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

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

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

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

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

3.2 Air Quality (Subsequent EIR)

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

CEQA Guidelines, 2012. Section 15091.

⁴ *CEQA Guidelines*, 2019. Section 15091

DRAFT CEQA FINDINGS
PLANNING COMMISSION

Mitigation Measure AQ-1: Construction Emissions Measures.

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

Mitigation Measure AQ-2: Tier 4 Construction Equipment.

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

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

3.3 Biological Resources (Initial Study)

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

Mitigation Measure BIO-2: Bird Strike Avoidance.

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

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

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

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

3.4 Cultural Resources (Subsequent EIR)

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

Mitigation Measure CR-1: Architectural History Evaluation.

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

Mitigation Measure CR-2: Architectural History Evaluation.

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

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

Mitigation Measure CR-3: Cultural Resources Desktop Analysis.

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

Mitigation Measure CR-5: Extended Phase I Testing.

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

Mitigation Measure CR-6: Archaeological Site Avoidance.

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

Mitigation Measure CR-7: Phase II Site Evaluation.

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

Mitigation Measure CR-8: Phase III Data Recovery.

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

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

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

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

Mitigation Measure CR-10: Archaeological Monitoring.

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

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

3.5 Geology and Soils (Initial Study)

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

Mitigation Measure GEO-1: Discovery of Paleontological Resources.

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

3.6 Greenhouse Gases (Subsequent EIR)

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

Mitigation Measure GHG-1: Renewable Electricity Sources.

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

3.7 Hazards and Hazardous Materials (Subsequent EIR)

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

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

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

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

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

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

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

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

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

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

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

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

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

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

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

DRAFT CEQA FINDINGS

PLANNING COMMISSION

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

3.8 Hydrology and Water Quality (Initial Study)

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

3.9 Noise (Subsequent EIR)

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

3.10 Public Services (Initial Study)

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

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

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

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

DRAFT CEQA FINDINGS

PLANNING COMMISSION

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

3.11 Recreation (Initial Study)

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

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

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

3.12 Transportation (Subsequent EIR)

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

3.13 Tribal Cultural Resources (Subsequent EIR)

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

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

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

Mitigation Measure TCR-2: Native American Monitoring.

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

Exceptions include the following:

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

4.1 Agricultural and Forest Resources (Initial Study)

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

4.2 Energy (Initial Study)

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

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

4.3 Land Use and Planning (Initial Study)

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

4.4 Mineral Resources (Initial Study)

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

4.5 Population and Housing (Initial Study)

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

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

4.6 Utilities and Service Systems (Subsequent EIR)

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

4.7 Vehicle Miles Traveled (Subsequent EIR)

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

4.8 Wildfire (Initial Study)

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

SECTION 5: FEASIBILITY OF PROJECT ALTERNATIVES

5.1 Project Alternatives

The Subsequent EIR included three alternatives:

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

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

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

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

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

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

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

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

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

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

DRAFT CEQA FINDINGS
PLANNING COMMISSION

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

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

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

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

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

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

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

DRAFT CEQA FINDINGS

PLANNING COMMISSION

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

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

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

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

5.2 Environmentally Superior Alternative

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

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

SECTION 6: ENVIRONMENTAL REVIEW PROCESS AND CONTENTS OF THE SEIR

6.1 Preparation of the EIR

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

6.2 Absence of Significant New Information

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

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

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

SECTION 7: CERTIFICATION OF THE FINAL EIR

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

The City hereby certifies as follows:

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

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM
1231 ADDISON STREET**

PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY

DEVELOPMENT AGREEMENT AMENDMENT – BAYER HEALTHCARE LLC.

800 DWIGHT WAY, USE PERMIT #ZP2020-0008

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, NOVEMBER 30, 2021** at **6:00 P.M.** a public hearing will be conducted to consider an application to enter into a Development Agreement (DA) amendment that would:

1. Extend the terms of the DA for another 30 years from its February 2022 expiration date to 2052;
2. Extend the boundaries of the DA to include the South Properties; and
3. Modify various development standards, operational restrictions, and campus layout.

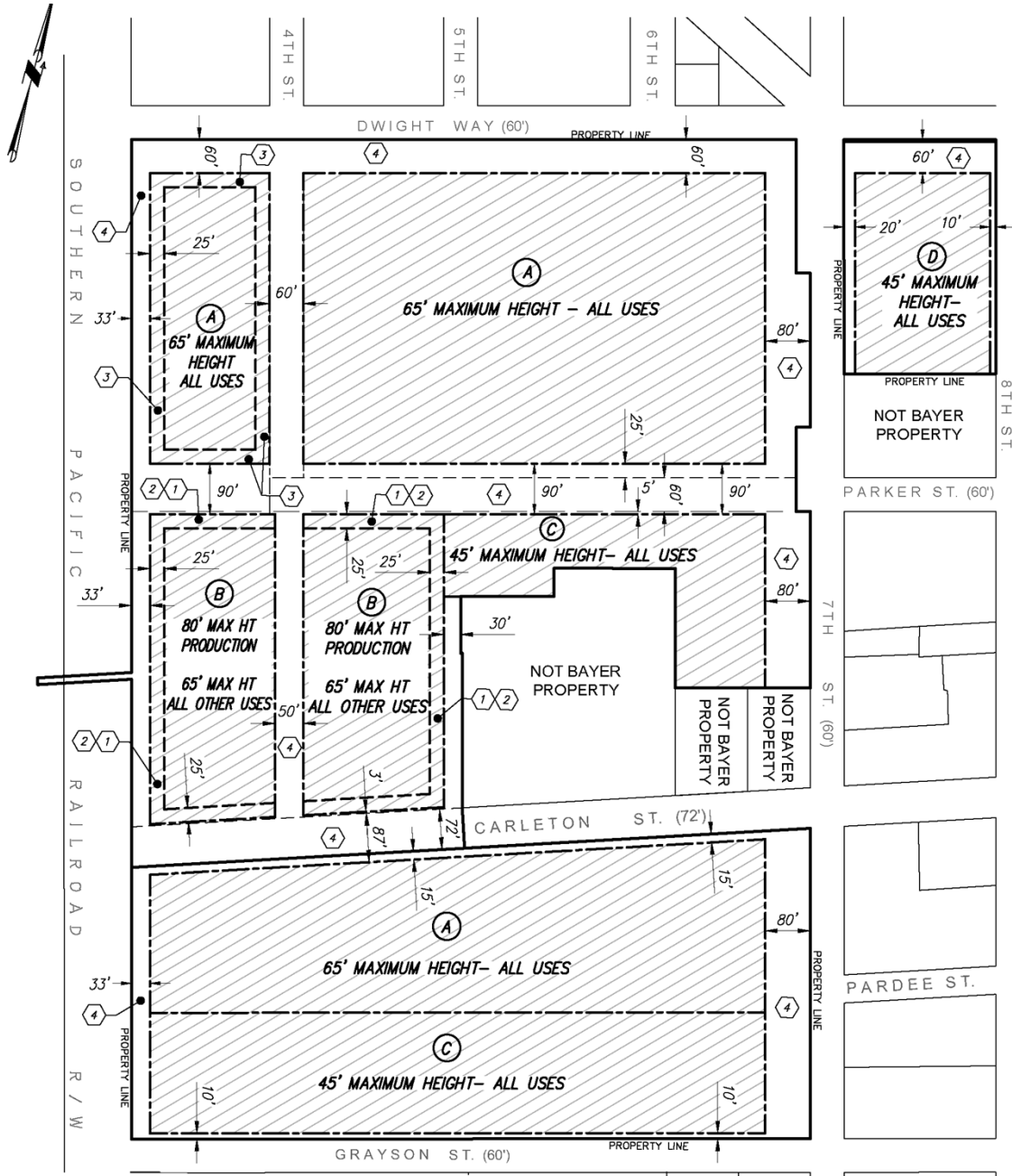
Bayer's existing 30-year DA with the City of Berkeley, covering the North Properties, was approved in 1992 and is set to expire in 2022. An EIR analyzed the potential impacts of the development proposed as part of the original DA; the EIR was certified in 1991. The current DA covers only the North Properties. Because Bayer acquired the South Properties after the 1999 major amendment to the 1992 DA, the South Properties are not included in the original DA's project area. The City approved a Use Permit (UP#00-10000008) for the South Properties and adopted a Mitigated Negative Declaration on July 21, 2000.

The Bayer Campus consists of approximately 46 acres generally bounded by railroad right-of-way and tracks to the west, Dwight Way to the north, Seventh Street to the east, and Grayson Street to the south. In addition, the project site includes a surface parking lot on a property between Dwight Way, Seventh Street, Parker Street, and Eighth Street. The project site comprises two primary areas divided by Carleton Street: 1) the North Properties at 800 Dwight Way, which includes 31.9 acres north of Carleton Street; and, 2) the South Properties at 801 Grayson Street, which includes 14.4 acres south of Carleton Street.

In addition to extending the term of the DA by 30 years, the proposed amended DA would include a conceptual development plan that would allow for rearranging the campus layout through proposed phased demolition of nine existing buildings; construction of approximately twelve new buildings for production, laboratory, and administrative uses; and replacement of surface parking with two new parking structures and new underground parking facilities. Several other buildings providing space for manufacturing, warehouses, and maintenance would be renovated and/or expanded.

Overall, the project would involve a reduction of the maximum allowable square footage entitled under the current DA and South Properties Use Permit by 128,000 square feet. Within the 30-year time frame, Bayer envisions retaining approximately 820,000 square feet of existing square footage, demolishing nine buildings totaling approximately 267,000 square feet, and constructing approximately 918,000 square feet of new facilities.

- Development parameters address:
- Administration and implementation, including various permit requirements
- Zoning and permitted uses, including definitions and locations of uses
- Development standards, including building heights, setbacks, stepbacks and projections, as well as parking and circulation, and landscaping and open space.
- Design guidelines, including signage, building design, landscaping, lighting and sustainability.



LEGEND

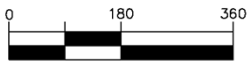
- BAYER HEALTHCARE PROPERTY
- ADJACENT PROPERTY LINE
- - - SITE DEVELOPMENT BOUNDARY
- - - BUILDING HEIGHT STEPDOWN

NOTE LEGEND

- ① 65' MAXIMUM HEIGHT FOR PRODUCTION
- ② 50' MAXIMUM HEIGHT FOR OTHER USES
- ③ 50' MAXIMUM HEIGHT FOR ALL USES
- ④ 0' HEIGHT

BLOCK LEGEND

- Ⓐ 65' ALL USES
- Ⓑ 80' PRODUCTION, 65' OTHER USES
- Ⓒ 45' ALL USES
- Ⓓ 45' ALL USES



(IN FEET)
1 inch = 180 ft.

CITY OF BERKELEY

ALAMEDA COUNTY

CALIFORNIA

Bayer is also proposing community benefits contributions associated with the DA amendment. Bayer initially proposed community benefits contributions that included a total annual contribution of \$720,000 in the first year of the extended term, with annual increases of 2%. That proposal was reviewed in July 2021 by the Planning Commission, Zoning Adjustments Board, and City Council. In September 2021, Bayer submitted a revised proposal (Exhibit D) that includes a total annual contribution of \$800,000 in year 1, with annual increases, to support STEAM and career technical education, the West Berkeley Fund for community infrastructure and resiliency, the City of Berkeley's affordable housing trust fund, the City of Berkeley's affordable childcare trust fund, and the City of Berkeley's private percent for art fund.

Notice is also hereby given that the City of Berkeley has prepared a Final Subsequent Environmental Impact Report (Final SEIR), pursuant to the California Environmental Quality Act (CEQA), for the proposed amendment to Bayer HealthCare LLC's Development Agreement ("proposed project"), which is available for public review for a period of at least 10 days prior to certification by the City Council.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **November 18, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Steven Buckley, Land Use Planning Manager, at (510) 981-7410, or stbuckley@cityofberkeley.info. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

Mark Numainville, City Clerk

Mailed: November XX, 2021

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a project, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision 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, 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.*

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available by request from the City Clerk Department and posted on the City of Berkeley webpage at

least 10 days prior to the public hearing.



Fair Campaign Practices Commission

PUBLIC HEARING
November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Jedidiah Tsang, Chair, Fair Campaign Practices Commission

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices Commission

Subject: Public Hearing: Amendments to the Berkeley Election Reform Act

RECOMMENDATION

Conduct a public hearing, and upon conclusion, adopt the first reading of an Ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) make public financing available to candidates for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner, (2) further clarify the use of Fair Elections funds, (3) clarify the requirements for returning unspent Fair Elections funds, (4) add a new process for requesting return of previously repaid Fair Elections funds, and (5) require the FCPC to make a cost of living adjustment to the contribution limit to candidates in January of each odd-numbered year.

FISCAL IMPACTS OF RECOMMENDATION

None. The City's public financing program is paid for by the Fair Elections Fund, a special, dedicated, non-lapsing fund established by the City Charter. (Charter section 6.2.) The Fair Elections Fund currently has a balance of approximately \$1.4 million and is allocated \$4.65 per City resident each year. For FY 2023, allocations are expected to be \$578,613. The Fair Elections Fund is sufficiently funded to cover the expected matching fund expenditures for the 2022 election cycle, including matching funds which would be disbursed to candidates for the offices added to the public financing program by this amendment.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments to the Berkeley Election Reform Act (BERA) were approved by the Fair Campaign Practices Commission at its regular meeting of September 16, 2021.

Action: M/S/C (Newman/Humbert) to adopt BERA amendments proposed by MapLight, with amendment changing proposed aggregate amount of Fair Elections funds a participating Rent Stabilization Board candidate may receive in an election cycle from \$5,000 to \$8,000.

Vote: Ayes: Blome, Ching, Hernandez, Humbert, Hynes, Newman, O'Donnell, Saginor, Tsang; Noes: none; Abstain: none; Absent: none.)

Action: M/S/C (Tsang/O'Donnell) to adopt BERA amendments proposed by staff clarifying requirements for returning unspent Fair Elections funds and requesting return of funds after unspent funds have been repaid, with clarifying changes.

Vote: Ayes: Blome, Ching, Hernandez, Humbert, Hynes, Newman, O'Donnell, Saginor, Tsang; Noes: none; Abstain: none; Absent: none.)

Pursuant to Berkeley Municipal Code Section 2.12.051, BERA may be amended by the "double green light" process. This process requires that the FCPC adopt the amendments by a two-thirds vote, and the City Council hold a public hearing and adopt the amendments by a two-thirds vote.

BACKGROUND

BMC § 2.12.560 requires that after each of the first two election cycles that occur after implementation of the Fair Elections Act, the FCPC shall review the Fair Elections program and make recommendations to Council for policy changes to improve and refine the program. Necessary amendments were identified and implemented following the 2018 election cycle, and additional issues were raised by staff and participating committees during and after the 2020 election cycle. The FCPC determined that in order to best assist candidates and committees with conforming to the requirements of BERA and the very specific restrictions and requirements of the Public Finance Program additional amendments to BERA are needed.

At its September 16, 2021 meeting, the FCPC approved the attached ordinance which makes the following changes to BERA:

1. Public financing for the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner

This proposed ordinance expands the Berkeley Fair Elections program to allow candidates for Auditor, School Director, and Rent Stabilization Board Commissioner to participate in the program. Under current law, only candidates for Mayor and City Council may participate in the Fair Elections program. The proposed ordinance specifies that a candidate for Auditor, School Director, or Rent Stabilization Board Commissioner is eligible to participate in the Fair Elections program if the candidate meets the requirements to hold the office sought as provided in the City of Berkeley Charter. The proposed ordinance also provides a maximum aggregate amount of Fair Elections funds per election of \$20,000 for candidates for Auditor; \$20,000 for candidates for School Director; and \$8,000 for candidates for Rent Stabilization Board Commissioner. Under the proposed ordinance, the maximum aggregate amounts of Fair Elections funds for candidates for Mayor and Councilmember are adjusted to the current amounts as provided by Fair Campaign Practices Commission (FCPC) regulation.

2. Further clarifies the use of Fair Elections funds

This proposed ordinance also specifies that a candidate participating in the Fair Elections program must use Fair Elections funds and contributions for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle. Current law requires only that a participating candidate use Fair Elections funds and contributions for direct campaign purposes. Under the proposed ordinance, a participating candidate is also prohibited from using Fair Elections funds and contributions to pay a business in which the candidate or candidate's immediate family member has a ten percent ownership interest.

3. Clarifies the requirements for returning unspent Fair Elections funds

In the 2020 election, several candidates did not follow the required timeline for submitting unspent funds as required by BMC § 2.12.505.H. Participating candidates were sent a letter after the election reminding them of the deadline and requesting a draft Form 460 showing an ending cash balance that matched the amount on the check submitted for unspent funds. Of the ten participating candidates, one initially submitted a draft Form 460 with a closing balancing that did not match the amount of the check, one candidate took three months to return their unspent funds, and one has yet to submit documentation verifying the correct amount to be returned. Neither BERA nor the Public Finance Program Supplemental Guide provided a clear process for returning unspent funds; additionally, there is no specific guidance regarding candidates who participate in the program but do not ultimately qualify for the ballot. The Supplemental Guide has been updated to clarify the administrative process; further amendments to BERA are needed to underscore the requirements and to confirm that non-compliance is a violation of BERA.

4. Adds a new process for requesting return of previously repaid Fair Elections funds

Several months after returning their unspent Fair Elections funds, two committees notified the City Clerk Department that they had received invoices from a vendor who had not yet billed them. The committees requested return of a portion of unspent funds to pay the invoices. Absent specific guidance, the City Clerk Department consulted the City Attorney's Office and agreed to accommodate the requests for the 2020 election. However, staff believe that going forward, such requests should be considered on a case-by-case basis by the FCPC given the unique circumstances of each request and the possibility of campaign reporting violations.

5. Requires the FCPC to make a cost of living adjustment to the contribution limit to City candidates in January of each odd-numbered year

The proposed ordinance amends BMC § 2.12.415 to require the FCPC to make a cost of living adjustment to the contribution limit to candidates every January of an odd-numbered year in the same manner as the Fair Elections funds and contribution limits are adjusted for participating candidates.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

RATIONALE FOR RECOMMENDATION

The proposed BERA amendments will expand the public financing program to all City elected offices and improve the administration of the public financing program.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager takes no position on the recommendations in this report.

CONTACT PERSON

Jedidiah Tsang, Chair, Fair Campaign Practices Commission, (510) 981-6998
Samuel Harvey, Commission Secretary, Fair Campaign Practices Commission (510) 981-6998

Attachments:

1. Ordinance amending BERA
2. FCPC September 16, 2021 Meeting Report and Attachments

ORDINANCE NO. _____

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

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

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

2.12.415 Persons other than candidate--Maximum permitted amount.

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

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

2.12.495 Offices covered.

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

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

2.12.500 Eligibility for Fair Elections campaign funding.

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

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

- a) The candidate has complied with the restrictions of this chapter during the election cycle to date;
- b) The candidate's campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and
- c) The candidate will comply with the requirements of this Act during the remainder of

the election cycle and, specifically, if certified an eligible participating candidate, will comply with the requirements applicable to participating candidates.

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

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

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

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

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

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

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

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

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

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

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

9) Not accept loans from any source.

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

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

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

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

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

2.12.505 Fair Elections fund payments.

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

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

- 1) \$129,000 for a candidate running for the office of Mayor;
- 2) \$43,000 for a candidate running for the office of City Council;
- 3) \$20,000 for a candidate running for the office of Auditor;

4) \$20,000 for a candidate running for the office of Board of Education;

5) \$8,000 for a candidate running for the office of Rent Stabilization Board.

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

1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publicly disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.

2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

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

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

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon

receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section 2.12.235.

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

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

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

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

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

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

2.12.530 Use of Fair Elections funds.

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

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

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

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

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

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

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

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

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

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

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

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

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

AMENDMENTS TO THE BERKELEY ELECTION REFORM ACT

The Fair Campaign Practices Commission is proposing amendments to the Berkeley Election Reform Act related to the regulation of officeholder accounts.

The hearing will be held on November 30, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **November 18, 2021**. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@cityofberkeley.info for further information.

