

# ANNOTATED AGENDA SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

**Tuesday, November 21, 2023  
9:00 AM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION – 37238 HUCKABY LANE, MURRIETA, CA 92562

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 – MARK HUMBERT

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

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

*Remote participation by the public is available through Zoom. To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1618247322>. To request to speak, use the “raise hand” icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** or **1-833-568-8864 (Toll Free)** and enter **Meeting ID: 161 824 7322**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair. Please be mindful that the meeting will be recorded.*

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

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

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

## Preliminary Matters

**Roll Call:** 9:03 a.m.

**Present:** Bartlett, Harrison, Hahn, Robinson, Humbert, Arreguin

**Absent:** Kesarwani, Taplin, Wengraf

Councilmember Taplin present at 9:13 p.m.

Councilmember Kesarwani present at 9:13 p.m.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 0 speakers.

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

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

## Consent Calendar

- 1. Contract No. 090741-1 Amendment: Foster and Foster Consulting Actuaries Inc (formerly Bartel Associates, LLC) for Actuarial Consulting Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 090741-1 increasing contract amount by \$370,000 with Foster and Foster Consulting Actuaries Inc (formerly Bartel Associates, LLC) for Actuarial Consulting Services, for a revised total contract amount not to exceed \$750,000 through December 31, 2025.  
**Financial Implications:** See report  
Contact: Sharon Friedrichsen, Budget Manager, (510) 981-7000  
**Action:** Adopted Resolution No. 71,098–N.S.
- 2. Resolution of Intention - Expansion of the Elmwood BID for Calendar Year 2025**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution declaring the City Council's intention to levy an assessment in the Elmwood Business Improvement District (“BID” or “District”) for 2025 and directing the City Clerk to schedule a public hearing for January 16, 2024 regarding an expanded district boundary and assessment rates for 2025.  
**Financial Implications:** See report  
Contact: Eleanor Hollander, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 71,099–N.S.

## Consent Calendar

**3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 14, 2023**

**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 - \$2,453,813

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

**Action:** Approved recommendation.

**4. Dorothy Day House Contract Amendment No. 31900284 to fund an Inclement Weather Shelter Program**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute an amendment to Contract No. 31900284 with Dorothy Day House (DDH) to add up to \$290,000 to operate the 2023-2024 inclement weather shelter for a total contract amount not to exceed \$6,549,173.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 71,100–N.S.

**5. Contract: Mercury Associates, Inc. for Fleet Replacement/Maintenance Study and Consulting Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Mercury Associates, Inc. to complete a fleet assessment, right sizing study, and fleet consulting services for a total amount not to exceed \$125,000 for the contract period of December 1, 2023 through December 30, 2026.

**Financial Implications:** See report

Contact: LaTanya Bellow, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 71,101–N.S.

**6. Purchase Order: Western Truck Parts and Equipment for One Roll Off Truck**

**From: City Manager**

**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City Manager to participate in Sourcwell bid procedures and authorize the City Manager to execute a purchase order for one (1) Roll Off Truck with Western Truck Parts and Equipment in an amount not to exceed \$335,000.

**Financial Implications:** See report

Contact: LaTanya Bellow, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 71,102–N.S.

## Consent Calendar

7. **Purchase Order Amendment: Diesel Direct West, Inc. for Fuel for City Vehicles and Equipment**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend the multi-year purchase order with Diesel Direct West, Inc. for the purchase of fuel for City vehicles and emergency equipment (including generators,) increasing the combined amount by \$400,000 for a total not-to-exceed amount of \$11,894,000, through February 28, 2024.  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 71,103–N.S.

## Council Consent Items

8. **Budget Referral: Berkeley Junior Jackets Facilities Expenses**  
**From: Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Refer to the Annual Appropriations Ordinance #2 process \$7,000 to provide Young Lives Matter Foundation, Inc. the necessary funds for the Berkeley Junior Jackets youth sports program's operating expenses associated with the use of Berkeley Unified School District facilities.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation.
9. **Memorandum of Understanding for East Bay Hills Regional Wildfire Prevention and Coordination**  
**From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Humbert (Co-Sponsor)**  
**Recommendation:** Adopt a resolution authorizing the City of Berkeley to enter into a Memorandum of Understanding (MOU) with other jurisdictions in Alameda and Contra Costa Counties to form a Wildfire Prevention Coordinating Group (WPCG) to improve regionwide collaboration to reduce wildfire risk.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160  
**Action:** Adopted Resolution No. 71,104–N.S.

