

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, May 25, 2021
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89074533623> 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: 890 7453 3623 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. Amendment: FY 2021 Annual Appropriations Ordinance**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,761-N.S. amending the FY 2021 Annual Appropriations Ordinance No. 7,748-N.S. for fiscal year 2021 based upon recommended re-appropriation of committed FY 2020 funding and other adjustments in the amount of \$76,221,382 (gross) and \$51,227,368 (net).
First Reading Vote: All Ayes.
Financial Implications: See report
Contact: Rama Murty, Budget Office, (510) 981-7000
- 2. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**
From: City Manager
Recommendation: Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021 and March 30, 2021.
Financial Implications: See report.
Contact: Farimah Brown, City Attorney, (510) 981-6950
- 3. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the council meetings of April 13, 2021 (special), April 20, 2021 (special and regular), April 27, 2021 (regular) and April 29, 2021 (closed).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 4. Assessments: Berkeley Tourism Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution approving the Annual Report of FY21 and preliminary budget for FY22 for the Berkeley Tourism Business Improvement District (BTBID) as recommended by the BTBID Owners' Association.
Financial Implications: See report.
Contact: Eleanor Hollander, Economic Development, (510) 981-7530

Consent Calendar

- 5. Assessments: Downtown Berkeley Property Based Business Improvement District**
From: City Manager
Recommendation: Adopt two Resolutions:
1. Approving the Downtown Berkeley Property Based Business Improvement District (DPBID) Annual Report of Fiscal Year (FY) 2021 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the DPBID for FY 2022.
2. Authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA or "the Association") not to exceed \$7,285,257 of DPBID funds to support the Downtown area for the period July 1, 2021 to December 31, 2026, through the expiration of the DPBID.
Financial Implications: See report.
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
- 6. Assessments: North Shattuck Property Based Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution approving the North Shattuck Property Based Business Improvement District (NSBID) Annual Report of Fiscal Years (FYs) 2021 & 20 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the NSBID for FY 2022.
Financial Implications: See report.
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
- 7. Assessments: Telegraph Property Based Business Improvement District**
From: City Manager
Recommendation: Adopt a Resolution approving the Telegraph Property Based Business Improvement District (TBID) Annual Report of FY 2021 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the TBID for FY 2022.
Financial Implications: See report.
Contact: Eleanor Hollander, Economic Development, (510) 981-7530
- 8. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on May 25, 2020**
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: \$250,000
Contact: Henry Oyekanmi, Finance, (510) 981-7300

Consent Calendar

- 9. Memorandum of Agreement with the City of Oakland for the National Urban Search and Rescue Response System**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a Memorandum of Agreement and any amendments with the City of Oakland, as the “Sponsoring Agency” for the National Urban Search and Rescue Response System, operated by the United States Department of Homeland Security, acting through the Federal Emergency Management Agency (FEMA), along with the State of California and local governments.
Financial Implications: None
Contact: Abe Roman, Fire, (510) 981-3473
- 10. Contract: Multicultural Institute for COVID -19 Outreach and Health Education Activities**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to execute an expenditure contract and any amendments or extensions thereto with Multicultural Institute in the amount not to exceed \$100,000 for the period June 1, 2021 through June 30, 2022 for COVID-19 outreach services to the Latinx community; particularly the day laborer and domestic worker community.
Financial Implications: See report.
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 11. Revenue Grant Agreement: Funding Support from State of California Board of State and Community Corrections Proposition 64 Public Health and Safety Funding**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to The State of California Board of State and Community Corrections, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to address public health and safety related to the implementation of the Control, Regulate, and Tax Adult Use of Marijuana Act, to conduct public health promotion, protection, and prevention services for the State of California Board of State and Community Corrections revenue agreement in the projected amount of \$1,000,000 for May 1, 2021 to April 30, 2024.
Financial Implications: See report.
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400

Consent Calendar

12. Revenue Grant Agreements: Funding Support from the State of California to Conduct Public Health Services

From: City Manager

Recommendation: Adopt five Resolutions authorizing the City Manager or her designee to submit grant agreements to the State of California, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following eleven revenue agreements:

1. Child Health and Disability Prevention (CHDP) Program, which includes Early Periodic Screening, Diagnosis, and Treatment (EPSDT) and Health Care Program for Children in Foster Care (HCPCFC), in the projected amount of \$353,395 for FY 2022.
2. Maternal, Child and Adolescent Health (MCAH) Program, in the projected amount of \$332,000 for FY 2022.
3. Tobacco Trust Fund: There is no match required and this contract is expected to be for \$300,000 in FY 2022.
4. Immunization Program: In the projected amount of \$42,204 for FY 2022.
5. Public Health Emergency Preparedness/Pandemic Flu/Cities Readiness Initiative (CRI) Program in the projected allocation of \$257,000 for FY 2022.