Published: November 19, 2021 – The Berkeley Voice

Pursuant to Berkeley Municipal Code section 2.12.051

~~~~~  
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 November 18, 2021.



\_\_\_\_\_  
Mark Numainville, City Clerk







City Clerk Department

September 16, 2021

To: Members, Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Proposed Amendments to the Berkeley Election Reform Act (BERA) and FCPC Regulations for the 2022 Election Cycle

---

BMC 2.12.560 requires that after each of the first two election cycles that occur after implementation of the Fair Elections Act, the Fair Campaign Practices Commission shall review the Fair Elections program and make recommendations to Council for policy changes to improve and refine the program. Necessary amendments were identified and implemented following the 2018 election cycle, and additional issues were raised by staff and participating committees during and after the 2020 election cycle. In order to best assist candidates and committees with conforming to the requirements of BERA and the very specific restrictions and requirements of the Public Finance Program, additional amendments to BERA and to the FCPC Regulations are needed.

Additionally, representatives from MapLight, the original sponsors of the Fair Elections Act of 2016, have proposed the inclusion of the offices of Auditor, School Board Director, and Rent Stabilization Board Commissioner to the Public Finance Program, and have proposed amendments further clarifying the use of Fair Elections funds. These are discussed further in the accompanying memo.

Attachments:

1. MapLight - Summary of Proposed Changes
2. MapLight - City of Berkeley Campaign Expenditures 2014-2020
3. MapLight - Fair Elections Budget Projections
4. MapLight - Draft Ordinance Amendments
5. Staff - Summary of Proposed Changes
6. Staff - Draft Ordinance Amendments

**MapLight****Summary of Proposed Changes**

This proposed ordinance expands the Berkeley Fair Elections program to allow candidates for Auditor, School Director, and Rent Stabilization Board Commissioner to participate in the program. Under current law, only candidates for Mayor and City Council may participate in the Fair Elections program. The proposed ordinance specifies that a candidate for Auditor, School Director, or Rent Stabilization Board Commissioner is eligible to participate in the Fair Elections program if the candidate meets the requirements to hold the office sought as provided in the City of Berkeley Charter. The proposed ordinance also provides a maximum aggregate amount of Fair Elections funds per election of \$20,000 for candidates for Auditor; \$20,000 for candidates for School Director; and \$5,000 for candidates for Rent Stabilization Board Commissioner. Under the proposed ordinance, the maximum aggregate amounts of Fair Elections funds for candidates for Mayor and Councilmember are adjusted to the current amounts as provided by Fair Campaign Practices Commission (FCPC) regulation – this provision should be reviewed to ensure that if the ordinance is passed, the amounts for Mayor and Councilmember do not revert back to the original \$120,000 and \$40,000, respectively.

This proposed ordinance also specifies that a candidate participating in the Fair Elections program must use Fair Elections funds and contributions for direct campaign purposes to further the candidate's own campaign for the relevant office and election cycle. Current law requires only that a participating candidate use Fair Elections funds and contributions for direct campaign purposes. Under the proposed ordinance, a participating candidate is also prohibited from using Fair Elections funds and contributions to pay a business in which the candidate or candidate's immediate family member has a ten percent ownership interest. As amended by the proposed ordinance, this provision includes both the terms "family" and "immediate family" and leaves them undefined; this provision should be reviewed to ensure that it is clear which family members are included in the provision's restrictions and provide definitions if necessary. For consistency, both references could be changed to "immediate family" so that the restrictions of the provision apply to the same group of family members.

Finally, the proposed ordinance requires the FCPC to make a cost of living adjustment to the contribution limit to candidates every January of an odd-numbered year in the same manner as the Fair Elections funds and contribution limits are adjusted for participating candidates.

**Section-by-Section**

Section 1. This section requires the FCPC to make a cost of living adjustment to the contribution limit to candidates every January of an odd-numbered year in the same manner as the contribution limit and Fair Elections funds limits are adjusted for participating candidates.

Section 2. This section expands the Fair Elections program to allow candidates for Auditor, School Director, and Rent Stabilization Board Commissioner to participate in the program.

Section 3. This section specifies that candidates for Auditor, School Director, and Rent Stabilization Board Commissioner must meet the candidacy requirements for their respective offices as provided in the City of Berkeley Charter in order to be eligible to participate in the Fair Elections program.

Section 4. This section updates the maximum aggregate amounts of Fair Elections funds that a candidate for Mayor or City Council may receive and establishes maximum aggregate amounts of Fair Elections funds that a candidate for Auditor, School Director, and Rent Stabilization Board Commissioner may receive.

Section 5. Under this section, a participating candidate is required to use Fair Elections funding only for direct campaign purposes that further the participating candidate's own campaign for the relevant office and election cycle. In addition, this section prohibits a candidate from spending Fair Elections funding at a business in which the candidate or candidate's immediate family member has a 10 percent or greater ownership interest.

**CITY OF BERKELEY CAMPAIGN EXPENDITURES 2014-2020****for Auditor, Rent Board, and School Board**

Data collected from the City of Berkeley's Public Portal for Lobbyist and Campaign Finance Disclosure by MapLight, a nonprofit research organization.

Candidates with less than \$500 in total expenditures were excluded from this dataset.

Winning candidates are indicated by an asterisk\*

**2014**


---

| <b>Office Sought</b>     | <b>Candidate</b>  | <b>Total Expenditures</b> |        |
|--------------------------|-------------------|---------------------------|--------|
| Auditor                  | Anne-Marie Hogan* | \$                        | 2,639  |
| Rent Stabilization Board | James Chang*      | \$                        | 2,092  |
| Rent Stabilization Board | John Selawsky*    | \$                        | 1,894  |
| Rent Stabilization Board | Jesse Townley*    | \$                        | 1,705  |
| Rent Stabilization Board | Katherine Harr*   | \$                        | 1,553  |
| Rent Stabilization Board | Paola Laverde*    | \$                        | 1,110  |
| School Board Trustee     | Ty Alper*         | \$                        | 48,298 |
| School Board Trustee     | Julie Sinai       | \$                        | 30,220 |
| School Board Trustee     | Joshua Daniels*   | \$                        | 22,430 |
| School Board Trustee     | Karen Hemphill*   | \$                        | 11,533 |

**Independent Expenditures**

No independent expenditures found for the above contests.

**2016**

| <b>Office Sought</b>     | <b>Candidate</b>      | <b>Expenditures</b> |
|--------------------------|-----------------------|---------------------|
| Rent Stabilization Board | Judy Hunt             | \$ 7,991            |
| Rent Stabilization Board | Christina Murphy*     | \$ 6,846            |
| Rent Stabilization Board | Leah Simon-Weisberg*  | \$ 5,615            |
| Rent Stabilization Board | Igor Tregub*          | \$ 5,110            |
| Rent Stabilization Board | Alejandro Soto-Vigil* | \$ 4,013            |
| Rent Stabilization Board | Nathan Wollman        | \$ 3,551            |
| School Board Trustee     | Judy Appel*           | \$ 5,342            |
| School Board Trustee     | Beatriz Leyva-Cutler* | \$ 1,301            |
| School Board Trustee     | Abdur Sikder          | \$ 1,069            |

**Independent Expenditures**

| <b>Committee</b>          | <b>Candidate</b>     | <b>Support or Oppc</b> | <b>Total Expenditures</b> | <b>Office Sought</b>     |
|---------------------------|----------------------|------------------------|---------------------------|--------------------------|
| Berkeley Working Families | Alejandro Soto-Vigil | support                | 734                       | Rent Stabilization Board |
| Berkeley Working Families | Christina Murphy     | support                | 734                       | Rent Stabilization Board |
| Berkeley Working Families | Igor Tregub          | support                | 734                       | Rent Stabilization Board |
| Berkeley Working Families | Leah Simon-Weisberg  | support                | 734                       | Rent Stabilization Board |

**2018**

---

| <b>Office Sought</b>     | <b>Candidate</b>   | <b>Total Expenditures</b> |
|--------------------------|--------------------|---------------------------|
| Auditor                  | Jennifer Wong*     | \$ 24,875                 |
| Auditor                  | Vladislav Davidzon | \$ 14,714                 |
| Auditor                  | John Selawsky      | \$ 1,970                  |
| Rent Stabilization Board | James Chang*       | \$ 9,749                  |
| Rent Stabilization Board | Judy Hunt          | \$ 5,161                  |
| Rent Stabilization Board | Maria Poblet*      | \$ 2,089                  |
| Rent Stabilization Board | John Selawsky*     | \$ 1,970                  |
| Rent Stabilization Board | Solomon Alpert*    | \$ 1,959                  |
| Rent Stabilization Board | Paola Laverde*     | \$ 1,844                  |
| School Board Trustee     | Ty Alper*          | \$ 37,567                 |
| School Board Trustee     | Julie Sinai*       | \$ 29,767                 |
| School Board Trustee     | Ka'Dijah Brown*    | \$ 10,594                 |
| School Board Trustee     | Lea Baechler-Brabo | \$ 500                    |

**Independent Expenditures**

| <b>Committee</b>                  | <b>Candidate</b> | <b>Support or Opp</b> | <b>Total Expenditures</b> | <b>Office Sought</b> |
|-----------------------------------|------------------|-----------------------|---------------------------|----------------------|
| California Federation Of Teachers | Jule Sinai       | support               | 2,420                     | School Board         |
| California Federation Of Teachers | Ka'Dijah Brown   | support               | 2,420                     | School Board         |
| California Federation Of Teachers | Ty Alper         | support               | 2,420                     | School Board         |

**2020**

| <b>Office Sought</b>     | <b>Candidate</b>     | <b>Total Expenditures</b> |
|--------------------------|----------------------|---------------------------|
| Rent Stabilization Board | Andy Kelley*         | \$ 16,104                 |
| Rent Stabilization Board | Bahman Ahmadi        | \$ 13,600                 |
| Rent Stabilization Board | Soulmaz Panahi       | \$ 11,970                 |
| Rent Stabilization Board | Dan McDunn           | \$ 8,756                  |
| Rent Stabilization Board | Leah Simon-Weisberg* | \$ 8,646                  |
| Rent Stabilization Board | Wendy Hood           | \$ 7,638                  |
| Rent Stabilization Board | Carole Marasovic     | \$ 6,762                  |
| Rent Stabilization Board | Pawel Moldenhawer    | \$ 5,823                  |
| Rent Stabilization Board | Timothy Johnson*     | \$ 4,848                  |
| Rent Stabilization Board | Mari Mendonca*       | \$ 4,547                  |
| Rent Stabilization Board | Dominique Walker*    | \$ 4,115                  |
| School Board Trustee     | Ana Vasudeo*         | \$ 23,061                 |
| School Board Trustee     | Laura Babbit*        | \$ 12,291                 |
| School Board Trustee     | Michael Chang        | \$ 16,503                 |
| School Board Trustee     | Jose Bedolla         | \$ 3,371                  |
| School Board Trustee     | Esfandiar Imani      | \$ 2,732                  |

**Independent Expenditures**

| <b>Committee</b>                      | <b>Candidate</b>    | <b>Support or Oppose</b> | <b>Expenditures</b> | <b>Office Sought</b>     |
|---------------------------------------|---------------------|--------------------------|---------------------|--------------------------|
| National Association Of Realtors Fund | Bahman Ahmadi       | support                  | 54,143              | Rent Stabilization Board |
| National Association Of Realtors Fund | Dan McDunn          | support                  | 17,791              | Rent Stabilization Board |
| National Association Of Realtors Fund | Soulmaz Panahi      | support                  | 17,791              | Rent Stabilization Board |
| National Association Of Realtors Fund | Wendy Saenz Hood Ne | support                  | 17,791              | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Pawel Moldenhawer   | support                  | 5,756               | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Wendy Saenz Hood Ne | support                  | 5,756               | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Dan McDunn          | support                  | 5,756               | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Soulmaz Panahi      | support                  | 5,756               | Rent Stabilization Board |
| Committee For Ethical Housing, Suppo  | Bahman Ahmadi       | support                  | 5,756               | Rent Stabilization Board |

**Budget Projections - Fair Elections Program Proposed Expansion**

prepared by MapLight

Current balance in Fair Elections Fund: about \$1,400,000

Most recent annual allocation to Fair Elections Fund: \$505,000

Total allocated to Fair Elections Fund each 4-year election cycle: about \$2,020,000

Total disbursed from Fair Elections Fund for 2018: \$295,288

Total disbursed from Fair Elections Fund for 2020: \$299,454

*Source for above figures: City Clerk's office*

| Office                                 | Maximum public funding per candidate (proposed) | 2013-2020 average # of candidates per 4-year election cycle | Moderate estimate | High estimate     |
|----------------------------------------|-------------------------------------------------|-------------------------------------------------------------|-------------------|-------------------|
| Auditor                                | \$ 20,000                                       | 2                                                           | \$ 40,000         | \$ 60,000         |
| School Board Trustee                   | \$ 20,000                                       | 8                                                           | \$ 160,000        | \$ 240,000        |
| Rent Stabilization Bd.                 | \$ 5,000                                        | 14                                                          | \$ 70,000         | \$ 105,000        |
| <b>Total per 4-year election cycle</b> |                                                 |                                                             | <b>\$ 270,000</b> | <b>\$ 405,000</b> |

Moderate estimate: Same number of candidates as historical average, all candidates receive maximum public funding.

High estimate: 1.5X as many candidates as historical average, all candidates receive maximum public funding.

**Budget projection with proposed expansion--every 4 years:**

|                                                  |    |           |                                  |
|--------------------------------------------------|----|-----------|----------------------------------|
| Allocation to Fair Elections fund                | \$ | 2,020,000 |                                  |
| Disbursed from Fund: Administrative costs        | \$ | (290,000) | set by statute                   |
| Disbursed from Fund: Mayor and Council           | \$ | (594,742) | based on disbursements 2017-2020 |
| Disbursed from Fund: Auditor, School Bd, Rent Bd | \$ | (270,000) | based on moderate estimate       |
| Remaining in Fund after disbursement             | \$ | 865,258   |                                  |

Conclusion: The Fair Elections program is already funded at a sufficient level to support expansion.  
No new funding allocation is needed to implement the proposed expansion.

*Source for historical number of candidates: MapLight analysis of candidate filings  
Candidates with less than \$500 in total expenditures were excluded from this data.*



ORDINANCE NO. \_\_\_\_\_

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code Section 2.12.415 is amended to read as follows:**2.12.415 Persons other than candidate--Maximum permitted amount.**

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

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

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

Section 3. That Berkeley Municipal Code Section 2.12.500 is amended to read as follows:**2.12.500 Eligibility for Fair Elections campaign funding.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9) Not accept loans from any source.

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

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

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

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

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

**2.12.505 Fair Elections fund payments.**

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

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

- 1) \$129,000 for a candidate running for the office of Mayor;
- 2) \$43,000 for a candidate running for the office of City Council;
- 3) \$20,000 for a candidate running for the office of Auditor;

4) \$20,000 for a candidate running for the office of Board of Education;

5) \$5,000 for a candidate running for the office of Rent Stabilization Board.

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

1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publicly disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.

2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

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

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

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

G. The City shall provide each participating candidate with a written determination specifying the basis for any non-payment of Fair Elections funds. The Commission shall provide participating candidates with a process by which they may immediately upon

receipt of such determination petition the Commission for reconsideration of any such non-payment and such reconsideration shall occur within seven business days of the filing of such petition. In the event that the Commission denies such petition then it shall immediately notify the candidate of his or her right to seek judicial review of the Commission's denial pursuant to Section 2.12.235.

H. Unspent funds of any Participating Candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a Participating Candidate following the date of the election for which they were distributed shall be deposited into the Fair Elections Fund. A Participating Candidate shall deposit all unspent funds into the Fair Elections Fund, up to the total amount of funds that the Participating Candidate received as Fair Elections Fund distributions in that election cycle, within sixty (60) days after the date of the election.

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

**2.12.530 Use of Fair Elections funds.**

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

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

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

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

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

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

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

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

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

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

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

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



City Clerk Department

September 16, 2021

To: Members, Fair Campaign Practices Commission

From: Mark Numainville, City Clerk

Subject: Staff Proposed Amendments to the Berkeley Election Reform Act (BERA) and FCPC Regulations for the 2022 Election Cycle

---

## 1. Clarification of requirements for returning unspent funds after the election

In the 2020 election, several candidates did not follow the required timeline for submitting unspent funds as required by BMC 2.12.505.H. Participating candidates were sent a letter after the election reminding them of the deadline and requesting a draft Form 460 showing an ending cash balance that matched the amount on the check submitted for unspent funds. Of the ten participating candidates, one initially submitted a draft 460 with a closing balance that did not match the amount of the check, one candidate took three months to return their unspent funds, and one has yet to submit documentation verifying the correct amount to be returned. Neither BERA nor the Public Finance Program Supplemental Guide provided a clear process for returning unspent funds; additionally, there is no specific guidance regarding candidates who participate in the program but do not ultimately qualify for the ballot. The Supplemental Guide has been updated to clarify the administrative process; further amendments to BERA are needed to underscore the requirements and to confirm that non-compliance is a violation of BERA.

Proposed Remedy: Amend BERA 2.12.505.H as follows:

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

Proposed Amendments to the Berkeley Election Reform Act (BERA) and FCPC Regulations for the 2022 Election Cycle

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

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

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

**2. Add new process for requesting return of funds after unspent funds were repaid**

Several months after returning their unspent funds, two committees notified the City Clerk Department that they had received invoices from a vendor who had not yet billed them. The committees requested return of a portion of unspent funds to pay the invoices. Absent specific guidance regarding this matter, the City Clerk Department consulted with the City Attorney's Office and agreed to accommodate the requests for the 2020 election. However, staff believe that going forward, such requests should be considered on a case-by-case basis by the Commission given the unique circumstances of each request and the possibility of campaign reporting violations.

Proposed Remedy: Amend BERA 2.12.505 as follows:

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



Proposed Amendments to the Berkeley Election Reform Act (BERA) and FCPC Regulations for the 2022 Election Cycle

**3. Require additional reporting for expenditures falling under more than one payment code as provided by the state disclosure form**

Many types of purchases by campaign committees fall under more than one payment category as defined by the state, although the electronic filing system used by most candidates does not allow for the entry of more than one code. In order to provide voters a clear picture of what is actually being purchased, an entry in the description field of the transaction would be required.

Proposed Remedy: Amend BERA 2.12.280 as follows:

I. If a single entry for goods, services, facilities, or items of value reported as received or purchased in a campaign statement falls under more than one payment code provided by the state disclosure form, a description of the goods, services, facilities, or items of value must be provided.

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

## AMENDING BERKELEY MUNICIPAL CODE CHAPTER 2.12

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

Section 1. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

**2.12.505 Fair Elections fund payments.**

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

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

- 1) \$120,000 for a candidate running for the office of Mayor;
- 2) \$40,000 for a candidate running for the office of City Council.

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

1) All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publicly disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.

2) All campaign filings must be current in order for a Participating Candidate to receive a disbursement of Fair Elections funds and the Participating Candidate and a Participating Candidate's controlled committee must not have any outstanding fines related to campaign filings or violations of municipal, state or federal election law. All applications for Fair Elections funds shall include a certification by the Participating Candidate that the Participating Candidate or his or her controlled committee does not have any outstanding fines or penalties related to campaign filings. Upon submission of outstanding campaign filings and payment of any outstanding fines, withheld Fair Elections funds will be disbursed at the next regularly scheduled distribution for that election cycle.

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

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

F. The Commission shall establish a schedule for the submission of Fair Elections funds payment requests, permitting a candidate to submit a Fair Elections funds payment request at least once per month. However, the Commission shall schedule a minimum of three payment request submission dates within the thirty days prior to an election.

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

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

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

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

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

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

Section 2. That Berkeley Municipal Code Section 2.12.505 is amended to read as follows:

**2.12.280 Campaign statement--Information required.**

Each campaign statement required by this article shall contain the following information:

- A. Under the heading "receipts," the total amount of contributions received, and under the heading "expenditures," the total amount of expenditures made during the period covered by the campaign statement and cumulative amount of such totals;
- B. The total amount of contributions received during the period covered by the campaign statement from persons who have given fifty dollars or more;
- C. The total amount of contributions received during the period covered by the campaign statement from persons who have given less than fifty dollars;
- D. The total amount of expenditures disbursed during the period covered by the campaign statement to persons who have received fifty dollars or more;
- E. The total amount of expenditures disbursed during the period covered by the campaign statement to persons who have received less than fifty dollars;
- F. The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement;
- G. The full name of each person from whom a contribution or contributions totalling fifty dollars or more has been received together with his or her street address, occupation, and the name of his or her employer, if any, or the principal place of business if he or she is self-employed, the amount which he or she contributed, the date on which each contribution was received during the period covered by the campaign statement, and the cumulative amount he or she contributed. In the case of committees which are listed as contributors, the campaign statement shall also contain the full name and street address of the treasurer of the committee. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated in regard to the lender, together with the date and amount of the loan, and if the loan has been repaid, the date of payment and by whom paid;

H. The full name and street address of each person to whom an expenditure or expenditures totalling fifty dollars or more has been made, together with the amount of each separate expenditure to each person during the period covered by the campaign statement; a brief description of the consideration for which the expenditure was made; the full name and street address of the person providing the consideration for which an expenditure was made if different from the payee; and in the case of committees which are listed, the full name and street address of the treasurer of the committee;

I. If a single entry for goods, services, facilities, or items of value reported as received or purchased in a campaign statement falls under more than one payment code provided by the state disclosure form, a description of the goods, services, facilities, or items of value must be provided.

J. In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures for or against each such candidate or measure;

J.K. The full name, residential and business address and telephone number of the filer or, in the case of a campaign statement filed by a committee, the name and telephone number of the committee and the committee's street address;

K.L. In a campaign statement filed by a candidate, the full name and street address of any committee, of which he or she has knowledge, which has received contributions or made expenditures on behalf of his or her candidacy, along with the full name, street address and telephone number of the treasurer of such committee.





Office of the City Manager

## ACTION CALENDER

November 30, 2021

(Continued from November 16, 2021)

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Commission Reorganization: Creating the Parks, Recreation, and Waterfront Commission

### RECOMMENDATION

Adopt an Ordinance repealing and re-enacting Berkeley Municipal Code Chapter 3.26 to create the Parks, Recreation, and Waterfront Commission, and repealing Berkeley Municipal Code Chapters 3.27 (Children, Youth, and Recreation Commission) and 3.08 (Berkeley Animal Care Commission).

### FISCAL IMPACTS OF RECOMMENDATION

No direct fiscal impacts, but this reorganization will reduce staff time and increase efficiency by consolidating 3 commissions into one.

### CURRENT SITUATION AND ITS EFFECTS

At a Special Meeting on June 15, 2021, Council took action to refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing City commissions, and refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes. One of the Phase 2 reorganizations in the action was to consolidate the current Parks and Waterfront Commission, the Children, Youth, and Recreation Commission, and the Animal Care Commission into a new commission called the Parks, Recreation, and Waterfront Commission. Staff recommend the following implementation plan: the three existing commissions will complete their regularly-scheduled meetings through December 31, 2021, and the new Parks, Recreation, and Waterfront Commission will begin in January 2022. All council appointees to the current commissions being consolidated will expire as of December 31, 2021, and Councilmembers will need to make new appointments to the new commission. The enabling legislation for the new commission includes a provision that all prior service on the commissions being consolidated is counted toward the 8-year limit of service. The function of the proposed new commission is the following: The Parks, Recreation and Waterfront Commission shall be an advisory board and shall review the following related to all City/public parks, open space, greenery, pools, programs, recreation centers, the Waterfront, and resident camps: their physical conditions, policies, projects, programs, planning efforts,

activities, and funding; early childhood education programs; and animal care issues in parks, and shall advise the City Council on these matters.

BACKGROUND

Per the Problem/Summary Statement in the Council action item of June 15, 2021, 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 the City faces in recovering from the COVID-19 pandemic and the demands that this recovery places on City staff, Council deemed it an appropriate time to consider how best to consolidate commissions in a manner that helps the City to achieve its core mission.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE CHANGE

There are no environmental impacts associated with the recommendation in this report.

RATIONALE FOR RECOMMENDATION

As the City re-emerges from COVID-19, the City needs to demonstrate efficiency and fiscal restraint. The re-organization of City commissions places an emphasis on overall community benefit, staff productivity, and will bring a greater diversity of voices into the commission process.

CONTACT PERSON

Scott Ferris, Director, PRW, (510) 981-6700

Attachments:

1: Ordinance



ORDINACE NO. -N.S

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

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

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

Chapter 3.26  
PARKS, RECREATION, AND WATERFRONT COMMISSION

Sections:

- [3.26.010](#) Established--Membership--Appointment.
- [3.26.020](#) Council representatives--Functions.
- [3.26.030](#) Organization, meetings, rules and procedures.
- [3.26.040](#) Functions.

**3.26.010 Established--Membership--Appointment.**

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

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

**3.26.020 Council representatives--Functions.**

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

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

**3.26.030 Organization, meetings, rules and procedures.**

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

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

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

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

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

### **3.26.040 Functions.**

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

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

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

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

**Section 4.** Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Office of the City Manager

## ACTION CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Interim Chief of Police  
LaTanya Bellow, Interim Deputy City Manager

Subject: Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code

### RECOMMENDATION

Adopt a Resolution accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code.

### FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with adopting the attached resolution.

### CURRENT SITUATION AND ITS EFFECTS

On March 27, 2018, the City Council adopted Ordinance 7,592-N.S., adding Chapter 2.99 to the Berkeley Municipal Code, which is also known as the Surveillance Technology Use and Community Safety Ordinance (“Ordinance”). The purpose of the Ordinance is to provide transparency surrounding the use of surveillance technology, as defined by Section 2.99.020 in the Ordinance, and to ensure that decisions surrounding the acquisition and use of surveillance technology consider the impacts that such technology may have on civil rights and civil liberties. Further, the Ordinance requires that the City evaluate all costs associated with the acquisition of surveillance technology and regularly report on their use.

The Ordinance imposes various reporting requirements on the City Manager and staff. The purpose of this staff report and attached resolution is to satisfy the annual reporting requirement as outlined in Section 2.99.070.

One of the reporting categories of the surveillance technology use is whether complaints have been received by the community about the various technologies. To date Berkeley Police Department Internal Affairs Bureau (IAB) has not received any external personnel complaints surrounding the use of Automatic License Plate Readers, GPS Trackers, or Body Worn Cameras. External complaints from community members

can be made in writing, via email, in person or via telephone. Complaints can be received with direct communication to Internal Affairs from the complainant and/or be received by any member of the Department and then forwarded through the chain of command. If a community member initiates a complaint against a subject employee and during the investigation it is determined the subject employee violated policy regarding the misuse of technology, an additional complaint is initiated by the Chief of Police.

Community members also have the right to initiate complaints against employees of BPD by reporting directly to the Police Accountability Board (PAB). The Director of Police Accountability notifies the Chief of Police when an investigation into a complaint is initiated by the PAB, which would prompt a parallel IAB investigation.

Attached to this staff report are Surveillance Technology Reports for Automatic License Plater Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project.

#### BACKGROUND

On March 27, 2018, the City Council adopted Ordinance 7,592-N.S., adding Chapter 2.99 to the Berkeley Municipal Code, which is also known as the Surveillance Technology Use and Community Safety Ordinance. Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance at the first regular City Council meeting in November.

For each of the four technologies, the Surveillance Technology Reports were prepared to satisfy the specific, section-by-section requirements of the Ordinance, and are attached to this report.

The Surveillance Technology Use Policy for ALPR technology is still outstanding due Council questions about policy language, scheduling and directed focus during COVID-19. This item will be returned to the Council agenda in early 2022.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### RATIONALE FOR RECOMMENDATION

City Council is being requested to adopt the attached resolution for the City to be in compliance with the Ordinance.

#### ALTERNATIVE ACTIONS CONSIDERED

City Council could decide not to adopt the resolution.

CONTACT PERSON

LaTanya Bellow, Interim Director of Information Technology (510) 981-6541

Jennifer Louis, Acting Chief of Police, (510) 981-5700

LaTanya Bellow, Interim Deputy City Manager, (510) 981-7012

ATTACHMENTS

1. Resolution
2. Body Worn Cameras
  - a) Surveillance Technology Report: Body Worn Cameras
  - b) Retention Schedule
3. Global Positioning System (GPS) Tracking Devices  
Surveillance Technology Report
4. Automated License Plate Readers  
Surveillance Technology Report: Automated License Plate Readers
5. Street Level Imagery Project  
Surveillance Technology Report: Street Level Imagery Project

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

A RESOLUTION ACCEPTING THE SURVEILLANCE TECHNOLOGY REPORT FOR AUTOMATIC LICENSE PLATE READERS, GPS TRACKERS, BODY WORN CAMERAS, AND THE STREET LEVEL IMAGERY PROJECT

WHEREAS, on March 27, 2018, the City Council adopted Ordinance 7,592-N.S., which is known as the Surveillance Technology Use and Community Safety Ordinance (“Ordinance”); and

WHEREAS, Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance at the first regular City Council meeting in November; and

WHEREAS, the Surveillance Technology Reports satisfy the requirements of the Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby accepts the Surveillance Technology Reports for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project.

**Surveillance Technology Report: Body Worn Cameras**

**October 1, 2020 – Sept. 30, 2021**

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Description</p> | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Body Worn Cameras are used to capture video recordings of contacts between department personnel and the public, to provide an objective record of these events. These recording are used in support of criminal prosecutions, to limit civil liability, increase transparency and enhance professionalism and accountability in the delivery of police services to the community. Body Worn Camera (BWC) files are shared with the Alameda County District Attorney’s office in support of prosecution for crime, and may be shared with other law enforcement agencies to support criminal investigations.</p> <p><b>Policy regarding activation of the Body Worn Camera BPD Policy 425.7</b></p> <p>Members shall activate the BWC as required by this policy in (a)-(f) below, and may activate the BWC at any time the member believes it would be appropriate or valuable to record an incident within the limits of privacy described herein.</p> <p>The BWC shall be activated in any of the following situations:</p> <ul style="list-style-type: none"> <li>(a) All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.</li> <li>(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.</li> <li>(c) Self-initiated field contacts in which a member would normally notify the Communications Center.</li> <li>(d) Any search activity, including the service of search or arrest warrants; probation, parole, or consent searches where the member is seeking evidence of an offense, or conducting a safety sweep or community caretaking sweep of the premises. Once a location has been secured and the member is not interacting with detainees or arrestees, the member may mute their BWC when conducting a search for evidence.</li> <li>(e) Any other contact that the member determines has become adversarial after the initial contact in a situation where the member would not otherwise activate BWC recording.</li> <li>(f) Transporting any detained or arrested person and where a member facilitates entry into or out of a vehicle, or any time the member expects to have physical contact with that person.</li> </ul> <p><b>What data is captured by this technology:</b></p> <p>BWC use is limited to enforcement and investigative activities involving members of the public. The BWC recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, training, civil litigation, and other proceedings protected by confidentiality laws and department policy. Improper use or release of BWC</p> |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                     | <p>recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited.</p> <p><b>How the data is stored:</b><br/>                 BWC videos are stored on a secure server. All BWC data will be uploaded and stored on Axon Cloud Services, Evidence.com. Axon complies with the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union and Switzerland to the United States (collectively, "Privacy Shield"). Axon has certified to the U.S. Department of Commerce that it adheres to the Privacy Shield Principles.</p> <p><b>Retention period of data:</b><br/>                 See attached retention schedule.</p> <p>Summary of Body Worn Camera Videos Uploaded Oct. 1, 2020 to Sept. 30, 2021:</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding-right: 20px;">Total Number of Videos</td> <td>62,283</td> </tr> <tr> <td>Total Hours of Videos</td> <td>16,310</td> </tr> <tr> <td>Total GB of BWC Videos</td> <td>29,017</td> </tr> </table> <p>Summary of Digital Evidence Uploaded, Oct. 1, 2020 to Sept. 30, 2021:</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="padding-right: 20px;">Type</th> <th style="padding-right: 20px;">File Count</th> <th>Size (GBs)</th> </tr> </thead> <tbody> <tr> <td>Audio</td> <td style="text-align: center;">1,150</td> <td style="text-align: center;">11.72</td> </tr> <tr> <td>Document</td> <td style="text-align: center;">737</td> <td style="text-align: center;">2.38</td> </tr> <tr> <td>Image</td> <td style="text-align: center;">67,672</td> <td style="text-align: center;">331.36</td> </tr> <tr> <td>Other</td> <td style="text-align: center;">1,292</td> <td style="text-align: center;">157.71</td> </tr> <tr> <td>Video*</td> <td style="text-align: center;">67,865</td> <td style="text-align: center;">30,086.75</td> </tr> <tr> <td><b>Total</b></td> <td style="text-align: center;"><b>138,716</b></td> <td style="text-align: center;"><b>30,589.92</b></td> </tr> </tbody> </table> <p>* Includes all uploaded BWC videos and all other videos booked into the evidence management system. Other videos include iPhone videos uploaded, security camera video, copies of BWC videos (for redaction, etc.), and any other videos.</p> | Total Number of Videos | 62,283 | Total Hours of Videos | 16,310 | Total GB of BWC Videos | 29,017 | Type | File Count | Size (GBs) | Audio | 1,150 | 11.72 | Document | 737 | 2.38 | Image | 67,672 | 331.36 | Other | 1,292 | 157.71 | Video* | 67,865 | 30,086.75 | <b>Total</b> | <b>138,716</b> | <b>30,589.92</b> |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|--------|-----------------------|--------|------------------------|--------|------|------------|------------|-------|-------|-------|----------|-----|------|-------|--------|--------|-------|-------|--------|--------|--------|-----------|--------------|----------------|------------------|
| Total Number of Videos              | 62,283                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Total Hours of Videos               | 16,310                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Total GB of BWC Videos              | 29,017                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Type                                | File Count                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Size (GBs)             |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Audio                               | 1,150                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 11.72                  |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Document                            | 737                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 2.38                   |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Image                               | 67,672                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 331.36                 |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Other                               | 1,292                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 157.71                 |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Video*                              | 67,865                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 30,086.75              |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| <b>Total</b>                        | <b>138,716</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>30,589.92</b>       |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| <p><b>Geographic Deployment</b></p> | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Body Worn Cameras are worn by all BPD uniformed officers city-wide at all times; BWCs are not deployed based on geographic considerations.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| <p><b>Complaints</b></p>            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no complaints about the deployment and use of Body Worn Cameras.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| <p><b>Audits and Violations</b></p> | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |



|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|               | <p>File meta-data are routinely reviewed by our BWC manager, to ensure required metadata fields are completed. There have been no complaints with regards to violations of the Surveillance Use Policy.</p>                                                                                                                                                                                                                                                                                                                            |
| Data Breaches | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to BWC data.</p>                                                                                                                                                                                       |
| Effectiveness | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>Body Worn Cameras have proven effective in supporting criminal prosecutions, as video footage is available for all criminal prosecutions. Body Worn Cameras have been effective for training purposes, as footage can be reviewed in incident de-briefs. Body Worn Cameras have been extremely effective in support of Internal Affairs investigations and Use of Force Review.</p> |
| Costs         | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for the Body Worn Cameras, including cameras, replacement cameras, software, and Axon's secure digital evidence management system is approximately \$204,000 per year over a five-year, \$1,218,000 contract. There is one full-time employee assigned to the BWC program, an Applications Programmer Analyst II, at a cost of \$168,940 per year, including benefits.</p>                                  |

| NAME                        | RETENTION DURATION     |
|-----------------------------|------------------------|
| Uncategorized               | Until manually deleted |
| 187 / Felony Sex Assault    | Until manually deleted |
| Civil / City / Non-Evidence | 1 year                 |
| Collision                   | 2 years                |
| Consent / Aid               | 108 weeks              |
| Detention / Warrant Only    | 108 weeks              |
| Felony Evidence             | 5 years                |
| Litigation                  | Until manually deleted |
| Misdemeanor Evidence        | 2 years                |
| Officer Injury              | Until manually deleted |
| OIS / Critical Incident     | Until manually deleted |
| Pending Review              | Until manually deleted |
| Personnel / VSA             | 3 years                |
| Personnel Complaint         | Until manually deleted |
| Traffic Stop                | 108 weeks              |
| Training                    | 60 days                |
| Use of Force                | 108 weeks              |
| z_Saved                     | Until manually deleted |

## Surveillance Technology Report: Global Positioning System Tracking Devices

October 1, 2019 – Sept. 30, 2020

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Description | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Global Positioning System Trackers are used to track the movements of vehicles, bicycles, other items, and/or individuals.</p> <p><b>What data is captured by this technology:</b><br/>A GPS Tracker data record consists of date, time, latitude, longitude, map address, and tracker identification label. The data does not contain any images, names of subjects, vehicle information or other identifying information on individuals.</p> <p><b>How the data is stored:</b><br/>The data from the GPS tracker is encrypted by the vendor. The data is only accessible through a secure website to BPD personnel who have been granted security access.</p> <p><b>Retention period of data:</b><br/>Tracker data received from the vendor shall be kept in accordance with applicable laws, BPD policies that do not conflict with applicable law or court order, and/or as specified in a search warrant.</p> <p>For the date range of 10-01-19 through 09-30-20 the Global Positioning System (GPS) “Electronic Stake Out” (ESO) devices were deployed on “bait” bicycles 52 times, resulting in 34 arrests, 4 eluded capture, 1 person was detained and not arrested, and in 13 deployments the bicycle was not stolen. This program was suspended in mid-March due to the COVID-19 pandemic.</p> <p>GPS “Slap-N-Track” (SNT) devices were used in three separate investigations during this reporting period:</p> <ul style="list-style-type: none"> <li>(1) An investigation of an individual for Sexual Exploitation, Child Pornography, and Distribution of Child Pornography. This suspect currently has a Federal warrant.</li> <li>(2) An investigation of a serial kidnap rape suspect. The suspect was arrested and charged.</li> <li>(3) An investigation into multiple suspects involved in a “Rolex” robbery series that involved the cities of Berkeley, Piedmont, and Orinda. Two devices were used on two different suspect vehicles during this investigation. Four suspects from the above cases were arrested and charged for their involvement in these robberies.</li> </ul> |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       | Data may be shared with the District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence; other law enforcement personnel as a part of an active criminal investigation; and other third parties, pursuant to a court order.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Geographic Deployment | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>GPS ESO-equipped bikes were deployed primarily in commercial districts across the city where bikes are frequently stolen.</p> <p>GPS SNT devices are deployed with judicial pre-approval, based on suspect location, rather than geographical consideration.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Complaints            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There were no complaints made regarding GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Audits and Violations | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There were no audits and no known violations relating to GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Data Breaches         | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There were no known data breaches relating to GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Effectiveness         | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>GPS Trackers continue to be very effective in apprehending bicycle thieves, many of whom are repeat offenders who've committed not only bike thefts, but other crimes as well, such as burglaries, auto burglaries, and vehicle thefts. SNT trackers are effective in that they provide invaluable information on suspect vehicle location during the investigation of complex cases where suspects may be moving around the Bay Area and beyond.</p> <p>GPS Trackers greatly reduce costs associated with surveillance operations. A bike may be left for days. Surveillance operations generally involve four or more officers for the entire duration of an operation. A moving surveillance is extremely resource-intensive, requiring multiple officers in multiple vehicles for extended periods of time. Using both types of GPS trackers eliminates the need for officers' immediate presence until officers are ready to apprehend the suspect(s).</p> <p>The program was suspended in mid-March due to the COVID-19 pandemic. This program will likely resume once the pre-COVID bail schedule is re-established.</p> |
| Costs                 | Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

The annual cost for the GPS Trackers' data service is \$1,920. Further information regarding costs is contained in Policy 1301a, the Surveillance Acquisition Report.

There are staff time costs associated with preparing and placing SNT trackers. The investigator must prepare a search warrant and obtain a judge's approval, and a small number of officers must place the tracker on the suspect's car. The total number of hours is a fraction of the time it would take to do a full surveillance operation involving numerous officers.

There are staff time costs associated with preparing ESO trackers and placing ESO tracker-equipped bikes for bait bike operations. These are on the order of two-four hours per operation. The total number of hours is extremely small, given the large number of operations, and resulting arrests.

## Surveillance Technology Report: Automated License Plate Readers

October 1, 2019 – Sept. 30, 2020

|             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Description | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Automated License Plate Readers (ALPRs) are used by Parking Enforcement Bureau vehicles for time zone parking and scofflaw enforcement. The City's Transportation Division uses anonymized information for purposes of supporting the City's Go Berkeley parking management program. ALPR use replaced the practice of physically "chalking" tires, which is no longer allowed by the courts.</p> <p><b>What data is captured by this technology:</b><br/>ALPR technology functions by automatically capturing an image of a vehicle's license plate, transforming that image into alphanumeric characters using optical character recognition software, and storing that information, along with relevant metadata (e.g. geo-location and temporal information, as well as data about the ALPR).</p> <p><b>How the data is stored:</b><br/>The data is stored on a secure server by the vendor.</p> <p><b>Retention period of data:</b><br/>Collected images and metadata of hits are stored no more than 365 days. Metadata of reads are not stored more than 30 days.</p> <p style="text-align: center;"><b>Summary of ALPR Time Zone Enforcement Data</b></p> <p style="text-align: center;">Read Data<br/>There was an average of 12,059 "Reads" per working day<br/>(Based on one month's data: 9/1/20/-9/30/20)</p> <p style="text-align: center;">Hit Data<br/>There were 44,068 "Hits"<br/>14,945 "Enforced Hits" resulted in citation issuance.<br/>2,569 "Not Enforced" valid, enforceable hits resulted in no citation issued,<br/>based on PEO discretion.</p> <p>26,554 Hits were not acted upon for a variety to reasons including but not limited to:</p> <ol style="list-style-type: none"> <li>1) Customer comes out to move a vehicle. PEO's are directed not to issue that citation.</li> <li>2) Officer gets to the dashboard and sees a permit not visible from a previous location.</li> <li>3) Officer does a vehicle evaluation and confirms that the vehicle moved from the hit location (e.g. across the street within GPS range).</li> <li>4) Stolen car.</li> <li>5) Similar Plates.</li> <li>6) 600-700 GIG cars- 100 revel scooters.</li> </ol> |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     | <p>7) Officers leave their LPR “on” collecting time zone enforcement data, but leave the area being enforced to drive to another location on another assignment, such as a traffic post at a collision scene. These hits are not enforced.</p> <p>Genetec is the vendor for the ALPR Time Zone enforcement system. A “read” indicates the ALPR system successfully read a license plate. The information that is generated when a plate is viewed by the ALPR camera is the license plate number, state and geographical (GPS) location it was viewed. A “hit” indicates the ALPR system detected a possible violation, which prompts the Parking Enforcement Officer to further assess the vehicle. At “hit” is when the “read” information is recognized as a license plate that matches, or does not match an entry in a list such as permit list or the stolen vehicle “hot list”. In many cases, hits are “rejected” or “not enforced”, meaning no enforcement action is taken, because the Parking Enforcement Officer determines the vehicle has an appropriate placard or permit, or there is other information or assignment which precludes citation.</p> <p style="text-align: center;"><b>Summary of ALPR Booting Scofflaw Enforcement Data</b></p> <p style="text-align: center;">0 vehicles booted from 10/1/19-9/23/20.</p> <p>The Berkeley Police Department no longer maintains the ALPR Booting Scofflaw Enforcement Program. The contract to provide this service became cost prohibitive and the city opted not to renew the contract with the vendor. The city returned to having each PEO working a beat again become responsible for recognizing when a license plate has accumulated five or more unpaid parking tickets.</p> <p>All BPD ALPR data may only be shared with other law enforcement or prosecutorial agencies for official law enforcement purposes, or as otherwise permitted by law. All ALPR data is subject to the provisions of BPD Policy 415 - Immigration Law, and therefore may not be shared with federal immigration enforcement officials.</p> |
| <p><b>Geographic Deployment</b></p> | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Only Parking Enforcement Vehicles are equipped with ALPRs. ALPRs are deployed based on areas where there are parking time restrictions. ALPRs are not deployed based on geographic considerations not related to parking and scofflaw enforcement.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>Complaints</b></p>            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no complaints about to the deployment and use of Automated License Plate Readers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p><b>Audits and Violations</b></p> | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There have been no complaints of violations of the ALPR Surveillance Use Policy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

|                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Data Breaches</p> | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to Automated License Plate Reader data.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>Effectiveness</p> | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>ALPRs have proven effective in parking enforcement for time zone enforcement; the prior utilization of manually chalking car tires for time zone enforcement has been disallowed by court decision.</p> <p>ALPRs have proven effective in supporting enforcement upon vehicles which have five or more unpaid citations. The ALPR's ability to read and check license plates while being driven greatly increases efficiency, allowing an operator to cover larger areas more quickly without having to stop except to confirm a hit.</p>                                                                                                                                                    |
| <p>Costs</p>         | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual system maintenance cost for Genetec is \$47,000. This cost is borne by the Transportation Division, which also purchased the ALPR units used in Time Zone Enforcement.</p> <p>Two new Genetec ALPR units were purchased during the period covered by this report. The two new units were purchased in order to equip the final two parking vehicles that did not have ALPR units attached to them.</p> <p>Genetec ALPR units are installed on 23 Parking Enforcement vehicles. Parking Enforcement personnel perform a variety of parking enforcement activities, and are not limited solely to time zone enforcement. Therefore, personnel costs specifically attributable to time zone enforcement are not tracked.</p> |



## Surveillance Technology Report: Street Level Imagery Project

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Description</b></p>           | <p><b>A description of all non-privileged and non-confidential information about the use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report will include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</b></p> <p>Street level imagery will be utilized exclusively by authorized City staff for infrastructure asset management and planning activities. The street level imagery of City infrastructure assets in the Public Right of Way that is provided to the City will not consist of information that is capable of being associated with any individual or group.</p> |