## Action Calendar – Public Hearings

**10. Renewal of the Elmwood Avenue BID for Calendar Year 2024** *(Continued from November 14, 2023)*

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) and, if no majority protest exists, levy annual assessments in the District for calendar year 2024 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 0 speakers. M/S/C (Arreguin/Hahn) to close the public hearing.

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

**Action:** M/S/C (Arreguin/Hahn) to adopt Resolution No. 71,105–N.S.

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

**11. Renewal of the Solano Avenue BID for Calendar Year 2024** *(Continued from November 14, 2023)*

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2023-2024 and, if no majority protest exists, levy annual assessments in the District for calendar year 2024 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 0 speakers. M/S/C (Arreguin/Hahn) to close the public hearing.

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

**Action:** M/S/C (Arreguin/Hahn) to adopt Resolution No. 71,106–N.S.

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

The Mayor requested that the members of the public in attendance adhere to the City Council Rules of Procedure regarding decorum and cease their disruption of the meeting by shouting and yelling.

Recess 9:08 a.m. – 9:13 a.m.

## Action Calendar – Public Hearings

The Mayor issued a warning to the members of the public in attendance that they were disrupting the meeting and making the orderly conduct of business unfeasible by shouting, chanting, and yelling. The disruption continued. The Council continued the meeting without members of the public present, allowing for members of the media to observe, as provided for in Government Code Section 54957.9 (Brown Act). The meeting continued on the videoconference platform and members of the public were able to provide public comments remotely.

**12. Amendments to the Berkeley Election Reform Act to ensure consistency within the Act for cost of living adjustments and committee reporting requirement thresholds** *(Continued from November 14, 2023)*

**From:** Fair Campaign Practices Commission

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to (1) amend provisions related to filing requirement thresholds to be consistent with recent amendment to qualification threshold for committees ; and (2) add two dollar amount thresholds to the list of amounts subject to cost of living adjustments in order to maintain consistency with other associated amounts.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 2 speakers.

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

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

**Action:** M/S/C (Arreguin/Taplin) to adopt first reading of Ordinance No. 7,889–N.S. Second reading scheduled for December 12, 2023.

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

**13. Amendments to Berkeley Municipal Code Title 23 (Zoning Ordinance), the Zoning Map, General Plan Land Use Diagram, and the General Plan Relating to the Southside Zoning Implementation Program of the 2023-2031 Housing Element Update** *(Continued from November 14, 2023) (Item contains supplemental material)*

**From:** City Manager

**Recommendation:** Conduct a public hearing and upon conclusion:

1. Adopt a first reading of an Ordinance amending Title 23 of the Berkeley Municipal Code to increase residential development potential in the Southside Plan Area, per Program 27— Priority Development Areas, Commercial and Transit Corridors and Program 33—Zoning Code Amendment: Residential of the 2023-2031 Housing Element Update

2. Adopt a Resolution:

a. Adopting an Addendum to the 2023-2031 Housing Element Update Environmental

## Action Calendar – Public Hearings

Impact Report (EIR); and

b. Approving and adopting General Plan map and text amendments to re-designate certain parcels and update certain land use designations to be consistent with the associated Ordinance amendments.

3. Refer to the City Manager to analyze prevailing wage requirements, as recommended in Planning Commission's letter dated September 15, 2023; and refer a budget allocation of \$50,000 for this project to the FY2025 budget process.

**Financial Implications:** See report

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

**Action:** M/S/C (Arreguin/Hahn) to accept supplemental materials from Councilmember Hahn for Item 13.

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

**Public Testimony:** The Mayor opened the public hearing. 18 speakers.

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

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

**Action:** M/S/Failed (Hahn/Harrison) to: 1) adopt the staff recommendation with the prevailing wage provisions from Councilmember Robinson's motion, but only applicable to the Southside; 2) refer the light and ventilation requirements only for the Southside to the Planning Commission and staff with a requested return date of February 2024; 3) refer the frontage strips in certain Southside zones to the Planning Commission and staff with a requested return date of February 2024; 4) remove pet washing stations from the paragraph regarding shared residential amenities; 5) include the effective date of March 1, 2024 or the prevailing wage effective date; and 6) include paragraph 4 from the revised motion from Councilmember Robinson (except for 4.b.).

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

**Action:** To include the severed portion of the main motion (paragraph 3 related to prevailing wage) in the main motion.

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

**Action:** To include the severed portion of the main motion (paragraph 4.b. related to affordable housing requirements) in the main motion.

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

## Action Calendar – Public Hearings

**Action:** M/S/Carried (Robinson/Humbert) to:

1. Adopt a first reading of Ordinance No. 7,890–N.S. as modified at the meeting to amend Title 23 of the Berkeley Municipal Code to increase residential development potential in the Southside Plan Area, per Program 27— Priority Development Areas, Commercial and Transit Corridors and Program 33—Zoning Code Amendment: Residential of the 2023-2031 Housing Element Update. The effective date shall be March 1, 2024 or the effective date of a prevailing wage policy adopted pursuant to this council action, whichever comes first. Second reading scheduled for December 12, 2023.
2. Adopt Resolution No. 71,107–N.S.:
  - a. Adopting an Addendum to the 2023-2031 Housing Element Update Environmental Impact Report (EIR); and
  - b. Approving and adopting General Plan map and text amendments to redesignate certain parcels and update certain land use designations to be consistent with the associated Ordinance amendments.
3. Include prevailing wage requirements in Southside as an amendment to the BMC as described in Attachment 2 alongside adoption of the Southside zoning amendments. Staff should consider if a new first reading is required to effectuate these changes. Staff should revise the language as appropriate to conform to the municipal code and should revise the language to ensure that “registered apprenticeship” programs are recognized, not exclusively those associated with the Building & Construction Trades Council.
4. Refer to the City Manager to analyze and present recommendations and policy alternatives relating to prevailing wage requirements citywide in the City of Berkeley; and refer a budget allocation of \$50,000 for this project to the FY2024 AAO#1 budget process. Staff should seek to conduct this study alongside currently ongoing housing feasibility analysis to the extent possible, insofar as it does not significantly delay other upcoming zoning reforms. Staff should illustrate any tradeoffs associated with such a policy, propose appropriate thresholds for implementation, and indicate if accompanying actions are necessary to offset impacts in the interest of project feasibility. Staff should study and consider both requirements and incentives, with consideration of the following policy goals:
  - a. A development project citywide above a certain number of units or a certain cumulative floor area should be subject to prevailing wage requirements.
  - b. Any project, citywide, that meets SB 35 streamlining criteria and local affordable housing regulations and objective design standards for projects including 10% of low-income housing on-site and including prevailing wages, should be eligible for ministerial approval per the city’s SB 35 streamlining process, before those provisions are imposed by the state (expected in 2027)



## Action Calendar – Public Hearings

5. Refer to the City Manager to develop for consideration requirements for new residential construction that all bedrooms contain windows, and consider window requirements for all habitable space, as defined in the zoning code. Staff should engage the Planning Commission in developing recommendations, and should evaluate the impact new requirements would place on the feasibility of new housing projects and flexibility for project floor plans.
6. Green & Open Spaces in New Construction Referral: Refer to the City Manager to incorporate incentives and/or requirements for widened sidewalks, activated pedestrian spaces, and green roofs as part of new construction citywide. Staff should consider applying the pedestrian-space priority for open space developed for the Southside Plan Area to other areas or to all commercial zones, and should consider other strategies to incentivize sidewalk widening. Staff should emphasize opportunities to activate frontage strips, rather than requiring setbacks.

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

## Information Reports

14. **Measure O Bond Impacts on Affordable Housing Development in Berkeley**  
**From: City Manager**  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Received and filed.
15. **LPO NOD: 60 Panoramic Way, #LMIN2023-0001**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
16. **LPO NOD: 803 Delaware Street, LMSAP2023-0002**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
17. **LPO NOD: 1960 San Antonio Avenue/645 Arlington Avenue, #LMSAP2022-0005**  
**From: City Manager**  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
18. **Planning Commission Fiscal Year 2023-24 Work Plan**  
**From: Planning Commission**  
Contact: Alisa Shen, Commission Secretary, (510) 981-7400  
**Action:** Received and filed.

## Adjournment

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

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

Adjourned at 12:02 p.m.

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

**Item #13: Amendments to Berkeley Municipal Code Title 23 (Zoning Ordinance), the Zoning Map, General Plan Land Use Diagram, and the General Plan Relating to the Southside Zoning Implementation Program of the 2023-2031 Housing Element Update**

1. Supplemental material, submitted by Councilmember Robinson
2. Gary Miguel
3. Veronica Tamsitt
4. Nico Calavita
5. Andrea Horbinski

## Supplemental Communications and Reports 3

**Item #13: Amendments to Berkeley Municipal Code Title 23 (Zoning Ordinance), the Zoning Map, General Plan Land Use Diagram, and the General Plan Relating to the Southside Zoning Implementation Program of the 2023-2031 Housing Element Update**

6. Supplemental material, submitted by Councilmember Hahn
7. Presentation, submitted by Planning and Development
8. Theo Posselt
9. Valerie Knepper
10. Naor Deleanu
11. Brandon Yung
12. Naomi Janowitz
13. Carrie Evans
14. Jaxxen Tunney
15. Barbara Gilbert