| <p><b>Geographic Deployment</b></p> | <p><b>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</b></p> <p>Street level imagery was collected by driving through the entire community over a three week period. It is accessible to the City through a proprietary third-party application, Street SmartTM.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>Complaints</b></p>            | <p><b>A summary of each complaint, if any, received by the City about the Surveillance Technology.</b></p> <p>There have been no complaints about the deployment and use of Street SmartTM.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p><b>Audits and Violations</b></p> | <p><b>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</b></p> <p>There have been no complaints with regards to violations of the Surveillance Use Policy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>Data Breaches</b></p>         | <p><b>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</b></p> <p>There have been no known data breaches or other unauthorized access to Cyclomedia Street Level Imagery data.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                    |



|                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Effectiveness</b></p> | <p><b>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</b></p> <p>Staff considered hiring contractors to use GPS in the field to create and update the infrastructure asset GIS data. This method is costly and time consuming. Cyclomedia’s unique and patented processing techniques allow positionally-accurate GIS data to be collected in a cost-effective way and over a shorter period of time than a “boots on the ground” GPS field survey.</p> <p>The Imagery is being used to extract the following Citywide Infrastructure assets to create accurate and current Geographic Information Systems (GIS) data inventories:</p> <ul style="list-style-type: none"> <li>• Bus pads / stops</li> <li>• Maintenance Access Holes</li> <li>• Pavement Striping</li> <li>• Curb paint color</li> <li>• Parking meters</li> <li>• Pedestrian Signal</li> <li>• Pavement marking</li> <li>• Storm drains</li> <li>• Signs</li> <li>• Street trees</li> <li>• Traffic lights</li> </ul> <p>The street level imagery captured is also being used to:</p> <p>Create a street sign GIS layer with condition assessment to support compliance with the Manual on Uniform Traffic Control Devices Code and provide an accurate inventory of City signs. The existing sign inventory is contained in a spreadsheet that does not have accurate location data.</p> <p>Create a curb color layer with condition assessment to indicate where there are red, yellow, blue, white and green colors. This is critical to support Public Safety.</p> <p>Create pavement striping and paint symbol layers to support Transportation Planning and Vision Zero.</p> <p><b><u>Benefits Projected:</u></b></p> <p>The data from the street level imagery is being integrated into the City’s work order and asset management system for planning activities and to document repair and maintenance.</p> <p>Planners can use the street level imagery provided to the City to take measurements remotely, such as sidewalk width and public right of way impacts at proposed development locations.</p> <p>City staff can use the street level imagery to plan the location of road markings for pedestrian crossings, bike lanes or other striping.</p> |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                       |                                                                                                                                                                                                                                                                                                                                                                                                      |                                            |                                                                                                                                |                                                                                                                                |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
|                       | <p>City staff can remotely take accurate measurements of infrastructure assets to adequately plan for repair and replacement.</p> <p>City staff can use the street level imagery to enhance community engagement. The street level imagery can be used to identify and depict the impact of development such as an intersection restriping plan in order to article before and after conditions.</p> |                                            |                                                                                                                                |                                                                                                                                |
| <b>Costs</b>          | <p><b>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</b></p>                                                                                                                                                                                                                                                                                       |                                            |                                                                                                                                |                                                                                                                                |
|                       | <p>The total cost of the system is \$232,401 and is itemized below.</p>                                                                                                                                                                                                                                                                                                                              |                                            |                                                                                                                                |                                                                                                                                |
|                       | <b>Year No.</b>                                                                                                                                                                                                                                                                                                                                                                                      | <b>Description</b>                         | <b>Cost</b>                                                                                                                    | <b>Notes</b>                                                                                                                   |
|                       | 1                                                                                                                                                                                                                                                                                                                                                                                                    | Licenses                                   | \$48,000                                                                                                                       | Resolution No: 69,482-N.S. 30JUN20                                                                                             |
|                       | 1                                                                                                                                                                                                                                                                                                                                                                                                    | Professional Services for asset extraction | \$139,401                                                                                                                      | Resolution No: 69,482-N.S. 30JUN20                                                                                             |
|                       | 2                                                                                                                                                                                                                                                                                                                                                                                                    | Licenses and Support – One-Time            | \$45,000                                                                                                                       | Pending Council approval after imagery and data extraction work is completed<br>Licensing Costs included in IT Cost allocation |
| 3                     | License and Support – Ongoing Annual Costs                                                                                                                                                                                                                                                                                                                                                           | \$3,000                                    | Pending Council approval after imagery and data extraction work is completed<br>Licensing Costs included in IT Cost allocation |                                                                                                                                |
| <b>Total Year 1-3</b> |                                                                                                                                                                                                                                                                                                                                                                                                      | <b>\$235,401</b>                           |                                                                                                                                |                                                                                                                                |



Action CALENDAR  
DATE: November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin, Vice Mayor Droste (co-sponsor), Councilmember Wengraf (co-sponsor)

Subject: Budget referral: Automated license plate readers for community safety improvement

#### RECOMMENDATION

That the Berkeley City Council take the following actions to enable and deploy tactical technologies in strategic public spaces and the public ROW for the improvement of community safety and determent, intervention, prevention of illegal dumping and/or investigation of violent crime and traffic violations:

- Authorize the City Manager to install Automatic License Plate Readers (ALPRs) at strategic locations including public facilities, entrances to the city and the public right-of-way in areas impacted by violent crime, traffic violations including infractions pertaining to bicycle and pedestrian safety, illegal dumping, Schedule II drug offenses, and other criminal activity; **and refer to the FY 23-24 budget process cost of ALPRs.**
- Refer to the City Manager the development of a policy pursuant and subject to City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance enabling the use of ALPRs in fixed locations, mobile trailers, and vehicles by the Berkeley Police Department; consider a data retention period of no greater than one year, no less than sixty days to account for reporting lag, and study the feasibility of shorter data retention periods for non-hit scans with final discretion resting with the City Manager; consider comparable and applicable standards in the ALPRs policies of local governments including: the City of Alameda, The city of Emeryville, The City of Hayward, The City of Oakland, The City of Piedmont, The City of Richmond, The City of San Leandro, and The City of Vallejo; and consider provisions to safeguard efficacy against plate counterfitting, plate switching, and other methods of detection evasions.

#### POLICY COMMITTEE RECOMMENDATION

On November 1, 2021, the Public safety Policy Committee took the following action: M/S/C (Kesarwani/Bartlett) to refer the item to Council with a qualified positive recommendation of the item to reflect the Policy Committee's desire for consideration of the costs and benefits of this proposed expenditure against other public safety investments in the two-year FY 2022-23 &

2023-24 budget and the need to first develop a policy related to addressing data retention and other issues in accordance with the City of Berkeley Surveillance Ordinance and Sanctuary City Contracting Ordinance.

## CURRENT SITUATION AND ITS EFFECTS

According to the Berkeley Police Department's 2019/2020 Crime Report, Berkeley has seen marked increases in aggravated assault, homicides, auto theft and larceny over the past two years.<sup>1</sup> While the overall crime rate remained relatively flat, specific categories of property crimes increased sharply—especially vehicle thefts, which increased by 66% in 2020. Homicides decreased to zero in 2021, but reports of gunfire and auto theft increased.

Currently, the police department's Parking Enforcement Bureau uses Automated License Plate Readers (ALPRs)<sup>2</sup> for time zone parking and scofflaw enforcement, replacing the practice of physically "chalking" car tires, but ALPR technology has not been implemented in the city for other law enforcement purposes. According to the City Manager's 2020 Surveillance Technology Report, there were an average of 12,059 successful license plate "reads" per day in the month of September, 2020. From October 2019 to October 2020, there were 44,068 "hits" detecting a positive violation, roughly 25% (14,945) of which resulted in enforcement by citation issuance.<sup>3</sup>

Pursuant to Berkeley Municipal Code Chapter 2.99 Section 2.99.070, the City Manager's office is required to report on surveillance technology on an annual basis.

## BACKGROUND

According to a 2018 study<sup>4</sup> by the Center for Policing Equity, Black people comprise only 8% of Berkeley's population, but a disproportionate 46% of people subject to police uses of force. In light of this evidence, and in the wake of the national outcry over the death of George Floyd, the City Council adopted a resolution<sup>5</sup> on July 14, 2020 directing the City Manager in part to "identify elements of police work that could be achieved through alternative programs, policies, systems, and community investments."

Some research has found that ALPRs contribute to marginal improvements in public safety outcomes with respect to vehicle thefts and traffic safety. The use of LPR technology has

---

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/10\\_Oct/Documents/2020-10-13\\_Presentations\\_Item\\_19\\_\\_Pres\\_Police\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/10_Oct/Documents/2020-10-13_Presentations_Item_19__Pres_Police_pdf.aspx)

<sup>2</sup>

<sup>3</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/11\\_Nov/Documents/2020-11-10\\_Item\\_19\\_Resolution\\_Accepting\\_the\\_Surveillance.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/11_Nov/Documents/2020-11-10_Item_19_Resolution_Accepting_the_Surveillance.aspx)

<sup>4</sup> Buchanan, K.S., Pouget, E., Goff, P.A. (2018). *The Science of Justice: Berkeley Police Department. Center for Policing Equity*. Retrieved from <https://www.berkeleyside.org/wp-content/uploads/2018/05/Berkeley-Report-May-2018.pdf>

<sup>5</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/07\\_Jul/Documents/2020-07-14\\_Item\\_18d\\_Transform\\_Community\\_Safety\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-14_Item_18d_Transform_Community_Safety_pdf.aspx)

increased significantly in law enforcement agencies across the US in the past decade, but outcomes have been inconsistently tracked, which limits available research.<sup>6</sup> One qualitative case study found that criminal investigators adapted LPR technology to a broader range of investigative work, such as rapid responses and corroborating suspect alibis.<sup>7</sup>

An analysis of a randomized control trial in the City of Vallejo found that ALPRs attached to police vehicles enabled a 140% increase in detection of stolen vehicles, while arrests were more efficient with stationary ALPRs in fixed locations.<sup>8</sup> A study on LPR technology in Mesa, AZ found that LPRs resulted in an eightfold increase in the number of plates scanned, more positive scans, arrests and recovery of stolen vehicles, and a reduction in calls for drug offenses. However, the study did not find a statistically significant reduction in vehicle thefts in hot spots compared to manual checks, possibly because the presence of law enforcement officers performing manual checks had a more preventative effect.<sup>9</sup> Another study of the Charlotte-Mecklenburg Police Department found that “LPR use may have contributed to modest improvements in case closures for auto theft and robbery”—the former in the long term, and the latter both short- and long term.<sup>10</sup>

According to recent analysis by the National Highway Traffic Safety Administration, one law enforcement agency found that drivers with suspended, revoked, or restricted licenses were 2.2 times more likely to be involved in serious or fatal crashes than other drivers, and that identifying these drivers with ALPRs “could affect traffic safety positively by targeting violator vehicles that are more prone to crash risk.”<sup>11</sup> A quasi-experimental survey of data from Buffalo, NY found a reduction in violent crime and traffic accidents associated with roadblocks using LPRs.<sup>12</sup>

### RATIONALE FOR RECOMMENDATION

Reimagining public safety necessitates significant improvements in public safety outcomes, including practical solutions to traffic safety and property crime. California law currently

---

<sup>6</sup> Lum, C., Koper, C.S., Willis, J., Happeny, S., Vovak, H. and Nichols, J. (2019). The rapid diffusion of license plate readers in US law enforcement agencies. *Policing: An International Journal*, (42)3, pp. 376-393. <https://doi.org/10.1108/PIJPSM-04-2018-0054>

<sup>7</sup> James J. Willis, Christopher Koper & Cynthia Lum (2018). The Adaptation of License-plate Readers for Investigative Purposes: Police Technology and Innovation Re-invention, *Justice Quarterly*, 35:4, 614-638, DOI: 10.1080/07418825.2017.1329936

<sup>8</sup> Potts, J. (2018). Research in brief: assessing the effectiveness of automatic license plate readers. *POLICE CHIEF*. Retrieved from <http://www.theiacp.org/sites/default/files/2018-08/March%202018%20RIB.pdf>

<sup>9</sup> Taylor, B., Koper, C. S., & Woods, D. J. (2012). Combatting auto theft in Arizona: A randomized experiment with license plate recognition technology. *Criminal Justice Review*, 37, 24-50.

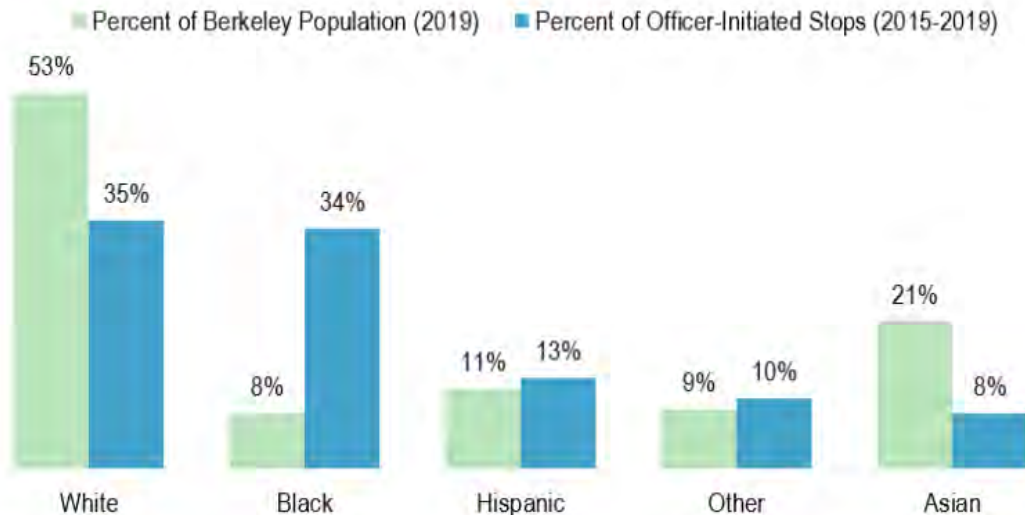
<sup>10</sup> Koper, C. S., & Lum, C. (2019). The Impacts of Large-Scale License Plate Reader Deployment on Criminal Investigations. *Police Quarterly*, 22(3), 305–329. <https://doi.org/10.1177/1098611119828039>

<sup>11</sup> Zmud, J., Walden, T., Ettelman, B., Higgins, L. L., Graber, J., Gilbert, R., & Hodges, D. (2021). State of Knowledge and Practice for Using Automated License Plate Readers for Traffic Safety Purposes. Retrieved from [https://rosap.ntl.bts.gov/view/dot/55586/dot\\_55586\\_DS1.pdf](https://rosap.ntl.bts.gov/view/dot/55586/dot_55586_DS1.pdf)

<sup>12</sup> Wheeler, A.P., Phillips, S.W. (2018). A quasi-experimental evaluation using roadblocks and automatic license plate readers to reduce crime in Buffalo, NY. *Secur J* 31, 190–207. <https://doi.org/10.1057/s41284-017-0094-1>

preempts municipalities from transferring traffic enforcement to civilian duties or automated speed cameras.

While auto thefts in Berkeley increased by 64% from 2019 to 2020, and increased 54% year-over-year in the first half of 2021<sup>13</sup>, a 2021 City Auditor analysis<sup>14</sup> of the Berkeley Police Department found that Officer-Initiated Stops disproportionately target Black and Latino drivers relative to their share of the city’s population.



Note: For the purposes of this figure for Berkeley populations, the U.S. Census categories of American Indian and Alaska Native alone, Native Hawaiian and Other Pacific Islander alone, and Two or More Races are summed for Other; White is White alone, not Hispanic or Latino.

Source: Auditor’s analysis of Berkeley Police Department Computer Aided Dispatch data and 2019 US Census data

ALPRs therefore present an opportunity to reduce property crimes and improve traffic safety while also reducing civilian encounters with police officers conducting ad hoc traffic enforcement, which the 2021 audit found to have a significant racial bias against Black and Latino drivers. ALPRs could make enforcement more fair, impartial, and effective.

In 2015, the Berkeley Police Department used ALPR technology on a mobile trailer to investigate five attempted kidnappings by Willard Middle School.<sup>15</sup>

However, ALPR data storage gives rise to several privacy concerns. In *Carpenter v. United States*, the U.S. Supreme Court ruled that accessing location data tracking an individual’s

<sup>13</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/10\\_Oct/Documents/2021-10-19\\_Item\\_01\\_BPD\\_Annual\\_Report\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-19_Item_01_BPD_Annual_Report_pdf.aspx)

<sup>14</sup> Berkeley City Auditor. (2021, Apr. 22). Data Analysis of the City of Berkeley’s Police Response. Retrieved from [https://www.cityofberkeley.info/uploadedFiles/Auditor/Level\\_3\\_-\\_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf](https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf)

<sup>15</sup> Raguso, E. (2015, Oct. 30). Berkeley police use license plate reader in kidnapping attempt investigations. Berkeleyside. Retrieved from <https://www.berkeleyside.org/2015/10/30/berkeley-police-use-license-plate-reader-in-kidnapping-attempt-investigation>



movements from their cell phone constitutes a search under the Fourth Amendment and requires a search warrant.<sup>16</sup> While ALPR scans are subject to reasonableness standards for searches under Fourth Amendment jurisprudence, state courts have found that ALPR alerts are sufficient to establish a reasonable suspicion, though there are situations that require further intervention to establish reasonableness or avoid error.<sup>17</sup>

In *Neal v. Fairfax County Police Department*, the Virginia Supreme Court ruled that GPS data and images associated with license plate numbers were private personal information (PPI), but license plate numbers themselves stored in ALPR databases were not.<sup>18</sup> The California Supreme Court has also underscored such a distinction between “bulk data collection” of license plate numbers that did not “produce records of investigations” for particular crimes.<sup>19</sup> By contrast, U.S. Supreme Court Justice Sotomayor argued in *United States v. Jones* that government agencies collecting “private aspects of identity” could be “susceptible to abuse.”<sup>20</sup> This calls into question the so-called third party doctrine of the Fourth Amendment—the longstanding precedent that individuals may be reasonably considered to waive their right to privacy and assume any information provided to third parties may eventually be accessed by the government—given the vast array of information government agencies can now access through surveillance technology. To carefully balance privacy and policing efficacy under this new paradigm, Newell (2013) recommends strictly limiting data retention for non-“hit” scans, and maintaining anonymized ALPR data subject to public disclosure laws.<sup>21</sup>

California Vehicle Code Section 2413(b) restricts the California Highway Patrol (CHP)’s retention LPR data for 60 days unless it is being used as evidence in a felony investigation. Subsection (c) restricts the distribution of this data strictly to law enforcement agencies or officers and “only for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.”

In 2015, Senate Bill 34 imposed additional security and privacy requirements on the use of ALPR data.<sup>22</sup> Unfortunately, a State Auditor report in 2020 surveying four local law enforcement agencies in California found that ALPR policies were out of compliance with SB34, retained images for far longer than needed or allowed, and had no processes in place to safeguard local compliance. For example, the State Auditor “did not find evidence that the agencies had always

---

<sup>16</sup> *Carpenter v. United States*, 138 S. Ct. 2206 (2018).

<sup>17</sup> Fash, L. (2018). Automated License Plate Readers: The Difficult Balance of Solving Crime and Protecting Individual Privacy. *Md. L. Rev. Endnotes*, 78, 63.

<sup>18</sup> *Neal v. Fairfax County Police Dept.*, 812 S.E.2d 444, 295 Va. 334 (2018).

<sup>19</sup> *Am. Civil Liberties Union Found. of S. Cal. v. Super. Ct. of L.A. Cty.*, 400 P.3d 432 (Cal. 2017).

<sup>20</sup> *United States v. Jones*, 565 U.S. 400, 415 (2012) (Sotomayor, J., concurring);

<sup>21</sup> Newell, B. C. (2013). Local law enforcement jumps on the big data bandwagon: Automated license plate recognition systems, information privacy, and access to government information. *Me. L. Rev.*, 66, 397.

<sup>22</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB34](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB34)

determined whether an entity receiving shared images had a right and a need to access the images or even that the entity was a public agency.”<sup>23</sup>

In 2018, a lawsuit by the American Civil Liberties Union of Northern California revealed that Immigration and Customs Enforcement (ICE) had purchased access to private databases containing ALPR data with 5 billion individual data points for civil immigration enforcement, and had obtained ALPR data from over 80 local law enforcement agencies.<sup>24</sup> However, in 2017, Senate Bill 54 greatly restricted the ability of California law enforcement agencies to share information with ICE.<sup>25</sup>

Berkeley Parking Enforcement uses PCS Mobile ALPR units using Genentech ALPR technology regulated by BPD Administrative Order #001-2016, which limits storage of reads to 30 days and hits to 365 days. Images of reads are not stored on the server, and data may only be used for legitimate law enforcement purposes. Police Departments in the cities of Vallejo and Piedmont utilize the Flock Safety Operating System, which comes with a transparency portal listing permitted and prohibited uses, data storage, access provided to outside agencies, numbers of hits and scans, and other relevant metadata.<sup>26,27</sup>

#### ALTERNATIVES CONSIDERED

1. Gun buyback programs have not demonstrated significant efficacy except in limited circumstances within more holistic community-based violence prevention programs.<sup>28</sup>
2. With the stalling of Assembly Bill 550<sup>29</sup> in this year’s legislative session, automated speeding cameras are not currently permitted in the state of California.
3. On October 27, 2020, the City Council referred to the Community Engagement Process for Reimagining Public Safety the creation of a Group Violence Intervention Program (GVI), or “Operation Ceasefire,” that will assemble a Berkeley-centered interjurisdictional working group of community members, law enforcement personnel, and supportive services providers to address gun violence. Current staffing capacity in the City Manager’s office is insufficient to develop such a program before the process is complete.

---

<sup>23</sup> Howle, E.M. (2020). Automated License Plate Readers: To Better Protect Individuals’ Privacy, Law Enforcement Must Increase Its Safeguards for the Data It Collects. *Auditor of the State of California*. Retrieved from <https://www.auditor.ca.gov/reports/2019-118/index.html>

<sup>24</sup> Talla, V. (2019). Documents Reveal ICE Using Driver Location Data From Local Police for Deportations. *ACLU Northern California*. Retrieved from <https://www.aclunc.org/blog/documents-reveal-ice-using-driver-location-data-local-police-deportations>

<sup>25</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB54](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB54)

<sup>26</sup> <https://transparency.flocksafety.com/vallejo-ca-pd>

<sup>27</sup> <https://transparency.flocksafety.com/vallejo-ca-pd>

<sup>28</sup> Makarios, M. D., & Pratt, T. C. (2012). The Effectiveness of Policies and Programs That Attempt to Reduce Firearm Violence: A Meta-Analysis. *Crime & Delinquency*, 58(2), 222–244. <https://doi.org/10.1177/0011128708321321>.

<sup>29</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB550](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB550)

ENVIRONMENTAL IMPACTS

None.

FISCAL IMPACTS

In 2017, an amendment to Contract No. 9977<sup>30</sup> from the City Manager's Office itemized a unit cost of \$78,363 for each ALPR system. Costs for this referral may be different because this contract was only for mobile ALPRs used for parking enforcement, not in fixed locations or mobile trailers.

CONTACT

Councilmember Terry Taplin, District 2, (510) 981-7120, [ttaplin@cityofberkeley.info](mailto:ttaplin@cityofberkeley.info)

ATTACHMENTS

1. City of Vallejo ALPR Policy,
2. City of Alameda,
3. City of Emeryville,
4. City of Hayward,
5. City of Oakland,
6. City of Piedmont,
7. City of Richmond,
8. City of San Leandro.

---

<sup>30</sup>[https://ci.berkeley.ca.us/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-11\\_Item\\_13\\_Contract\\_No\\_9977\\_Amendment.aspx](https://ci.berkeley.ca.us/Clerk/City_Council/2017/07_Jul/Documents/2017-07-11_Item_13_Contract_No_9977_Amendment.aspx)

Policy

# 426

## Automated License Plate Readers (ALPRs)

### 426.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage, and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 426.2 DEFINITIONS

- (a) **Automated License Plate Reader (ALPR):** A device that uses cameras and computer technology to compare digital images to lists of known information of interest.
- (b) **ALPR Operator:** Trained Department members who may utilize ALPR system/equipment. ALPR operators may be assigned to any position within the Department, and the ALPR Administrator may order the deployment of the ALPR systems for use in various efforts.
- (c) **ALPR Administrator:** The Investigations Bureau Captain or the Chief's designee, serves as the ALPR Administrator for the Department.
- (d) **Hot List:** A list of license plates associated with vehicles of interest compiled from one or more databases including, but not limited to, NCIC, CA DMV, Local BOLO's, etc.
- (e) **Vehicles of Interest:** Including, but not limited to vehicles which are reported as stolen; display stolen license plates or tags; vehicles linked to missing and/or wanted persons and vehicles flagged by the Department of Motor Vehicle Administration or law enforcement agencies.
- (f) **Detection:** Data obtained by an ALPR of an image (such as a license plate) within public view that was read by the device, including potential images (such as the plate and description of vehicle on which it was displayed), and information regarding the location of the ALPR system at the time of the ALPR's read.
- (g) **Hit:** Alert from the ALPR system that a scanned license plate number may be in the National Crime Information Center (NCIC) or other law enforcement database for a specific reason including, but not limited to, being related to a stolen car, wanted person, missing person, domestic violation protective order or terrorist-related activity.

### 426.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates along with the vehicle make, model, color and unique identifiers through the Vallejo Police Department's ALPR's system and the vendor's vehicle identification technology. The technology is used by the Vallejo Police Department to convert data associated with vehicle license plates and vehicle descriptions for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Department Information Technology Manager. The Department Information Technology Manager will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### **426.3.1 ALPR ADMINISTRATOR**

The Investigations Bureau Captain shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) Only properly trained sworn officers, crime analysts, and police assistants are allowed access to the ALPR system or to collect ALPR information.
- (b) Ensuring that training requirements are completed for authorized users.
- (c) ALPR system monitoring to ensure the security of the information and compliance with applicable privacy laws.
- (d) Ensuring that procedures are followed for system operators and to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation is maintained. Continually working with the Custodian of Records on the retention and destruction of ALPR data.
- (f) Ensuring this policy and related procedures are conspicuously posted on the department's website.

#### **426.4 OPERATIONS**

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation; reasonable suspicion or probable cause is not required before using an ALPR.
- (c) Partial license plates and unique vehicle descriptions reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert. Once an alert is received, the operator should confirm

that the observed license plate from the system matches the license plate of the observed vehicle. Before any law enforcement action is taken because of an ALPR alert, the alert will be verified through a CLETS inquiry via MDC or through Dispatch. Members will not take any police action that restricts the freedom of any individual based solely on an ALPR alert unless it has been validated. Because the ALPR alert may relate to a vehicle and may not relate to the person operating the vehicle, officers are reminded that they need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. (For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.)

- (f) Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the ALPR Administrator or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. Hot lists utilized by the Department's LPR system may be updated by agency sources more frequently than the Department may be uploading them and thus the Department's LPR system will not have access to real time data. Occasionally, there may be errors in the LPR system's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, Department members shall undertake the following:

(1) **Verification of status on a Hot List.** An officer must receive confirmation, from a Vallejo Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).

(2) **Visual verification of license plate number.** Officers shall visually verify that the license plate of interest matches identically with the image of the license plate number captured (read) by the LPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as a Hot Plate (hit) in a specific BOLO (be on the lookout) list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

(3) Department members will clear all stops from hot list alerts by indicating the positive ALPR Hit, i.e., with an arrest or other enforcement action. If it is not obvious in the text of the call as to the correlation of the ALPR Hit and the arrest, then the Department member shall update with the Communications Dispatcher and original person and/or a crime analyst inputting the vehicle in the hot list (hit).

(4) General Hot Lists (SVS, SFR, and SLR) will be automatically downloaded into the ALPR system a minimum of once a day with the most current data overwriting the old data.

(5) All entries and updates of specific Hot Lists within the ALPR system will be documented by the requesting Department member within the appropriate general offense report. As such, specific Hot Lists shall be approved by the ALPR

Administrator (or his/her designee) before initial entry within the ALPR system. The updating of such a list within the ALPR system shall thereafter be accomplished pursuant to the approval of the Department member's immediate supervisor. The hits from these data sources should be viewed as informational; created solely to bring the officers attention to specific vehicles that have been associated with criminal activity.

All Hot Plates and suspect information entered into the ALPR system will contain the following information as a minimum:

- Entering Department member's name
- Related case number.
- Short synopsis describing the nature of the originating call

(g) Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

(h) Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data, which has the ability to be fully audited.

**Permitted/Impermissible Uses.** The ALPR system, and all data collected, is the property of the Vallejo Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy. The following uses of the ALPR system are specifically prohibited:

- (1) Invasion of Privacy: Except when done pursuant to a court order such as a search warrant, is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- (2) Harassment or Intimidation: It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
- (3) Use Based on a Protected Characteristic. It is a violation of this policy to use the LPR system or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by law.
- (4) Personal Use: It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.
- (5) First Amendment Rights. It is a violation of this policy to use the LPR system or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

#### **426.4 DATA COLLECTION AND RETENTION**

The Investigations Bureau Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for no longer than one year, and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

ALPR vendor, Flock Safety will store the data (data hosting) and ensure proper maintenance and security of data stored in their data towers. Flock Safety will purge their data at the end of the 30 days of storage. However, this will not preclude VPD from maintaining any relevant vehicle data obtained from the system after that period pursuant to the established City of Vallejo retention schedule mentioned above or outlined elsewhere.

Restrictions on use of ALPR Data: Information gathered or collected, and records retained by Flock Safety cameras or any other VPD ALPR system will not be sold, accessed, or used for any purpose other than legitimate law enforcement or public safety purposes.

#### **426.5 ACCOUNTABILITY and SAFEGUARDS**

All data will be closely safeguarded and protected by both procedural and technological means. The Vallejo Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All non-law enforcement requests for access to stored ALPR data shall be processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date, and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.



- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies for legitimate law enforcement purposes.
- (e) Every ALPR Detection Browsing Inquiry must be documented by either the associated Vallejo Police case number or incident number, and/or a reason for the inquiry.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **426.6 POLICY**

The policy of the Vallejo Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

The Vallejo Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).

#### **462.7 ALPR DATA DETECTION BROWSING AUDITS**

It is the responsibility of the Professional Standards Division (PSD) Lieutenant or the Chief's designee to ensure that an audit is conducted of ALPR detection browsing inquiries at least once during each calendar year. The Department will audit a sampling of the ALPR system utilization from the prior 12-month period to verify proper use in accordance with the above-authorized uses. The audit shall randomly select at least 10 detection browsing inquiries conducted by department employees during the preceding six-month period and determine if each inquiry meets the requirements established in policy section 462.5(e).

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be filed and retained by PSD.

#### **426.8 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

- (a) The agency makes a written request for the ALPR data that includes:
  - (1) The name of the agency.
  - (2) The name of the person requesting.
  - (3) The intended purpose of obtaining the information.

- (b) The request is reviewed by the Chief of Police or the authorized designee and approved before the request is fulfilled.
- (c) The Chief of Police or the authorized designee will consider the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq), before approving the release of ALPR data. The Vallejo Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).
- (d) The approved request is retained on file. Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **426.9 TRAINING**

The Training Sergeant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

## Automated License Plate Readers (ALPRs)

### 462.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for officers utilizing the Automated License Plate Reader (ALPR) system. This policy will further establish guidelines for the deployment and actions permissible when using the system. The policy shall remain in effect until it is superseded, amended, or withdrawn.

(a) An ALPR system is a computer-based system that utilizes special cameras to capture license plate information. The ALPR system captures an infrared image of a license plate and converts it to a text file using Optical Character Recognition ("OCR") technology. The text is compared to various hot lists generated by local, state, and federal law enforcement agencies, including the National Crime Information Center ("NCIC"), and generates an alert when there is a hit. The ALPR system identifies license plates and will not identify the person operating the motor vehicle. The Department may, as a separate step and for legitimate law enforcement purposes per the Federal Driver's Privacy Protection Act, and as set forth in this Policy, undertake to identify the owner of a vehicle in the event the ALPR system generates an alert, such as by running the license plate number through the State of California Department of Motor Vehicle (DMV) database.

(b) It shall be the policy of this Agency that all Department members abide by the policy and its procedures set forth when using the ALPR system, thereby increasing the efficiency and effectiveness of its public safety efforts in a manner that safeguards the privacy concerns of law abiding citizens.

(c) The ALPR system shall be restricted to legitimate law enforcement uses for the purpose of furthering legitimate law enforcement goals and enhancing public safety. Such uses and goals include, but are not limited to, providing information to officers that will assist in on-going criminal investigations, crime prevention, crime detection, the apprehension of wanted persons, ensuring the safety of vulnerable individuals through the recovery of missing and endangered persons, and improving the quality of life in our community through the identification and removal of stolen or unregistered motor vehicles.

(d) The Department shall utilize hot lists which further the above specified goals of the ALPR system, where there is a legitimate and specific law enforcement reason for identifying a vehicle associated with an outstanding arrest warrant, vehicles related to missing persons investigations, vehicles associated with AMBER Alerts, stolen vehicles, vehicles that are reasonably believed to be involved in the commission of a crime, vehicles which are registered to or are reasonably believed to be operated by persons who do not have a valid operator's license or who are on the

## *Automated License Plate Readers (ALPRs)*

---

revoked or suspended list, vehicles with expired registrations, vehicles registered to persons who are subject to a restraining order issued by a court or by the Parole Board, or who are subject to any other duly issued order restricting their movements, vehicles registered to persons wanted by a law enforcement agency who are of interest in a specific investigation, or vehicles registered to persons who are on any watch list issued by a State or Federal agency responsible for homeland security when information has been received concerning a specific individual.

### **462.2 DEFINITIONS**

ALPR – Automated License Plate Recognition System, or Automated License Plate Reader

ALPR System – The system in its entirety, including all ALPR cameras, software, and collected data

Alert – An audible and/or visual signal activated upon the read of a license plate by the ALPR system that has NOT BEEN VISUALLY VERIFIED by the officer against the photo in the ALPR system.

Tentative Hit – An alert by the ALPR system that HAS BEEN VISUALLY VERIFIED by the officer against the ALPR hotlist and photo but HAS NOT BEEN VALIDATED by the officer or dispatch as a live query transaction OR CONFIRMED AS VALID with the original entering agency.

Live Query Transaction – A hit by the ALPR system that HAS BEEN VALIDATED as active but HAS NOT BEEN CONFIRMED as valid by the entering agency.

Confirmation (Confirmed Hit) – A hit by the ALPR system that HAS BEEN CONFIRMED as valid and active by the original entering agency through secondary check.

Hotlist – Data files extracted from law enforcement databases which contain listings of stolen license plates, stolen vehicles, wanted persons, and other vehicles/persons actively being sought by a law enforcement agency such as Amber/Silver Alert vehicles/persons. These data extracts are generally facilitated numerous times per day in an effort to provide current data.

### **462.3 PROCEDURES**

#### **(a) Management**

The Alameda Police Department, by and through the Chief of Police, is solely responsible for the day-to-day operation and management of the ALPR system and for all tasks ancillary to its operation and management. The Chief of Police shall assign Department personnel to operate and manage the ALPR system on a day-to-day basis.

The Chief of Police, through his or her designee, shall ensure that the ALPR system is operated in conformity with this Policy and other Department policies, procedures, rules and regulations. The Chief shall enforce this Policy and shall act as the Department Head for all disciplinary and enforcement actions for any violations by Department personnel.

#### **(b) Operations**

## *Automated License Plate Readers (ALPRs)*

---

1. Installation and Functioning. ALPR cameras may be mounted on a marked cruiser or unmarked vehicle. ALPR equipment will passively read the license plates of moving or parked motor vehicles using ALPR optical character recognition technology and compare them against various hot lists uploaded or created by the Alameda Police Department. Scanned data files collected by the system will, on an ongoing basis, be automatically uploaded from the ALPR camera to the Department's ALPR database.

2. Hot Lists. Designation of hot lists to be utilized by the ALPR system shall be made by the Chief or his/her designee. Hot lists shall be obtained or compiled from sources as may be consistent with the purposes of the ALPR system set forth in this Policy. These sources may include:

- NCIC Stolen Vehicle files, as available;
- NCIC Stolen plates and Stolen Canadian plates, as available;
- NCIC Wanted persons, as available;
- NCIC Missing or Endangered person files, as available;
- NCIC Supervised Release (Federal Probationers), as available;
- NCIC Nationwide Domestic Violence Protection Orders, as available;
- NCIC Violent Gang and Terrorist Organization File, as available;
- NCIC Sexual Offender;
- DMV Records of Suspended/Revoked Registrations.

3. Training. No member of this Department shall operate ALPR equipment or access ALPR data without first completing Department-approved training.

4. Login/Log-Out Procedure. To ensure proper operation and facilitate oversight of the ALPR system, all users will be required to have individual credentials for access and use of the systems and/or data. A routine check to ensure the equipment is working properly should be done at the beginning of each shift by the user logging into the system.

5. Auditing and Oversight. To ensure proper oversight into the use of the system and adherence to this policy, all activities (plate detections, queries, reports, etc.) are automatically recorded by the system for auditing purposes. System audits shall be conducted by the Inspectional Services Section supervisor at least every six months during the first two years subsequent to implementation and no less than annually thereafter. The audit report shall include an explanation regarding any data retained longer than six months (e.g. data retained as evidence in a criminal case).

6. Permitted/Impermissible Uses. The ALPR system, and all data collected, is the property of the Alameda Police Department. Department personnel may only access and use the ALPR system for official and legitimate law enforcement purposes consistent with this Policy.

The following uses of the ALPR system are specifically prohibited:

### *Automated License Plate Readers (ALPRs)*

---

- a. **Invasion of Privacy:** Except when done pursuant to a court order such as a search warrant, it is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).
- b. **Harassment or Intimidation:** It is a violation of this Policy to use the ALPR system to harass and/or intimidate any individual or group.
- c. **Personal Use:** It is a violation of this Policy to use the ALPR system or associated scan files or hot lists for any personal purpose.

Anyone who engages in an impermissible use of the ALPR system or associated scan files or hot lists may be subject to:

- criminal prosecution,
- civil liability, and/or
- administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

7. **Required Steps Preliminary to Police Action.** Hot lists utilized by the Department's ALPR system may be updated by agency sources more frequently than the Department may be uploading them, and the Department's ALPR system will not have access to real time data. Further, there may be errors in the ALPR's read of a license plate. Therefore, an alert alone shall not be a basis for police action (other than following the vehicle of interest). Prior to initiation of a stop of a vehicle or other intervention based on an alert, an officer shall undertake the following:

- a. **Verification of current status on hot list.** An officer must receive confirmation, from someone or some system within the Department that the license plate is still stolen, wanted, or otherwise of interest before proceeding.
- b. **Visual verification of license plate number.** Officers shall visually verify that the license plate on the vehicle of interest matches identically with the image of the license plate number captured (read) by the ALPR, including both the alphanumeric characters of the license plate and the state of issue, before proceeding with a traffic stop.

8. **Use in Connection With Serious Crimes/Incidents.** Use of the ALPR should be considered to conduct license plate canvasses in the immediate wake of any homicide, shooting, robbery, kidnapping, sexual assault or AMBER ALERT, or other major crime or incident.

#### **(c) Database Access and Privacy Concerns**

1. The ALPR system database and software resides in a data center featuring full redundancy and access controls. The data remains property of the Alameda Police Department, and is managed according to this Policy.
2. The ALPR system is governed by the Permitted/Impermissible Uses as outlined in this Policy.

### *Automated License Plate Readers (ALPRs)*

---

3. The ALPR data contains no Personally Identifiable Information (PII) that may be used to connect license plate detection to an individual. It is only with permissible purpose that an investigator may make this connection (using other systems) and this access is already governed by the Federal Driver's Privacy Protection Act (DPPA).
4. All investigative queries into collected ALPR data are logged by user and available for auditing and review by the Department as outlined in this Policy.

**(d) Data Retention**

All data and images gathered by an ALPR are for the official use of the Alameda Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this Department may be used and shared with prosecutors or others only as permitted by law. All ALPR data downloaded to the server will be stored for a period of six months, and thereafter shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances, the applicable data should be downloaded from the server onto portable media and booked into evidence.

## Automated License Plate Readers (ALPRs)

### 429.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 429.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Emeryville Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Professional Services and Standards Division Captain. The Professional Services and Standards Division Captain will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 429.2.1 ALPR ADMINISTRATOR

[The Professional Services and Standards Captain shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to Civil Code §1798.90.51; Civil Code §1798.90.53:](#)

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the departments website.

### 429.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.



### *Automated License Plate Readers (ALPRs)*

---

- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **429.4 DATA COLLECTION AND RETENTION**

The Professional Services and Standards Division Captain is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **429.5 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Emeryville Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

### *Automated License Plate Readers (ALPRs)*

---

- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **429.6 POLICY**

The policy of the Emeryville Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

#### **429.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Professional Services and Standards Division Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **429.8 TRAINING**

The Professional Services Officer should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

## Automated License Plate Readers (ALPRs)

### 429.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Hayward Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

#### 429.1.1 ACCREDITATION STANDARDS

This section pertains to the following CALEA Standards: 41.3.9

### 429.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Support Services Division Commander. The Support Services Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

### 429.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

Examples of authorized purposes include but are not limited to:

1. Locating stolen, wanted and subject of investigation vehicles;
2. Locating and apprehending individuals subject to arrest warrants or otherwise lawfully sought by law enforcement;
3. Locating witnesses and victims of violent crime;
4. Locating missing children and elderly individuals, including responding to Amber and Silver Alerts;
5. Supporting local, state, federal, and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
6. Protecting participants at special events; and
7. Protecting critical infrastructure sites.

*Automated License Plate Readers (ALPRs)*

---

(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.

(e) If practicable, the officer should verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

**429.4 ALPR AUTHORIZED USERS AND TRAINING**

(a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(b) The following classifications are authorized to be trained in the use of the ALPR system:

1. Duly sworn peace officers
2. Professional staff whose duties require or call for the use of the system or data; examples: Community Service Officers (assigned to investigative positions) or Crime Analysts

(c) Training in the use of the system shall consist of:

1. Privacy and civil liberties protections;
2. Legal authorities, developments and issues involving the use of ALPR Data and technology;
3. Current HPD Policy regarding appropriate use of ALPR Systems;
4. Technical, physical, administrative and procedural measures to protect the security of ALPR Data against unauthorized access or use; and
5. Practical exercises in the use of the ALPR system.

**429.5 ALPR DATA COLLECTION, RETENTION AND DISSEMINATION**

Information collected by ALPR is categorized as one of two types.

(a) **DETECTIONS:** Detections are the records including images and data (date, time and location) gathered by ALPR field units.

(b) **HITS:** Are the notices from the system alerting the operator of a match between the license plate captured and a listing on one of the hot lists.

### *Automated License Plate Readers (ALPRs)*

---

(c) RETENTION OF DATA: All data and images gathered by an ALPR are for the official use of the Hayward Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

The Support Services supervisor is responsible to ensure proper collection and retention of ALPR data, and for transferring ALPR data stored in department vehicles to the department server on a regular basis, not to exceed 30 days between transfers.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6), and thereafter may be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

All ALPR HIT records are maintained indefinitely.

(d) DISSEMINATION: The Hayward Police Department may disseminate ALPR data to any government entity with an authorized law enforcement or public safety purpose for access to such data. The Hayward Police Department assumes no responsibility or liability for the acts or omissions of other agencies in making use of the ALPR data properly disseminated. Though the Hayward Police Department will make every reasonable effort to ensure the quality of shared ALPR Data and hotlists, it cannot make absolute guarantees of the accuracy of information provided.

#### **429.6 ACCOUNTABILITY AND SAFEGUARDS**

All saved data will be closely safeguarded and protected by both procedural and technological means. The Hayward Police Department will observe the following safeguards regarding access to and use of stored data:

(a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Administrator and processed in accordance with applicable law.

(b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.

*Automated License Plate Readers (ALPRs)*

---

(c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.

(e) ALPR system audits should be conducted on a regular basis.

**429.7 REVISIONS**

Enacted: March 31, 2015

---

## Automated License Plate Readers (ALPRs)

### 430.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 430.2 POLICY

The policy of the Oakland Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### 430.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Oakland Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Services Deputy Chief. The Deputy Chief will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 430.3.1 ALPR ADMINISTRATOR

The Bureau of Services Deputy Chief shall be the administrator of ALPR program, and shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to Civil Code §§ 1798.90.51 through 1798.90.53:

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title of the current designee overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.

### *Automated License Plate Readers (ALPRs)*

---

- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

#### **430.4 ALPR USERS**

Personnel authorized to use ALPR equipment or access information collected through the use of such equipment shall be specifically trained in such technology and authorized by the Chief of Police or designee. Such personnel shall be limited to designated sergeants, officers, police service technicians, and parking enforcement personnel unless otherwise authorized.

#### **430.5 PURPOSES FOR ACCESSING AND USING ALPR INFORMATION**

Use of an ALPR is restricted to the purposes outlined below. The title of the official custodian of the ALPR system, responsible for implementing this section, is the ALPR Coordinator.

Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (b) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) An ALPR shall only be used for official law enforcement business.
- (e) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **430.6 DATA COLLECTION AND RETENTION**

The Bureau of Services Deputy Chief is responsible for ensuring systems and processes are in place for the proper collection, accuracy and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server shall be stored for six months. Thereafter, ALPR data shall be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data shall be downloaded from the server onto portable media and booked into evidence.



### *Automated License Plate Readers (ALPRs)*

---

#### **430.7 SYSTEM MONITORING AND SECURITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Oakland Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by username, license number or other data elements used in the search, name, date, time and purpose (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits shall be conducted on a regular basis by the Bureau of Services. The purpose of these audits is to ensure the accuracy of ALPR Information and correct data errors.

For security or data breaches, see the Records Release and Maintenance Policy.

#### **430.8 RELEASING OR SHARING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Bureau of Services Deputy Chief or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **430.9 TRAINING**

The Training Section shall ensure that members receive department-approved training for those authorized to use or access the ALPR system and shall maintain a record of all completed trainings. (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Training requirements for employees authorized in ALPR Users Section include completion of training by the ALPR Coordinator or appropriate subject matter experts as designated by the Oakland Police Department. Such training shall include:

- Applicable federal and state law
- Applicable policy

*Automated License Plate Readers (ALPRs)*

---

- Memoranda of understanding
- Functionality of equipment
- Accessing data
- Safeguarding password information and data
- Sharing of data
- Reporting breaches
- Implementing post-breach procedures

Training updates are required annually.

## Automated License Plate Readers (ALPRs)

### 438.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 438.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Piedmont Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Operations Commander. The Administration Operations Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

#### 438.2.1 ALPR ADMINISTRATOR

The Administration Operations Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

### 438.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.

### *Automated License Plate Readers (ALPRs)*

---

- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

#### **438.4 DATA COLLECTION AND RETENTION**

The Administration Operations Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or there is a reason to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **438.5 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Piedmont Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

## *Automated License Plate Readers (ALPRs)*

---

- (c) The Support Services Division Commander will be responsible for directing and ensuring that ALPR system audits are conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

### **438.6 AUTHORIZED DESIGNEE FOR CERTAIN ALPR SERVICES**

The Chief of Police may enter into an agreement with another law enforcement agency or authority, through contract or memorandum of understanding, to receive, provide, or share ALPR services that meet the minimum standards of this policy.

### **438.7 TRAINING**

Only persons trained in the use of the ALPR system, including its privacy and civil liberties protections, shall be allowed access to the ALPR data. Training shall consist of:

- Legal authorities, developments, and issues involving the use of ALPR data and technology
- Current policy regarding appropriate use of ALPR systems
- Evolution of ALPR and related technologies, including new capabilities and associated risks
- Technical, physical, administrative, and procedural measures to protect the security of ALPR data against unauthorized access or use
- Practical exercises in the use of the current ALPR system

Training shall be updated as technological, legal, and other changes that affect the use of the ALPR system occur. In no case shall a person utilize the ALPR system if he/she has not completed training in more than a year.

### **438.8 POLICY**

The policy of the Piedmont Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### **438.9 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law.

Any requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Department personnel who receive requests for ALPR data will accept the request in accordance with our Records Maintenance and Release Policy and forward the request to the Support Services Division Commander.

*Automated License Plate Readers (ALPRs)*

---

**438.10 TRAINING**

The Training Sergeant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

## Automated License Plate Readers (ALPRs)

### 462.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Richmond Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

### 462.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access shall be managed by the Administration Division Commander. The Administration Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

### 462.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (f) Absent exigent circumstances, the officer shall verify an ALPR response through CLETS before taking enforcement action that is based solely on an ALPR alert.

### 462.4 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Richmond Police Department and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

# Richmond Police Department

## Policy Manual

### Automated License Plate Readers (ALPRs)

---

The Administration supervisor is responsible to ensure proper collection and retention of ALPR data.

All ALPR data downloaded to the server will be stored for ninety (90) days, and thereafter will be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **462.5 ACCOUNTABILITY AND SAFEGUARDS**

All saved data will be closely safeguarded and protected by both procedural and technological means. The Richmond Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Records Supervisor and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
- (e) ALPR system audits should be conducted on a regular basis.



## Automated License Plate Readers (ALPRs)

### 418.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 418.2 POLICY

The policy of the San Leandro Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

In accordance with a Memorandum of Understanding (MOU) between the San Leandro Police Department and the Northern California Regional Intelligence Center (NCRIC), the Department shall work in cooperation and coordination with NCRIC in providing a standardized approach and method of collecting and sharing ALPR systems' data.

### 418.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the San Leandro Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Services Captain, or his/her designee. The Bureau of Services Captain, or his/her designee, will assign members under their command to administer the day-to-day operation of the ALPR equipment and data.

#### 418.3.1 ALPR ADMINISTRATOR

The Bureau of Services Captain, or his/her designee, shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

### *Automated License Plate Readers (ALPRs)*

---

- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

#### **418.4 OPERATIONS**

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

##### **418.4.1 AUTHORIZED PURPOSES, COLLECTION, AND USE OF ALPR DATA**

Sworn peace officers with a need and right to know may utilize ALPR technology for the following reasons, but are not limited to:

- (a) Locate stolen, wanted, and subject of investigation vehicles.
- (b) Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement.
- (c) Locate witnesses and victims of violent crime.
- (d) Locate missing children and elderly individuals, including responding to Amber and Silver Alerts.

### *Automated License Plate Readers (ALPRs)*

---

- (e) Support local, state, federal and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes.
- (f) Protect participants at local events.
- (g) Protect critical infrastructure sites.

#### **418.5 ALPR DATA COLLECTION AND RETENTION**

The City of San Leandro Information Technology division is responsible for ensuring the collection of ALPR data is transferred from department vehicles to the Northern California Regional Intelligence Center (NCRIC) server on an automatic basis, transferring immediately upon utilization of the system.

All data and images gathered by an ALPR are for the official use only, and because such data may contain confidential CLETS information, it is not open to public review. ALPR information gathered and retained by this NCRIC may be used and shared with prosecutors or others only as permitted by law.

All ALPR data downloaded to the NCRIC server shall be stored for one year (Government Code § 34090.6) and thereafter will be purged on the 366th day unless it has become, or it is reasonable to believe it will become evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the NCRIC server onto portable media and booked into evidence.

#### **418.6 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means by NCRIC. The San Leandro Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits should be conducted by the ALPR Administrator on a quarterly basis.
- (d) The ALPR Administrator shall report any errors to NCRIC for correction.

#### **418.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:

### *Automated License Plate Readers (ALPRs)*

---

1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Bureau of Services Captain or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

#### **418.8 TRAINING**

The Professional Standards and Training Unit should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53). This training shall be consistent with the training outlined in the NCRIC ALPR Policy.

#### **418.9 NCRIC ALPR POLICY**

[NCRIC ALPR Policy](#)



Office of the City Manager

INFORMATION CALENDAR  
November 30, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Mark Numainville, City Clerk  
 Subject: City Council Short Term Referral Process – Quarterly Update

INTRODUCTION

This report is a quarterly update on the status of short term (90-day) and other date-certain Council referrals.

CURRENT SITUATION AND ITS EFFECTS

In this context, tracking refers to a manually updated chart (Attachment 1). The May 15, 2018 Council referral establishing the monthly update includes both “short term” and “date-certain” referrals. Short term referrals are referrals that staff determines they will be able to complete in approximately three months. Date-certain referrals are those which contain a specified date of completion at the time they are approved by the City Council. Currently, the City only tracks short term referrals in an Excel spreadsheet.

The January 21, 2020 Council consent item changed the reporting frequency from monthly to quarterly. Providing a quarterly update on all short term and date-certain referrals will allow Council and the public to see the status of these referrals and any circumstances which lead to delays.

BACKGROUND

In 2016, the City Council adopted a system of Re-Weighted Range Voting (RRV) to prioritize the outstanding City Council referrals to staff. The RRV system enables City Council to provide direction to staff on which referrals are highest priority to the City Council. However, that process does not provide information on the status of short term or date-certain referrals. While many short term or date-certain referrals were “updated” through being completed and presented to Council as consent or information items, there was no comprehensive overview of this subset of referrals.

ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

The City Council may wish to direct staff to evaluate this process after it has been in place six months.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No direct fiscal impact. Greater efficiencies in staff resources due to prioritization of work and alignment with budget and strategic plan goals.

CONTACT PERSON

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

Attachments:

- 1: Short Term Referrals
- 2: Completed Short Term Referrals

| Meeting Date | Agenda Item Number | Project Name                                                                                                                    | Recommendations                                                                                                                                                                                                                                                                                                                                                                      | Referral by    | Referral District | Sponsor | Referral Commission | Original end date   | Lead City Department                   | State     | Planned end date    | Actual end date | Additional comments |
|--------------|--------------------|---------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|---------|---------------------|---------------------|----------------------------------------|-----------|---------------------|-----------------|---------------------|
| 2020-02-11   | 2                  | Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F | 2) direct the Berkeley Public Health Department to review the issue of flavored cannabis products for combustion or inhalation, and cannabis products whose names imply that they are flavored, and review any additional ingredients that may be hazardous, whether natural or artificial, including vitamin E acetate in inhalation products, and make recommendations for action. | Councilmembers |                   |         |                     | 2020-07-20 17:00:00 | Health, Housing and Community Services | Pending   | 2020-07-20 17:00:00 |                 |                     |
| 2020-01-28   | 12                 | Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F | 2) analyze the impacts of artificial flavorings/additives and advise if any further regulations are necessary                                                                                                                                                                                                                                                                        | Councilmembers |                   |         |                     | 2020-07-20 17:00:00 | Health, Housing and Community Services | Cancelled | 2020-07-20 17:00:00 |                 |                     |

|            |                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                |                                             |                                           |             |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------|-------------------------------------------|-------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2020-06-16 | 0 Urgency Item: Safety for All: The George Floyd Community Safety Act - City Attorney and Manager Analysis of Contractual and Legal Barriers to Public Safety Reform | Direct the City Manager and City Attorney to analyze contractual and legal barriers to public safety reform including police union contracts, vendor contracts, state and federal laws, to determine barriers to accountability and substantive reform. In addition, direct the City Manager and City Attorney to evaluate elements in the proposed police review commission charter amendment, that can be implemented by the City Council. | Councilmembers | Ben Bartlett, Jesse Arreguin, Kate Harrison | 2020-06-24 17:00:00 CITY MANAGER'S OFFICE | On Hold     | 2020-06-24 17:00:00 | <p>2021-06-09 16:10:28 - Melissa McDonough (Additional comments) On hold, pending Reimagining Public Safety</p> <p>2021-04-05 11:18:09 - Melissa McDonough (Additional comments) To the greatest extent possible, this work is being incorporated into the reimagining public safety process and it is anticipated that any recommendations that result will outline any barriers to implementation.</p> <p>2021-01-12 15:42:28 - Melissa McDonough (Additional comments) On hold, pending Reimagining Police</p> |
| 2020-01-28 | 12 Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F                                   | 1) determine if the City can require businesses to post notices on their website                                                                                                                                                                                                                                                                                                                                                             | Councilmembers |                                             | 2020-01-30 17:00:00 City Attorney         | Not Started | 2020-01-30 17:00:00 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 2020-02-11 | 2 Cannabis Ordinance Revisions; Amending Berkeley Municipal Code Chapters 12.21, 12.22, 20.40, 23C.25, and Sub-Titles 23E and 23F                                    | 1) determine if the City can require businesses to post notices on their website                                                                                                                                                                                                                                                                                                                                                             | Councilmembers |                                             | 2020-02-17 17:00:00 City Attorney         | Not Started | 2020-02-17 17:00:00 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |



|            |                                                                  |                                                                                                                                                                                                                                                                                                                                      |            |                                             |                                   |                                 |
|------------|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------------------------------|-----------------------------------|---------------------------------|
| 2020-12-15 | 25 Prohibition on the Resale of Used Combustion Vehicles in 2040 | On November 18, 2020 the Facilities, Infrastructure, Transportation, Environment & Sustainability Committee made a positive recommendation to refer to the City Manager for review of the attached ordinance prohibiting the resale of used, existing combustion-powered vehicles beginning in 2040, to the extent legally possible. | Commission | Community Environmental Advisory Commission | 2020-12-25 17:00:00 City Attorney | Not Started 2020-12-25 17:00:00 |
|------------|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------------------------------|-----------------------------------|---------------------------------|

|            |                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                |                                                |                                            |                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------------|--------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-02-19 | 16 Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program | That the Council provides requested direction to the Planning Department on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report; with the following specifications: Recommendation of creating 1 new dispensary license for equity applicants. It is envisioned as new licenses are created, such as, delivery, manufacturing, and micro-business, permits will be reserved for equity applicants for each new category. | Councilmembers | Ben Bartlett, Kriss Worthington, Cheryl Davila | 2021-12-31 12:00:00 PLANNING & DEVELOPMENT | Not Started 2021-12-31 12:00:00 | <p>2021-06-25 15:24:06 - James Bondi (Additional comments)<br/>Project has been deprioritized, no staff resources allocated. Would require start from beginning, so status changed to "Not Started"</p> <p>2021-01-15 13:24:28 - James Bondi (Additional comments)<br/>Equity program on hold pending additional staff resources. Planned end date pushed back, percent complete reduced to 25%</p> <p>2020-04-15 11:32:41 - James Bondi (Additional comments)<br/>Planned end date moved back to Oct 2020, given delays to public processes and re-</p> |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------------|--------------------------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|            |                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |                                                          |                                   |                  |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------------------------------|-----------------------------------|------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2018-07-10 | 20 Refer to City Manager to look into adopting an ordinance requiring a permit process for scooter sharing companies to operate on public streets | Refer to the City manager to look into adopting an ordinance establishing a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted powered scooter subject to the | Council member | Kriss Worthington, Sophie Hahn Transportation Commission | 2018-11-27 17:00:00 Public Works  | Work in Progress | 2018-11-27 17:00:00 | <p>2021-10-13 08:47:05 - Nancy Melendez (Additional comments) Second reading of the Ordinance October 12, 2021 for permitting shared electric scooters and other electric micromobility devices</p> <p>2021-04-15 10:10:12 - Nancy Melendez (Additional comments) Staff is preparing a new permit program for dockless shared mobility devices like scooters and ebikes. This will be submitted for review by the City attorney in May 2021</p> <p>2019-11-26 14:11:56 - Melissa McDonough (Additional comments) Continuing to monitor status of outstanding lawsuits against other</p> |
| 2018-04-03 | 18 Supplemental Paid Family Leave                                                                                                                 | 2) refer to the City Manager to draft an ordinance regarding retaliation against employees using state family leave, including a private right of action provision.                                                                                                                                                                                                                                                                                                                                                                                  | Commission     |                                                          | 2019-01-31 17:00:00 City Attorney | Work in Progress | 2019-01-31 17:00:00 | <p>2019-12-16 10:27:45 - Christopher Jensen (Additional comments) City Attorney's Office is coordinating with Human Resources.</p> <p>2019-09-17 11:24:26 - Christopher Jensen (Additional comments) City Attorney's Office to coordinate with Human Resources</p>                                                                                                                                                                                                                                                                                                                      |

|            |                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                |              |                                           |                  |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------|-------------------------------------------|------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-03-26 | 15 Dynamex Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance | That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903.                                                                                                                                                                                                                   | Councilmembers | Ben Bartlett | 2019-11-29 17:00:00 City Attorney         | Work in Progress | 2020-01-31 17:00:00 | 2019-12-16 10:28:22 - Christopher Jensen (Additional comments) City Attorney's Office is coordinating with Human Resources.<br><br>2019-09-17 10:59:00 - Christopher Jensen (Additional comments) A draft opinion is under review in the City Attorney's office.<br><br>2019-06-18 08:04:27 - Melissa McDonough (Additional comments) The City Attorney's Office is drafting a City Attorney opinion analyzing the holding in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4Cal.5th 903 with respect to the City's MWO and PSLO. The completed memo will be referred to the City        |
| 2020-02-11 | 15 Recommendations Related to Code Enforcement and Receivership Actions                           | On November 25, 2019, the Health, Life Enrichment, Equity & Community Committee took action to send an item to Council with a positive recommendation that for purposes of understanding the issues and identifying potential changes to the City's codes, policies, and procedures the committee recommends the following:<br>a. That the City Manager provide an information session to the City Council regarding the various ways in which code enforcement issues have been brought to the attention of the City Council in the last 5 | Councilmembers |              | 2020-02-17 17:00:00 CITY MANAGER'S OFFICE | Work in Progress | 2020-02-17 17:00:00 | 2021-10-22 10:06:35 - Melissa McDonough (Additional comments) Staff are consulting with City Attorney's Office about an appropriate response to this referral.<br><br>2020-10-21 11:12:01 - Melissa McDonough (Additional comments) The staff assigned to conduct this work has been tasked with civil enforcement of the face coverings urgency ordinance.<br><br>2020-07-20 10:49:42 - Melissa McDonough (Additional comments) Work on this project was delayed by the onset of the COVID pandemic. With the onboarding of a new Code Enforcement Supervisor, City staff has begun to compile this information |

|            |                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                |                                                            |                                                 |                  |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------------------------|-------------------------------------------------|------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-07-16 | 9 Referral to the City Manager to Consider Amending the Language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines | Request that the City Manager consider amending the language of the City's Wireless Telecommunications Ordinance (BMC 23C.17) and Aesthetic Guidelines (BMC 16.10 & Aesthetic Guidelines for PROW permits) and return to City Council for adoption as soon as possible.                                                                                                                                                                                                                                            | Councilmembers | Susan Wengraf, Jesse Arreguin, Ben Bartlett, Kate Harrison | 2019-07-22 17:00:00 City Attorney               | Work in Progress | 2020-02-28 17:00:00 | 2019-11-27 10:54:30 - Melissa McDonough (Additional comments) The City Attorney's Office, the City Manager's Office, Public Works, and Land Use Planning are in the process of revising an internal draft of administrative guidelines for implementing BMC 16.10 with respect to small cell wireless facilities.<br><br>2019-09-17 11:03:27 - Christopher Jensen (Additional comments) The City Manager's Office and City Attorney's Office are coordinating with other departments to update guidelines and procedures for wireless application submittals. |
| 2020-07-28 | 30 Providing our Unhoused Community in the City of Berkeley with Menstrual Products                                                           | 3. Direct the City Manager to use existing homeless services funding to develop and deploy a program to provide a broad spectrum of menstrual products, including but not limited to, feminine hygiene, pads, tampons, underwear, and other related products, both through the City's outreach direct services, as well as through the community based homeless services providers. Additionally, require some elements of this program be deployed immediately, with a full program deployment within six months. | Councilmembers | Cheryl Davila, Ben Bartlett, Lori Droste                   | 2020-10-15 17:00:00 HEALTH, HSG & COMMUNITY SVC | Work in Progress | 2020-10-15 17:00:00 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

|            |                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                |                                                         |                                           |                  |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|------------|----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------|-------------------------------------------|------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2020-10-13 | 18 Enforce Bi-Weekly (Once Every Two Weeks) Residential Cleaning Measures to Address Encampments and Promote Clean Streets in Berkeley | Refer to the City Manager to promote equitable street cleaning practices and require biweekly (once every two weeks), cleanings of populated encampment sites in Berkeley and adjacent residential neighborhoods. In order to determine where City Staff should prioritize residential cleaning services, the City Manager should establish a radius around the campsites. When encampments are on non-City owned property, such as Caltrans, the City should bill the appropriate agency for the cost of staff and materials. |                | Ben Bartlett, Sophie Hahn, Kate Harrison, Cheryl Davila | 2020-10-22 17:00:00 CITY MANAGER'S OFFICE | Work in Progress | 2020-10-22 17:00:00 | 2021-10-22 09:36:04 - Melissa McDonough (Additional comments) Staff have begun implementing this and we now provide regular garbage service to encampment and nearby areas impacted by encampment on a twice weekly basis.                                                                                                                                                                                                                                                                                                               |
| 2020-11-10 | 11 Four Way Stop Signs on Eighth Street at Carleton Street and Pardee Street                                                           | Refer to the City Manager a proposal to install stop signs at the intersections of Eighth Street and Carleton Street and Eighth Street and Pardee Street.                                                                                                                                                                                                                                                                                                                                                                      | Councilmembers | Jesse Arreguin                                          | 2020-11-18 17:00:00 Public Works          | Work in Progress | 2020-11-18 17:00:00 | <p>2021-10-13 08:49:37 - Nancy Melendez (Additional comments) Needs memo declaring completion of assessment</p> <p>2021-06-23 11:41:19 - Nancy Melendez (Additional comments) All way stop evaluated, and found not warranted</p> <p>2021-04-15 10:11:39 - Nancy Melendez (Additional comments) Data analysis concluded that traffic and pedestrian volumes are far below the level at which stop signs may be warranted.</p> <p>2021-01-14 17:44:32 - Nancy Melendez (Additional comments) Data collection needed for Stop Signs at</p> |

|            |                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                |                            |                                            |                  |                     |                                                                                        |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------|--------------------------------------------|------------------|---------------------|----------------------------------------------------------------------------------------|
| 2020-12-01 | 25 Personal Liability Protection for Small Businesses                                                                                                                                      | 1. Direct the City Manager and City Attorney to draft and submit to the City Council for consideration an emergency ordinance to prohibit the enforcement of personal liability provisions in commercial leases and commercial rental agreements in the City of Berkeley for lessees/renters who have experienced financial impacts related to the Covid-19 pandemic.<br>2. Direct the City Manager to conduct outreach to all commercial tenants regarding any protections enacted by the City Council, with a particular focus on businesses that | Councilmembers | Sophie Hahn, Susan Wengraf | 2020-12-04 17:00:00 City Attorney          | Work in Progress | 2020-12-04 17:00:00 |                                                                                        |
| 2021-01-26 | 11 Short Term Referral to City Manager, Disaster and Fire Safety Commission and Planning Commission to Amend Local Accessory Dwelling Unit (ADU) Zoning Ordinance and Berkeley's Fire Code | Refer to the City Manager, the Disaster and Fire Safety Commission and the Planning Commission to evaluate and recommend to Council within 90 days, a set of ordinance amendments and implementation programs to address emergency access and egress, parking and objective development standards for ADUs in all districts with expedited consideration to address the constraints presented by high fire hazard conditions and narrow and curving roadways in Fire Zones 2 and 3.                                                                 | Councilmembers | Susan Wengraf, Sophie Hahn | 2021-01-28 17:00:00 PLANNING & DEVELOPMENT | Work in Progress | 2021-01-28 17:00:00 | 2021-06-25 15:42:18 - James Bondi (Additional comments) Submitted for Council 7/13/21. |

|            |                                                                                                                   |                                                                                                                                                                                                                                                                                       |                |                                |                  |                     |
|------------|-------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------|------------------|---------------------|
| 2021-03-09 | 11 Proposed Changes to City Council Office Budget Expenditure and Reimbursement Policies (Resolution 67,992-N.S.) | prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members. | Councilmembers | 2021-03-15 17:00:00 City Clerk | Work in Progress | 2021-03-15 17:00:00 |
|------------|-------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------|------------------|---------------------|

|            |                                                                                                                        |                                                                                                                                                                                                    |                |                              |                                  |                  |                     |
|------------|------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------|----------------------------------|------------------|---------------------|
| 2020-10-27 | 21 Convert 62nd Street between King St. and Adeline St. into a One-Way Line that exits in the direction of Adeline St. | Refer to the City Manager to convert 62nd Street between King St. and Adeline St. into a one-way lane that exits to Adeline and blocks motorists from entering 62nd Street through Adeline Street. | Councilmembers | Ben Bartlett, Jesse Arreguin | 2021-06-23 17:00:00 Public Works | Work in Progress | 2021-06-23 17:00:00 |
|------------|------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------|----------------------------------|------------------|---------------------|

|            |                                                                                                  |                                                                                                                                                                                                           |                |                                                         |                                     |                  |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------|--------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------|-------------------------------------|------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-09-10 | 53 Voluntary Time Off on Statewide Election Days for City Employees                              | Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.      | Council member | Rigel Robinson, Cheryl Davila, Sophie Hahn, Lori Droste | 2021-07-02 17:00:00 Human Resources | Work in Progress | 2021-07-02 17:00:00 | 2020-10-21 11:01:23 - Melissa McDonough (Additional comments) Pending draft Administrative Regulation to institute as regular practice and memo to Council to close out referral. Implemented VTO day as Election Day (Nov 3) for 2020.<br><br>2020-04-28 09:58:54 - Melissa McDonough (Additional comments) item went to council and approved. Delayed due to COVID-19<br><br>2019-11-06 15:47:09 - Wilhelmina Parker (Additional comments) Referred to the budget committee to provide analysis on the cost. It is also slated to be a part of labor negotiations in 2020 as it relates to |
| 2021-09-14 | 39 Open Government Commission Recommendations to City Council Regarding Teleconferenced Meetings | Adopted the recommendation from the Mayor in Supplemental Communications Packet #2 to refer amendments to Appendix C of the Rules of Procedure to the City Manager to bring back to Council for adoption. | Councilmembers | Jesse Arreguin                                          | 2021-09-22 17:00:00 City Clerk      | Work in Progress | 2021-09-22 17:00:00 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |



|            |                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                |                                          |                                           |                         |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------|------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------|-------------------------------------------|-------------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2017-07-25 | Public Toilet Policy                                                                                                                     | Refer to the City Manager to develop the following "Neighborhood Public Toilet Policy": Develop a process in which residents can obtain a permit for a neighborhood public toilet via an official petition; Residents should contact the City via 311 to obtain an official petition form to apply for a permit; In order to obtain the permit, the petition should be signed by at least 51% of residential addresses and business owners within the nearest two block radius of the proposed public toilet site; The City shall not fund or contribute to the | Council member |                                          | 2020-12-31 17:00:00 CITY MANAGER'S OFFICE | Past Due                | 2020-12-31 17:00:00 | 2021-10-22 10:04:32 - Melissa McDonough (Additional comments) Staff continue to evaluate the feasibility of this referral, given the challenges of maintaining public toilets.<br><br>2020-07-20 10:51:47 - Melissa McDonough (Additional comments) Response to the referral has been delayed due to the COVID-19 pandemic and its impact on available staffing to support the draft policy. In response to the pandemic, the City has placed and maintains several additional portable toilets and handwashing stations throughout the City. |
| 2017-12-19 | 22 Develop Ordinance Prohibiting Companies Participating in the Construction of a Border Wall from Contracting with the City of Berkeley | Direct the City Manager to develop an ordinance prohibiting companies involved in the construction of a border wall from contracting with the City of Berkeley. Return to Council with the proposed ordinance within 90 days.                                                                                                                                                                                                                                                                                                                                   | Council member | Ben Bartlett, Sophie Hahn, Cheryl Davila | 2018-07-20 17:00:00 Finance               | Pending Not On Schedule | 2018-07-20 17:00:00 | 2019-08-05 09:47:54 - Melissa McDonough (Additional comments) October 2019 draft ordinance was sent to City Attorney for review. Remaining at 25% complete General Services Manager to commence follow up with City Attorney's Office following COVID-19 event and Emergency Operations Center deactivation.<br><br>2019-11-25 13:41:42 - Melissa McDonough (Additional comments) Draft ordinance sent to the City Attorney for review.                                                                                                       |

|            |                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                 |                                           |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-04-02 | 18 Companion Report: Effective Enforcement of Safe Lead-Paint Practices - Update on Amendments | Based on the intent of the recommendation from the Community Environmental Advisory Commission (CEAC) for the City to expand enforcement of unsafe lead paint practices, refer to the City Manager to: - Coordinate with the Alameda County Healthy Homes Program to clearly identify roles and responsibilities for expanding enforcement of unsafe lead practices, and to explore options for sharing resources that can support expanded local enforcement; - Identify what resources, staff capacity, and program structure would be | Council members | 2020-12-31 15:28:36 CITY MANAGER'S OFFICE | Pending Not On Schedule | 2020-12-31 15:28:36<br><br>2020-04-02 13:24:58 - Melissa McDonough (Additional comments) Multi-department staff resources are required and are not available to address this request right now.<br><br>2019-10-03 13:55:00 - Melissa McDonough (Additional comments) Completed matrix<br><br>2019-09-12 08:32:23 - Melissa McDonough (Additional comments) Convened all City divisions which touch issue (Public Health, Environmental Health, Toxics, Building & Safety, 311). Mapped existing processes. Preparing draft consolidation plan.<br><br>2019-08-07 15:33:54 - Melissa McDonough (Additional comments) |
| 2017-03-14 | 24 Referral to Consider Caregiver Parking in Residential Shared Parking Pilot                  | Refer to the City Manager and Transportation Commission to consider a pilot program for caregiver parking permits in RPP zones in the goBerkeley Residential Shared Parking Pilot.                                                                                                                                                                                                                                                                                                                                                       | Council member  | 2020-06-12 17:00:00 Public Works          | Pending On Schedule     | 2020-06-12 17:00:00<br><br>2021-10-13 08:42:05 - Nancy Melendez (Additional comments) No change<br><br>2021-01-14 17:36:21 - Nancy Melendez (Additional comments) Due to Covid-19 work remains suspended, and the new end date is likely to be 12-31-2021<br><br>2020-10-05 09:35:13 - Nancy Melendez (Additional comments) (no change) Due to the Shelter in Place order and temporary suspension of RPP, the schedule for this project is estimated to be delayed 6 to 12 months. The new planned end date is June 12, 2021<br><br>2020-06-30 15:24:51 - Nancy Melendez (Additional comments)                     |

| Meeting Date | Agenda Item Number | Project Name                                                                                                                                        | Recommendations                                                                                                                                                                                                                                     | Referral by    | Referral District       | Sponsor           | Referral Commission | Original end date   | Lead City Department        | State     | Planned end date    | Actual end date     | Additional comments |
|--------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|-------------------|---------------------|---------------------|-----------------------------|-----------|---------------------|---------------------|---------------------|
| 2014-04-29   | 35                 | 35. City Manager<br>Referral: Policy for Companies Such as Airbnb to Pay Transient Occupancy Tax, as Currently Paid by Other Small Local Businesses | Refer to the City Manager creation of a policy for companies such as Airbnb to pay the Transient Occupancy Tax, as currently paid by other small local businesses.                                                                                  | Council member | City Council District 7 | Kriss Worthington |                     | 2014-10-24 17:00:00 | PLANNING & DEVELOPMENT      | Completed | 2014-10-27 08:00:00 | 2016-09-07 00:00:00 |                     |
| 2014-12-16   | 25                 | Reconcile the West Berkeley Plan and the Zoning Code as it Pertains to Medical Uses                                                                 | Refer to the Planning Commission the task of revising the current zoning ordinance so that it reflects the West Berkeley Plan's goals of encouraging medical uses in West Berkeley.                                                                 | Council member | City Council District 2 |                   |                     | 2015-06-12 17:00:00 | PLANNING & DEVELOPMENT      | Completed | 2015-06-15 08:00:00 | 2017-01-24 00:00:00 |                     |
| 2015-09-15   | 43                 | Prohibit Sales of Tobacco Products to Persons Under the Age of 21                                                                                   | Direct the City Manager and Community Health Commission to draft an ordinance amending Berkeley Municipal Code Chapter 9.80 "Tobacco Retailers" to prohibit the sales of tobacco products and smoking paraphernalia to persons under the age of 21. | Council member |                         | Jesse Arreguin    |                     | 2015-06-15 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2015-06-15 17:00:00 | 2015-06-15 17:00:00 |                     |

|            |                                                                      |                                                                                                                                                                                                                                                     |                |                |                                                 |                                                   |
|------------|----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-------------------------------------------------|---------------------------------------------------|
| 2015-09-15 | 43 Prohibit Sales of Tobacco Products to Persons Under the Age of 21 | Direct the City Manager and Community Health Commission to draft an ordinance amending Berkeley Municipal Code Chapter 9.80 "Tobacco Retailers" to prohibit the sales of tobacco products and smoking paraphernalia to persons under the age of 21. | Council member | Jesse Arreguin | 2016-03-11 17:00:00 HEALTH, HSG & COMMUNITY SVC | Completed 2016-03-11 17:00:00 2016-01-26 00:00:00 |
|------------|----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-------------------------------------------------|---------------------------------------------------|

|            |                                                                                                                                                           |                                                                                                                                                                                                                     |                |                   |                                            |                                                   |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|--------------------------------------------|---------------------------------------------------|
| 2015-09-15 | 55 Referral to the Community Environmental Advisory Commission to Install 1.8 GPM Showerheads in All New Housing Projects or Any Renovation Over \$50,000 | Refer to the Community Environmental Advisory Commission to explore requiring a maximum of 1.8 GPM low flow showerheads in new housing projects and all housing renovations exceeding \$50,000 throughout Berkeley. | Council member | Kriss Worthington | 2016-03-11 17:00:00 PLANNING & DEVELOPMENT | Completed 2016-03-14 08:00:00 2016-07-19 00:00:00 |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|--------------------------------------------|---------------------------------------------------|

|            |                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                               |           |                                         |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|-----------|-----------------------------------------|
| 2015-11-10 | 1 Proposed Amendments to the Minimum Wage Ordinance; Amending Berkeley Municipal Code Chapter 13.99 (Continued from September 15, 2015) | Review and consider information regarding the activities and costs associated with implementing and enforcing the Commission on Labor's proposed amendments to the Minimum Wage Ordinance (MWO), including the potential impact of the proposed amendments on the City's minimum wage employees, employers, non-profit organizations and community-based organizations, on-call workers and youth training program workers, and either:<br>1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, which | 2016-05-06 17:00:00 CITY MANAGER'S OFFICE     | Completed | 2016-05-09 08:00:00 2016-09-01 00:00:00 |
| 2015-11-17 | 30 Fourth Ambulance Pilot Project 6-Month Update                                                                                        | No recommendation noted. Action: Moved to Consent Calendar and held over to January 19, 2016. Fire to report back in May 2016 for permanent program.                                                                                                                                                                                                                                                                                                                                                                                    | 2016-05-13 17:00:00 FIRE & EMERGENCY SERVICES | Completed | 2016-05-16 08:00:00 2018-07-01 00:00:00 |

|            |                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                     |                |                         |                   |                     |                        |           |                     |                     |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|-------------------|---------------------|------------------------|-----------|---------------------|---------------------|
| 2015-12-01 | 33 City Manager and Planning Commission's Referral: Enable Implementation of Council Approved Floor Area Ratio in the Telegraph Commercial District between Dwight and Bancroft by Amending the Zoning Ordinance | Refer to the City Manager and Planning Commission an immediate implementation strategy to bring the City Zoning Ordinance in compliance with the policy adopted by City Council to increase Floor Area Ratio (FAR) in the Telegraph Commercial District between Dwight and Bancroft | Council member | City Council District 7 | Kriss Worthington | 2016-05-27 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2016-05-30 08:00:00 | 2016-06-28 00:00:00 |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|-------------------|---------------------|------------------------|-----------|---------------------|---------------------|

|            |                                                                                                                       |                                                                                                                                   |                |  |                                                           |                     |                        |           |                     |                     |                                                                                                                                |
|------------|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------|--|-----------------------------------------------------------|---------------------|------------------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 2015-12-01 | 22 City Manager Referral: Pilot Program to Implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley | Refer to the City Manager to adopt a Pilot Program to implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley. | Council member |  | Kriss Worthington, Linda Maio, Susan Wengraf, Lori Droste | 2016-05-27 17:00:00 | Public Works           | Completed | 2016-05-30 08:00:00 | 2018-07-24 00:00:00 | 2019-02-05 16:44:20 - Melissa McDonough (Additional comments) 6/2018 RFPs received; 2 solar compactors to be issued contracts. |
|            | Google Translate Bar                                                                                                  |                                                                                                                                   |                |  |                                                           |                     | Information Technology | Completed | 2016-06-01 00:00:00 | 2016-06-01 00:00:00 |                                                                                                                                |

|            |                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                |                         |                                            |                                           |           |                                         |
|------------|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|--------------------------------------------|-------------------------------------------|-----------|-----------------------------------------|
| 2015-12-15 | 35 Amending Open Government Ordinance to Allow Submission of Revised/Supplemental Items | Refer to the City Manager and City Attorney to draft an ordinance amending Berkeley Municipal Code Section 2.06.070.E (Open Government Ordinance) to allow the submission of revised or supplemental agenda material for the Supplemental Communications Packet 2. The revised or supplemental material must be submitted no later than 12 noon the day of the City Council meeting at which the item is to be considered. The online version of the City Council agenda shall also contain a link to such items. If revised agenda | Council member |                         | Jesse Arreguin, Susan Wengraf, Lori Droste | 2016-06-10 17:00:00 City Clerk            | Completed | 2016-06-10 17:00:00                     |
| 2015-12-15 | 30 Provide Cost Estimates to Restore the Berkeley Pier                                  | Refer to the City Manager to determine the cost to make the appropriate repairs so that it will be safe for public use.                                                                                                                                                                                                                                                                                                                                                                                                             | Council member | City Council District 2 |                                            | 2016-06-10 17:00:00 CITY MANAGER'S OFFICE | Completed | 2016-06-13 08:00:00 2017-03-14 00:00:00 |

|            |                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |                |                                                 |           |                     |                     |                                                                                                                                                                                                                                 |
|------------|------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-------------------------------------------------|-----------|---------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2015-12-15 | 54 Referral to City Manager: Establishment of Affordable Housing Small Sites Program Revised Version | Refer to the City Manager to: 1. Look into the feasibility of creating a Small Sites Program to allow non-profits to purchase small multi-family buildings (5-25 units) to create and preserve affordable housing, with an emphasis on properties with a high potential for conversion to cooperative homeownership. 2. Develop an inventory of City-owned land and other land owned by public agencies in the City of Berkeley which could potentially be used to create below-market rate housing. | Council member | Jesse Arreguin | 2016-06-10 17:00:00 HEALTH, HSG & COMMUNITY SVC | Completed | 2016-06-13 08:00:00 | 2016-12-13 00:00:00 | 2019-02-05 16:47:39 - Melissa McDonough (Additional comments) 2 is completed. 1 was later prioritized long term as top priority of Council's housing action plan. Plan outline complete and will bring before HAC in July 2018. |
| 2016-01-19 | 24 Tenant Buyout Agreement Ordinance                                                                 | Refer to the City Manager and the Rent Stabilization Board to draft an ordinance regulating situations where a tenant agrees to vacate a rent-controlled unit in exchange for a sum of money, known as a buyout.                                                                                                                                                                                                                                                                                     | Council member | Jesse Arreguin | 2016-07-15 17:00:00 CITY MANAGER'S OFFICE       | Completed | 2016-07-18 08:00:00 | 2016-03-31 00:00:00 |                                                                                                                                                                                                                                 |



|            |                                                                                                                                                                                                             |                                                                                                                                                                                                                                                              |                |                                |                     |                       |           |                     |                     |                                                                                                                                |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------|---------------------|-----------------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 2016-02-09 | 26 Develop a Provision for the Landmarks Preservation Ordinance to Allow for the De-designation of a Landmark Designation for a Building that has been Legally Demolished (Continued from January 12, 2016) | Refer to the City Manager to develop a provision for the Landmarks Preservation Ordinance (LPO) that would allow a landmark designation to be de-designated for a building that has been previously landmarked but subsequently has been legally demolished. | Council member |                                | 2016-08-05 17:00:00 | CITY MANAGER'S OFFICE | Completed | 2016-08-08 08:00:00 | 2016-05-10 00:00:00 |                                                                                                                                |
| 2016-02-09 | 15 Budget Referral: Including BigBelly Solar Compactor Bins Allocation in the 2016 Mid-Year Budget Process                                                                                                  | Refer to the 2016 Mid-year budget process the purchasing of BigBelly Solar Compactor Bins in order to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.                                                                     | Council member | Kriss Worthington, Lori Droste | 2016-08-05 17:00:00 | Public Works          | Completed | 2016-08-08 08:00:00 | 2018-07-24 00:00:00 | 2019-02-05 16:51:37 - Melissa McDonough (Additional comments) 6/2018 RFPs received; 2 solar compactors to be issued contracts. |
| 2016-03-15 | 6 Prioritize Installation of Bicycle Lane on Fulton Street                                                                                                                                                  | Direct the City Manager and Transportation staff to prioritize and expedite the installation of a bicycle lane on Fulton Street between Bancroft Way and Channing Way.                                                                                       | Council member | Jesse Arreguin                 | 2016-09-09 17:00:00 | Public Works          | Completed | 2016-09-12 08:00:00 | 2016-05-10 00:00:00 |                                                                                                                                |

|            |                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                        |                |                   |                     |                             |           |                     |                     |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|---------------------|-----------------------------|-----------|---------------------|---------------------|
| 2016-04-05 | 10 Modify the Proposed Early Mitigation Fee Discount and Preserve Revenue Towards Units At Or Below 50% AMI and Add Sunset Clause (Continued from February 23, 2016)                           | That the City of Berkeley amend Council Item 10a to remove the option of paying a substantially-reduced mitigation fee at the issuance of a permit, and to preserve revenue from the mitigation fees to maintain or increase the funds designated towards units for incomes at or below 50% AMI, and add a sunset clause.                              | Council member | Kriss Worthington | 2016-09-30 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2016-10-03 08:00:00 | 2016-07-19 00:00:00 |
| 2016-04-26 | 31 Creation of 311 Mobile Application                                                                                                                                                          | Refer to the City Manager to create a mobile application for the 311 system and improve the 311 Online Service Center.                                                                                                                                                                                                                                 | Council member | Jesse Arreguin    | 2016-10-24 08:00:00 | Information Technology      | Completed | 2016-10-24 08:00:00 | 2016-11-15 00:00:00 |
| 2016-05-10 | 21 Resolutions Consenting to Inclusion of the City of Berkeley Properties in the California Home Finance Authority PACE Programs and Associate Membership in California Home Finance Authority | ABAG has a new report and the City Council has voted twice in favor; thus, the City of Berkeley should approve and sign an agreement for collaborative services for Property Assessed Clean Energy Financing (PACE) marketplace. Also, that the City of Berkeley approve and sign acknowledgement addendum of RCSA, as executed between ABAG and RPPs. | Council member | Kriss Worthington | 2016-11-04 17:00:00 | City Attorney               | Completed | 2016-11-07 08:00:00 | 2016-09-20 00:00:00 |

|            |                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                               |                |                         |                   |                     |                             |           |                     |                     |
|------------|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|-------------------|---------------------|-----------------------------|-----------|---------------------|---------------------|
| 2016-05-31 | 22 City Manager Referral: Consider Adding Energy Efficient Equity as an Additional Property Assessed Clean Energy Program | Refer to the City Manager to consider adding Energy Efficient Equity as an additional property assessed clean energy program.                                                                                                                                                                                                                                                                                 | Council member |                         | Kriss Worthington | 2016-11-25 17:00:00 | PLANNING & DEVELOPMENT      | Completed | 2016-11-28 08:00:00 | 2016-09-20 00:00:00 |
| 2016-05-31 | 20 Requesting a Comprehensive Report on the State of Homeless Services within the City of Berkeley                        | Request the City Manager direct staff to prepare a report outlining the details of City funded homeless services. The purpose of this report is to help Council and the community understand the various factors related to the allocation of resources to address homelessness within the City. Once the report is complete, it is requested that city staff schedule a worksession to go over the findings. | Council member | City Council District 5 |                   | 2016-11-25 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2016-11-28 08:00:00 | 2016-11-01 00:00:00 |
| 2016-06-28 | 47 City Manager Referral: Feasibility of Acquiring a High-Capacity Scanner for Multiple City Departments                  | Refer to the City Manager to consider investing in a high-capacity scanner to digitize City records for the Council and multiple City departments.                                                                                                                                                                                                                                                            | Council member |                         | Kriss Worthington | 2016-12-26 08:00:00 | Information Technology      | Completed | 2016-12-26 08:00:00 | 2017-12-12 00:00:00 |

|            |                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                   |                   |                     |                             |           |                     |                     |
|------------|--------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------|---------------------|-----------------------------|-----------|---------------------|---------------------|
| 2015-12-15 | 54 Referral to City Manager: Establishment of Affordable Housing Small Sites Program Revised Version                     | Refer to the City Manager to: 1. Look into the feasibility of creating a Small Sites Program to allow non-profits to purchase small multi-family buildings (5-25 units) to create and preserve affordable housing, with an emphasis on properties with a high potential for conversion to cooperative homeownership. 2. Develop an inventory of City-owned land and other land owned by public agencies in the City of Berkeley which could potentially be used to create below-market rate housing. | Council member    | Jesse Arreguin    | 2017-01-02 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2017-01-02 17:00:00 | 2017-01-02 17:00:00 |
| 2016-07-12 | 27 Refer to City Manager to Consider Applying for \$100,000 from the Better Together Resilient Communities Grant Program | That the City Manager consider applying for the \$100,000 grant that PG&E's Better Together Resilient Communities grant program will offer in the beginning of 2017.                                                                                                                                                                                                                                                                                                                                 | Council member    | Kriss Worthington | 2017-01-06 17:00:00 | PLANNING & DEVELOPMENT      | Completed | 2017-01-09 08:00:00 | 2016-12-31 00:00:00 |
| 2016-07-19 | 41 Companion Report: Amend Berkeley Municipal Code Creating Community Health Commission                                  | Refer to staff to write an ordinance based on the Community Health Commission (CHC) recommendation with the changes suggested by staff.                                                                                                                                                                                                                                                                                                                                                              | MAYOR AND COUNCIL |                   | 2017-01-13 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2017-01-16 08:00:00 | 2016-11-29 00:00:00 |

|            |                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                          |                |                                |                                            |           |                     |                     |                                                                                                                                |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------|--------------------------------------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 2016-09-20 | 32 City Manager Referral: Implementing BigBelly Solar Compactor Bins                                                                         | Refer to the City Manager to examine the feasibility of procuring BigBelly Solar Compactor Bins to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.                                                                                                                                                                                    | Council member | Kriss Worthington, Lori Droste | 2017-03-17 17:00:00 Public Works           | Completed | 2017-03-20 08:00:00 | 2018-07-24 00:00:00 | 2019-02-05 17:04:44 - Melissa McDonough (Additional comments) 6/2018 RFPs received; 2 solar compactors to be issued contracts. |
| 2016-09-20 | 22 Amending Council Rules Regarding Removal of Commissioners                                                                                 | Direct staff to return with a policy recommendation consistent with the recommendations in this report, i.e., noting that as a matter of courtesy and respect, Councilmembers are expected to set the date a commissioner is to be replaced on a commission and communicate that date to the commissioner not less than two weeks from the official date of replacement. | Council member | Commission                     | 2017-03-17 17:00:00 City Clerk             | Completed | 2017-03-20 08:00:00 | 2018-06-12 00:00:00 | 2019-02-05 17:02:37 - Melissa McDonough (Additional comments) Incorporating changes from City Council.                         |
| 2016-09-20 | 21 City Manager Referral: Consider the Four Recommendations Contained in the Alameda County Grand Jury Report (Continued from July 19, 2016) | Refer to the City Manager to consider the four recommendations in response to the Alameda County Grand Jury Report recommendations.                                                                                                                                                                                                                                      | Council member | Kriss Worthington              | 2017-03-20 08:00:00 Information Technology | Completed | 2017-03-20 08:00:00 | 2016-10-20 00:00:00 |                                                                                                                                |
|            | Improved Emergency Notification System                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                          |                |                                | Information Technology                     | Completed | 2017-04-01 00:00:00 | 2017-06-05 00:00:00 |                                                                                                                                |

|            |                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                |                |                     |                                |           |                     |                     |
|------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|---------------------|--------------------------------|-----------|---------------------|---------------------|
| 2016-10-18 | 41 City Plan for Emergency Shelter During Winter Season                                                     | Refer the following actions to the City Manager to consider in developing a plan for emergency shelter/services during the upcoming winter season. These actions will help implement Resolution No. 67,357-N.S. "Declaring a Homeless Shelter Crisis in Berkeley": 1. Allow full use of the Multi-Agency Service Center (MASC) at 1931 Center Street as a Warming Center. Direct the City Manager to study the feasibility of using the West Berkeley Senior Center as a day-time Warming Center or evening shelter. Engage in discussions with Dorothy Day | Council member | Jesse Arreguin | 2017-04-14 17:00:00 | HEALTH, HSG & COMMUNITY SVC    | Completed | 2017-04-17 08:00:00 | 2017-06-27 00:00:00 |
| 2016-10-18 | 25 Amendments to BMC 23C.23.050 to Allow a Third Option to Satisfy the Private Percent for Art Requirements | Request the City Manager draft an ordinance for Council adoption to revise BMC 23C.23.050, the One-Percent for Public Art on Private Projects Ordinance, to do the following: 1. Have 5% of the 1% requirement go directly to administration of the Public Art in Private Development program regardless of how the developer decides to satisfy the requirement;                                                                                                                                                                                           | Council member |                | 2017-04-14 17:00:00 | Office of Economic Development | Completed | 2017-04-17 08:00:00 | 2017-01-24 00:00:00 |

|            |                                                                                       |                                                                                                                                                                                                                                                               |                |                   |                                                    |           |                     |                     |
|------------|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|----------------------------------------------------|-----------|---------------------|---------------------|
| 2016-10-18 | 26 Revisions to the Public Art in Private Development Program                         | Request the City Manager draft a resolution to revise the Public Art in Private Development Program Guide to provide the Civic Arts Commission guidance and more flexibility in the use of the Cultural Trust Fund with the language suggested in the report. | Council member |                   | 2017-04-14 17:00:00 Office of Economic Development | Completed | 2017-04-17 08:00:00 | 2016-12-13 00:00:00 |
| 2016-11-01 | 15 City Manager Referral: Increasing Transparency in City Public Record Act Responses | Approved revised recommendation to request a report from the City Manager on how the City is using the permitted exemptions in compliance with the Public Records Act.                                                                                        | Council member | Kriss Worthington | 2017-04-28 17:00:00 City Attorney                  | Completed | 2017-05-01 08:00:00 | 2016-12-13 00:00:00 |
| 2016-12-13 | 29 Ordinance for Standards for Testing and Certification of DAS Antennas              | Request that the City Manager draft ordinance language to amend Section 16.10.100 of the Berkeley Municipal Code to include Standards for Testing and Certification of DAS Antennas and return to the City Council within 60 days.                            | Council member | Susan Wengraf     | 2017-06-09 17:00:00 City Attorney                  | Completed | 2017-06-12 08:00:00 | 2017-03-28 00:00:00 |

|            |                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                |             |                     |                        |           |                     |                     |
|------------|-----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------|---------------------|------------------------|-----------|---------------------|---------------------|
| 2017-01-24 | 37 Berkeley BABIES Initiative                                               | Request that the City Manager create a provision and enforcement mechanism to ensure that all publically-accessible City buildings install and maintain at least one baby diaper-changing accommodation that is accessible in both men and women's restrooms or a single diaper-changing accommodation that is accessible to all genders. In addition, request that the City Manager provide recommendations to mandate all businesses to provide changing stations in either women's and men's restrooms or gender-neutral restrooms. | Councilmembers |             | 2017-07-24 08:00:00 | CITY MANAGER'S OFFICE  | Completed | 2017-07-24 08:00:00 | 2017-07-01 00:00:00 |
| 2017-01-24 | 38 Berkeley Mothers Initiative                                              | Request that the City Manager ensure that all City buildings provide and maintain at least one private place reasonably close to an employee's workspace for breastfeeding mothers to pump.                                                                                                                                                                                                                                                                                                                                            | Councilmembers | Lori Droste | 2017-07-21 17:00:00 | CITY MANAGER'S OFFICE  | Completed | 2017-07-24 08:00:00 | 2017-07-01 00:00:00 |
| 2017-01-31 | 10 Medical Cannabis Ordinance Revisions and Cultivation Application Process | Request that the City Manager provide Council with analysis of the questions presented by Councilmember Sophie Hahn.                                                                                                                                                                                                                                                                                                                                                                                                                   | Council member |             | 2017-07-28 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2017-07-31 08:00:00 | 2017-11-07 00:00:00 |



|            |                                            |                                                                                                                                                                                                                                                                                                                                                                                     |                |                                  |           |                     |                     |
|------------|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------|-----------|---------------------|---------------------|
| 2017-02-14 | 11 Updated Information Report on Measure M | Request that the City Manager return to the City Council in April with an Information Report on Measure M implementation, expenditures, projected expenses and plans.                                                                                                                                                                                                               | Council member | 2017-08-11 17:00:00 Public Works | Completed | 2017-08-14 08:00:00 | 2017-05-02 00:00:00 |
| 2017-03-28 | 22 Security Camera Database                | Request that the City Manager return to Council with an update on the referral to create a voluntary database of security cameras in Berkeley. With an increase in crime, residents are anxious to help the Berkeley Police Department solve cases and arrest the perpetrators - amended to include direction that guidelines protect privacy and prevent misuse of camera footage. | Council member | 2017-09-25 08:00:00 Police       | Completed | 2017-09-25 08:00:00 | 2018-08-15 00:00:00 |

|            |                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                                                                             |                     |                                   |           |                     |                     |                                                                                                                                      |
|------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-----------------------------------------------------------------------------|---------------------|-----------------------------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 2017-03-28 | 33 Referral<br>Response:<br>Cigarette Butt<br>Pollution<br>Prevention                                                             | REFER to the City<br>Manager to enact a<br>pilot program in<br>downtown Berkeley<br>with the goal of<br>greatly reducing<br>cigarette butt litter<br>that accumulates on<br>sidewalks and<br>curbsides, in a central<br>location. This pilot<br>program would: a)<br>Place a total of four<br>receptacles for<br>cigarette butt disposal<br>in front of three adult<br>schools and a bus<br>stop where smoking<br>behavior continues<br>despite its<br>prohibition. The<br>receptacles are to be<br>placed in front of: i.<br>Berkeley City College,<br>2050 Center Street; ii.<br>Language Studies<br>International on 2015<br>Center Street; iii.<br>Kantel International | Commission        | Community<br>Environmental Advisory<br>Commission                           | 2017-09-22 17:00:00 | Office of Economic<br>Development | Completed | 2017-09-25 08:00:00 | 2017-05-30 00:00:00 |                                                                                                                                      |
| 2017-07-25 | 40 Expediting<br>Elements of<br>Previous Council<br>Referral to Study<br>Possible<br>Scenarios of the<br>Loss of Federal<br>Funds | Direct the City<br>Manager to expedite<br>the compilation and<br>delivery of a list of<br>federal funds that the<br>City of Berkeley<br>receives and the<br>programs and<br>facilities supported by<br>such funds.                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Council<br>member | Sophie<br>Hahn, Jesse<br>Arreguin,<br>Cheryl<br>Davila,<br>Kate<br>Harrison | 2018-01-19 17:00:00 | HEALTH, HSG &<br>COMMUNITY SVC    | Completed | 2017-10-23 00:00:00 | 2018-12-11 12:22:40 | 2019-02-05 17:14:03 -<br>Melissa McDonough<br>(Additional comments)<br>HHCS is updating with<br>the latest single audit<br>findings. |

|            |                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                |                                                         |                                            |           |                     |                     |                                                                                                                                                                                                                                                                              |
|------------|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------|--------------------------------------------|-----------|---------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2017-05-30 | 53 Eliminate the Required Affidavits of Residency for Commissioners                             | Eliminate the requirement for Commissioners to submit Affidavits of Residency when they are appointed, and annually thereafter, in pursuit of saving time and money for the City of Berkeley. Revised Materials - <a href="http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx">http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx</a> | Council member |                                                         | 2017-11-24 17:00:00 City Clerk             | Completed | 2017-11-27 08:00:00 | 2017-09-12 00:00:00 |                                                                                                                                                                                                                                                                              |
| 2017-06-27 | 32 Housing Inspection and Community Services Manager                                            | Request the City Manager to create and fill the position of Housing Inspection and Community Services Manager.                                                                                                                                                                                                                                                                                                                                                                            | Council member |                                                         | 2017-12-22 17:00:00 PLANNING & DEVELOPMENT | Completed | 2017-12-25 08:00:00 | 2018-09-13 00:00:00 | 2019-02-05 17:13:07 - Melissa McDonough (Additional comments) New position approved by Personnel Board. Will bring to Council for adoption by November which will complete referral.                                                                                         |
| 2017-10-03 | 7 Request for Information Regarding Grant Writing Services from Specialized Grant Writing Firms | Refer to the City Manager to issue a request for information to explore grant writing services from specialized municipal grant-writing firms, and report back to Council.                                                                                                                                                                                                                                                                                                                | Council member | Sophie Hahn, Kate Harrison, Cheryl Davila, Ben Bartlett | 2018-01-01 17:00:00 Finance                | Completed | 2018-01-01 17:00:00 | 2019-09-24 12:41:03 | 2019-04-12 15:07:44 - Melissa McDonough (Additional comments) Issued #18-11201 Feb. 5, 2018 as an RFI (Request for information); closed March 1, 2018. Received 13 information responses for review. Next Steps: use responses to inform scope of work, then release as RFP. |

|            |                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                |                                          |                           |                                            |           |                     |                     |                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------|---------------------------|--------------------------------------------|-----------|---------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2017-07-25 | 51 Commercial Cannabis Regulations and Licensing        | Refer to the City Manager and Cannabis Commission the proposed local ordinances to establish a licensing process for Commercial Cannabis operations, as permitted under Proposition 64, Adult Use of Marijuana Act. The Council requests that the City Manager and Cannabis Commission report to the City Council on its recommendations on regulations and licensing for commercial cannabis businesses before the end of 2017.                                                                                                                                   | Council member |                                          |                           | 2018-01-19 17:00:00 PLANNING & DEVELOPMENT | Completed | 2018-01-22 08:00:00 | 2018-09-13 00:00:00 | 2019-02-05 17:15:33 - Melissa McDonough (Additional comments) Lengthy process involving 3 Commissions and many City departments. Some Ordinance changes will be at Council 9/13/18. But more will be needed. Council Worksession scheduled for 10/9/18, then adoption of more Ordinance changes expected by end of year, which will close this referral.                                                      |
| 2017-10-31 | 17 Expanded Criteria for the Installation of Stop Signs | 1. Refer to the Transportation Commission consideration of additional or supplemental stop sign criteria which addresses the needs of vulnerable populations, the presence of bicycle boulevards, and the difficulty of crossing particular intersections. 2. Direct that staff consult with the Bicycle Subcommittee of the Transportation Commission when making decisions impacting bicycle boulevards, whenever possible. 3. Request that the City Manager provide an informational report on the particular state of federal, state, and local transportation | Council member | Kate Harrison, Ben Bartlett, Lori Droste | Transportation Commission | 2018-01-29 17:00:00 Public Works           | Completed | 2018-01-29 17:00:00 | 2019-11-12 17:00:00 | 2019-09-25 08:55:09 - Melissa McDonough (Additional comments) Commission Recommendation and City Manager Companion report are under review and tentatively scheduled for council approval in Nov 2019<br><br>2019-02-05 16:27:28 - Melissa McDonough (Additional comments) Transportation Commission formed a subcommittee and held first meeting 6/11/18, additional meetings to be planned by subcommittee. |

|            |                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |                                                        |                                            |           |                     |                     |                                                                                                                                                                                                                                             |
|------------|-----------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------------------------------|--------------------------------------------|-----------|---------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2017-09-12 | 33 Voter Registration Forms in All City Buildings on Their Main Floors                                                            | Direct the City Manager to provide voter registration forms on the main floor of all designated city buildings that are open to the public and in all Community based organizations within the city limits. Community based organizations that are funded by the City of Berkeley will be required to pick up the voter registration forms from the City Clerk's Office and that should be clearly stated in their respective contracts. | Council member | Cheryl Davila, Kate Harrison, Sophie Hahn              | 2018-03-09 17:00:00 City Clerk             | Completed | 2018-03-12 08:00:00 | 2017-11-08 00:00:00 |                                                                                                                                                                                                                                             |
| 2017-10-03 | 21 Referral to the City Manager to Provide a Public Master List of the Legislation on which the City Council Has Taken a Position | Request that the City Manager work with the City's lobbyist to create and maintain a master list of the legislation on which the City Council has taken a formal position of support or opposition through passage of an item.                                                                                                                                                                                                           | Council member | Kate Harrison, Sophie Hahn, Cheryl Davila              | 2018-03-30 17:00:00 City Clerk             | Completed | 2018-04-02 08:00:00 | 2018-01-23 00:00:00 |                                                                                                                                                                                                                                             |
| 2017-10-03 | 24 Parallel Permitting Process                                                                                                    | Request that the City Manager in coordination with the Director of Planning and the Chief Building Official work to establish a voluntary parallel permitting process for applications to construct housing in the City of Berkeley.                                                                                                                                                                                                     | Council member | Susan Wengraf, Linda Maio, Lori Droste, Jesse Arreguin | 2018-03-30 17:00:00 PLANNING & DEVELOPMENT | Completed | 2018-04-02 08:00:00 | 2017-11-01 00:00:00 | 2019-02-05 17:23:50 - Melissa McDonough (Additional comments) This voluntary parallel permitting option already exists. Following October 2017 referral we advised Building staff to be sure to make option known to interested applicants. |

|            |                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                        |                |                             |                                                    |           |                     |                     |                                                                                                                                                                                                                                                                                                                                                  |
|------------|---------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------|----------------------------------------------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2018-01-23 | 27 Open the West Campus Pool All Year Round and Start the Shower Program at the West Campus Pool        | Short Term Referral to City Manager to assess the feasibility to keep the West Campus Pool open all year round and to start COB Shower Program at the West Campus Pool. Keeping the West Campus Pool open all year round will provide equitable swimming options in both North Berkeley and in South/West Berkeley and provide another location available for our community to shower. | Council member | Cheryl Davila, Ben Bartlett | 2018-07-20 17:00:00 Parks, Recreation & Waterfront | Completed | 2018-04-23 00:00:00 | 2018-10-16 10:14:13 | 2019-02-05 17:38:54 - Melissa McDonough (Additional comments) a) On June 12, 2018, Council received an Off Agenda Memo that identifies the cost to establish a shower program at West Campus Pool. B) In mid-September 2018, Council will receive an Off Agenda Memo that describes the feasibility of keeping West Campus pool open year-round. |
| 2017-10-31 | 30 Short-Term Referral to the City Manager, a Process for Relocation of a Permitted Cannabis Dispensary | Refer to the City Manager to approve a process for the relocation of Apothecarium, a cannabis dispensary with valid permits.                                                                                                                                                                                                                                                           | Council member |                             | 2018-04-27 17:00:00 PLANNING & DEVELOPMENT         | Completed | 2018-04-30 08:00:00 | 2018-01-23 00:00:00 |                                                                                                                                                                                                                                                                                                                                                  |

|            |                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                |                                                         |                                  |                                         |                     |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------|----------------------------------|-----------------------------------------|---------------------|
| 2017-12-05 | 18 City Manager Referral: Prioritizing New Business Before Old Business at City Council Meetings                                                                                                            | Prioritize new business before old business at City Council Meetings by: 1. Altering the Council rules of procedure as adopted May 24, 2016 so that new business comes before old business. The reformatted section will read "The agenda for the regular business meetings shall include the following: Ceremonial; Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, New Business, Old Business); Information Reports; | Council member | 2018-06-01 17:00:00 City Clerk                          | Completed                        | 2018-06-04 08:00:00 2018-01-30 00:00:00 |                     |
| 2018-02-13 | 17 Referral to the City Manager to Submit a Filing to the CPUC Recommending Adjusting Electric Rule 20 to Better Serve the City of Berkeley and Other Communities with Very High Fire Hazard Severity Zones | A referral to the City Manager to submit a filing with the California Public Utilities Commission (CPUC) concerning the CPUC's current review of Electric Rule 20. The CPUC is considering, among other things, how the existing program is administered by the various utility companies operating in California and the definition of what projects are to be included in the public interest.                                                                                                                  | Council member | Susan Wengraf, Sophie Hahn, Jesse Arreguin, Lori Droste | 2018-08-10 17:00:00 Public Works | Completed                               | 2018-08-10 17:00:00 |

|            |                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                              |                        |                                                     |                                               |           |                     |                     |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------------------------------------------|-----------------------------------------------|-----------|---------------------|---------------------|
| 2018-02-13 | 26 Referral to the City Manager on Gender Options of the General Application for City Boards and Commissions                                                                                                       | Refer to the City Manager to add a nonbinary gender option on the General Application for appointment to Berkeley boards and commissions.                                                                                                                                                                                                                                    | Council member         | Lori Droste, Linda Maio, Susan Wengraf, Worthington | 2018-08-10 17:00:00 City Clerk                | Completed | 2018-08-13 08:00:00 | 2018-03-01 00:00:00 |
| 2018-02-27 | 22 Wildland Urban Interface Fire Safety and Fire Safety Education                                                                                                                                                  | Commission Referral #5 revised to read: 5. Refer to the Planning Commission to consider Accessory Dwelling Units (ADUs) in the Very High Hazard Fire Zone to review public safety issues especially relevant to the risk of WUI fires. Amend Section 23D.10 to incorporate greater public safety considerations to be met before issuing an Administrative Use Permit (AUP); | City Council and Mayor |                                                     | 2018-08-24 17:00:00 FIRE & EMERGENCY SERVICES | Completed | 2018-08-24 17:00:00 |                     |
| 2018-03-13 | 17 Referral to the Arts Commission and the City Manager: Cost Estimate and Plan for Installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St | Refer to the City Manager a request to develop a cost estimate and an installation plan for installing sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer the cost estimate and plan to the Arts Commission.                                                                                          | Council member         |                                                     | 2018-09-07 17:00:00 Public Works              | Completed | 2018-09-07 17:00:00 |                     |



|            |                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |                                                               |                     |                        |                                         |                                         |
|------------|-------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------------|---------------------|------------------------|-----------------------------------------|-----------------------------------------|
| 2018-01-30 | 14 Direction and Referral to the City Manager Regarding "Premier Cru" Property            | <p>3. The Berkeley Way Affordable Housing Project is the City's top affordable housing priority. Premier Cru, as a City property, to be developed for affordable housing falls under the "High Priority" on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to move Premier Cru forward as a High Priority initiative: a. Based on recommendations from Health, Housing and Community Services and other Departments, the Housing Advisory Commission and</p> | Council member | <p>Sophie Hahn, Jesse Arreguin, Linda Maio, Kate Harrison</p> | 2018-09-07 17:00:00 | PLANNING & DEVELOPMENT | Completed                               | 2018-09-10 08:00:00 2018-05-29 00:00:00 |
| 2017-12-19 | 41 Companion Report: Public Works Commission Recommendation for the Five-Year Paving Plan | <p>Adopt a Resolution updating the City's Five-Year Street Rehabilitation Plan for FY 2018 to FY 2022. The City Council may consider the information put forth by the Public Works Commission relevant to adoption of the recommended plan.</p>                                                                                                                                                                                                                                                                                                                      |                | 2018-09-21 17:00:00                                           | Public Works        | Completed              | 2018-09-24 08:00:00 2018-07-24 00:00:00 |                                         |

|            |                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                    |                |                           |                             |           |                     |                     |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------|-----------------------------|-----------|---------------------|---------------------|
| 2017-12-05 | 24 Ordinance Amending the Berkeley Municipal Code to Establish Ability to Pay Provisions Regarding Parking Fines and Fees in Accordance with Guidelines Established in Assembly Bill 503 | to refer the item as written in Supplemental Reports Packet #2 to the City Manager to conduct an analysis of the item, including a review of current indigency procedures and coordination with similar efforts in the City of Oakland, and report back to the Council in 90 days. | Council member | Transportation Commission | 2018-09-28 17:00:00 Finance | Completed | 2018-09-28 17:00:00 | 2018-07-02 00:00:00 |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------|-----------------------------|-----------|---------------------|---------------------|

|            |                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |            |  |                                                 |           |                     |                     |
|------------|-------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|--|-------------------------------------------------|-----------|---------------------|---------------------|
| 2018-04-24 | 17 Refer the Housing Advisory Commissions Questions on the Smoke-Free Residential Housing Ordinance to Staff and Berkeley Considers | The Housing Advisory Commission respectfully requests that the Council direct the City Manager to assist the HAC in its review of the Smoke-Free Residential Housing Ordinance, a regulation of tobacco use, as follows: 1. By responding to the HAC's questions enumerated in the report with any readily available responsive information. 2. By facilitating the conduct of a "Berkeley Considers" questionnaire about the Smoke-Free Residential Housing Ordinance, questions for which are proposed in the report. | Commission |  | 2018-10-19 17:00:00 HEALTH, HSG & COMMUNITY SVC | Completed | 2018-10-19 17:00:00 | 2019-03-17 14:41:36 |
|------------|-------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|--|-------------------------------------------------|-----------|---------------------|---------------------|

|            |                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                             |                     |                             |           |                     |                     |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|-----------------------------|-----------|---------------------|---------------------|
| 2017-07-25 | 10 Authorizing City Manager Approval for Community Development Block Grant (CDBG) Community Facility Improvement Contracts Under \$200,000; Amending BMC Chapter 7.18 | Adopt first reading of an Ordinance, by two-thirds vote of the Council, amending Chapter 7.18 of the Berkeley Municipal Code to authorize the City Manager to enter into and amend contracts of up to \$200,000 with applicants recommended for funding by staff and the Housing Advisory Commission under the City's Community Development Block Grant (CDBG) program for community facility improvements. | 2018-10-19 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2018-10-22 08:00:00 | 2018-04-24 00:00:00 |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|-----------------------------|-----------|---------------------|---------------------|

|            |                                                                                                       |                                                                                                                                                                                                                                                                                                   |                |                                                         |                     |              |           |                     |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                    |
|------------|-------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------|---------------------|--------------|-----------|---------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2018-07-31 | 10 Direction to the City Manager Regarding the Community Service In Lieu of Parking Penalties Program | Direct the City Manager to amend the eligibility requirements of the Community Service In Lieu of Parking Penalties Program in order to allow all indigent individuals to be eligible to participate in the program (regardless of the registration status of a potential participant's vehicle). | Council member | Ben Bartlett, Cheryl Davila, Kate Harrison, Sophie Hahn | 2018-10-29 17:00:00 | Public Works | Completed | 2018-10-29 17:00:00 | 2019-01-19 15:21:35 | 2019-08-27 15:23:33 - Nancy Melendez (Additional comments) FJ/DP: Aside from the fact that Public Works is not actually involved in citations or citation payment plans or alternatives, this program exists and the FAQ at the link below was updated January 2019. <a href="https://www.cityofberkeley.info/uploadedFiles/City_Manager/Level_3_-_General/COMMUNITY%20SERVICE.pdf">https://www.cityofberkeley.info/uploadedFiles/City_Manager/Level_3_-_General/COMMUNITY%20SERVICE.pdf</a> | 2019-02-05 15:38:44 - Melissa McDonough (Additional comments) Because this is a multidepartmental task assigned to Public Works, involving Finance and City Attorney, and administered by the City of Oakland, the |
|------------|-------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------------------|---------------------|--------------|-----------|---------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|            |                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                |               |  |                     |                             |           |                     |                     |                                                                                                                                                                                                |
|------------|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------|--|---------------------|-----------------------------|-----------|---------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2018-05-15 | 23 Transgender Health Access Training at City of Berkeley Clinics | Adopt a Resolution providing \$2,400 from the General Fund to support a half-day Transgender Health Access Training for City of Berkeley Public Health staff in June 2018.                                                                                                                                                                                                                                                                                                                                                                                              | Commission     |               |  | 2018-11-09 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2018-11-10 17:00:00 | 2019-02-04 10:22:57 | 2019-04-15 10:25:13 -<br>Laura Schroeder<br>(Additional comments)<br>On February 4, 2019 staff from public health and mental health attended a training on Transgender Access to Public Health |
|            | 24 Budget Referral: Increasing Safety at San Pablo Park           | Request the City Manager perform traffic assessments to gather data and refer any needed improvements to the FY 2020 – FY 2021 budget process.                                                                                                                                                                                                                                                                                                                                                                                                                          | Councilmembers | Cheryl Davila |  | 2018-11-13 17:00:00 | Public Works                | Completed | 2018-11-13 17:00:00 | 2019-05-16 00:00:00 |                                                                                                                                                                                                |
| 2018-05-29 | 14 Implementation of Secure Storage Program                       | 1. Direct the City Manager to expedite implementation of two publicly available, secure storage facilities to accommodate as many individuals as possible, based on the parameters set in staff's March 2, 2018 RFI: Downtown Homeless Storage Pilot - Staffing and Operations and on additional parameters outlined in Program Details, below. 2. Direct the City Manager to publicize the locations, hours, and rules applicable to new storage facilities through normal outreach channels (website, press release, etc.) and through direct outreach to business... | Council member |               |  | 2018-11-23 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2018-11-26 08:00:00 | 2018-07-24 00:00:00 |                                                                                                                                                                                                |

|            |                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                |                                            |                                   |           |                     |                                                                                                                                                      |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------------------|-----------------------------------|-----------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2018-12-11 | 23 Short-term referral to City Attorney and Health Housing and Community Service to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use | Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. according to the changes made in the attached amended ordinance to prohibit the sale of flavored tobacco products and require a minimum package size for cigars and little cigars across the City of Berkeley. The primary purpose of the amendment to the ordinance is to do more to prevent youth and young adult tobacco use.                                                                                                                                                | Councilmembers | Cheryl Davila                              | 2018-12-11 17:00:00 City Attorney | Completed | 2018-12-11 17:00:00 | 2019-09-10 13:15:43                                                                                                                                  |
| 2018-09-13 | 31 Short-Term Referral to City Manager re: Emergency Standby Officers Qualifications                                                                                                                                                                   | Referral to the City Manager to consider the following suggestions for requirements and qualifications for Emergency Standby Officers and return to Council within 90 days with recommendations. Possible requirements may include: - Trainings in roles and responsibilities to serve as a standby officer possibly including: ethics and workplace harassment. -City government experience. -Council District residency. - Require standby officers to meet the same qualifications, including restrictions on conflict of interest, as required by the City. | Council member | Susan Wengraf, Jesse Arreguin, Sophie Hahn | 2018-12-11 17:00:00 City Clerk    | Completed | 2018-12-11 17:00:00 | 2019-05-02 12:02:38 2019-02-05 15:21:26 - Melissa McDonough (Additional comments) Ongoing discussion with City Attorney regarding potential criteria |

|            |                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                       |                |                                        |                                   |           |                     |                     |                                                                                                                                                                                                                                                                                                    |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------------|-----------------------------------|-----------|---------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2018-07-10 | 17 Referral to City Manager to Consolidate all City Commission Workplans in One Place for Easy Access for Staff, the Public, and Elected Officials | Make a referral to the City Manager to consolidate all City Commission Workplans in one place for easy (electronic) access for staff, the public, and elected officials.                                                                                                                                              | Council member |                                        | 2019-01-04 17:00:00 City Clerk    | Completed | 2019-01-07 08:00:00 | 2018-09-13 00:00:00 |                                                                                                                                                                                                                                                                                                    |
| 2018-10-30 | 20 Proposed Portland Loo Installations in Telegraph Commercial District                                                                            | Short-Term Referral to the City Manager to identify costs for the installation of a "Portland Loo" type of bathroom facility in Telegraph Commercial District. Costs should be comprehensive and include, but not be limited to: the facility, infrastructure, design, construction, oversight and any contingencies. | Councilmembers | Jesse Arreguin, Sophie Hahn            | 2019-01-31 17:00:00 Public Works  | Completed | 2019-01-31 17:00:00 | 2019-02-27 00:00:00 |                                                                                                                                                                                                                                                                                                    |
| 2018-11-13 | 23 Clarifying Jurisdiction of Ohlone Greenway                                                                                                      | Refer to the City Manager to review the recommendation to place the Ohlone Greenway under park rules and policies with the intent of revising the BMC to include the Ohlone Greenway as open space and enforce park-like rules.                                                                                       | Councilmembers | Linda Maio, Sophie Hahn, Kate Harrison | 2019-02-13 17:00:00 City Attorney | Completed | 2019-02-13 17:00:00 | 2019-09-17 10:57:38 | 2019-09-17 10:57:27 - Christopher Jensen (Additional comments) Referral response complete; Public Works is providing assistance on right-of-way issues.<br><br>2019-04-24 10:04:24 - Mark Numainville (Additional comments) City Attorney provided legal opinion to PRW. PRW to report to Council. |

|            |                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |                         |                                           |                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------|-------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|-------------------------------------------|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2017-05-02 | 27 Berkeley Bicycle Plan 2018                                                                               | Adopt a Resolution approving the Berkeley Bicycle Plan 2017, and directing the City Manager to pursue implementation of the Plan as funding and staffing permit.                                                                                                                                                                                                                                                                                                                                                                                                     |                |                         | 2019-02-15 17:00:00 Public Works          | Completed 2019-02-15 17:00:00 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2015-11-17 | 28 Improve Conditions on Our Community Sidewalks; Amending Berkeley Municipal Code Chapters 13.36 and 14.48 | Discuss and refer the following services and ordinances to the City Manager for implementation, and adopt first reading of three Ordinances: 1. Adding Section 13.36.085 to the Berkeley Municipal Code prohibiting urination and defecation in public places. 2. Amending Sections 14.48.020 and 14.48.170 of the Berkeley Municipal Code regulating use of sidewalks. 3. Adding Section 13.36.040 to the Berkeley Municipal Code prohibiting obstruction of City-owned planters and trees. Additional Services: 1. Create a secure storage facility for equipment. | Council member | Linda Maio, Lori Droste | 2019-02-28 16:00:00 CITY MANAGER'S OFFICE | Completed 2019-02-28 16:00:00 | 2019-02-28 16:00:00 2019-10-15 14:27:16 - Melissa McDonough (Additional comments) Staff has prepared an overview of the outcomes from the pilot implementation of the Shared Sidewalk Policy, and anticipates presenting its findings to Council in Fall 2019. The ongoing program is currently in place.<br><br>2019-08-07 14:46:28 - Melissa McDonough (Additional comments) Storage is done as is mobile showers and expansion of bathrooms, 14.48 re: sidewalks is done.<br><br>2019-04-24 15:08:11 - Melissa McDonough (Additional comments) Outreach information disseminated to people |

|            |                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                |               |                                            |           |                     |                     |                                                                                                 |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------|--------------------------------------------|-----------|---------------------|---------------------|-------------------------------------------------------------------------------------------------|
| 2018-11-13 | 24 Budget Referral: Increasing Safety at San Pablo Park                                                                                                     | 4. Develop, implement and coordinate drills for active shooter and other emergency protocol at San Pablo Park: Create protocol with input from community partners, then orient licensed daycare providers, coaches, trainers and program staff who operate out of the park, and conduct drills with City staff operating the Center and providers in order to prepare for emergencies and how to use the Center as a shelter during or following them. | Councilmembers | Cheryl Davila | 2019-03-01 17:00:00 Police                 | Completed | 2019-03-01 17:00:00 | 2019-03-30 15:34:27 | 2019-04-24 15:35:06 - Melissa McDonough (Additional comments) Training class conducted March 30 |
| 2017-12-05 | 17 City Manager Referral: Consider CPUC Interconnection Applications                                                                                        | Refer to the City Manager consideration of applying for CPUC interconnection applications.                                                                                                                                                                                                                                                                                                                                                             | Council member |               | 2019-03-04 16:00:00 Public Works           | Completed | 2019-03-04 16:00:00 | 2018-04-04 00:00:00 |                                                                                                 |
| 2018-09-13 | 18 Adopt a Resolution in Support of Appropriate City Enforcement Measures to Mitigate Damages Resulting from the Removal of Trees at 1698 University Avenue | Amended to be a referral to the City Manager regarding enforcement of measures to mitigate damage to the general welfare of the City and neighborhood resulting from the damage and subsequently-required removal of trees at 1698 University Avenue.                                                                                                                                                                                                  | Council member | Kate Harrison | 2019-03-11 17:00:00 PLANNING & DEVELOPMENT | Completed | 2019-03-11 16:00:00 | 2018-10-01 15:56:16 |                                                                                                 |



|            |                                                                                                                                                                                                                                                                                          |                                                                                                                                                             |                |                   |                            |                                   |           |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|----------------------------|-----------------------------------|-----------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2018-09-25 | 22 Safe storage of firearms - Revised materials (Supp 2)                                                                                                                                                                                                                                 | Refer to the City Manager to review draft Safe Storage of Firearms ordinance, identify and resolve issues, and return to Council within 90 days.            | Council member |                   | Susan Wengraf, Sophie Hahn | 2019-03-22 17:00:00 City Attorney | Completed | 2019-03-23 16:00:00 | 2018-12-24 16:21:16                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2018-10-02 | Lobbyists Registration and Regulation Ordinance; Amendments to Existing Revolving Door Ordinance                                                                                                                                                                                         | Request an analysis from the City Manager before the November budget discussion on the administrative impacts and cost to implement the lobbyist ordinance. | Council member | MAYOR AND COUNCIL |                            | 2019-03-29 17:00:00 City Attorney | Completed | 2019-03-30 16:00:00 | 2019-01-22 12:32:26                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2018-10-02 | 9 Amend BMC Chapters 6.24 and 14.52 to Authorize Paid Parking on Shattuck Avenue between Carleton Street and Ward Street and add the Northside (Euclid/Hearst) Metered Parking Area to the goBerkeley Program; and Authorize Paid Parking at the City-Owned Adeline/Alcatraz Parking Lot | Request staff to perform an analysis of the parking in the Northside area during the academic year to be completed within six months.                       | Council member | MAYOR AND COUNCIL |                            | 2019-04-02 17:00:00 Public Works  | Completed | 2019-04-02 17:00:00 | 2019-08-01 15:29:17<br>2019-08-27 15:29:52 - Nancy Melendez (Additional comments) GH: Staff conducted an analysis of the parking in the Northside area in spring 2019, roughly six months after goBerkeley price and time limits went into effect on November 1, 2018. As summarized in the June 25, 2019 Information Report submitted to Council, the data showed that goBerkeley changes are working as intended to increase parking availability in the area. Two minor adjustments to prices and time limits in "Value" zones went into effect August 1, 2019<br><br>2019-02-05 16:25:11 - Melissa McDonough (Additional comments) |

|            |                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                     |                |                   |                     |              |           |                     |                     |                                                                                                                                      |
|------------|-----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|---------------------|--------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 2018-10-30 | 35 City Manager referral: Initiate a franchise agreement with FlixBus | That the Council refer to the City Manager initiation of a franchise agreement with FlixBus, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, and providing a procedure for the assessment and collection of administrative penalties for permit violations. | Councilmembers | Kriss Worthington | 2018-10-30 17:00:00 | Public Works | Completed | 2019-05-01 11:39:27 | 2019-05-23 00:00:00 | 2019-04-23 11:49:56 - Mark Numainville (Additional comments) Resolution of Intent adopted on 3/26/19; Public Hearing set for 4/30/19 |
|------------|-----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|---------------------|--------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------|

|            |                                |                                                                                                                                                                                                                                                                                                                                                        |                |                         |               |                     |              |           |                     |                     |
|------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|---------------|---------------------|--------------|-----------|---------------------|---------------------|
| 2018-10-16 | 25 Welcome to Berkeley Signage | Refer to the City Manager on a short term basis to replace all the Welcome to Berkeley signs with the Option B design per the Transportation Commission recommendation, including "Ohlone Territory" but not a second motto. Also, leave space on the sign to add a policy message and consult with Ohlone leaders on the use of the word "territory." | Councilmembers | City Council District 2 | Cheryl Davila | 2018-10-16 17:00:00 | Public Works | Completed | 2019-05-03 12:00:00 | 2019-02-07 00:00:00 |
|------------|--------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|---------------|---------------------|--------------|-----------|---------------------|---------------------|

|            |                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                |                                            |                                            |           |                     |                     |                                                                                                                                                                                                                                                                                                  |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------------------|--------------------------------------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-02-19 | 21 Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation | 1) Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019. 2) Refer to the Planning Commission            | Councilmembers | Kate Harrison, Rigel Robinson, Sophie Hahn | 2019-05-21 17:00:00 PLANNING & DEVELOPMENT | Completed | 2019-05-21 17:00:00 | 2019-06-11 09:40:07 | 2019-04-15 09:44:51 - James Bondi (Additional comments) Scheduled for Council 4/30/19.<br><br>2019-04-12 16:04:35 - Melissa McDonough (Additional comments) May be done at Council 4/30/19, pending recommendation from Planning Commission (special Public Hearing 4/3/19).                     |
| 2019-02-19 | 9 Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue                                                                                                                                                                  | Short-Term Referral to the City Manager to develop ordinance amendments permitting up to three cannabis events per year in the first year in the City of Berkeley and designating Cesar Chavez Park as the sole approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1. reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2. specify procedures for such events that replicate similar alcohol related event | Councilmembers | Jesse Arreguin                             | 2019-05-21 17:00:00 PLANNING & DEVELOPMENT | Completed | 2019-05-22 00:00:00 | 2019-04-15 09:54:32 | 2019-04-15 09:54:26 - James Bondi (Additional comments) Council considered and opted not to adopt policy, 4/2/19.<br><br>2019-04-12 16:02:31 - Melissa McDonough (Additional comments) Pending Council adoption of Cannabis Ordinance revisions scheduled for April 2 (second reading April 23). |

|            |                                              |                                                                                                                                                                                                                                               |                |                           |                                  |           |                     |                     |                                                                                                                                                                                                               |
|------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------|----------------------------------|-----------|---------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2017-07-25 | 37 Reviewing the GIG Car Share Pilot Program | Refer to the City Manager and Transportation Department a review of the concerns, emerging regarding some features of the recently implemented GIG Car Share pilot program, request adjustments before the two-year pilot program from staff. | Council member | Linda Maio, Susan Wengraf | 2019-05-28 17:00:00 Public Works | Completed | 2019-05-28 17:00:00 | 2019-05-28 11:39:27 | 2019-02-05 15:16:47 - Melissa McDonough (Additional comments) The program evaluation will be conducted in early 2019 and an action report prepared for Council to continue, modify, or discontinue the pilot. |
|------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------|----------------------------------|-----------|---------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|            |                                                                                    |                                                                                                                                                                                                                                                                                 |                |                               |                                            |           |                     |                     |                                                                                                                            |
|------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------------|--------------------------------------------|-----------|---------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------|
| 2019-03-26 | 23 Referral to City Manager to Scope Process and Estimate Cost of New General Plan | Referral to the City Manager to return to City Council with an outline of the process for creating a new City of Berkeley General Plan. The cost for the first two years of work will be included in the report for consideration during the upcoming 2020-2021 Budget Process. | Councilmembers | Jesse Arreguin, Cheryl Davila | 2019-06-21 17:00:00 PLANNING & DEVELOPMENT | Completed | 2019-06-21 17:00:00 | 2019-06-12 09:41:11 | 2019-04-15 09:53:31 - James Bondi (Additional comments) Scoping has begun. Off-Agenda Memo will provide answers (date TBD) |
|------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------------|--------------------------------------------|-----------|---------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------|

|            |                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                    |                                                         |                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2018-12-11 | 26 Referral to the City Manager and Planning Commission to Update the Housing Pipeline Report to Address Timeline between Planning Entitlements and Submission of Building Permit Applications and Consider Reasons for Delay | Referral to the City Manager to include in the Housing Pipeline Report an analysis of the time between planning entitlements and building permit requests for all projects of five units or greater over the past five years. On an ongoing basis, refer to the City Manager and Planning Commission to propose changes to current Planning approval process to address the causes of delays between entitlements and building permits for construction or substantial rehabilitation of five or more dwelling units. | Councilmemb<br>ers | Kate<br>Harrison                                        | 2018-12-11 17:00:00 PLANNING &<br>DEVELOPMENT         | Completed 2019-07-16 16:43:23 2019-07-23 11:40:57                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2019-03-26 | 15 Ensuring the Sustainability of the Berkeley Flea Market                                                                                                                                                                    | Short-term referral to the City Manager to provide material and strategic assistance to the Berkeley Flea Market, to sustain and enhance its ability to serve both merchant participants and the community at large.                                                                                                                                                                                                                                                                                                  | Council<br>member  | Ben<br>Bartlett,<br>Sophie<br>Hahn,<br>Cheryl<br>Davila | 2019-05-27 17:00:00 Office of Economic<br>Development | Completed 2019-07-30 11:38:31 2019-07-30 11:38:31 2019-12-25 20:59:26 - Jordan Klein (Additional comments) Info report to Council on January 21, 2020 (Referral Response: Small Business Retention Programs) includes a summary of the assistance provided to CSU / Berkeley Flea Market, and includes their new strategic plan as an attachment. OED will continue to provide support to the Flea Market, directly and through our partner organizations.<br><br>2019-11-25 13:18:59 - Melissa McDonough (Additional comments) Community Services United (nonprofit that runs the flea market) submitted their strategic plan for the flea market to OED on November |

|            |                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |                                                            |                                           |           |                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------------------------|-------------------------------------------|-----------|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-05-28 | 29 Referral to the Public Works Department and the City Manager: Finishing the installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St. | Refer to the City Manager a request to finish the installation of sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer to the Public Works Department for its installation.                                                                                                                                                                                                                                                                                                                         | Councilmembers | Ben Bartlett, Kate Harrison, Cheryl Davila, Jesse Arreguin | 2019-06-13 17:00:00 Public Works          | Completed | 2019-08-07 13:59:42 2019-10-01 17:00:00 | 2021-04-14 14:02:28 - Nancy Melendez (Additional comments) All materials have arrived. Final installation is scheduled and work is anticipated to be completed by 4-30-21.<br><br>2020-06-30 15:29:22 - Nancy Melendez (Additional comments) PW waiting for a response from Berkeley Electric to confirm project and when they can start.<br><br>2019-11-26 14:28:34 - Melissa McDonough (Additional comments) Project is out to bid and completion is expected by end of fiscal year.<br><br>2019-11-26 14:19:08 - Melissa McDonough (Additional comments) Alternative identified |
| 2018-11-13 | 18 Short-Term Referral to City Manager to Complete Steps Necessary to Establish Lava Mae Services in Berkeley                                                                                                  | Short-term referral to the City Manager to coordinate with Fire, Planning and Public Works Department Heads to provide permits, identify locations and allow access to water and disposal hook-ups necessary to bring Lava Mae shower services to Berkeley's homeless populations within 90 days for a 6-8 week pilot. This includes: - Determining locations to set up portable shower; and - Identifying water source for hook ups designated to dispense water for showers, either fire hydrants (preferred) or garden hose spigots; and -Parking permits for showers | Councilmembers | Cheryl Davila, Sophie Hahn                                 | 2019-09-10 17:00:00 CITY MANAGER'S OFFICE | Completed | 2019-09-10 17:00:00 2019-09-12 08:29:03 | 2019-09-12 08:30:15 - Melissa McDonough (Additional comments) Report on Council agenda.<br><br>2019-08-07 15:07:11 - Melissa McDonough (Additional comments) Sites and hook-ups have been established.                                                                                                                                                                                                                                                                                                                                                                             |

|            |                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                     |                |                             |                                  |           |                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------|-----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------|----------------------------------|-----------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-09-10 | 48 Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street | Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.                                                                                                                                                    | Council member | Ben Bartlett                | 2019-09-16 17:00:00 Public Works | Completed | 2019-09-16 17:00:00 2019-09-16 17:00:00 | <p>2021-06-23 11:40:09 - Nancy Melendez (Additional comments) Construction beginning July 2021</p> <p>2020-10-05 09:33:42 - Nancy Melendez (Additional comments) Received approval to fill Associate Traffic Engineer vacancy to do the work. initiating hiring process.</p> <p>2020-03-19 10:31:47 - Nancy Melendez (Additional comments) Engineering Design work is commencing now, construction expected in Spring 2021</p> <p>2019-11-26 14:16:26 - Melissa McDonough (Additional comments) Off agenda memo pending</p> |
| 2019-09-10 | 55 Game Day Parking - Minor Update to include RPP area K                                                                    | Refer to the City Manager the modification of parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish "Enhanced Fine Areas" to prohibit parking without a valid RPP permit to include RPP Zone K; and install new RPP signs in zone K to clearly indicate UC Berkeley home football game day parking prohibitions. | Council member | Lori Droste, Jesse Arreguin | 2019-09-16 17:00:00 Public Works | Completed | 2019-09-16 17:00:00 2019-09-16 17:00:00 | <p>2020-10-28 16:19:57 - Mark Numainville (Additional comments) Item 13 on the 10-27-2020 agenda</p> <p>2020-06-30 15:27:04 - Nancy Melendez (Additional comments) There is no known plan for Cal Football this fall. So the program is not expected to occur this year. Work to include area K has not started.</p> <p>2019-11-26 14:14:38 - Melissa McDonough (Additional comments) Scheduled for Council action spring 2020.</p>                                                                                         |

|            |                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                            |                                                    |           |                     |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------|-------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------------------------|----------------------------------------------------|-----------|---------------------|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-07-16 | 14 Opportunity Zone Project Guidelines for the City Manager | Refer to the City Manager the priorities listed below for investment in Berkeley's Opportunity Zones for proactive outreach and marketing to investors or Opportunity Funds, and to guide any discussions or negotiations regarding development projects in Opportunity Zones. The priorities are: Construction of new Affordable Housing units or acquisition and preservation of affordable housing; Preservation of historic buildings; Cultural Institutions and Performing Arts Venues; Civic Uses (Government Offices, Libraries, Schools, | Councilmembers | Ben Bartlett, Kate Harrison, Jesse Arreguin, Cheryl Davila | 2019-07-22 17:00:00 Office of Economic Development | Completed | 2019-09-25 11:01:10 | 2020-01-24 10:52:16 | 2020-04-16 10:52:40 - Melissa McDonough (Additional comments) Off-agenda memo released on 1/24/20: <a href="https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Opportunity%20Zones%20012320.pdf">https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Opportunity%20Zones%20012320.pdf</a><br><br>2019-11-25 13:28:38 - Melissa McDonough (Additional comments) Information report postponed pending further analysis.<br><br>2019-11-05 13:31:36 - Jordan Klein (Additional comments) Information report submitted for 12/3/19 Council Meeting<br><br>2019-09-24 07:59:59 - Melissa McDonough (Additional comments) Request to read the info- |
| 2019-11-12 | 18 Request for Information: Police Dispatch                 | Refer to the City Manager a request for information clarifying: 1. when non-emergency phone calls to the police are directed to the Berkeley Police Department and when to the California Highway Patrol or other outside agencies, and 2. what staffing or technological changes would be needed to direct more calls to Berkeley dispatch.                                                                                                                                                                                                     | Councilmembers | Kate Harrison                                              | 2019-11-20 17:00:00 Police                         | Completed | 2019-11-20 17:00:00 | 2019-11-20 17:00:00 | 2020-10-26 10:56:20 - Melissa McDonough (Additional comments) Off agenda memo submitted 10/26<br><br>2020-08-05 09:43:23 - Melissa McDonough (Additional comments) Completion pending submittal of memo to Council documenting work.                                                                                                                                                                                                                                                                                                                                                                                                                                               |



|            |                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                        |                |                     |                                        |           |                     |                     |                                                                                                                                                                                                                     |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------|----------------------------------------|-----------|---------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-09-24 | 36 Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's homeless | Send a letter to Alameda County requesting data on deaths of identified homeless individuals.<br><br>Contact Alameda County request that they explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally. | Councilmembers | 2019-10-31 17:00:00 | Health, Housing and Community Services | Completed | 2019-11-29 17:00:00 | 2019-11-29 17:00:00 | 2019-12-02 14:10:47 - Melissa McDonough (Additional comments) Disregard previous comment. Mistake.<br><br>2019-12-02 14:06:36 - Melissa McDonough (Additional comments) RFP issued, due date for responses 12/12/19 |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------|----------------------------------------|-----------|---------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|            |                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |            |                     |                             |           |                     |                     |                                                                                                  |
|------------|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------|-----------------------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------|
| 2019-09-10 | 35 1281 University Avenue Request for Proposals | Refer to the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that 100% of the on-site units to be restricted to 80% AMI or below households with at least 10% at 50% AMI, with consideration given to accommodations that serve unhoused or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes. | Commission | 2019-11-29 17:00:00 | Housing Advisory Commission | Completed | 2019-11-29 17:00:00 | 2019-11-29 17:00:00 | 2019-12-02 14:11:54 - Melissa McDonough (Additional comments) RFP issued, responses due 12/12/19 |
|------------|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------|-----------------------------|-----------|---------------------|---------------------|--------------------------------------------------------------------------------------------------|

|            |                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                          |            |                           |                                                                                                                   |                                                                                                                                                                                                                                                                                              |
|------------|------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------------|-------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2019-09-10 | 30 Referral<br>Response:<br>Proposed New<br>BMC Ordinance<br>Adding Chapter<br>9.26 Live Animal<br>Sales –<br>Disclosure<br>Requirements | In lieu of approving<br>the ordinance,<br>encourage Berkeley<br>live animal retailers to<br>provide purchasers<br>with information<br>regarding the<br>sourcing of their<br>animals by utilizing<br>one or two of the<br>following designations<br>describing the<br>sourcing of the<br>particular animal:<br>'captive bred;' 'hobby<br>breeder' or 'licensed<br>breeder;' 'rescue;'<br>'wild caught;' or<br>'imported.' | Commission | Animal Care<br>Commission | 2019-12-16 17:00:00 CITY MANAGER'S OFFICE Completed 2019-12-16 17:00:00 2019-10-03 17:00:00 2019-10-15 14:28:21 - | Melissa McDonough<br>(Additional comments)<br>Staff developed a set of<br>standard terms and sent<br>a letter to all animal<br>retailers on 10/3/2019,<br>encouraging them to use<br>the designations. Staff<br>has prepared and<br>submitted a referral<br>response via off-agenda<br>memo. |
|------------|------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|---------------------------|-------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|            |                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                    |                                                                                 |                                                                                             |
|------------|-----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| 2020-03-10 | 23 Directing the<br>City Manager to<br>Lease Caltrans<br>Property at<br>University and<br>West Frontage<br>Road | Direct the City<br>Manager to:<br>1. Negotiate a lease<br>agreement with the<br>California Department<br>of Transportation<br>(Caltrans) for the<br>leasing of state<br>property at University<br>Avenue and West<br>Frontage Road as<br>indicated in<br>Attachment 1. The<br>property will be used<br>for a temporary<br>outdoor shelter with<br>restrooms, hand<br>washing stations and<br>garbage service. The<br>City Manager should<br>also inquire about<br>whether additional<br>Caltrans parcels<br>adjacent to those<br>being offered are also<br>available for lease.<br>The City Manager<br>should utilize funding | Councilmemb<br>ers | Jesse<br>Arreguin,<br>Rigel<br>Robinson,<br>Kate<br>Harrison,<br>Sophie<br>Hahn | 2020-03-23 17:00:00 CITY MANAGER'S OFFICE Completed 2020-03-23 17:00:00 2020-03-23 17:00:00 |
|------------|-----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|---------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|

|            |                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                |                                                            |                                                     |                     |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------------------------|-----------------------------------------------------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2020-04-14 | 0 Save Our Small (SOS) Business Loan Fund | Refer to the City Manager to rapidly explore and, if feasible, pursue the creation of a special structured financial recovery loan fund to provide a supplemental source of capital for Berkeley small businesses impacted by the COVID-19 emergency. Among other considerations, the City Manager is requested to consider whether the City of Berkeley should act as a sponsor of the fund, working with one or more financial institutions to pool capital from private investors and the City of Berkeley to lower the risk of the product and support low interest rates. The | Councilmembers | Sophie Hahn, Jesse Arreguin, Susan Wengraf, Kate Harrison  | 2020-04-16 17:00:00 CITY MANAGER'S OFFICE Completed | 2020-04-16 17:00:00 | 2020-04-16 17:00:00 | 2020-10-21 11:31:46 - Melissa McDonough (Additional comments) ee off agenda memo: (April 27) <a href="https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Business%20and%20Arts%20Organization%20Continuity%20Grant%20Programs%20042720.docx.pdf">https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Business%20and%20Arts%20Organization%20Continuity%20Grant%20Programs%20042720.docx.pdf</a> |
| 2020-06-02 | 11 Berkeley Safe Open Air Dining          | 1. Refer to the City Manager to explore and identify, on an expedited basis, potential public locations throughout Berkeley, including but not limited to wide sidewalks, street medians, building curtilages, parking bays and strips, streets and portions of streets, parking lots, and parks, for the temporary placement of tables and chairs to be used, if and when safe and feasible, for open air dining to support restaurants, cafes, food shops, and other small businesses impacted by the COVID-19 emergency, and to increase capacity for pedestrians.              | Councilmembers | Sophie Hahn, Jesse Arreguin, Rigel Robinson, Kate Harrison | 2020-06-10 17:00:00 CITY MANAGER'S OFFICE Completed | 2020-06-10 17:00:00 | 2020-06-10 17:00:00 |                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|            |                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                |                             |                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2020-03-10 | 26 Disposition of City-Owned, Former Redevelopment Agency Property at 1631 Fifth Street                                                                                                                                                                                                                                 | Refer the item to the City Manager to explore City uses of the property for housing and homelessness services and needs, or other uses, and review the remediation needs of the property.                                                                                                                                                                                                                                                                                                 | Councilmembers |                             | 2020-07-20 17:00:00 HEALTH, HSG & COMMUNITY SVC | Completed 2020-07-20 17:00:00 2020-07-20 17:00:00                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 2020-01-21 | 32 Short Term Referral to the City Manager: 1. Improve and increase External Community Engagement; 2. Identify the funding resources needed to adequately implement number 1; and 3. Implement and require all City Council items and staff reports include Climate Impacts in addition to Environmental Sustainability | Adopt the following amended actions with a positive recommendation from the Council Facilities, Infrastructure, Transportation, Environment and Sustainability (FITES) Committee: 1. Short Term Referral to the City Manager: to look at how to improve and increase External Community Engagement – including funding for regular on- going town halls or neighborhood assemblies for external community engagement and collaboration to engage the community and allow for input on new | Councilmembers | Cheryl Davila, Ben Bartlett | 2020-01-23 17:00:00 PLANNING & DEVELOPMENT      | Completed 2020-07-31 17:00:00 2020-07-21 17:00:00 2020-07-24 13:25:25 - James Bondi (Additional comments) Completed at Council 7/21/2020. Council action to accept report also created new long-term referral, to be tracked separately.<br><br>2020-07-01 13:12:14 - James Bondi (Additional comments) Referral response scheduled for Council 7/21/20.<br><br>2020-04-15 11:31:10 - James Bondi (Additional comments) Work has begun, draft report to Council prepared, but put on hold until budget recommendations can be considered in larger City budget context given COVID impacts. |

|            |                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |                             |                                                     |                     |                     |                                                                                                                                                                                                                                      |
|------------|------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------|-----------------------------------------------------|---------------------|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2020-09-15 | 27 Outreach and Technical Assistance for Berkeley Small Businesses Eligible to Participate in the California Rebuilding Fund | Refer to the City Manager to engage in robust outreach to small businesses and organizations in Berkeley that may be eligible to participate in the California Rebuilding Fund, a new public-private partnership based on the SOS Small Business Loan model Berkeley passed in April 2020, that will leverage government backed capital to support small enterprises in California. It is our understanding that loans will be made in part on a first come, first served basis, so time is of the essence for staff to do outreach. The City Manager is | Councilmembers | Sophie Hahn                 | 2020-09-25 17:00:00 CITY MANAGER'S OFFICE Completed | 2020-09-25 17:00:00 | 2020-09-25 17:00:00 | 2020-10-21 11:30:40 - Melissa McDonough (Additional comments) This effort will dovetail with the expanded RLF program (called "RLP", resiliency loan program) the federal funds are to be accepted and approved by council 10/27/20. |
| 2020-09-15 | 31 Preserving Our Children's Recreation Areas                                                                                | Request the City Manager implement the following recommendations for Willard Park and utilize them for other parks where appropriate:<br>1. Increase nighttime enforcement and enable the enforcement of park rules and ordinances.<br>2. Consider the presence of needles and feces a Public Health threat and enable the Public Health Department to cordon off areas of encampment for the purpose of clearing the areas of contamination and ensuring the areas are safe for public use.                                                             | Councilmembers | Lori Droste, Jesse Arreguin | 2020-09-25 17:00:00 CITY MANAGER'S OFFICE Completed | 2020-09-25 17:00:00 | 2020-09-25 17:00:00 |                                                                                                                                                                                                                                      |

|            |                               |                                                                                                                                                             |                |                            |                     |                             |           |                     |                     |
|------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------|---------------------|-----------------------------|-----------|---------------------|---------------------|
| 2020-09-22 | 16 Healthy Checkout Ordinance | 2. Refer to the City Manager to determine funding and staffing needs to implement and enforce the ordinance and sources of funding to support this program. | Councilmembers | Kate Harrison, Sophie Hahn | 2020-10-15 17:00:00 | HEALTH, HSG & COMMUNITY SVC | Completed | 2020-10-15 17:00:00 | 2020-10-15 17:00:00 |
|------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------|---------------------|-----------------------------|-----------|---------------------|---------------------|

|            |                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                |                                |                     |                               |           |                     |                     |
|------------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------|---------------------|-------------------------------|-----------|---------------------|---------------------|
| 2020-10-13 | 12 Authorize Installation of Security Cameras at the Marina and Request an Environmental Safety Assessment | Adopt the following recommendations in order to address the recent dramatic uptick in reported crime incidents at the Berkeley marina: - Request that the City Manager install security cameras and signage as expeditiously as possible as a long-term safety measure; - Refer to the City Manager to perform an environmental safety assessment of the Berkeley marina with particular attention to the berther parking areas. Cameras will not use facial recognition or biometric software. | Councilmembers | Rashi Kesarwani, Susan Wengraf | 2020-10-22 17:00:00 | Parks Recreation & Waterfront | Completed | 2020-10-22 17:00:00 | 2020-10-22 17:00:00 |
|------------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------|---------------------|-------------------------------|-----------|---------------------|---------------------|

|            |                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                |                                  |                               |                                                                                                                |
|------------|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------------------------|-------------------------------|----------------------------------------------------------------------------------------------------------------|
| 2020-10-13 | 17 Removal of Traffic Bollards on the Intersection at Fairview and California St. | Refer to the City Manager to remove the traffic bollards at the intersection at Fairview and California St. for the following reasons: 1. To allow residents, emergency responders, street cleaning and garbage disposal services, and delivery vehicles ease of access to enter and exit Fairview Street; 2. To allow residents of the 1600 block of Fairview St. access to additional parking spots because the current capacity is inadequate; and 3. To decrease illegal dumping that has been incentivized by the traffic bollards and eliminate the harborage of junk, debris and vehicles. | Ben Bartlett   | 2020-10-22 17:00:00 Public Works | Completed 2020-10-22 17:00:00 | 2020-10-22 17:00:00 2021-01-14 17:42:45 - Nancy Melendez (Additional comments) The bollards have been removed. |
| 2020-11-10 | 5 Referral Response: Including Climate Impacts in City Council Reports            | Request that the City Manager update the templates and associated training materials to add "Climate Impacts" in the "Environmental Sustainability" section of reports to the City Council, and codify the changes in Appendix B in the next update to the Berkeley City Council Rules of Procedure. This recommendation is a partial response to a January 21, 2020 referral, sponsored by Councilmembers Davila and Bartlett, to require that all City Council items and staff reports include "climate impacts" in addition to environmental sustainability.                                   | Councilmembers | 2020-11-18 17:00:00 City Clerk   | Completed 2020-11-18 17:00:00 | 2020-11-18 17:00:00                                                                                            |

|            |                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                    |                                                                              |                                                       |           |                     |                                                                                                                                         |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------------------------------------------------------------|-------------------------------------------------------|-----------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 2020-12-01 | 28 Referral:<br>Commission Low-<br>Income Stipend<br>Reform                                                                                      | Refer to the City<br>Manager to develop<br>and return to Council<br>with a plan to<br>improve equity,<br>accessibility, and<br>representation in City<br>of Berkeley<br>commissions by<br>modernizing the low-<br>income stipend<br>program, and in doing<br>so consider:<br>1. Increasing the<br>annual household<br>income cap for<br>stipend eligibility<br>from \$20,000 to align<br>with the 50% Area<br>Median Income (AMI)<br>guidelines for<br>Alameda County and<br>reflect household size,<br>and updating it<br>annually with the<br>latest HUD data.<br>2. Increasing the low-<br>income stipend from | Councilmemb<br>ers | Rigel<br>Robinson                                                            | 2020-12-04 17:00:00 City Clerk                        | Completed | 2020-12-04 17:00:00 | 2020-12-04 17:00:00                                                                                                                     |
| 2020-12-15 | 39 Path to<br>Permanence for<br>Outdoor Dining<br>and Commerce<br>Permits Granted<br>Under COVID-19<br>Public Health<br>Emergency<br>Declaration | On November 2, 2020<br>the Facilities,<br>Infrastructure,<br>Transportation,<br>Environment &<br>Sustainability<br>Committee made a<br>positive<br>recommendation to<br>send the item to the<br>City Council with the<br>recommendation<br>language as amended<br>by the committee.<br>The<br>revised<br>recommendation<br>language includes:<br>Refer to the City<br>Manager to develop a<br>program and, if<br>necessary, ordinance<br>language to facilitate<br>the transition of<br>temporary outdoor<br>dining and commerce<br>permits that were<br>obtained under the                                       | Councilmemb<br>ers | Lori Droste,<br>Jesse<br>Arreguin,<br>Rigel<br>Robinson,<br>Kate<br>Harrison | 2020-12-25 17:00:00 Office of Economic<br>Development | Completed | 2020-12-25 17:00:00 | 2020-12-25 17:00:00 2021-04-05 11:08:42 -<br>Melissa McDonough<br>(Additional comments)<br>Anticipated return to<br>Council in May 2021 |



|            |                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                           |                                            |           |                     |                     |                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------|---------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------|--------------------------------------------|-----------|---------------------|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2020-06-16 | 24 Lessons Learned in Organizational Management During Crisis | Refer to the City Manager to include insights and reflections on organizational management in any comprehensive report regarding the City response to the COVID-19 Emergency. Information should include but not limited to: an overview of how the City was structured and functioned differently during activation of the Emergency Operations Center, the benefits and challenges with cross departmental collaborations, and strategies or structures worth instituting and incorporating into future plans. | Councilmembers | Jesse Arreguin, Kate Harrison, Sophie Hahn, Susan Wengraf | 2021-01-15 17:00:00 CITY MANAGER'S OFFICE  | Completed | 2021-01-15 17:00:00 | 2021-01-15 17:00:00 | 2020-10-28 16:18:36 - Mark Numainville (Additional comments) Presentation made and report submitted at 10-27-2020 council meeting<br><br>2020-10-16 15:22:51 - Melissa McDonough (Additional comments) Report and presentation on 10/27 City Council Meeting Agenda<br><br>2020-07-14 14:04:25 - Melissa McDonough (Additional comments) The report on our emergency response will be provided culminating a year of activities. |
| 2020-12-15 | 32 Deferral of Remaining Permit Fees for 2009 Addison Street  | Refer to the City Manager to conduct a feasibility analysis and develop an MOU with the Berkeley Repertory Theater to defer \$720,000 in remaining permit and inspection fees for Berkeley Repertory Theater's housing project at 2009 Addison Street (leaving flexibility for timing, setting of interest, schedule of payments, and fund sources).                                                                                                                                                             | Councilmembers | Jesse Arreguin, Susan Wengraf                             | 2021-03-31 17:00:00 PLANNING & DEVELOPMENT | Completed | 2021-03-31 17:00:00 | 2021-03-31 17:00:00 | 2021-06-25 15:18:31 - James Bondi (Additional comments) MOU on fee deferrals executed by COuncil in 2021, Econ. Devt lead department./<br><br>2021-02-05 11:19:27 - Melissa McDonough (Additional comments) The Planning and Development Department has started to analyze the permit service center fund and staff are meeting with Berkeley Rep to discuss the deferral referral.                                              |

|            |    |                                                                                                                                                          |                                                                                                                                                                                                                                                       |                |                         |                   |                     |                        |           |                     |                     |                                                                                                                                                 |
|------------|----|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------------|-------------------|---------------------|------------------------|-----------|---------------------|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 2016-05-31 | 22 | City Manager Referral: Consider Adding Energy Efficient Equity as an Additional Property Assessed Clean Energy Program                                   | Refer to the City Manager to consider adding Energy Efficient Equity as an additional property assessed clean energy program.                                                                                                                         | Council member |                         | Kriss Worthington | 2021-06-28 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2021-06-28 17:00:00 | 2021-06-28 17:00:00 |                                                                                                                                                 |
| 2018-09-13 | 18 | Adopt a Resolution in Support of Appropriate City Enforcement Measures to Mitigate Damages Resulting from the Removal of Trees at 1698 University Avenue | Amended to be a referral to the City Manager regarding enforcement of measures to mitigate damage to the general welfare of the City and neighborhood resulting from the damage and subsequently-required removal of trees at 1698 University Avenue. | Council member |                         | Kate Harrison     | 2021-06-28 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2021-06-28 17:00:00 | 2021-06-28 17:00:00 |                                                                                                                                                 |
| 2016-07-12 | 27 | Refer to City Manager to Consider Applying for the Better Together Resilient Communities Grant Program                                                   | That the City Manager consider applying for the \$100,000 grant that PG&E's Better Together Resilient Communities grant program will offer in the beginning of 2017.                                                                                  | Council member |                         | Kriss Worthington | 2021-06-28 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2021-06-28 17:00:00 | 2021-06-28 17:00:00 | 2021-06-25 15:30:16 - James Bondi (Additional comments) Was in process of completion before the referral was made. Completed immediately after. |
| 2014-04-29 | 35 | 35. City Manager Referral: Policy for Companies Such as Airbnb to Pay Transient Occupancy Tax, as Currently Paid by Other Small Local Businesses         | Refer to the City Manager creation of a policy for companies such as Airbnb to pay the Transient Occupancy Tax, as currently paid by other small local businesses.                                                                                    | Council member | City Council District 7 | Kriss Worthington | 2021-06-28 17:00:00 | PLANNING & DEVELOPMENT | Completed | 2021-06-28 17:00:00 | 2014-05-02 08:00:00 | 2021-06-25 10:49:57 - James Bondi (Additional comments) Referral was never necessary, TOT is collected from STRs                                |

|            |                                                                                                                                                           |                                                                                                                                                                                                                     |                |                   |                                            |           |                     |                                                                                                     |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|--------------------------------------------|-----------|---------------------|-----------------------------------------------------------------------------------------------------|
| 2015-09-15 | 55 Referral to the Community Environmental Advisory Commission to Install 1.8 GPM Showerheads in All New Housing Projects or Any Renovation Over \$50,000 | Refer to the Community Environmental Advisory Commission to explore requiring a maximum of 1.8 GPM low flow showerheads in new housing projects and all housing renovations exceeding \$50,000 throughout Berkeley. | Council member | Kriss Worthington | 2021-06-28 17:00:00 PLANNING & DEVELOPMENT | Completed | 2021-06-28 17:00:00 | 2021-06-28 17:00:00 2021-06-25 15:40:07 - James Bondi (Additional comments) Done at Council 7/19/16 |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------------------|--------------------------------------------|-----------|---------------------|-----------------------------------------------------------------------------------------------------|

|            |                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                |                |                                           |           |                     |                     |
|------------|--------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-------------------------------------------|-----------|---------------------|---------------------|
| 2021-09-28 | 0 Re-Establishing a COVID-19 Business Damage Mitigation Fund | Refer to the City Manager to re-establish the COVID-19 Business Damage Mitigation Fund in an amount up to \$50,000 to provide one-time grants to small businesses who experience property damage due to vandalism and other problematic behavior during this COVID-19 local State of Emergency. Authorize the City Manager to appropriate funding for the Mitigation Fund from Berkeley Relief Fund donations received through the East Bay Community Foundation. | Councilmembers | Jesse Arreguin | 2021-10-04 17:00:00 CITY MANAGER'S OFFICE | Completed | 2021-10-04 17:00:00 | 2021-10-04 17:00:00 |
|------------|--------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|-------------------------------------------|-----------|---------------------|---------------------|





Office of the City Manager

INFORMATION CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance Department  
 Subject: FY 2021 Fourth Quarter Investment Report: Ended June 30, 2021

SUMMARY

The City's investment policy requires that a quarterly investment report be submitted to the City Council on the status of the investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the types, values (par, book, and market), term, and yield of each security.

- The return on pooled investments for the quarter ended June 30, 2021 was .80%, 49 basis points more than the .31% earned by the State Local Agency Investment Fund (State LAIF), which is the benchmark for investment performance used by the City. The return on pooled investments of .80% for the quarter ended June 30, 2021 was 7 basis points less than the rate of .87% earned in the quarter ended March 31, 2021.
- The average return on all Retiree Medical Trust Fund investments was 4.145% for the quarter ended June 30, 2021.

CURRENT SITUATION AND ITS EFFECTS

Attached is a summary of quarterly reports for the fiscal year 2021 Fourth quarter ending June 30, 2021 representing the status of the City's investment portfolio. The report includes all investments managed by the City of Berkeley and provides information on the values (par, book, and market), term, and yield of each security.

Summary information by type of security and detailed information on each security is provided on Exhibit 2-A. An evaluation of portfolio performance for this accounting period compared to the previous three accounting periods is also included in Attachment 1.

## **A. Portfolio Results**

As a result of the differences in the investment policies of different cities, including responsible investing policies, maturity restrictions, investment restrictions, etc., it was difficult for the City of Berkeley to come up with a reasonable performance measure for pooled cash investments. In order to provide some measure of the relative performance of the City's investment returns, many years ago the City established the State Local Agency Investment Fund (LAIF) as the performance measure to be reported in the quarterly investment reports, since many local governments invested significant portions of their investment portfolios in LAIF.

LAIF was intended to be a reference point to compare the City's investment performance against, rather than a true performance measure, since most cities typically earn a yield higher than LAIF in normal interest rate environments, and because LAIF's average maturity of its investments is generally shorter than most cities. As a result, past City Councilmembers requested that information about the rates earned by other California cities be included in the quarterly investment reports for comparison purposes, despite the differences in the investment policies of the various cities.

### **1. Liquidity of Portfolio:**

The average investment in the pooled portfolio matures in 1,317 days as of June 30, 2021. This is 159 days more than the 1,158 maturity days as of March 31, 2021.

### **2. Comparison of Results to Performance Measures – Pooled investments: Quarter Ended June 30, 2021**

The City's yield on investments for the quarter ended June 30, 2021 was .80%, a decrease of 7 basis points (.07%) from the .87% earned during the quarter ended March 31, 2021. The average yield on a 90-day Treasury bill at the end of the quarter ended June 30, 2021 was .041%, an increase of 2.6 basis points (.026%) from the .015% at the end of the previous quarter.

As summarized in Table 1, staff's overall results were above the performance measure for the quarter. Staff's performance was above the performance measure in April by approximately 46 basis points (+.46%); over the performance measure in May by approximately 43 basis points (+.43%); and, was over the performance measure in June by approximately 60 basis points (+.60%). The performance measure for the return on investments is compared to the rate of return of the State LAIF.

**Table 1**

| For Quarter Ending June 30, 2021 |      |            |            |
|----------------------------------|------|------------|------------|
| Period                           | City | State LAIF | Difference |
| Apr-21                           | .80% | .34%       | +0.46%     |
| May-21                           | .75% | .32%       | +0.43%     |
| June-21                          | .86% | .26%       | +0.60%     |
| Apr-June 21                      | .80% | .31%       | 0.49%      |

3. Investment Results-Retiree Health Insurance Funds:

Average interest rates earned on the retiree health insurance trust funds for the quarter ended June 30, 2021 compared to the quarter ended March 31 2021, were as follows:

**Table 2**

| EARNED INTEREST RATES                             |                    |                    |
|---------------------------------------------------|--------------------|--------------------|
| For Quarter Ended 6/30/2021 Compared To 3/31/2021 |                    |                    |
| Trust Fund                                        | 4th Qtr<br>6/30/21 | 3rd Qtr<br>3/31/21 |
| Retiree Medical Trust Fund (Misc Employees)       | 4.561%             | 4.656%             |
| Fire Retiree Medical Trust Fund                   | 3.688%             | 4.035%             |
| Police Retiree Medical Trust Fund                 | 4.187%             | 3.569%             |

The rates earned on these plans are expected to be higher in the future, as staff plans to use the investment authority granted by Council to purchase Bond and Stock Mutual Funds or Index Funds.

Details related to retiree health trust fund investments are in Attachment 3, Exhibits 3-A, 3-B, and 3-C of this report.

**B. Discussion of Interest Rate Environment and Outlook**

In its June 16, 2021 statement, the Federal Open Market Committee indicated that “the Federal Reserve is committed to use its full range of tools to support the U.S. economy

in this challenging time, thereby promoting its maximum employment and price stability goals.

Progress on vaccinations has reduced the spread of COVID-19 in the United States. Amid this progress and strong policy support, indicators of economic activity and employment have strengthened. The sectors most adversely affected by the pandemic remain weak but have shown improvement. Inflation has risen, largely reflecting transitory factors. Overall financial conditions remain accommodative, in part reflecting policy measures to support the economy and the flow of credit to U.S. households and businesses.

The path of the economy will depend significantly on the course of the virus. Progress on vaccinations will likely continue to reduce the effects of the public health crisis on the economy, but risks to the economic outlook remain.

### Yield Trend

The Committee seeks to achieve maximum employment and inflation at the rate of 2 percent over the longer run. With inflation having run persistently below this longer-run goal, the Committee will aim to achieve inflation moderately above 2 percent for some time so that inflation averages 2 percent over time and longer-term inflation expectations remain well anchored at 2 percent. The Committee expects to maintain an accommodative stance of monetary policy until these outcomes are achieved. The Committee decided to keep the target range for the federal funds rate at 0 to .25% and expects it will be appropriate to maintain this target range until labor market conditions have reached levels consistent with the Committee's assessments of maximum employment and inflation has risen to 2 percent and is on track to moderately exceed 2 percent for some time. In addition, the Federal Reserve will continue to increase its holdings of Treasury securities by at least \$80 billion per month and of Agency mortgage-backed securities by at least \$40 billion per month until substantial further progress has been made toward the Committee's maximum employment and price stability goals. These asset purchases help foster smooth market functioning and accommodative financial conditions, thereby supporting the flow of credit to households and businesses.

As a result of these moves by the Fed, staff expects returns in FY 2022 to decline from those returns earned in FY 2021. Also, the City's earned rate is expected to be above the City's benchmark (State LAIF) and the City's return is expected to be comparable to rates earned by most other cities in California. A sample of rates earned by Northern and Southern California cities is reflected in table 3 below (previously only Northern California cities were included):



Table 3

| <b>Other California Cities<br/>Earned Interest Rates</b> |                     |
|----------------------------------------------------------|---------------------|
| For the Quarter Ending June 30, 2021                     |                     |
| <b>City</b>                                              | <b>Rates Earned</b> |
| Palo Alto                                                | 1.58%               |
| San Jose                                                 | 1.08%               |
| Los Angeles                                              | 1.09%               |
| Sacramento                                               | .99%                |
| Torrance                                                 | .98%                |
| San Diego                                                | .83%                |
| <b>Berkeley</b>                                          | .80%                |
| Santa Monica                                             | .54%                |
| San Francisco                                            | .48%                |
| Oakland                                                  | .19%                |

Until rates return to more normal levels, the City's investment strategy will be to focus on (1) purchasing more Commercial Paper and other short-term securities for the short-term portfolio, since rates on short-term Agencies (including those in money market funds) are close to zero. Commercial Paper is a money-market security issued by large corporations to obtain funds to meet short-term obligations, and is backed by the company's promise to pay the face amount, plus interest, on the maturity date. Interest rates paid on Commercial Paper currently range between .10% and .25%, versus .01%-.02% paid by money-market funds; (2) purchasing more callable, Agency step-up securities, where rates are higher than the rates paid by money market funds, and the rates increase on a periodic basis. In addition, the City will not lock in any securities with a maturity beyond three years, unless it is a step-up security. Most Agency notes pay a fixed rate of interest or fixed coupon rate semi-annually, and most are non-callable or bullets. Currently, Agency bullets pay the following approximate rates:

Table 4

| <b>1 Year</b> | <b>2 years</b> | <b>3 years</b> | <b>4 years</b> | <b>5 years</b> |
|---------------|----------------|----------------|----------------|----------------|
| .11%          | .40%           | .73%           | .97%           | 1.15%          |

However, issuers do structure their note to meet different investor needs. As more people go back to work and the economy improves, as the pandemic recedes, and the Fed tapers its purchases of Treasury and Agency mortgage-backed securities, staff expects interest rates to rise. Since rates are low now, but expected to rise, one

strategy to mitigate this interest rate risk of buying bullets (i.e., locking in a fixed rate, and not being able to take advantage of rising rates) is to purchase Agency callable step-up securities. Agency callable step-up notes are securities that have a pre set coupon rate “step-up” that provides for increases in interest rates as the notes approach maturity. For example, following is an Agency, one-time callable step-up structure staff recently purchased:

Table 5

| Interest Payment Date  | Rate Paid |
|------------------------|-----------|
| 11/26/21               | .50%      |
| 05/26/22               | .50%      |
| 11/26/22 If not called | 1.25%     |
| 05/26/23 If not called | 1.25%     |
| 11/26/23 If not called | 1.25%     |
| 05/26/24 If not called | 1.25%     |
| 11/26/24 If not called | 1.25%     |
| 05/26/25 If not called | 1.25%     |
| 11/26/25 If not called | 1.25%     |
| 05/26/26 If not called | 1.25%     |

While there is the risk that the security could be called away from the City at some date in the future, if that happens, the rate earned by the City during the period held would still be significantly higher than the rate earned on a bullet (as reflected in Table 4 above) or in a money market fund (currently .01%); and (3) matching investment maturities to cash flow.

## BACKGROUND

- Pooled Investments

Short-term cash is invested primarily in government sponsored enterprises (referred to as Federal Agency) notes and medium-term corporate notes for periods of one to five years. Additional cash is invested in a money market fund or overnight securities to meet the liquidity needs of the City.

In some cases, the City may have investments with a current market value that is greater or less than the recorded cost. These changes in market value are due to fluctuations in the market and have no effect on yield, as the City does not intend to sell securities prior to maturity.

- Retiree Health Trust Fund Investments

The City agreed to provide retiree Health insurance coverage for fire, police and miscellaneous employees under certain terms and conditions. An actuarial study commissioned by the City many years ago determined that, in addition to City Contributions, an average rate of return of 7% on miscellaneous employees trust fund assets invested must be achieved to fund the retiree health benefit at the desired 70% level. Primarily as a result of the Federal Reserve Board's decision to keep short-term rates near zero for the last 12 years, the average rate currently earned is significantly below that 7% level. City Finance Department staff manages these investment portfolios.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### CONTACT PERSON

Henry Oyekanmi, Director, Finance Department, 981-7326

#### ATTACHMENTS

1. Portfolio Evaluation FY 2021 Fourth Quarter
2. Investment Report Analysis FY 2021 Fourth Quarter
  - a. Exhibit 2-A: Pooled Cash and Investments
  - b. Exhibit 2-B.1 through 2-B.3: Interest Earnings April 1, 2021 – June 30, 2021
  - c. Exhibit 2-C: Book Value By Investment Type
  - d. Exhibit 2-D: Current Holdings vs. Policy Limits
  - e. Exhibit 2-E: Investment Portfolio Trend
3. Summary of Pooled and Cash Investments FY 2021 Fourth Quarter –Trust Funds
  - a. Exhibit 3-A: Retiree Medical Trust Funds –Misc.
  - b. Exhibit 3-B: Retiree Medical Trust Funds –Fire
  - c. Exhibit 3-C: Retiree Medical Trust Funds –Police



**Portfolio Evaluation**  
**Quarter Ended June 30, 2021**

|                                             | Quarter Ending |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
|---------------------------------------------|----------------|--------------------|----------------|--------------------|--------------------|--------------------|----------------|--------------------|----------------|----|--------------------|----------------|
|                                             | June 2021      |                    | March 2021     |                    | December 2020      |                    | September 2020 |                    |                |    |                    |                |
| <b>Total Portfolio</b>                      |                |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
| Pooled Cash and Investments (COB)           | \$             | 607,813,880        | \$             | 485,079,936        | \$                 | 502,205,525        | \$             | 458,510,489        |                |    |                    |                |
| Pooled Cash and Investments (Trust)         |                | <u>52,703,230</u>  |                | <u>51,878,656</u>  |                    | <u>52,295,664</u>  |                | <u>51,162,127</u>  |                |    |                    |                |
| Total Cash and Investments                  | \$             | <u>660,517,110</u> | \$             | <u>536,958,592</u> | \$                 | <u>554,501,189</u> | \$             | <u>509,672,616</u> |                |    |                    |                |
| <b>Average Life of Investment Portfolio</b> |                |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
| Pooled Investments (CoB)                    |                | 1,317              |                | 1,158              |                    | 1,205              |                | 1,184              |                |    |                    |                |
| Trust Investments                           |                | 2.584 years        |                | 2.745 years        |                    | 2.368 years        |                | 2.620 years        |                |    |                    |                |
| <b>Weighted Yield</b>                       |                |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
| Pooled Investments (CoB)                    |                | 0.804%             |                | 0.868%             |                    | 1.081%             |                | 1.145%             |                |    |                    |                |
| Trust Investments                           |                | 4.145%             |                | 4.319%             |                    | 4.357%             |                | 4.085%             |                |    |                    |                |
| Prime Rate                                  |                | 3.250%             |                | 3.250%             |                    | 3.250%             |                | 3.250%             |                |    |                    |                |
| 91-day Treasury Bill Rate                   |                | 0.041%             |                | 0.015%             |                    | 0.058%             |                | 0.092%             |                |    |                    |                |
| 2-year Treasury Note Rate                   |                | 0.249%             |                | 0.160%             |                    | 0.121%             |                | 0.127%             |                |    |                    |                |
| <b>Cash and Investments Maturity</b>        |                |                    |                |                    |                    |                    |                |                    |                |    |                    |                |
| Within one year                             | \$             | 304,569,674        | 46.11%         | \$                 | 384,540,339        | 71.61%             | \$             | 404,368,543        | 70.95%         | \$ | 331,894,784        | 65.12%         |
| Between 1 to 3 years                        |                | 54,151,565         | 8.20%          |                    | 54,215,103         | 10.10%             |                | 53,336,175         | 10.29%         |    | 50,549,828         | 9.92%          |
| Between 3 to 5 years                        |                | 205,214,052        | 31.07%         |                    | 76,708,237         | 14.29%             |                | 68,834,300         | 14.67%         |    | 77,306,662         | 15.17%         |
| Between 5 to 10 years                       |                | 96,581,820         | 14.62%         |                    | 21,494,913         | 4.00%              |                | 27,962,170         | 4.08%          |    | 49,921,343         | 9.79%          |
| Over 10 years                               |                | -                  | 0.00%          |                    | -                  | 0.00%              |                | -                  | 0.00%          |    | -                  | 0.00%          |
| Total                                       | \$             | <u>660,517,110</u> | <u>100.00%</u> | \$                 | <u>536,958,592</u> | <u>100.00%</u>     | \$             | <u>554,501,189</u> | <u>100.00%</u> | \$ | <u>509,672,616</u> | <u>100.00%</u> |



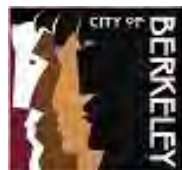
**Investment Report Analysis  
As of June 30, 2021**

| <b>Investments</b>                                     | <b>Pooled Investments</b> | <b>Pension and OPEB</b>  |                       |
|--------------------------------------------------------|---------------------------|--------------------------|-----------------------|
|                                                        |                           | <b>Trust Investments</b> | <b>Total</b>          |
| Portfolio                                              | \$ 579,948,643            | \$ 28,045,960            | \$ 607,994,603        |
| Unrecognized gain/(loss)                               | 6,997,708                 | 2,366,198                | 9,363,906             |
| <b>Total Investments</b>                               | <b>586,946,351</b>        | <b>30,412,157</b>        | <b>617,358,509</b>    |
| <br>                                                   |                           |                          |                       |
| <b>Cash</b>                                            | <b>Pooled Cash</b>        | <b>Pension and OPEB</b>  |                       |
|                                                        |                           | <b>Trust Cash</b>        | <b>Total</b>          |
| Cash with Fiscal Agents                                | 400,444                   | -                        | 400,444               |
| Cash Deposits in Banks                                 | 42,758,158                | -                        | 42,758,158            |
| Pooled Cash Adjustment                                 | (22,291,073)              | 22,291,073               | -                     |
| <b>Total Cash</b>                                      | <b>20,867,529</b>         | <b>22,291,073</b>        | <b>43,158,602</b>     |
| <br>                                                   |                           |                          |                       |
| <b>Adjusted Grand Total (All Cash and Investments)</b> | <b>\$ 607,813,880</b>     | <b>\$ 52,703,230</b>     | <b>\$ 660,517,110</b> |

**Pooled Cash Portfolio Breakdown As of June 30, 2021**

|                               | <b>Book Value</b>     | <b>Market Value</b>   |
|-------------------------------|-----------------------|-----------------------|
| Investments                   | \$ 420,739,403        | \$ 427,737,111        |
| Fidelity Money Market (TRANS) | 42,406,281            | 42,406,281            |
| Fidelity Money Market         | 116,802,960           | 116,802,960           |
|                               | <b>\$ 579,948,643</b> | <b>\$ 586,946,351</b> |

Note: Pooled cash for General Fund includes Rent Board cash of \$5,815,658.20

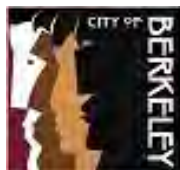


City of Berkeley  
Pooled Cash and Investments  
As of June 30, 2021

| CUSIP                                     | Investment # | Issuer                    | Book Value           | Par Value            | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Rating |
|-------------------------------------------|--------------|---------------------------|----------------------|----------------------|-----------------------|--------------|--------------|---------------|------------------|----------------|
| <b>Certificates of Deposits</b>           |              |                           |                      |                      |                       |              |              |               |                  |                |
| 254673RD0                                 | 14539        | Discover Bank             | 250,000.00           | 250,000.00           | 265,432.50            | 3.300        | 3.300        | 07/05/2023    | 734              | N/A            |
| 795450T47                                 | 14540        | Sallie Mae Bank           | 250,000.00           | 250,000.00           | 265,392.50            | 3.300        | 3.300        | 07/03/2023    | 732              | N/A            |
| <b>Subtotal and Average</b>               |              |                           | <b>500,000.00</b>    | <b>500,000.00</b>    | <b>530,825.00</b>     |              | 3.300        |               |                  |                |
| <b>Medium Term Notes</b>                  |              |                           |                      |                      |                       |              |              |               |                  |                |
| 008252AM0                                 | 14582        | Affiliated Managers Group | 1,048,380.50         | 1,000,000.00         | 1,086,590.00          | 4.250        | 2.300        | 02/15/2024    | 959              | A3             |
| 037833AK6                                 | 14536        | Apple Inc                 | 4,930,291.58         | 5,000,000.00         | 5,189,400.00          | 2.400        | 3.225        | 05/03/2023    | 671              | AA1            |
| 04685A2L4                                 | 14590        | Athene Global Funding     | 5,985,557.65         | 5,950,000.00         | 6,201,090.00          | 2.500        | 2.320        | 01/14/2025    | 1,293            | N/A            |
| 04685A2L4                                 | 14602        | Athene Global Funding     | 4,877,944.46         | 5,000,000.00         | 5,211,000.00          | 2.500        | 3.250        | 01/14/2025    | 1,293            | N/A            |
| 084670BJ6                                 | 14542        | Berkshire Hathaway        | 4,988,800.24         | 5,000,000.00         | 5,217,650.00          | 3.000        | 3.150        | 02/11/2023    | 590              | AA2            |
| 20030NBN0                                 | 14563        | Comcast Corp              | 5,051,070.17         | 5,000,000.00         | 5,452,450.00          | 3.375        | 3.100        | 08/15/2025    | 1,506            | A3             |
| 233851CU6                                 | 14571        | Daimler Finance           | 5,063,173.94         | 5,000,000.00         | 5,490,750.00          | 3.450        | 3.190        | 01/06/2027    | 2,015            | A3             |
| 233851CU6                                 | 14574        | Daimler Finance           | 3,807,161.80         | 3,725,000.00         | 4,090,608.75          | 3.450        | 3.000        | 01/06/2027    | 2,015            | A3             |
| 233851DN1                                 | 14586        | Daimler Finance           | 5,029,391.60         | 5,000,000.00         | 5,057,650.00          | 3.750        | 2.000        | 11/05/2021    | 127              | A3             |
| 24422EUM9                                 | 14554        | John Deere Cap            | 5,036,567.70         | 5,000,000.00         | 5,373,500.00          | 3.650        | 3.300        | 10/12/2023    | 833              | A2             |
| 375558BF9                                 | 14570        | Gilead Sciences           | 5,111,106.07         | 5,000,000.00         | 5,512,150.00          | 3.650        | 3.118        | 03/01/2026    | 1,704            | A3             |
| 49327M2X1                                 | 14560        | Key Bank NA               | 5,005,529.51         | 5,000,000.00         | 5,090,550.00          | 3.300        | 3.100        | 02/01/2022    | 215              | A3             |
| 53944VAS8                                 | 14580        | Lloyds Bank Plc           | 5,002,679.27         | 5,000,000.00         | 5,105,550.00          | 2.250        | 2.200        | 08/14/2022    | 409              | A1             |
| 540424AQ1                                 | 14555        | Loews Corporation         | 4,937,255.69         | 5,000,000.00         | 5,175,350.00          | 2.625        | 3.350        | 05/15/2023    | 683              | A3             |
| 589331AT4                                 | 14545        | Merck & Co Inc            | 4,964,515.46         | 5,000,000.00         | 5,101,350.00          | 2.400        | 3.030        | 09/15/2022    | 441              | A1             |
| 68389XAS4                                 | 14548        | Oracle Corp               | 5,021,031.69         | 5,000,000.00         | 5,312,300.00          | 3.625        | 3.388        | 07/15/2023    | 744              | BAA2           |
| 747525AT0                                 | 14564        | Qualcomm Inc              | 4,980,044.06         | 5,000,000.00         | 5,313,950.00          | 2.900        | 3.050        | 05/20/2024    | 1,054            | A2             |
| 747525AU7                                 | 14587        | Qualcomm Inc              | 6,223,190.76         | 5,963,000.00         | 6,586,193.13          | 3.250        | 2.435        | 05/20/2027    | 2,149            | A2             |
| 828807CS4                                 | 14606        | Simon Property Group      | 4,996,184.67         | 5,000,000.00         | 5,379,450.00          | 3.375        | 3.353        | 10/01/2024    | 1,188            | A3             |
| 07330MAA5                                 | 14588        | Truist Bank               | 5,351,262.82         | 5,000,000.00         | 5,598,500.00          | 3.800        | 2.365        | 10/30/2026    | 1,947            | A3             |
| <b>Subtotal and Average</b>               |              |                           | <b>97,411,139.64</b> | <b>96,638,000.00</b> | <b>102,546,031.88</b> |              | <b>2.920</b> |               | <b>1,105</b>     |                |
| <b>Commercial Paper Disc - Amortizing</b> |              |                           |                      |                      |                       |              |              |               |                  |                |
| 06742XJX6                                 | 14635 T-1    | Barclays Bank PLC         | 9,992,222.22         | 10,000,000.00        | 9,993,200.00          | 0.160        | 0.162        | 12/23/2021    | 175              | N/A            |
| 2254EBAU5                                 | 14614        | Credit Suisse New York    | 9,985,347.22         | 10,000,000.00        | 9,990,000.00          | 0.250        | 0.258        | 01/28/2022    | 211              | N/A            |
| 44890MXV9                                 | 14637 T-1    | Hyundai Capital America   | 9,993,000.00         | 10,000,000.00        | 9,996,000.00          | 0.210        | 0.213        | 10/29/2021    | 120              | N/A            |
| 53948BB73                                 | 14626        | Lloyds Bank               | 9,987,722.22         | 10,000,000.00        | 9,989,600.00          | 0.200        | 0.206        | 02/07/2022    | 221              | N/A            |
| 05970UBA5                                 | 14621        | Banco Santander           | 9,986,933.33         | 10,000,000.00        | 9,989,400.00          | 0.210        | 0.217        | 02/10/2022    | 224              | N/A            |
| 83368YFY8                                 | 14625        | Societe Generale          | 9,988,205.56         | 10,000,000.00        | 9,992,000.00          | 0.220        | 0.227        | 01/10/2022    | 193              | N/A            |
| 83369BZV1                                 | 14636 T-1    | Societe Generale          | 9,992,961.11         | 10,000,000.00        | 9,992,500.00          | 0.140        | 0.144        | 12/29/2021    | 181              | N/A            |
| <b>Subtotal and Average</b>               |              |                           | <b>69,926,391.66</b> | <b>70,000,000.00</b> | <b>69,942,700.00</b>  |              | <b>0.204</b> |               |                  |                |

**Medium-Term Notes - Callable**

City of Berkeley  
Pooled Cash and Investments  
As of June 30, 2021



| CUSIP                                       | Investment # | Issuer                       | Book Value            | Par Value             | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Rating |
|---------------------------------------------|--------------|------------------------------|-----------------------|-----------------------|-----------------------|--------------|--------------|---------------|------------------|----------------|
| 05531FBF9                                   | 14561        | BB&T Corporation             | 5,082,975.94          | 5,000,000.00          | 5,377,900.00          | 3.750        | 3.012        | 12/06/2023    | 888              | A3             |
| 05531FBG7                                   | 14585        | BB&T Corporation             | 5,047,807.99          | 5,000,000.00          | 5,124,000.00          | 3.050        | 2.000        | 06/20/2022    | 354              | A3             |
| 06406HBY4                                   | 14538        | Bank of New York Mellon Corp | 3,545,641.21          | 3,542,000.00          | 3,558,966.18          | 3.550        | 3.150        | 09/23/2021    | 84               | A1             |
| 693475AV7                                   | 14557        | PNC Financial Services       | 5,015,006.77          | 5,000,000.00          | 5,367,200.00          | 3.500        | 3.425        | 01/23/2024    | 936              | A3             |
| 751212AC5                                   | 14566        | Ralph Lauren                 | 5,120,235.25          | 5,000,000.00          | 5,507,200.00          | 3.750        | 3.106        | 09/15/2025    | 1,537            | A3             |
| 91159HHU7                                   | 14562        | US Bancorp                   | 5,185,153.63          | 5,000,000.00          | 5,625,450.00          | 3.950        | 2.848        | 11/17/2025    | 1,600            | A1             |
| <b>Subtotal and Average</b>                 |              |                              | <b>28,996,820.79</b>  | <b>28,542,000.00</b>  | <b>30,560,716.18</b>  |              | <b>2.911</b> |               |                  |                |
| <b>Federal Agency Continuously Callable</b> |              |                              |                       |                       |                       |              |              |               |                  |                |
| 3130AMAV4                                   | 14611        | Federal Home Loan Banks      | 5,600,000.00          | 5,600,000.00          | 5,595,968.00          | 0.500        | 0.500        | 04/29/2027    | 2,128            | AAA            |
| 3130ALZA5                                   | 14612        | Federal Home Loan Banks      | 9,000,000.00          | 9,000,000.00          | 8,990,820.00          | 0.500        | 0.500        | 04/29/2026    | 1,763            | AAA            |
| 3130AMEX6                                   | 14613        | Federal Home Loan Banks      | 15,000,000.00         | 15,000,000.00         | 14,993,100.00         | 0.500        | 0.499        | 05/27/2026    | 1,791            | AAA            |
| 3130AMF72                                   | 14615        | Federal Home Loan Banks      | 15,000,000.00         | 15,000,000.00         | 14,987,850.00         | 0.650        | 0.649        | 05/27/2026    | 1,791            | AAA            |
| 3130AMFT4                                   | 14617        | Federal Home Loan Banks      | 10,000,000.00         | 10,000,000.00         | 9,981,700.00          | 0.625        | 0.624        | 05/27/2026    | 1,791            | AAA            |
| 3130AMG22                                   | 14618        | Federal Home Loan Banks      | 20,000,000.00         | 20,000,000.00         | 19,976,600.00         | 0.500        | 0.500        | 05/27/2026    | 1,791            | AAA            |
| 3130AMGG1                                   | 14619        | Federal Home Loan Banks      | 10,000,000.00         | 10,000,000.00         | 9,976,300.00          | 0.600        | 0.600        | 05/26/2026    | 1,790            | AAA            |
| 3130AMFN7                                   | 14620        | Federal Home Loan Banks      | 10,000,000.00         | 10,000,000.00         | 9,995,000.00          | 0.500        | 0.500        | 05/26/2026    | 1,790            | AAA            |
| 3130AMG55                                   | 14622        | Federal Home Loan Banks      | 10,000,000.00         | 10,000,000.00         | 9,995,700.00          | 0.750        | 0.750        | 05/27/2027    | 2,156            | AAA            |
| 3130AMG22                                   | 14624        | Federal Home Loan Banks      | 10,000,000.00         | 10,000,000.00         | 9,988,300.00          | 0.500        | 1.093        | 05/27/2026    | 1,791            | AAA            |
| 3130AMLS9                                   | 14627        | Federal Home Loan Banks      | 10,000,000.00         | 10,000,000.00         | 9,998,500.00          | 0.500        | 1.276        | 06/17/2026    | 1,812            | AAA            |
| 3130AMN24                                   | 14628        | Federal Home Loan Banks      | 10,000,000.00         | 10,000,000.00         | 9,989,900.00          | 0.375        | 1.031        | 06/03/2026    | 1,798            | AAA            |
| 3130AMN57                                   | 14629        | Federal Home Loan Banks      | 20,000,000.00         | 20,000,000.00         | 19,997,000.00         | 0.250        | 1.013        | 06/03/2026    | 1,798            | AAA            |
| 3130AMP71                                   | 14630        | Federal Home Loan Banks      | 20,000,000.00         | 20,000,000.00         | 19,992,200.00         | 0.400        | 1.077        | 06/18/2026    | 1,813            | AAA            |
| 3130AMPL0                                   | 14631        | Federal Home Loan Banks      | 15,000,000.00         | 15,000,000.00         | 14,992,500.00         | 0.375        | 0.375        | 06/08/2026    | 1,803            | AAA            |
| 3130AMMW9                                   | 14632        | Federal Home Loan Banks      | 10,000,000.00         | 10,000,000.00         | 9,990,900.00          | 0.500        | 0.500        | 06/10/2026    | 1,805            | AAA            |
| 3130AMWM0                                   | 14634        | Federal Home Loan Banks      | 4,250,000.00          | 4,250,000.00          | 4,250,000.00          | 0.500        | 0.500        | 06/30/2026    | 1,825            | AAA            |
| 3130AMFQ0                                   | 14616        | Federal Home Loan Banks      | 15,000,000.00         | 15,000,000.00         | 14,990,100.00         | 0.500        | 0.500        | 05/26/2026    | 1,790            | AAA            |
| <b>Subtotal and Average</b>                 |              |                              | <b>218,850,000.00</b> | <b>218,850,000.00</b> | <b>218,682,438.00</b> |              |              |               |                  |                |

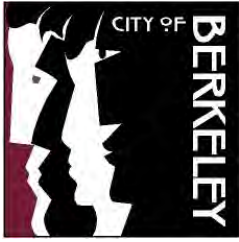


City of Berkeley  
Pooled Cash and Investments  
As of June 30, 2021

| CUSIP                                | Investment # | Issuer                       | Book Value            | Par Value             | Market Value          | Current Rate | YTM/C 365    | Maturity Date | Days To Maturity | Moody's Rating |
|--------------------------------------|--------------|------------------------------|-----------------------|-----------------------|-----------------------|--------------|--------------|---------------|------------------|----------------|
| <b>Municipal Bonds</b>               |              |                              |                       |                       |                       |              |              |               |                  |                |
| 13063DGB8                            | 14559        | General Obligation Unlimited | 5,055,050.61          | 5,000,000.00          | 5,474,400.00          | 3.375        | 3.087        | 04/01/2025    | 1,370            | AA2            |
|                                      |              | <b>Subtotal and Average</b>  | <b>5,055,050.61</b>   | <b>5,000,000.00</b>   | <b>5,474,400.00</b>   |              | <b>3.087</b> |               | <b>1,370</b>     |                |
| <b>Money Market</b>                  |              |                              |                       |                       |                       |              |              |               |                  |                |
| SYS14190                             | 14190        | Fidelity Money Market (TRAN) | 42,406,280.50         | 42,406,280.50         | 42,406,280.50         | 0.002        | 0.002        |               | 1                | N/A            |
| SYS14265                             | 14265        | Fidelity Money Market        | 116,802,959.86        | 116,802,959.86        | 116,802,959.86        | 0.003        | 0.002        |               | 1                | N/A            |
|                                      |              | <b>Subtotal and Average</b>  | <b>159,209,240.36</b> | <b>159,209,240.36</b> | <b>159,209,240.36</b> |              | <b>0.002</b> |               | <b>1</b>         |                |
| <b>Total Investments and Average</b> |              |                              | <b>579,948,643.06</b> | <b>578,739,240.36</b> | <b>586,946,351.42</b> |              | <b>2.884</b> |               |                  |                |

|                                                            |                       |
|------------------------------------------------------------|-----------------------|
| Total Investments (Book Value)                             | 579,948,643.06        |
| Cash                                                       | 20,867,529.00         |
| <b>Total Investments (Book Value) and Cash</b>             | <b>600,816,172.06</b> |
| <b>Increase / (Decrease) in Market Value of Securities</b> | <b>6,997,708.36</b>   |
| <b>Total Investments (Market Value) and Cash</b>           | <b>607,813,880.42</b> |





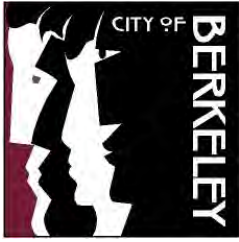
**Pooled Investments Selected Funds**  
**Interest Earnings**  
**Sorted by Fund - Fund**  
**April 1, 2021 - April 30, 2021**  
**Yield on Average Book Value**

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AMAV4                                  | 14611        | 010  | MC5           | 5,600,000.00     | 0.00                 | 373,333.33         | 04/29/2027    | 0.500                   | 0.507 | 155.56                     | 0.00                    | 155.56                     |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,003,277.61         | 5,003,174.56       | 08/14/2022    | 2.250                   | 2.231 | 9,375.00                   | -199.45                 | 9,175.55                   |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,920,814.60         | 4,922,446.75       | 05/03/2023    | 2.400                   | 3.252 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |
| 06406FAB9                                  | 14541        | 010  | MC6           | 0.00             | 1,456,754.30         | 194,246.88         | 05/03/2021    | 2.050                   | 3.055 | 332.10                     | 155.72                  | 487.82                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,549,637.66         | 3,548,949.38       | 09/23/2021    | 3.550                   | 3.136 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,987,062.35         | 4,987,361.66       | 02/11/2023    | 3.000                   | 3.191 | 12,500.00                  | 579.30                  | 13,079.30                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,957,156.91         | 4,958,424.22       | 09/15/2022    | 2.400                   | 3.056 | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,023,610.50         | 5,023,166.38       | 07/15/2023    | 3.625                   | 3.450 | 15,104.17                  | -859.60                 | 14,244.57                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,040,576.34         | 5,039,885.97       | 10/12/2023    | 3.650                   | 3.349 | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,928,877.37         | 4,930,320.31       | 05/15/2023    | 2.625                   | 3.388 | 10,937.50                  | 2,792.78                | 13,730.28                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,016,471.64         | 5,016,219.36       | 01/23/2024    | 3.500                   | 3.419 | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN           | 5,000,000.00     | 5,058,720.65         | 5,058,088.59       | 04/01/2025    | 3.375                   | 3.088 | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN           | 5,000,000.00     | 5,007,899.30         | 5,007,491.17       | 02/01/2022    | 3.300                   | 3.149 | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3           | 5,000,000.00     | 5,091,510.61         | 5,090,040.75       | 12/06/2023    | 3.750                   | 3.055 | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 05531FBG7                                  | 14585        | 010  | MC3           | 5,000,000.00     | 5,060,136.69         | 5,058,013.42       | 06/20/2022    | 3.050                   | 2.068 | 12,708.33                  | -4,109.56               | 8,598.77                   |
| 91159HHU7                                  | 14562        | 010  | MC3           | 5,000,000.00     | 5,195,727.12         | 5,193,906.13       | 11/17/2025    | 3.950                   | 3.030 | 16,458.33                  | -3,524.49               | 12,933.84                  |
| 20030NBN0                                  | 14563        | 010  | MTN           | 5,000,000.00     | 5,054,167.42         | 5,053,634.01       | 08/15/2025    | 3.375                   | 3.137 | 14,062.50                  | -1,032.42               | 13,030.08                  |
| 747525AT0                                  | 14564        | 010  | MTN           | 5,000,000.00     | 4,978,315.44         | 4,978,613.15       | 05/20/2024    | 2.900                   | 3.094 | 12,083.33                  | 576.21                  | 12,659.54                  |
| 747525AU7                                  | 14587        | 010  | MTN           | 5,963,000.00     | 6,234,241.80         | 6,232,338.57       | 05/20/2027    | 3.250                   | 2.434 | 16,149.79                  | -3,683.68               | 12,466.11                  |
| 751212AC5                                  | 14566        | 010  | MC3           | 5,000,000.00     | 5,127,382.65         | 5,126,151.71       | 09/15/2025    | 3.750                   | 3.143 | 15,625.00                  | -2,382.47               | 13,242.53                  |
| 375558BF9                                  | 14570        | 010  | MTN           | 5,000,000.00     | 5,117,058.18         | 5,116,033.09       | 03/01/2026    | 3.650                   | 3.145 | 15,208.33                  | -1,984.04               | 13,224.29                  |
| 233851CU6                                  | 14574        | 010  | MTN           | 3,725,000.00     | 3,810,887.02         | 3,810,245.46       | 01/06/2027    | 3.450                   | 3.023 | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851CU6                                  | 14571        | 010  | MTN           | 5,000,000.00     | 5,066,038.25         | 5,065,544.95       | 01/06/2027    | 3.450                   | 3.223 | 14,375.00                  | -954.77                 | 13,420.23                  |
| 233851DN1                                  | 14586        | 010  | MTN           | 5,000,000.00     | 5,050,724.21         | 5,047,050.26       | 11/05/2021    | 3.750                   | 2.052 | 15,625.00                  | -7,110.87               | 8,514.13                   |
| 008252AM0                                  | 14582        | 010  | MTN           | 1,000,000.00     | 1,052,993.05         | 1,052,198.67       | 02/15/2024    | 4.250                   | 2.317 | 3,541.67                   | -1,537.52               | 2,004.15                   |
| 07330MAA5                                  | 14588        | 010  | MTN           | 5,000,000.00     | 5,367,736.84         | 5,364,899.65       | 10/30/2026    | 3.800                   | 2.345 | 15,833.33                  | -5,491.34               | 10,341.99                  |
| 04685A2L4                                  | 14590        | 010  | MTN           | 5,950,000.00     | 5,988,071.54         | 5,987,638.59       | 01/14/2025    | 2.500                   | 2.349 | 12,395.83                  | -837.96                 | 11,557.87                  |
| 04685A2L4                                  | 14602        | 010  | MTN           | 5,000,000.00     | 4,869,315.24         | 4,870,801.38       | 01/14/2025    | 2.500                   | 3.320 | 10,416.67                  | 2,876.41                | 13,293.08                  |

Pooled Investments Selected Funds  
Interest Earnings  
April 1, 2021 - April 30, 2021

Exhibit 2-B.1

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 828807CS4                                  | 14606        | 010  | MTN             | 5,000,000.00          | 4,995,891.19          | 4,995,941.73          | 10/01/2024    | 3.375                   | 3.448            | 14,062.50                  | 97.83                   | 14,160.33                  |
|                                            |              |      | <b>Subtotal</b> | <b>136,280,000.00</b> | <b>133,511,056.48</b> | <b>132,606,160.06</b> |               |                         | <b>2.958</b>     | <b>352,723.06</b>          | <b>-30,274.64</b>       | <b>322,448.42</b>          |
| <b>Fund: Fidelity MM - Trans</b>           |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14190                                   | 14190        | 030  | RRP             | 21,203,087.72         | 21,202,912.74         | 21,202,918.57         |               | 0.002                   | 0.010            | 174.98                     | 0.00                    | 174.98                     |
|                                            |              |      | <b>Subtotal</b> | <b>21,203,087.72</b>  | <b>21,202,912.74</b>  | <b>21,202,918.57</b>  |               |                         | <b>0.010</b>     | <b>174.98</b>              | <b>0.00</b>             | <b>174.98</b>              |
| <b>Fund: Fidelity MM - Regular</b>         |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14265                                   | 14265        | 040  | RRP             | 373,201,479.36        | 329,798,660.00        | 343,072,087.31        |               | 0.003                   | 0.010            | 2,819.36                   | 0.00                    | 2,819.36                   |
|                                            |              |      | <b>Subtotal</b> | <b>373,201,479.36</b> | <b>329,798,660.00</b> | <b>343,072,087.31</b> |               |                         | <b>0.010</b>     | <b>2,819.36</b>            | <b>0.00</b>             | <b>2,819.36</b>            |
|                                            |              |      | <b>Total</b>    | <b>530,684,567.08</b> | <b>484,512,629.22</b> | <b>496,881,165.94</b> |               |                         | <b>0.797</b>     | <b>355,717.40</b>          | <b>-30,274.64</b>       | <b>325,442.76</b>          |



**Pooled Investments Selected Funds  
Interest Earnings  
Sorted by Fund - Fund  
May 1, 2021 - May 31, 2021  
Yield on Average Book Value**

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AMG22                                  | 14624        | 010  | MC5           | 10,000,000.00    | 0.00                 | 1,612,903.23       | 05/27/2026    | 0.500                   | 0.406 | 555.56                     | 0.00                    | 555.56                     |
| 3130AMFQ0                                  | 14616        | 010  | MC5           | 15,000,000.00    | 0.00                 | 2,903,225.81       | 05/26/2026    | 0.500                   | 0.422 | 1,041.67                   | 0.00                    | 1,041.67                   |
| 3130AMF72                                  | 14615        | 010  | MC5           | 15,000,000.00    | 0.00                 | 2,419,354.84       | 05/27/2026    | 0.650                   | 0.527 | 1,083.33                   | 0.00                    | 1,083.33                   |
| 3130AMEX6                                  | 14613        | 010  | MC5           | 15,000,000.00    | 0.00                 | 2,419,354.84       | 05/27/2026    | 0.500                   | 0.406 | 833.33                     | 0.00                    | 833.33                     |
| 3130AMAV4                                  | 14611        | 010  | MC5           | 5,600,000.00     | 5,600,000.00         | 5,600,000.00       | 04/29/2027    | 0.500                   | 0.491 | 2,333.33                   | 0.00                    | 2,333.33                   |
| 3130ALZA5                                  | 14612        | 010  | MC5           | 9,000,000.00     | 0.00                 | 8,419,354.84       | 04/29/2026    | 0.500                   | 0.489 | 3,500.00                   | 0.00                    | 3,500.00                   |
| 3130AMFT4                                  | 14617        | 010  | MC5           | 10,000,000.00    | 0.00                 | 1,612,903.23       | 05/27/2026    | 0.625                   | 0.507 | 694.44                     | 0.00                    | 694.44                     |
| 3130AMFN7                                  | 14620        | 010  | MC5           | 10,000,000.00    | 0.00                 | 1,935,483.87       | 05/26/2026    | 0.500                   | 0.422 | 694.44                     | 0.00                    | 694.44                     |
| 3130AMG55                                  | 14622        | 010  | MC5           | 10,000,000.00    | 0.00                 | 1,612,903.23       | 05/27/2027    | 0.750                   | 0.608 | 833.33                     | 0.00                    | 833.33                     |
| 3130AMGG1                                  | 14619        | 010  | MC5           | 10,000,000.00    | 0.00                 | 1,935,483.87       | 05/26/2026    | 0.600                   | 0.507 | 833.33                     | 0.00                    | 833.33                     |
| 3130AMG22                                  | 14618        | 010  | MC5           | 20,000,000.00    | 0.00                 | 3,225,806.45       | 05/27/2026    | 0.500                   | 0.406 | 1,111.11                   | 0.00                    | 1,111.11                   |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,003,078.16         | 5,002,972.01       | 08/14/2022    | 2.250                   | 2.159 | 9,375.00                   | -199.45                 | 9,175.55                   |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,923,973.59         | 4,925,654.99       | 05/03/2023    | 2.400                   | 3.146 | 10,000.00                  | 3,159.00                | 13,159.00                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,548,305.51         | 3,547,596.46       | 09/23/2021    | 3.550                   | 3.036 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 700.68                     | 0.00                    | 700.68                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,987,641.65         | 4,987,949.98       | 02/11/2023    | 3.000                   | 3.087 | 12,500.00                  | 579.29                  | 13,079.29                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,959,609.76         | 4,960,915.31       | 09/15/2022    | 2.400                   | 2.956 | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,022,750.90         | 5,022,293.37       | 07/15/2023    | 3.625                   | 3.339 | 15,104.17                  | -859.61                 | 14,244.56                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,039,240.13         | 5,038,528.92       | 10/12/2023    | 3.650                   | 3.242 | 15,208.33                  | -1,336.21               | 13,872.12                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,931,670.15         | 4,933,156.62       | 05/15/2023    | 2.625                   | 3.277 | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,015,983.35         | 5,015,723.45       | 01/23/2024    | 3.500                   | 3.309 | 14,583.33                  | -488.29                 | 14,095.04                  |
| 13063DGB8                                  | 14559        | 010  | MUN           | 5,000,000.00     | 5,057,497.30         | 5,056,846.16       | 04/01/2025    | 3.375                   | 2.989 | 14,062.50                  | -1,223.35               | 12,839.15                  |
| 49327M2X1                                  | 14560        | 010  | MTN           | 5,000,000.00     | 5,007,109.37         | 5,006,688.93       | 02/01/2022    | 3.300                   | 3.048 | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3           | 5,000,000.00     | 5,088,665.72         | 5,087,151.50       | 12/06/2023    | 3.750                   | 2.958 | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 05531FBG7                                  | 14585        | 010  | MC3           | 5,000,000.00     | 5,056,027.13         | 5,053,839.77       | 06/20/2022    | 3.050                   | 2.003 | 12,708.33                  | -4,109.57               | 8,598.76                   |
| 91159HHU7                                  | 14562        | 010  | MC3           | 5,000,000.00     | 5,192,202.63         | 5,190,326.68       | 11/17/2025    | 3.950                   | 2.934 | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBNO                                  | 14563        | 010  | MTN           | 5,000,000.00     | 5,053,135.00         | 5,052,585.49       | 08/15/2025    | 3.375                   | 3.036 | 14,062.50                  | -1,032.41               | 13,030.09                  |
| 747525AT0                                  | 14564        | 010  | MTN           | 5,000,000.00     | 4,978,891.65         | 4,979,198.34       | 05/20/2024    | 2.900                   | 2.994 | 12,083.33                  | 576.20                  | 12,659.53                  |
| 747525AU7                                  | 14587        | 010  | MTN           | 5,963,000.00     | 6,230,558.12         | 6,228,597.45       | 05/20/2027    | 3.250                   | 2.357 | 16,149.79                  | -3,683.68               | 12,466.11                  |

Pooled Investments Selected Funds  
Interest Earnings  
May 1, 2021 - May 31, 2021

Exhibit 2-B.2

| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 751212AC5                                  | 14566        | 010  | MC3             | 5,000,000.00          | 5,125,000.18          | 5,123,732.10          | 09/15/2025    | 3.750                   | 3.043            | 15,625.00                  | -2,382.47               | 13,242.53                  |
| 375558BF9                                  | 14570        | 010  | MTN             | 5,000,000.00          | 5,115,074.14          | 5,114,018.12          | 03/01/2026    | 3.650                   | 3.045            | 15,208.33                  | -1,984.03               | 13,224.30                  |
| 233851CU6                                  | 14574        | 010  | MTN             | 3,725,000.00          | 3,809,645.28          | 3,808,984.35          | 01/06/2027    | 3.450                   | 2.927            | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851CU6                                  | 14571        | 010  | MTN             | 5,000,000.00          | 5,065,083.48          | 5,064,575.29          | 01/06/2027    | 3.450                   | 3.120            | 14,375.00                  | -954.77                 | 13,420.23                  |
| 233851DN1                                  | 14586        | 010  | MTN             | 5,000,000.00          | 5,043,613.34          | 5,039,828.52          | 11/05/2021    | 3.750                   | 1.989            | 15,625.00                  | -7,110.87               | 8,514.13                   |
| 008252AM0                                  | 14582        | 010  | MTN             | 1,000,000.00          | 1,051,455.53          | 1,050,637.18          | 02/15/2024    | 4.250                   | 2.246            | 3,541.67                   | -1,537.51               | 2,004.16                   |
| 07330MAA5                                  | 14588        | 010  | MTN             | 5,000,000.00          | 5,362,245.50          | 5,359,328.60          | 10/30/2026    | 3.800                   | 2.272            | 15,833.33                  | -5,491.34               | 10,341.99                  |
| 04685A2L4                                  | 14590        | 010  | MTN             | 5,950,000.00          | 5,987,233.58          | 5,986,787.56          | 01/14/2025    | 2.500                   | 2.273            | 12,395.83                  | -837.97                 | 11,557.86                  |
| 04685A2L4                                  | 14602        | 010  | MTN             | 5,000,000.00          | 4,872,191.65          | 4,873,722.64          | 01/14/2025    | 2.500                   | 3.211            | 10,416.67                  | 2,876.41                | 13,293.08                  |
| 828807CS4                                  | 14606        | 010  | MTN             | 5,000,000.00          | 4,995,989.02          | 4,996,041.09          | 10/01/2024    | 3.375                   | 3.337            | 14,062.50                  | 97.83                   | 14,160.33                  |
| 2254EBAU5                                  | 14614        | 010  | ACP             | 10,000,000.00         | 0.00                  | 9,016,294.80          | 01/28/2022    | 0.250                   | 0.254            | 0.00                       | 1,944.44                | 1,944.44                   |
| 05970UBA5                                  | 14621        | 010  | ACP             | 10,000,000.00         | 0.00                  | 7,085,824.46          | 02/10/2022    | 0.210                   | 0.213            | 0.00                       | 1,283.33                | 1,283.33                   |
| 83368YFY8                                  | 14625        | 010  | ACP             | 10,000,000.00         | 0.00                  | 6,764,547.85          | 01/10/2022    | 0.220                   | 0.223            | 0.00                       | 1,283.33                | 1,283.33                   |
| 53948BB73                                  | 14626        | 010  | ACP             | 10,000,000.00         | 0.00                  | 6,120,179.21          | 02/07/2022    | 0.200                   | 0.203            | 0.00                       | 1,055.56                | 1,055.56                   |
|                                            |              |      | <b>Subtotal</b> | <b>300,280,000.00</b> | <b>137,623,871.82</b> | <b>194,691,301.41</b> |               |                         | <b>2.062</b>     | <b>365,794.47</b>          | <b>-24,863.73</b>       | <b>340,930.74</b>          |
| <b>Fund: Fidelity MM - Trans</b>           |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14190                                   | 14190        | 030  | RRP             | 42,405,938.25         | 21,203,087.72         | 42,405,599.03         |               | 0.002                   | 0.010            | 350.53                     | 0.00                    | 350.53                     |
|                                            |              |      | <b>Subtotal</b> | <b>42,405,938.25</b>  | <b>21,203,087.72</b>  | <b>42,405,599.03</b>  |               |                         | <b>0.010</b>     | <b>350.53</b>              | <b>0.00</b>             | <b>350.53</b>              |
| <b>Fund: Fidelity MM - Regular</b>         |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14265                                   | 14265        | 040  | RRP             | 234,601,555.52        | 373,201,479.36        | 302,153,984.27        |               | 0.003                   | 0.010            | 2,637.89                   | 0.00                    | 2,637.89                   |
|                                            |              |      | <b>Subtotal</b> | <b>234,601,555.52</b> | <b>373,201,479.36</b> | <b>302,153,984.27</b> |               |                         | <b>0.010</b>     | <b>2,637.89</b>            | <b>0.00</b>             | <b>2,637.89</b>            |
|                                            |              |      | <b>Total</b>    | <b>577,287,493.77</b> | <b>532,028,438.90</b> | <b>539,250,884.71</b> |               |                         | <b>0.751</b>     | <b>368,782.89</b>          | <b>-24,863.73</b>       | <b>343,919.16</b>          |



**Pooled Investments Selected Funds  
Interest Earnings  
Sorted by Fund - Fund  
June 1, 2021 - June 30, 2021  
Yield on Average Book Value**

| CUSIP                                      | Investment # | Fund | Security Type | Ending Par Value | Beginning Book Value | Average Book Value | Maturity Date | Current Annualized Rate | Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|---------------|------------------|----------------------|--------------------|---------------|-------------------------|-------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |               |                  |                      |                    |               |                         |       | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |               |                  |                      |                    |               |                         |       |                            |                         |                            |
| 3130AMWM0                                  | 14634        | 010  | MC5           | 4,250,000.00     | 0.00                 | 141,666.67         | 06/30/2026    | 0.500                   | 0.507 | 59.03                      | 0.00                    | 59.03                      |
| 3130AMPL0                                  | 14631        | 010  | MC5           | 15,000,000.00    | 0.00                 | 11,500,000.00      | 06/08/2026    | 0.375                   | 0.380 | 3,593.75                   | 0.00                    | 3,593.75                   |
| 3130AMMW9                                  | 14632        | 010  | MC5           | 10,000,000.00    | 0.00                 | 7,000,000.00       | 06/10/2026    | 0.500                   | 0.507 | 2,916.67                   | 0.00                    | 2,916.67                   |
| 3130AMN57                                  | 14629        | 010  | MC5           | 20,000,000.00    | 0.00                 | 18,666,666.67      | 06/03/2026    | 0.250                   | 0.253 | 3,888.89                   | 0.00                    | 3,888.89                   |
| 3130AMP71                                  | 14630        | 010  | MC5           | 20,000,000.00    | 0.00                 | 8,666,666.67       | 06/18/2026    | 0.400                   | 0.406 | 2,888.89                   | 0.00                    | 2,888.89                   |
| 3130AMN24                                  | 14628        | 010  | MC5           | 10,000,000.00    | 0.00                 | 9,333,333.33       | 06/03/2026    | 0.375                   | 0.380 | 2,916.67                   | 0.00                    | 2,916.67                   |
| 3130AMG22                                  | 14624        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 05/27/2026    | 0.500                   | 0.507 | 4,166.67                   | 0.00                    | 4,166.67                   |
| 3130AMLS9                                  | 14627        | 010  | MC5           | 10,000,000.00    | 0.00                 | 4,666,666.67       | 06/17/2026    | 0.500                   | 0.507 | 1,944.44                   | 0.00                    | 1,944.44                   |
| 3130AMFQ0                                  | 14616        | 010  | MC5           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 05/26/2026    | 0.500                   | 0.507 | 6,250.00                   | 0.00                    | 6,250.00                   |
| 3130AMF72                                  | 14615        | 010  | MC5           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 05/27/2026    | 0.650                   | 0.659 | 8,125.00                   | 0.00                    | 8,125.00                   |
| 3130AMEX6                                  | 14613        | 010  | MC5           | 15,000,000.00    | 15,000,000.00        | 15,000,000.00      | 05/27/2026    | 0.500                   | 0.507 | 6,250.00                   | 0.00                    | 6,250.00                   |
| 3130AMAV4                                  | 14611        | 010  | MC5           | 5,600,000.00     | 5,600,000.00         | 5,600,000.00       | 04/29/2027    | 0.500                   | 0.507 | 2,333.33                   | 0.00                    | 2,333.33                   |
| 3130ALZA5                                  | 14612        | 010  | MC5           | 9,000,000.00     | 9,000,000.00         | 9,000,000.00       | 04/29/2026    | 0.500                   | 0.507 | 3,750.00                   | 0.00                    | 3,750.00                   |
| 3130AMFT4                                  | 14617        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 05/27/2026    | 0.625                   | 0.634 | 5,208.33                   | 0.00                    | 5,208.33                   |
| 3130AMFN7                                  | 14620        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 05/26/2026    | 0.500                   | 0.507 | 4,166.67                   | 0.00                    | 4,166.67                   |
| 3130AMG55                                  | 14622        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 05/27/2027    | 0.750                   | 0.760 | 6,250.00                   | 0.00                    | 6,250.00                   |
| 3130AMGG1                                  | 14619        | 010  | MC5           | 10,000,000.00    | 10,000,000.00        | 10,000,000.00      | 05/26/2026    | 0.600                   | 0.608 | 5,000.00                   | 0.00                    | 5,000.00                   |
| 3130AMG22                                  | 14618        | 010  | MC5           | 20,000,000.00    | 20,000,000.00        | 20,000,000.00      | 05/27/2026    | 0.500                   | 0.507 | 8,333.33                   | 0.00                    | 8,333.33                   |
| 53944VAS8                                  | 14580        | 010  | MTN           | 5,000,000.00     | 5,002,878.71         | 5,002,775.67       | 08/14/2022    | 2.250                   | 2.231 | 9,375.00                   | -199.44                 | 9,175.56                   |
| 06742XJX6                                  | 14635 T-1    | 010  | ACP           | 10,000,000.00    | 0.00                 | 999,217.78         | 12/23/2021    | 0.160                   | 0.162 | 0.00                       | 133.33                  | 133.33                     |
| 037833AK6                                  | 14536        | 010  | MTN           | 5,000,000.00     | 4,927,132.59         | 4,928,764.73       | 05/03/2023    | 2.400                   | 3.248 | 10,000.00                  | 3,158.99                | 13,158.99                  |
| 254673RD0                                  | 14539        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/05/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |
| 06406HBY4                                  | 14538        | 010  | MC3           | 3,542,000.00     | 3,546,973.36         | 3,546,285.08       | 09/23/2021    | 3.550                   | 3.138 | 10,478.42                  | -1,332.15               | 9,146.27                   |
| 795450T47                                  | 14540        | 010  | SCD           | 250,000.00       | 250,000.00           | 250,000.00         | 07/03/2023    | 3.300                   | 3.300 | 678.08                     | 0.00                    | 678.08                     |
| 084670BJ6                                  | 14542        | 010  | MTN           | 5,000,000.00     | 4,988,220.94         | 4,988,520.25       | 02/11/2023    | 3.000                   | 3.190 | 12,500.00                  | 579.30                  | 13,079.30                  |
| 589331AT4                                  | 14545        | 010  | MTN           | 5,000,000.00     | 4,962,062.61         | 4,963,329.92       | 09/15/2022    | 2.400                   | 3.053 | 10,000.00                  | 2,452.85                | 12,452.85                  |
| 68389XAS4                                  | 14548        | 010  | MTN           | 5,000,000.00     | 5,021,891.29         | 5,021,447.16       | 07/15/2023    | 3.625                   | 3.451 | 15,104.17                  | -859.60                 | 14,244.57                  |
| 24422EUM9                                  | 14554        | 010  | MTN           | 5,000,000.00     | 5,037,903.92         | 5,037,213.54       | 10/12/2023    | 3.650                   | 3.351 | 15,208.33                  | -1,336.22               | 13,872.11                  |
| 540424AQ1                                  | 14555        | 010  | MTN           | 5,000,000.00     | 4,934,462.92         | 4,935,905.85       | 05/15/2023    | 2.625                   | 3.384 | 10,937.50                  | 2,792.77                | 13,730.27                  |
| 693475AV7                                  | 14557        | 010  | MC3           | 5,000,000.00     | 5,015,495.06         | 5,015,242.78       | 01/23/2024    | 3.500                   | 3.419 | 14,583.33                  | -488.29                 | 14,095.04                  |

Pooled Investments Selected Funds

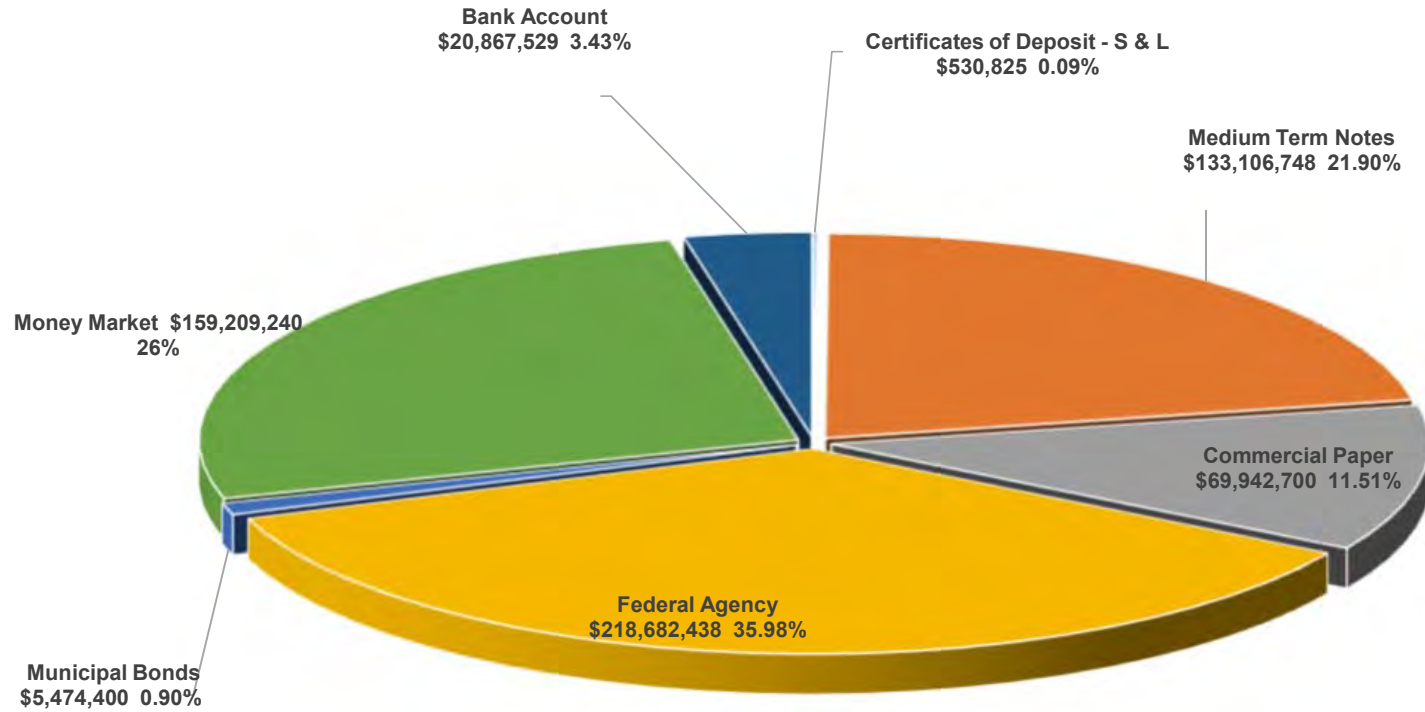
Interest Earnings

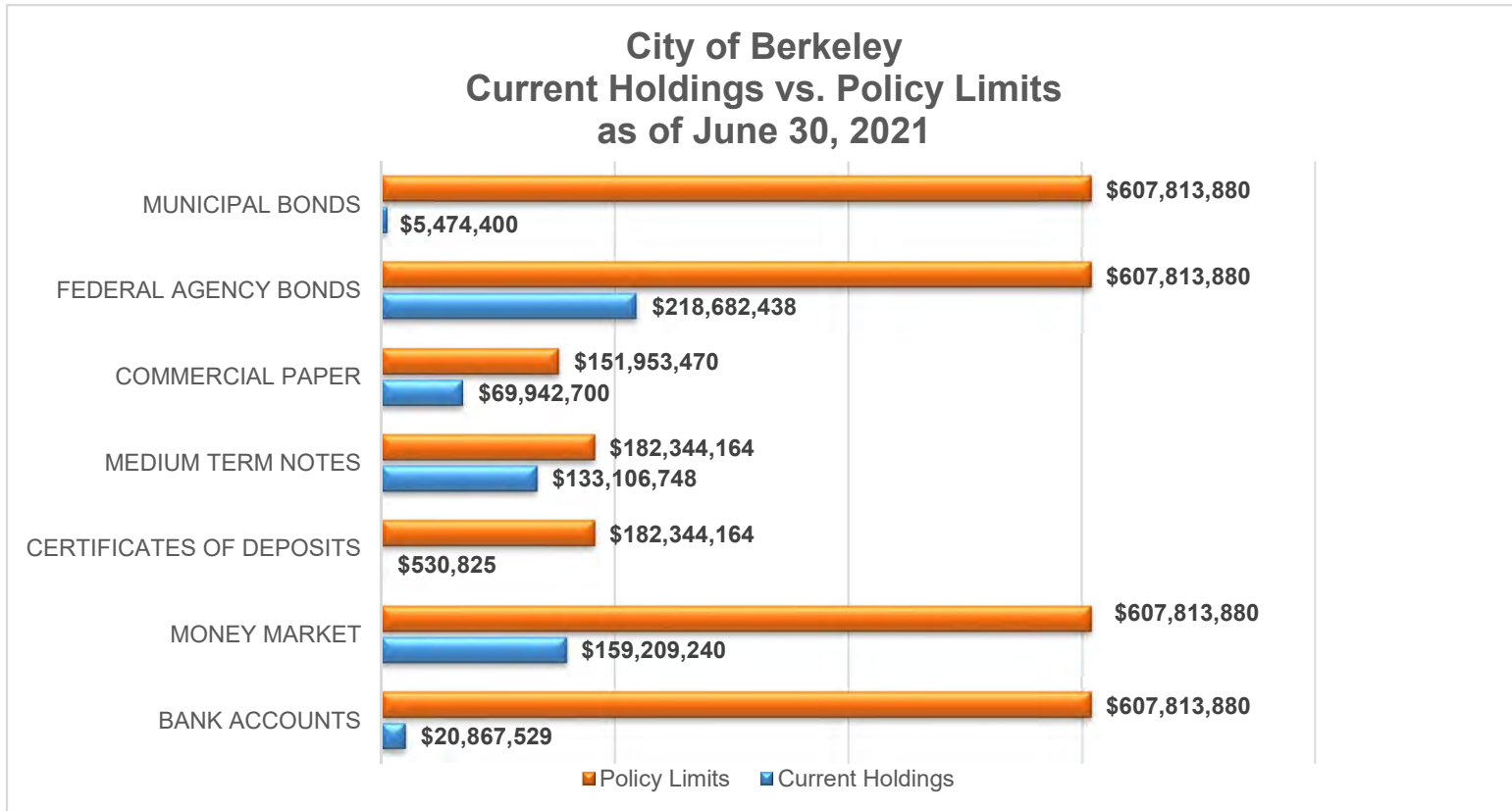
June 1, 2021 - June 30, 2021

Exhibit 2-B.3

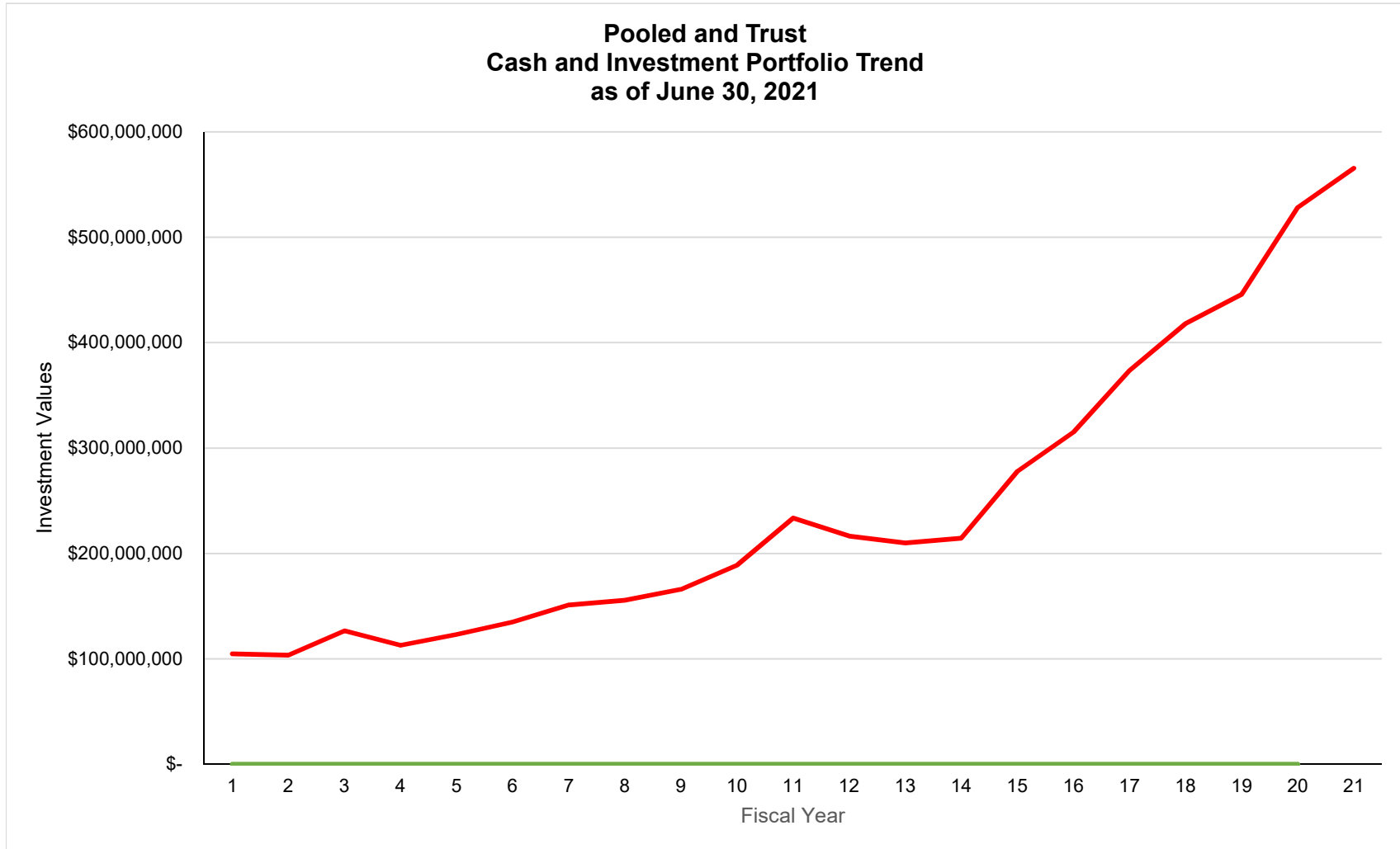
| CUSIP                                      | Investment # | Fund | Security Type   | Ending Par Value      | Beginning Book Value  | Average Book Value    | Maturity Date | Current Annualized Rate | Annualized Yield | Adjusted Interest Earnings |                         |                            |
|--------------------------------------------|--------------|------|-----------------|-----------------------|-----------------------|-----------------------|---------------|-------------------------|------------------|----------------------------|-------------------------|----------------------------|
|                                            |              |      |                 |                       |                       |                       |               |                         |                  | Interest Earned            | Amortization/ Accretion | Adjusted Interest Earnings |
| <b>Fund: Pooled Investment - Long Term</b> |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| 13063DGB8                                  | 14559        | 010  | MUN             | 5,000,000.00          | 5,056,273.95          | 5,055,641.89          | 04/01/2025    | 3.375                   | 3.090            | 14,062.50                  | -1,223.34               | 12,839.16                  |
| 49327M2X1                                  | 14560        | 010  | MTN             | 5,000,000.00          | 5,006,319.44          | 5,005,911.31          | 02/01/2022    | 3.300                   | 3.150            | 13,750.00                  | -789.93                 | 12,960.07                  |
| 05531FBF9                                  | 14561        | 010  | MC3             | 5,000,000.00          | 5,085,820.83          | 5,084,350.97          | 12/06/2023    | 3.750                   | 3.058            | 15,625.00                  | -2,844.89               | 12,780.11                  |
| 05531FBG7                                  | 14585        | 010  | MC3             | 5,000,000.00          | 5,051,917.56          | 5,049,794.28          | 06/20/2022    | 3.050                   | 2.072            | 12,708.33                  | -4,109.57               | 8,598.76                   |
| 91159HHU7                                  | 14562        | 010  | MC3             | 5,000,000.00          | 5,188,678.13          | 5,186,857.14          | 11/17/2025    | 3.950                   | 3.034            | 16,458.33                  | -3,524.50               | 12,933.83                  |
| 20030NBN0                                  | 14563        | 010  | MTN             | 5,000,000.00          | 5,052,102.59          | 5,051,569.17          | 08/15/2025    | 3.375                   | 3.138            | 14,062.50                  | -1,032.42               | 13,030.08                  |
| 747525AT0                                  | 14564        | 010  | MTN             | 5,000,000.00          | 4,979,467.85          | 4,979,765.56          | 05/20/2024    | 2.900                   | 3.093            | 12,083.33                  | 576.21                  | 12,659.54                  |
| 747525AU7                                  | 14587        | 010  | MTN             | 5,963,000.00          | 6,226,874.44          | 6,224,971.20          | 05/20/2027    | 3.250                   | 2.436            | 16,149.79                  | -3,683.68               | 12,466.11                  |
| 751212AC5                                  | 14566        | 010  | MC3             | 5,000,000.00          | 5,122,617.71          | 5,121,386.77          | 09/15/2025    | 3.750                   | 3.146            | 15,625.00                  | -2,382.46               | 13,242.54                  |
| 375558BF9                                  | 14570        | 010  | MTN             | 5,000,000.00          | 5,113,090.11          | 5,112,065.02          | 03/01/2026    | 3.650                   | 3.147            | 15,208.33                  | -1,984.04               | 13,224.29                  |
| 233851CU6                                  | 14574        | 010  | MTN             | 3,725,000.00          | 3,808,403.54          | 3,807,761.98          | 01/06/2027    | 3.450                   | 3.025            | 10,709.38                  | -1,241.74               | 9,467.64                   |
| 233851CU6                                  | 14571        | 010  | MTN             | 5,000,000.00          | 5,064,128.71          | 5,063,635.41          | 01/06/2027    | 3.450                   | 3.225            | 14,375.00                  | -954.77                 | 13,420.23                  |
| 233851DN1                                  | 14586        | 010  | MTN             | 5,000,000.00          | 5,036,502.47          | 5,032,828.52          | 11/05/2021    | 3.750                   | 2.058            | 15,625.00                  | -7,110.87               | 8,514.13                   |
| 008252AM0                                  | 14582        | 010  | MTN             | 1,000,000.00          | 1,049,918.02          | 1,049,123.63          | 02/15/2024    | 4.250                   | 2.324            | 3,541.67                   | -1,537.52               | 2,004.15                   |
| 07330MAA5                                  | 14588        | 010  | MTN             | 5,000,000.00          | 5,356,754.16          | 5,353,916.97          | 10/30/2026    | 3.800                   | 2.350            | 15,833.33                  | -5,491.34               | 10,341.99                  |
| 04685A2L4                                  | 14590        | 010  | MTN             | 5,950,000.00          | 5,986,395.61          | 5,985,962.66          | 01/14/2025    | 2.500                   | 2.349            | 12,395.83                  | -837.96                 | 11,557.87                  |
| 04685A2L4                                  | 14602        | 010  | MTN             | 5,000,000.00          | 4,875,068.06          | 4,876,554.20          | 01/14/2025    | 2.500                   | 3.317            | 10,416.67                  | 2,876.40                | 13,293.07                  |
| 828807CS4                                  | 14606        | 010  | MTN             | 5,000,000.00          | 4,996,086.85          | 4,996,137.39          | 10/01/2024    | 3.375                   | 3.448            | 14,062.50                  | 97.82                   | 14,160.32                  |
| 2254EBAU5                                  | 14614        | 010  | ACP             | 10,000,000.00         | 9,983,263.88          | 9,984,340.27          | 01/28/2022    | 0.250                   | 0.254            | 0.00                       | 2,083.34                | 2,083.34                   |
| 05970UBA5                                  | 14621        | 010  | ACP             | 10,000,000.00         | 9,985,183.33          | 9,986,087.50          | 02/10/2022    | 0.210                   | 0.213            | 0.00                       | 1,750.00                | 1,750.00                   |
| 83369BZV1                                  | 14636 T-1    | 010  | ACP             | 10,000,000.00         | 0.00                  | 666,196.11            | 12/29/2021    | 0.140                   | 0.142            | 0.00                       | 77.78                   | 77.78                      |
| 83368YFY8                                  | 14625        | 010  | ACP             | 10,000,000.00         | 9,986,372.22          | 9,987,319.45          | 01/10/2022    | 0.220                   | 0.223            | 0.00                       | 1,833.34                | 1,833.34                   |
| 53948BB73                                  | 14626        | 010  | ACP             | 10,000,000.00         | 9,986,055.56          | 9,986,916.67          | 02/07/2022    | 0.200                   | 0.203            | 0.00                       | 1,666.66                | 1,666.66                   |
| 44890MXV9                                  | 14637 T-1    | 010  | ACP             | 10,000,000.00         | 0.00                  | 333,100.00            | 10/29/2021    | 0.210                   | 0.213            | 0.00                       | 58.33                   | 58.33                      |
|                                            |              |      | <b>Subtotal</b> | <b>419,530,000.00</b> | <b>301,534,316.42</b> | <b>363,495,896.82</b> |               | <b>1.364</b>            |                  | <b>430,277.07</b>          | <b>-22,827.61</b>       | <b>407,449.46</b>          |
| <b>Fund: Fidelity MM - Trans</b>           |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14190                                   | 14190        | 030  | RRP             | 42,406,280.50         | 42,405,938.25         | 42,405,949.66         |               | 0.002                   | 0.010            | 342.25                     | 0.00                    | 342.25                     |
|                                            |              |      | <b>Subtotal</b> | <b>42,406,280.50</b>  | <b>42,405,938.25</b>  | <b>42,405,949.66</b>  |               | <b>0.010</b>            |                  | <b>342.25</b>              | <b>0.00</b>             | <b>342.25</b>              |
| <b>Fund: Fidelity MM - Regular</b>         |              |      |                 |                       |                       |                       |               |                         |                  |                            |                         |                            |
| SYS14265                                   | 14265        | 040  | RRP             | 116,802,959.86        | 234,601,555.52        | 170,074,935.66        |               | 0.003                   | 0.010            | 1,342.61                   | 0.00                    | 1,342.61                   |
|                                            |              |      | <b>Subtotal</b> | <b>116,802,959.86</b> | <b>234,601,555.52</b> | <b>170,074,935.66</b> |               | <b>0.010</b>            |                  | <b>1,342.61</b>            | <b>0.00</b>             | <b>1,342.61</b>            |
|                                            |              |      | <b>Total</b>    | <b>578,739,240.36</b> | <b>578,541,810.19</b> | <b>575,976,782.15</b> |               | <b>0.864</b>            |                  | <b>431,961.93</b>          | <b>-22,827.61</b>       | <b>409,134.32</b>          |

Pooled Cash and Investments  
(Market Value)  
as of June 30, 2021











**Summary of Pooled Cash and Investments - Trust Funds**  
**(Market Value)**  
**As of June 30, 2021**

|                                           | <u>Pooled Cash</u>   | <u>Investments<br/>(Book Value)</u> | <u>Gain/Loss on<br/>Investments</u> | <u>Pooled Cash<br/>&amp; Investments<br/>(Market Value)</u> |
|-------------------------------------------|----------------------|-------------------------------------|-------------------------------------|-------------------------------------------------------------|
| <b>Retiree Medical Trust Fund</b>         |                      |                                     |                                     |                                                             |
| <b>Fund No.</b>                           |                      |                                     |                                     |                                                             |
| 721 BHA                                   | \$ 317,940           | \$ 220,598                          | \$ 16,442                           | \$ 554,980                                                  |
| 722 M1=IBEW                               | (2,347)              | 112,601                             | 10,207                              | 120,461                                                     |
| 723 M2=Local 1                            | 4,415,644            | 5,245,152                           | 442,491                             | 10,103,287                                                  |
| 724 MUI=Z1                                | 757,448              | 1,154,985                           | 104,667                             | 2,017,100                                                   |
| 725 MUI=Z2 to Z6                          | 1,088,786            | 1,550,846                           | 136,343                             | 2,775,975                                                   |
| 726 M535= Local 535                       | 4,132,830            | 5,118,316                           | 451,051                             | 9,702,197                                                   |
| 727 M3=Local 790                          | 3,019,994            | 3,286,911                           | 265,419                             | 6,572,324                                                   |
| <b>Total Retiree Medical Trust Fund</b>   | <b>13,730,295</b>    | <b>16,689,409</b>                   | <b>1,426,620</b>                    | <b>31,846,324</b>                                           |
| <b>Fire Medical Trust Fund</b>            |                      |                                     |                                     |                                                             |
| 736 Fire Medical Trust Fund               | 5,176,018            | 6,861,001                           | 594,886                             | 12,631,904                                                  |
| <b>Total Fire Medical Trust Fund</b>      | <b>5,176,018</b>     | <b>6,861,001</b>                    | <b>594,886</b>                      | <b>12,631,904</b>                                           |
| <b>Police Medical Trust Fund</b>          |                      |                                     |                                     |                                                             |
| 731 Police EE Retiree HLT Assistance Plan | 819,801              | 1,641,865                           | 114,369                             | 2,576,035                                                   |
| 701 Safety Members Pension Fund           | 35,187               | -                                   | -                                   | 35,187                                                      |
| 706 Police Medical Trust Fund             | 2,529,772            | 2,853,685                           | 230,323                             | 5,613,780                                                   |
| <b>Total Police Medical Trust Fund</b>    | <b>3,384,760</b>     | <b>4,495,550</b>                    | <b>344,692</b>                      | <b>8,225,002</b>                                            |
| <b>Total Trust Funds</b>                  | <b>\$ 22,291,073</b> | <b>\$ 28,045,960</b>                | <b>\$ 2,366,198</b>                 | <b>\$ 52,703,230</b>                                        |



Retiree Medical Trust Fund  
Fund 721 - 727  
Interest Earnings  
April 1 to June 30, 2021

| CUSIP                                   | Investment # | Issuer               | Investments<br>As of June 30, 2021 |                         |                         |                         |               |                | Interest Earnings<br>April 1 to June 30, 2021 |                  |                            |                            |                            |                      |
|-----------------------------------------|--------------|----------------------|------------------------------------|-------------------------|-------------------------|-------------------------|---------------|----------------|-----------------------------------------------|------------------|----------------------------|----------------------------|----------------------------|----------------------|
|                                         |              |                      | Par Value                          | Beginning Book Value    | Ending Book Value       | Market Value            | Maturity Date | Moody's Rating | Current Rate                                  | Annualized Yield | Adjusted Interest Earnings |                            |                            |                      |
|                                         |              |                      |                                    |                         |                         |                         |               |                |                                               |                  | Interest Earned            | Amortization/<br>Accretion | Adjusted Interest Earnings |                      |
| <b>Federal Agency Coupon Securities</b> |              |                      |                                    |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |                      |
| 3133EFQT7                               | 14361        | Fed Farm Credit Bank | 2,600,000.00                       | 2,608,458.71            | 2,608,003.94            | 2,816,086.00            | 11/25/2025    | AAA            | 2.700                                         | 2.629            | 17,550.00                  | (454.77)                   | 17,095.23                  |                      |
| <b>Municipal Bonds</b>                  |              |                      |                                    |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |                      |
| 672319CC2                               | 14283        | OAKGEN               | 2,750,000.00                       | 2,746,465.07            | 2,747,717.61            | 2,791,965.00            | 12/15/2021    | AA2            | 3.800                                         | 3.997            | 26,125.00                  | 1,252.54                   | 27,377.54                  |                      |
| 786091AG3                               | 14316        | SACGEN               | 5,000,000.00                       | 5,234,153.54            | 5,220,644.69            | 6,070,600.00            | 08/01/2025    | A3             | 7.250                                         | 5.917            | 90,625.00                  | (13,508.85)                | 77,116.15                  |                      |
| <b>Savo Island Loan</b>                 |              |                      |                                    |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |                      |
| SYS10988                                | 10988        | EMPMED               | 233,000.00                         | 233,000.00              | 233,000.00              | 233,000.00              | 09/01/2025    | N/A            | 8.000                                         | 8.000            | 4,647.23                   | -                          | 4,647.23                   |                      |
| <b>Preferred Securities</b>             |              |                      |                                    |                         |                         |                         |               |                |                                               |                  |                            |                            |                            |                      |
| 00206R706                               | 14591        | AT&T Inc.            | 1,680,033.60                       | 1,680,033.60            | 1,680,033.60            | 1,772,702.12            | N/A           | N/A            | 4.596                                         |                  | 19,570.30                  | -                          | 19,570.30                  |                      |
| 00206R706                               | 14596        | AT&T Inc.            | 1,680,008.40                       | 1,680,008.40            | 1,680,008.40            | 1,772,675.53            | N/A           | N/A            | 4.640                                         |                  | 19,029.86                  | -                          | 19,029.86                  |                      |
| 00206R706                               | 14597        | AT&T Inc.            | 2,520,000.00                       | 2,520,000.00            | 2,520,000.00            | 2,659,000.00            | N/A           | N/A            | 4.643                                         |                  | 25,005.05                  | -                          | 25,005.05                  |                      |
| <b>Total</b>                            |              |                      | <b>\$ 16,463,042.00</b>            | <b>\$ 16,702,119.32</b> | <b>\$ 16,689,408.24</b> | <b>\$ 18,116,028.65</b> |               |                |                                               |                  | <b>4.561</b>               | <b>\$ 202,552.44</b>       | <b>\$ (12,711.08)</b>      | <b>\$ 189,841.36</b> |

|                                                     |                  |
|-----------------------------------------------------|------------------|
| Total Investments (Book Value)                      | \$ 16,689,408.24 |
| Gain/Loss on Investments                            | 1,426,620.41     |
| Total Investments (Market Value)                    | 18,116,028.65    |
| Temporarily Invested with Pooled Cash & Investments | 13,730,295.00    |
| Total Pooled Cash and Investments                   | \$ 31,846,323.65 |



**Fire Retiree Medical  
Fund 736  
Interest Earnings  
April 1 to June 30, 2021**

| Investments<br>As of June 30, 2021      |              |                            |                        |                        |                        |                        |               |                | Interest Earnings<br>April 1 to June 30, 2021 |                  |                            |                            |                            |
|-----------------------------------------|--------------|----------------------------|------------------------|------------------------|------------------------|------------------------|---------------|----------------|-----------------------------------------------|------------------|----------------------------|----------------------------|----------------------------|
| CUSIP                                   | Investment # | Issuer                     | Par Value              | Beginning Book Value   | Ending Book Value      | Market Value           | Maturity Date | Moody's Rating | Current Rate                                  | Annualized Yield | Adjusted Interest Earnings |                            |                            |
|                                         |              |                            |                        |                        |                        |                        |               |                |                                               |                  | Interest Earned            | Amortization/<br>Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                |              |                            |                        |                        |                        |                        |               |                |                                               |                  |                            |                            |                            |
| 6174467X1                               | 14318        | Morgan Stanley DW DTC#0015 | 2,000,000.00           | 2,035,875.22           | 2,033,945.29           | 2,305,760.00           | 11/24/2025    | BAA1           | 5.000                                         | 4.547            | 25,000.00                  | (1,929.93)                 | 23,070.07                  |
| <b>Federal Agency Coupon Securities</b> |              |                            |                        |                        |                        |                        |               |                |                                               |                  |                            |                            |                            |
| 3133EFQT7                               | 14362        | Fed Farm Credit Bank       | 2,300,000.00           | 2,307,482.71           | 2,307,080.41           | 2,491,153.00           | 11/25/2025    | AAA            | 2.700                                         | 2.629            | 15,525.00                  | (402.30)                   | 15,122.70                  |
| <b>Preferred Securities</b>             |              |                            |                        |                        |                        |                        |               |                |                                               |                  |                            |                            |                            |
| 00206R706                               | 14592        | AT&T Inc.                  | 1,679,983.20           | 1,679,983.20           | 1,679,983.20           | 1,772,648.94           | N/A           | N/A            | 4.596                                         | 3.963            | 16,598.95                  | -                          | 16,598.95                  |
| 00206R706                               | 14594        | AT&T Inc.                  | 839,991.60             | 839,991.60             | 839,991.60             | 886,324.47             | N/A           | N/A            | 4.640                                         | 3.963            | 8,299.47                   | -                          | 8,299.47                   |
| <b>Total</b>                            |              |                            | <b>\$ 6,819,974.80</b> | <b>\$ 6,863,332.73</b> | <b>\$ 6,861,000.50</b> | <b>\$ 7,455,886.41</b> |               |                |                                               | <b>3.688</b>     | <b>\$ 65,423.42</b>        | <b>\$ (2,332.23)</b>       | <b>\$ 63,091.19</b>        |

|                                                     |                         |
|-----------------------------------------------------|-------------------------|
| Total Investments (Book Value)                      | \$ 6,861,000.50         |
| Gain/Loss on Investments                            | 594,885.91              |
| Total Investments (Market Value)                    | 7,455,886.41            |
| Temporarily Invested with Pooled Cash & Investments | 5,176,018.00            |
| Total Pooled Cash and Investments                   | <u>\$ 12,631,904.41</u> |



Police Retiree Medical  
Fund 731 and 706  
Interest Earnings  
April 1 to June 30, 2021

| Investments<br>As of June 30, 2021      |              |                            |                        |                        |                        |                        |               |                | Interest Earnings<br>April 1 to June 30, 2021 |                  |                     |                            |                            |
|-----------------------------------------|--------------|----------------------------|------------------------|------------------------|------------------------|------------------------|---------------|----------------|-----------------------------------------------|------------------|---------------------|----------------------------|----------------------------|
| CUSIP                                   | Investment # | Issuer                     | Par Value              | Beginning Book Value   | Ending Book Value      | Market Value           | Maturity Date | Moody's Rating | Current Rate                                  | Annualized Yield | Interest Earned     | Amortization/<br>Accretion | Adjusted Interest Earnings |
| <b>Medium Term Notes</b>                |              |                            |                        |                        |                        |                        |               |                |                                               |                  |                     |                            |                            |
| 6174467X1                               | 14319        | Morgan Stanley DW DTC#0015 | 500,000.00             | 508,968.80             | 508,486.32             | 576,440.00             | 11/24/25      | BAA1           | 5.000                                         | 4.547            | 6,250.00            | (482.48)                   | 5,767.52                   |
| <b>Federal Agency Coupon Securities</b> |              |                            |                        |                        |                        |                        |               |                |                                               |                  |                     |                            |                            |
| 3133EFQT7                               | 14363        | Fed. Farm Credit Banks     | 2,300,000.00           | 2,307,482.71           | 2,307,080.41           | 2,491,153.00           | 11/25/25      | AAA            | 2.700                                         | 2.629            | 15,525.00           | (402.30)                   | 15,122.70                  |
| <b>Preferred Securities</b>             |              |                            |                        |                        |                        |                        |               |                |                                               |                  |                     |                            |                            |
| 00206R706                               | 14593        | AT&T Inc.                  | 1,679,983.20           | 1,679,983.20           | 1,679,983.20           | 1,772,648.94           | N/A           | N/A            | 4.596                                         | 4.543            | 19,029.57           | -                          | 19,029.57                  |
| <b>Total</b>                            |              |                            | <u>\$ 4,479,983.20</u> | <u>\$ 4,496,434.71</u> | <u>\$ 4,495,549.93</u> | <u>\$ 4,840,241.94</u> |               |                |                                               | <u>4.187</u>     | <u>\$ 40,804.57</u> | <u>\$ (884.78)</u>         | <u>\$ 39,919.79</u>        |

|                                                     |                        |
|-----------------------------------------------------|------------------------|
| Total Investments (Book Value)                      | \$ 4,495,549.93        |
| Gain/Loss on Investments                            | <u>344,692.01</u>      |
| Total Investments (Market Value)                    | 4,840,241.94           |
| Temporarily Invested with Pooled Cash & Investments | <u>3,384,760.00</u>    |
| Total Pooled Cash and Investments                   | <u>\$ 8,225,001.94</u> |





Office of the City Manager

INFORMATION CALENDAR  
November 30, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Lisa Warhuus, Director, Health, Housing & Community Services  
 Subject: Condominium Conversion Program – Annual Report

INTRODUCTION

This report provides the regular annual assessment of condominium conversion program activities as required by Berkeley Municipal Code (BMC) 21.28.020.D. This report focuses on the period starting with calendar year 2008, when the current program went into effect, through September 20, 2021 (the date those data were compiled for this report).

CURRENT SITUATION AND ITS EFFECTS

The Condominium Conversion Ordinance (CCO) requires an annual report to the City Council which includes an assessment of the program and any recommendations for changes to the ordinance. The ordinance allows property owners to convert rental units to ownership units subject to certain requirements and payment of an Affordable Housing Mitigation Fee (AHMF). Fee payments are used to finance Housing Trust Fund activities to mitigate the loss of affordability that results from the conversion of rental units to condominium units. (This fee shares a name with—but is different from—the Affordable Housing Mitigation Fee for new construction market-rate housing in BMC 22.20.065.)

Attachment 1 has a summary of submitted and approved applications since 2008 and a breakdown of revenue the City has received to date. The fee is 4% of the sales price for properties with two units and 8% for properties with three or more units. The ordinance provides owners a 25 percent reduction if they pay the AHMF for their unit when the City approves their applications instead of at sale. To date, 55 units selected this option. The other 65 units selected to pay the fee based on the appraised value (at refinance) or sales price of the unit. This creates a varied collection schedule on outstanding fees based on the owner's decisions to refinance or sell the unit. Fee collection varies each year and can be influenced by the market. The City has received a total of \$3,587,923 in mitigation fee payments from 120 converted units since 2008 (see Table 3 of Attachment 1).

BACKGROUND

Condominium conversion is the process of subdividing a multi-unit property into separately owned housing units with individual mortgages. Subdivisions are regulated under the California Subdivision Map Act and Subdivided Lands Act. State law also allows local governments to impose additional requirements. In Berkeley, these additional requirements are in the CCO (BMC Chapter 21.28 *et seq.*) and include an annual limit on the number of approved units, compliance with local laws, payment of an AHMF, and various tenant protections. The City's current ordinance has been in place since 2009.

In 1992, the City imposed a housing mitigation fee for condominium conversions and banned the creation of Tenancy-in-Common (TIC) properties. Council found TIC ownership problematic and the conversion of rental units to condominiums and TICs reduced the stock of affordable rental units in Berkeley. In a TIC, people share ownership and financing of multi-unit properties and agree among themselves on each part-owners' rights to occupy one unit, often expressed as pro rata shares of property ownership. Some owners of these TIC properties developed legal and financial difficulties among their partners. They sought help from the City Council and Council banned the creation of TICs as a result of those issues.

In 2004, California's Court of Appeals held that cities could not prohibit the conversion of rental units to TICs.<sup>1</sup> The City Council found that while condominium conversions were not ideal, a condominium conversion ordinance was preferred over unregulated TIC conversions. Council changed the ordinance to encourage condominiums over TICs, and revised the ordinance in 2008 and 2009 to include its current standards.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

POSSIBLE FUTURE ACTION

None.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

None.

CONTACT PERSON

Be Tran, Associate Planner, HHCS, (510) 981-5422

## Attachments:

1: Summary Tables for the Condominium Conversion Program

---

<sup>1</sup> *Tom v. City and County of San Francisco*, 2004, 120 Cal. App. 4<sup>th</sup> 674.



**Attachment 1**  
**Summary Tables for the Condominium Conversion Program**

The tables below provide data on calendar years 2008-2021 (up to September 20, 2021). Data prior to 2008 are difficult to compile and analyze due to changes in the process and definitions. Therefore, the total number of approved applications may not match up with the total number of submitted applications due to discrepancy from prior years. Also, applications may take more than one year to obtain approval or may not complete the process under the Condominium Conversion Program.

**Table 1: General Summary**

| Year         | Number of Submitted Applications | Number of Units in Submitted Applications | Number of Approved Applications | Number of Units in Approved Applications |
|--------------|----------------------------------|-------------------------------------------|---------------------------------|------------------------------------------|
| 2008         | 10                               | 35                                        | 8                               | 26                                       |
| 2009         | 5                                | 24                                        | 13                              | 66                                       |
| 2010         | 7                                | 20                                        | 4                               | 19                                       |
| 2011         | 5                                | 22                                        | 3                               | 11                                       |
| 2012         | 5                                | 15                                        | 6                               | 20                                       |
| 2013         | 6                                | 15                                        | 7                               | 15                                       |
| 2014         | 2                                | 7                                         | 3                               | 11                                       |
| 2015         | 1                                | 2                                         | 2                               | 7                                        |
| 2016         | 7                                | 17                                        | 1                               | 2                                        |
| 2017         | 1                                | 3                                         | 4                               | 9                                        |
| 2018         | 1                                | 2                                         | 1                               | 4                                        |
| 2019         | 3                                | 9                                         | 5                               | 12                                       |
| 2020         | 1                                | 4                                         | 3                               | 12                                       |
| 2021         | 2                                | 14                                        | 0                               | 0                                        |
| <b>Total</b> | <b>56</b>                        | <b>189</b>                                | <b>60</b>                       | <b>214</b>                               |

**Table 2: Applications Currently in the Process**

|                      | Applications | Units |
|----------------------|--------------|-------|
| Pending Applications | 6            | 26    |

**Table 3: Revenue Received from Affordable Housing Mitigation Fee**

Of the approved units required to pay the fee, the owners of 120 units have paid the fee up front (at the time of application approval), at refinance, or at time of sale. The owners of the remaining units will pay the fee when they sell or refinance their units. Linking the fee payment with sales means that fee revenue trends follow the real estate market, which is why revenue varies from year to year.

| Year         | Amount Received    | Total Number of Units | Number of Units Paid at Time of Application Approval | Number of Units Paid at Refinance | Number of Units Paid at Time of Sale |
|--------------|--------------------|-----------------------|------------------------------------------------------|-----------------------------------|--------------------------------------|
| 2008         | \$47,072           | 3                     | 0                                                    | 0                                 | 3                                    |
| 2009         | \$0                | 0                     | 0                                                    | 0                                 | 0                                    |
| 2010         | \$116,200          | 2                     | 0                                                    | 1                                 | 1                                    |
| 2011         | \$76,280           | 4                     | 3                                                    | 0                                 | 1                                    |
| 2012         | \$269,145          | 13                    | 9                                                    | 1                                 | 3                                    |
| 2013         | \$237,795          | 14                    | 9                                                    | 0                                 | 5                                    |
| 2014         | \$820,529          | 28                    | 5                                                    | 13                                | 10                                   |
| 2015         | \$249,708          | 8                     | 3                                                    | 0                                 | 5                                    |
| 2016         | \$64,600           | 2                     | 0                                                    | 0                                 | 2                                    |
| 2017         | \$495,888          | 14                    | 9                                                    | 2                                 | 3                                    |
| 2018         | \$386,346          | 11                    | 6                                                    | 0                                 | 5                                    |
| 2019         | \$179,600          | 5                     | 4                                                    | 0                                 | 1                                    |
| 2020         | \$501,560          | 11                    | 7                                                    | 0                                 | 4                                    |
| 2021         | \$143,200          | 5                     | 0                                                    | 0                                 | 5                                    |
| <b>Total</b> | <b>\$3,587,923</b> | <b>120</b>            | <b>55</b>                                            | <b>17</b>                         | <b>48</b>                            |



Office of the City Manager

INFORMATION CALENDAR

November 30, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Department of Planning and Development

Subject: Berkeley's 2019 Community-Wide Greenhouse Gas Emissions Inventory

SUMMARY

City staff conducts an annual greenhouse gas (GHG) emissions inventory to understand the sources of community-wide GHG emissions, to measure progress towards meeting the City's Climate Action Plan (CAP) goals, and to move toward becoming a Fossil Fuel-Free city. Like previous annual inventories, Berkeley's 2019 community-wide GHG inventory focuses on emissions specifically occurring within the City and includes the following sources: transportation (on-road vehicles and public transit), building electricity usage, building natural gas consumption, landfill solid waste, and emissions from water consumption and wastewater treatment.

Total community-wide GHG emissions in 2019 decreased 26% from the 2000 baseline, and decreased 4% from 2018. The GHG emissions inventory for 2019 was the last inventory before the COVID-19 pandemic, which will impact the data found in future inventories, particularly in the transportation and building sectors.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's community-wide GHG emissions inventory is a Strategic Plan Priority Project, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

**2019 Community-Wide Greenhouse Gas Emissions Inventory**

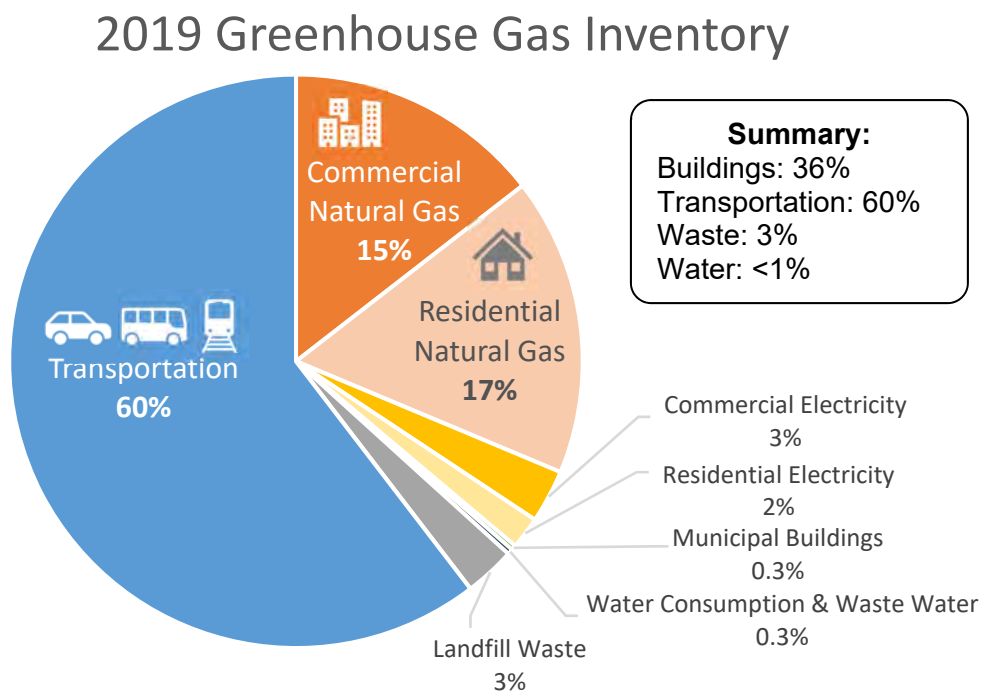
In 2019, Berkeley's community-wide greenhouse gas emissions totaled 540,569 metric tons of carbon dioxide equivalent (mtCO<sub>2</sub>e).

The distribution of Berkeley's emissions seen below in **Figure 1** is similar to previous years, with the majority of emissions coming from Berkeley's transportation sector and the natural gas consumed within buildings. Emissions from the transportation sector, which includes on-road vehicles, BART, AC Transit, Amtrak and maritime vessels, accounted for 60% (326,568 mtCO<sub>2</sub>e) of the overall emissions.

Energy usage data for Berkeley buildings, provided by East Bay Community Energy (EBCE) and PG&E, is broken down into residential, municipal, and commercial (including industrial) buildings—for both electricity use and natural gas combustion. The

built environment is the second largest source of emissions at 36% (196,819 mtCO<sub>2e</sub>). As the electricity grid becomes cleaner, the combustion of fossil fuels (i.e., natural gas) within Berkeley's buildings becomes the primary source of the building sector's emissions, accounting for 32% of Berkeley's overall greenhouse emissions.

**Figure 1:** Pie chart of 2019 community-wide GHG emissions inventory, broken down by sector and fuel.



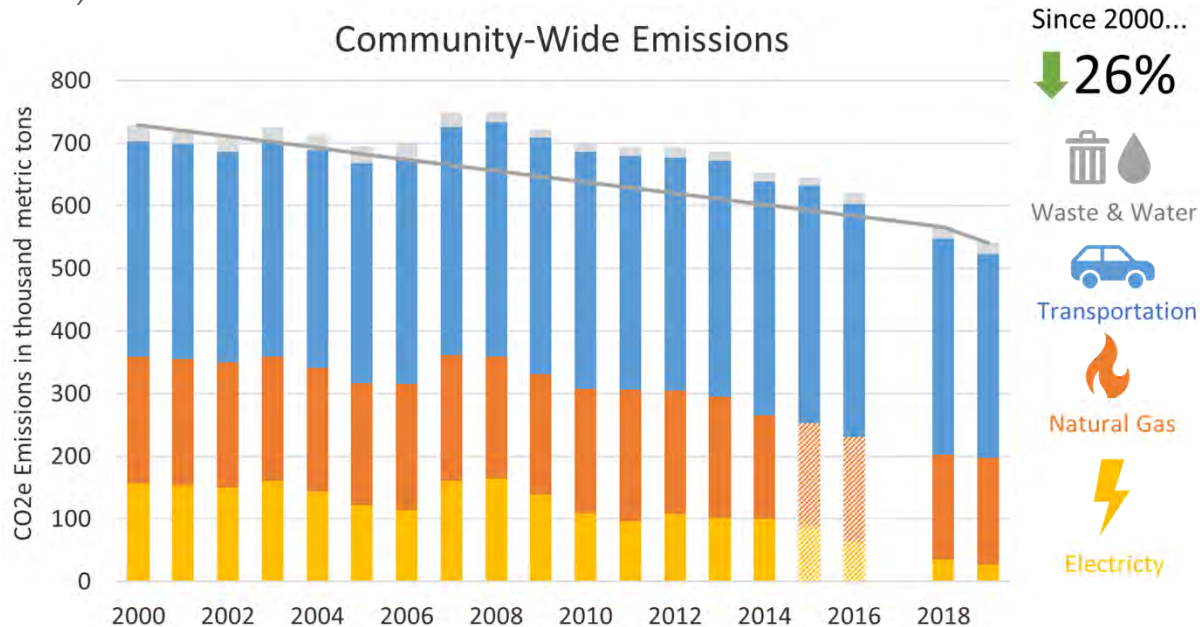
Emissions from Berkeley's municipal buildings account for 0.3% (1,442 mtCO<sub>2e</sub>) of the 2019 community-wide emissions. See **Attachment 1** for additional information on Berkeley's municipal building energy efficiency and electrification projects.

The remaining 4% (17,182 mtCO<sub>2e</sub>) of Berkeley's community-wide emissions come from landfill solid waste, water consumption, and waste water treatment.

**Current Community-Wide Sector-Based GHG Emission Trends**

The most current community emissions from 2019 are compared to the Climate Action Plan (CAP) baseline year of 2000, to identify reductions achieved thus far. A historic summary of Berkeley's annual emissions inventories from 2000 to 2019 is provided in **Figure 2**. Please note that due to data access issues, building energy use data for 2015 and 2016 was developed with assumptions and is represented with shaded coloring. No inventory was calculated for 2017, so that year of data is omitted.

**Figure 1:** Historic Berkeley emissions inventories back to 2000, broken out into building natural gas and electricity, transportation, and other (water, wastewater treatment and landfill solid waste).



Community-wide emissions in 2019 decreased 26% from the 2000 baseline and decreased 4% from 2018. Berkeley has moved beyond its initial emissions reduction goal, 80% GHG emissions reduction by 2050, established by the CAP. On May 11, 2021, Berkeley City Council committed to become zero net emissions by 2045 or sooner<sup>1</sup>, requiring an additional 74% reduction of GHG emissions over the next 24 years.

### Buildings

Overall greenhouse gas emissions from Berkeley's building sector decreased by 3% from 2018 to 2019, placing our current building sector emissions 45% below our 2000 baseline. Total community-wide electricity usage decreased 4% while total community-wide natural gas usage increased by 1% from 2018 to 2019.

Impacts to Berkeley's Building sector emissions:

- PG&E Electricity Emission Factor - While the majority of the community-wide electricity is provided by EBCE, 7% was provided by PG&E in 2019. PG&E's default electricity product for 2019 was initially calculated to be nearly emissions-free through a new calculation methodology, but is currently being re-evaluated

<sup>1</sup>Commit to Race to Zero Council Report and Resolution, May 11, 2021:  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2021/05\\_May/Documents/2021-05-11\\_Item\\_19\\_Commit\\_to\\_C40\\_Race\\_to\\_Zero\\_Campaign.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/05_May/Documents/2021-05-11_Item_19_Commit_to_C40_Race_to_Zero_Campaign.aspx)

by the Climate Registry<sup>2</sup>. Until the 2019 emission factor is published, the Climate Registry has specified that PG&E's 2018 emission factor should be used for 2019 calculations.

- Continual Roll-out of East Bay Community Energy – In 2018, 31% of our community-wide electricity usage was provided by EBCE, with 1% of that usage provided by one of EBCE's emissions-free products, Renewable 100 and Brilliant 100. The automatic roll-out, switching both residential and commercial accounts from electricity purchased through PG&E to EBCE, continued into 2019. Due to this rollout, electricity provided by EBCE increased to 93% of community-wide electricity usage for 2019 and the usage provided by one of EBCE's emissions free products increased to 3%.
- EBCE Bright Choice Electricity Emission Factor – The emission factor for EBCE's default electricity product, Bright Choice, increased by 34% in 2019. The Bright Choice product accounts for 90% of our 2019 community-wide electricity consumption. Even with the emission factor increasing from 2018 to 2019 it still remains significantly lower than PG&E's emission factor for 2018. The increase is related to the changing procurement costs and loss of nuclear allocation in the 2019 electricity mix. EBCE is committed to providing 100% emission-free Bright Choice by 2030. Additionally, during 2022, all Berkeley Customers will be automatically opted-up into EBCE's Renewable 100<sup>3</sup>.

## Transportation

A new data source and methodology was used to calculate community-wide emissions from the transportation sector. Using the new methodology, total community-wide transportation emissions decreased 5% from 2018 to 2019 due in part to more sustainable modes of commuting.

The City has historically used the Bay Area's Metropolitan Transportation Commission (MTC), Travel Model One, to calculate emissions for the transportation sector. Travel Model One is based on a simulation model of typical weekday travel, created to assist in regional planning activities. The model's projections use historic data, and estimate total vehicle miles on 5-year increments. As a result, using this model makes it difficult to track the impact of new transportation policies, yearly changes to commuting patterns, or impacts from events like the COVID-19 pandemic.

---

<sup>2</sup> Emission factors for both PG&E and EBCE electricity are verified by a third-party and publicly reported through the Climate Registry: <https://www.theclimateregistry.org/our-members/cris-public-reports/>

<sup>3</sup> Energy Commission Report to Council: Adopt a Resolution to Upgrade Residential and Commercial Customers to East Bay Community Energy (EBCE) Renewable 100 Plan, June 29, 2021: [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/06\\_June/Documents/2021-06-29\\_Item\\_24\\_Adopt\\_a\\_Resolution\\_to\\_Upgrade\\_Residential.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/06_June/Documents/2021-06-29_Item_24_Adopt_a_Resolution_to_Upgrade_Residential.aspx)

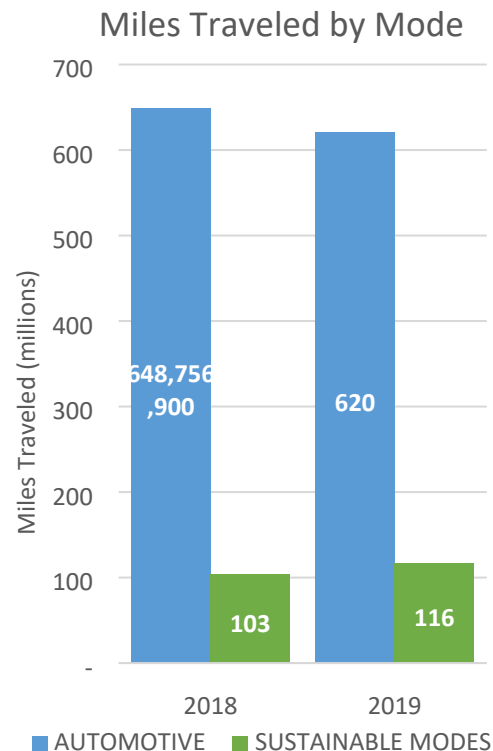
In December 2018, Google launched the Environmental Insights Explorer (EIE). Google EIE is a free tool that helps cities measure emissions from both building energy usage and on-road transportation. Google EIE estimates vehicle miles based on aggregated and anonymized location history data<sup>4</sup>. Since the data is based on continuous observation, Google EIE data is a more accurate indicator of year-to-year changes to local transportation activity and the commuting impacts from COVID-19.

In addition to providing vehicle miles, Google EIE data provides the share of miles traveled through sustainable modes of transportation (see **Figure 3**). The total number of miles traveled through sustainable modes of transportation, which includes public transit, cycling, and walking, increased by 13% from 2018 to 2019, with the majority of these miles being taken on BART and/or on foot (see **Figure 4**). During that same time period, the total number of miles driven by people in automotive vehicles decreased by 4%. This is the first year Berkeley has been able to track these modes at this level of detail.

Impacts to Berkeley's Transportation sector emissions:

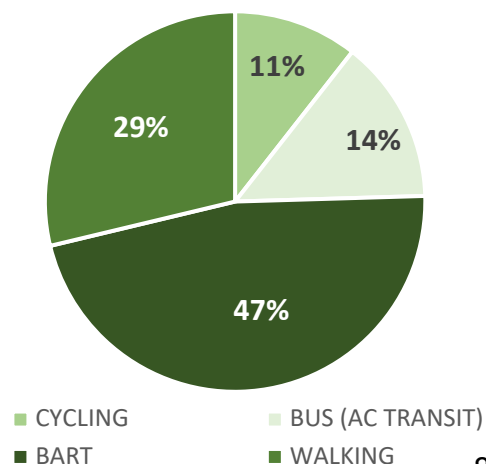
- Switching from MTC to Google EIE model - 2018 is the first available year for Google's EIE data and Berkeley's 2018 emissions inventory was updated with the new methodology. Inventories prior to 2018 will remain on the MTC modeled transportation emissions. Switching to the Google EIE data has slightly increased the transportation sector emissions for both 2018 and 2019. The 2018 transportation sector emissions calculated with Google EIE data was 7% higher than the MTC modeled emissions, and the 2019 transportation emissions with Google EIE data was only 2% higher than the MTC modeled emissions.
- Using National Defaults – The 2019 transportation emissions were calculated using total vehicle miles traveled from Google EIE and national default values for determining vehicle categories and their average fuel economy. Over the next year, staff will work to develop and vet a

**Figure 2:** Total miles traveled via automotive and sustainable modes of transportation.



**Figure 3:** Proportion of miles traveled on sustainable modes of transportation by type for 2019.

2019 Sustainable Modes



<sup>4</sup> [Technical Review of Google Environmental Insights Explorer](#)

new methodology to replace the national defaults with local values.

### Landfill Solid Waste

Total community-wide landfill solid waste and overall emissions from the waste sector decreased by 3.6% in 2019 compared to 2018, placing our current waste sector emissions 35% below our 2000 baseline.

### Additional Context

- Race to Zero – The Race to Zero is global campaign run by the COP26 Presidency and High-Level Climate Champions to rally non-state entities, including companies, cities and regions, to take immediate action to halve global emissions by 2030 and be net zero emissions by 2050. The City of Berkeley joined<sup>5</sup> the Race to Zero initiative on May 11, 2021, committing to reach net zero emissions by 2045 and to set an interim 2030 target consistent with a fair share of 50% global emission reductions.
- Consumption-Based GHG Emissions Inventory - Although the more traditional emission inventory that Berkeley uses—known as a “production-based” or “sector-based” inventory—lays a foundation for key climate policy and program planning, taking a look at the emissions beyond Berkeley’s borders is necessary to address the climate crisis as a regional or global issue. Consumption-based inventories consider the entire life cycle of a specific product to calculate its GHG emissions. Included are goods and services such as air travel (even if, as for Berkeley, the airport is located outside of a jurisdictional boundary), food, appliances, and construction of buildings. An inventory of all Alameda County cities was created by the CoolClimate Network in 2018<sup>6</sup> and was reported in Berkeley’s Community-wide Greenhouse Gas Emissions Inventory that year. Capturing this data accurately has been proven very complex and there is currently no standardized methodology to account and report across cities.
- Embodied Carbon – Embodied carbon is the carbon dioxide equivalent (CO<sub>2</sub>e) emissions associated with the materials and construction process for buildings or infrastructure. Only operational carbon, from building energy consumption, is captured through Berkeley’s building sector emissions and emissions related to a building’s embodied carbon are not included in Berkeley’s annual emissions inventory.
- Interest in Regional/State inventories – There is increasing interest in transitioning annual local greenhouse gas inventories to a regional or state entity, such as the California Air Resources Board (CARB). These inventories would continue to provide sector-based emissions at the city-level jurisdictional

<sup>5</sup> Commit to Race to Zero Council Report and Resolution, May 11, 2021:  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2021/05\\_May/Documents/2021-05-11\\_Item\\_19\\_Commit\\_to\\_C40\\_Race\\_to\\_Zero\\_Campaign.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/05_May/Documents/2021-05-11_Item_19_Commit_to_C40_Race_to_Zero_Campaign.aspx)

<sup>6</sup> Bay Area Air Quality Management District, Consumption-Based GHG Emissions Inventory:  
<https://www.baaqmd.gov/about-air-quality/research-and-data/emission-inventory/consumption-based-ghg-emissions-inventory>



boundary but the data collection, processing, and reporting would be completed by a regional or state entity. These groups have better access to the data needed for this work and it would increase standardization of the varying inventory methodologies across local jurisdictions, allowing for meaningful cross-jurisdictional comparisons.

Staff will continue to work with regional and other partners, such as StopWaste, the Local Government Commission, and the Urban Sustainability Director's Network, to monitor advances in greenhouse inventory models, tools, and frameworks that would improve Berkeley's understanding and efforts to capture community-wide emissions.

### BACKGROUND

Since Berkeley's adoption of its historic Climate Action Plan in 2009, city staff has conducted an annual GHG emissions inventory in order to understand the sources of community-wide GHG emissions, and the impacts of local, regional, and larger efforts to reduce emissions. Data is gathered from regional entities on sector-specific activities, and is then converted to metric tons of carbon dioxide equivalent (mtCO<sub>2</sub>e). The inventory utilizes the best available data and follows the Global Covenant of Mayors for Climate & Energy protocol which allows the City to report consistently to the community and to other agencies.

Although this inventory does not include UC Berkeley and The Berkeley Lab, as they are outside the City's jurisdiction, they continue to be valued partners in efforts working to improve Berkeley's shared community emissions and combat climate change.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Berkeley's community-wide annual greenhouse gas inventory allows the city to measure and track its progress for implementing Berkeley's Climate Action Plan and reaching zero net emissions by 2045.

### POSSIBLE FUTURE ACTION

The Race to Zero initiative requires Cities to establish an interim science-based 2030 target that is consistent with a fair share of 50% global emission reductions. Staff is working with ICLEI, a global network of local governments, to create the required science-based 2030 target. Accompanying the 2019 GHG inventory report, staff will bring the 2030 emission reduction target to Council for consideration.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no direct fiscal impacts to establishing the science-based 2030 target.

### CONTACT PERSON

Billi Romain, Manager, Office of Energy & Sustainable Development – Planning Department, (510) 981-9732

Attachments:

1: Municipal Facilities Emissions Savings Upgrades (2019)

## **Attachment 1: Municipal Facilities Emissions Savings Upgrades (2019)**

The City continues to make improvements to its municipal facilities to increase energy efficiency, lower energy costs, reduce greenhouse gas (GHG) emissions, and transition buildings toward being all-electric powered by clean electricity. Municipal buildings use emissions-free electricity from East Bay Community Energy (EBCE), purchasing the Brilliant 100 product in 2019 and the Renewable 100 product as of 2021.

Energy upgrades, including efficiency and electrification, were integrated into building renovations and capital improvement projects during 2019. Those projects and others funded through incentives and grants, are highlighted below:

### **Mental Health Adult Services Clinic, 2640 Martin Luther King Jr. Way**

Significant building renovation, with the intent of being an all-electric zero emissions building, was started in 2018. Older plumbing equipment was replaced with high efficiency products and inefficient natural gas systems were replaced with efficient electric heat pump technology. All of the natural gas end uses were eliminated and the gas meter was removed. Electric service was increased to accommodate new heating and cooling energy loads, and a solar electric system was installed that is intended to offset 100% of the electric energy used at this site. The building will have a formal case study done, as part of the Lawrence Berkeley National Labs grant, which also includes energy monitoring for several years.

### **Live Oak Recreation Center, 1301 Shattuck Avenue**

Renovations during 2019 included energy upgrades and partial electrification of the heating systems to remove gas wall furnaces in the recreation center. Gas heat remains in the theater portion of the building, which is leased to various entities. Water heating has been electrified and a new roof with insulation was installed to reduce summer solar heat gain and preserve winter heat provided by the heat pump. Large ceiling-mounted fans were installed in the gymnasium area to increase occupant comfort and save on cooling loads. A full cost and energy analysis will be done for 2020.

### **North Berkeley Senior Center, 1901 Hearst Avenue**

This Senior Center closed for renovations in 2019 and will be an all-electric building when completed by 2022. The gas boilers were replaced with high efficiency heat pumps and a solar PV system has been added to offset annual energy use. An EBCE grant of \$49,000 for Commercial Kitchen Electrification was awarded in 2021 for both North and South Berkeley Senior Centers. The grant provides funding to replace the gas range with a new six-burner electric induction cooktop. It will also replace the original kitchen steam table, which used natural gas-heated hot water and electric resistance heaters to keep food warm, with a new dry well induction food warming table, thereby reducing electric load and eliminating this need for hot water, saving both gas and water costs.

**South Berkeley Senior Center, 2939 Ellis Street**

The South Berkeley Senior Center is also a recipient of the same Commercial Kitchen Electrification grant to the City from EBCE. This grant will cover some of the costs of new induction cooktop, a new drywell food warmer to replace the original steam table, the costs of all electrical induction cooking equipment, and labor to rewire circuits to these appliances.

**Public Safety Building, 2100 Martin Luther King Jr Way**

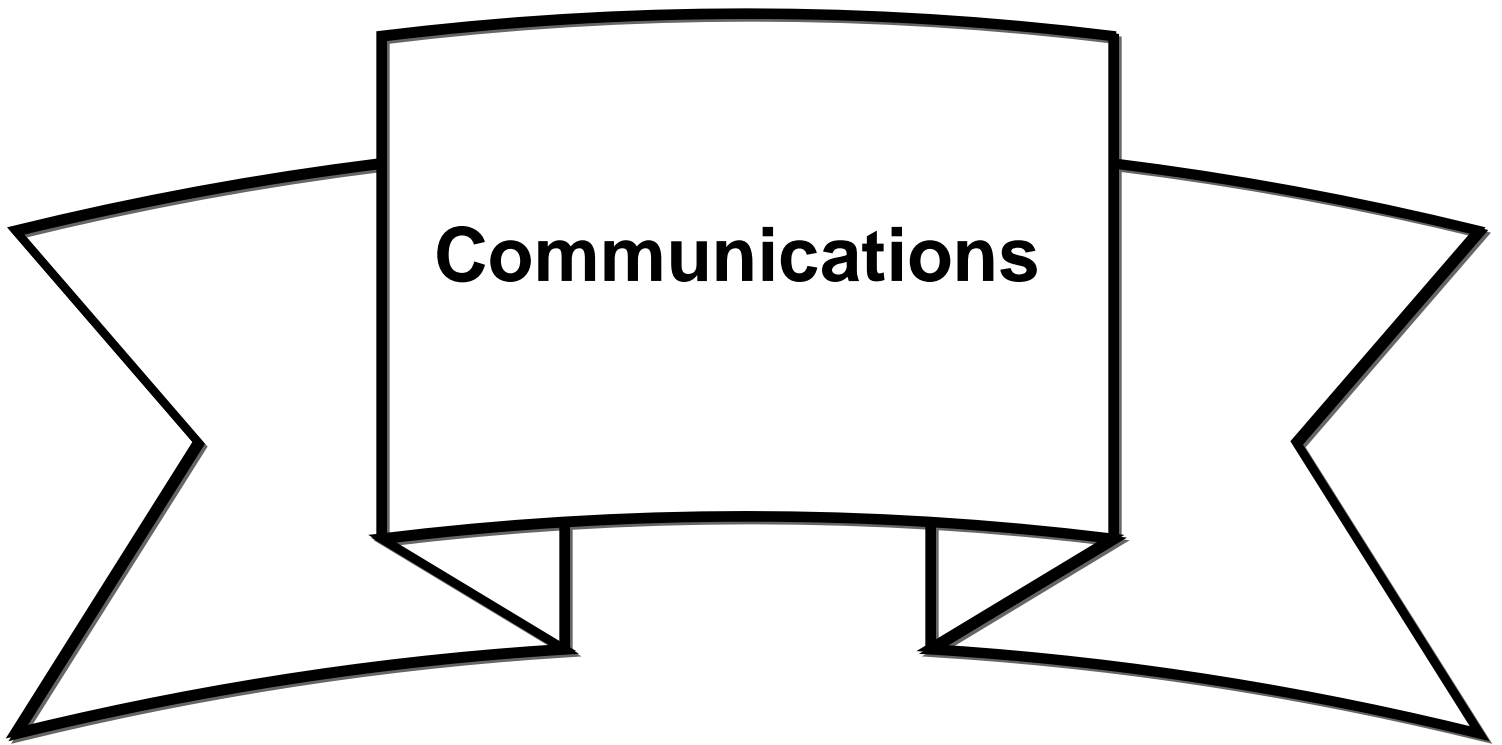
Beginning in 2018, the Public Safety Building (PSB) started participating in an Automated Demand Response (ADR) project that resulted in cost savings of about \$11,000 that year, plus a one-time incentive of \$1,400. A lighting upgrade to LEDs and better lighting controls was completed in the PSB in 2019, resulting in total cost savings of \$13,600 in 2019. The lighting upgrade was the City's first On Bill Financing (OBF) project. The total cost was \$250,000, with zero up-front costs; the City is repaying the loan on its monthly utility bill. The loan payment is roughly equal to the energy cost savings, resulting in no cost increase for the City, while reducing energy use and GHG emissions. Additional OBF projects are being developed as energy efficiency and electrification assessments are completed for other City buildings.

**Dona Spring Animal Shelter, 1 Bolivar Drive**

A complete energy assessment was done in 2018-2019 of all systems at the Animal Shelter, including HVAC, lighting, and plug loads. This study delineated the energy used by the AT&T cell phone tower on top of the building from the Animal Shelter operations.

**Municipal Street Light Retrofit to Lower Wattage LEDs, citywide**

Municipal street lights were originally converted to LEDs in 2010-2012. In 2018-2020, approximately 7,000 cobra head street light fixtures were replaced due to a manufacturing defect. The new, lower wattage fixtures, provided by the vendor to the City at no cost, meet CalTrans standards and will result in considerably less energy consumed and lower utility bills. A full cost and energy analysis of this project is pending, as PG&E is still correcting the billing and providing updated energy consumption for 2019.



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