Financial Implications: See report.

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

13. Accept a Donation from the California Office of Emergency Services

From: City Manager

Recommendation: Adopt a Resolution accepting a donation of cash and gift cards totaling approximately \$9,000 from CalOES, the Governor's Office of Emergency Services.

Financial Implications: See report.

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

14. Classification and Salary: Establish Director of Police Accountability

From: City Manager

Recommendation: Adopt a Resolution amending Resolution No. 69,538-N.S. Classification and Salary Resolution, to establish the Unrepresented classification of Director of Police Accountability with a monthly salary range of \$11,862.93 - \$17,794.40 effective May 25, 2021.

Financial Implications: See report.

Contact: David White, City Manager, (510) 981-7012

Consent Calendar

- 15. 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 \$137,000 through June 30, 2022.
Financial Implications: See report.
Contact: Savita Chaudhary, Information Technology, (510) 981-6500
- 16. Grant Application: the Surrendered and Abandoned Vessel Exchange (SAVE) 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 SAVE grant program for \$42,000; 2) accept any grants; 3) execute any resulting grant agreements and any amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, including \$4,200 in local match from the Marina Fund.
Financial Implications: See report.
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700
- 17. Purchase Order: Altec Industries, Inc. for One Aerial Bucket Truck**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcwell contract bid procedures, and authorizing the City Manager to execute a purchase order for one (1) Aerial Bucket Truck with Altec Industries, Inc. in an amount not to exceed \$206,180.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 18. Purchase Order: Braun Northwest for One (1) 2021 North Star 155-1 Type 1 Ambulance**
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 one (1) 2021 North Star 155-1 Type 1 Ambulance with Braun Northwest, Inc. in an amount not to exceed \$245,000.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

- 19. Purchase Order: Cal-Line Equipment Inc. for Three (3) Bandit 250XP Brush Chippers**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (formerly NJPA) bid procedures, and authorizing the City Manager to execute a purchase order for three (3) Brush Chippers with Cal-Line Equipment Inc. in an amount not to exceed \$206,200.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 20. Purchase Order: Golden State Fire Apparatus, Inc. for One Pierce Quantum 1500 GPM Pumper**
From: City Manager
Recommendation: Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in HGACBuy bid procedures, and authorizing the City Manager to execute a purchase order for one (1) Pierce Quantum 1500 GPM Pumper with Golden State Fire Apparatus, Inc. in an amount not to exceed \$866,000.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 21. Contract No. 108563-1 Amendment: Stanley Access Technologies for On-Call and Emergency Repair Services for Automatic Doors**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract 108563-1 with Stanley Access Technologies, to increase spending authority by \$50,000.00 for a total not to exceed amount of \$100,000.00 and to extend contract terms for one year, to June 30, 2023, for continued on-call and emergency repair services to maintain the commercial automatic doors in City-owned facilities.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 22. Declaration of Intent – Fiscal Year 2022 Street Lighting Assessments**
From: City Manager
Recommendation: Adopt two Resolutions granting the City Manager the authority to approve the Engineer’s Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 15, 2021 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for Fiscal Year 2022 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300

Consent Calendar

**23. FY 2021/2022 Transportation Development Act Article 3 Fund Allocation
From: City Manager**

Recommendation: Adopt Resolutions:

1. Authorizing the City Manager to: submit an allocation request to the Metropolitan Transportation Commission (MTC) prior to the May 28, 2021 deadline for \$450,000 of FY 21/22 Transportation Development Act (TDA) Article 3 funds for the Berkeley Bicycle Plan Update and Vision Zero Quick Build Program; accept the funds; execute any resultant agreements and amendments; and authorize the implementation of the project, subject to securing the funds; and
2. Declaring that: the City of Berkeley is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code; there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project; the project has been reviewed by the Bicycle Advisory Committee (BAC) of the City of Berkeley; the City of Berkeley attests to the accuracy of and approves the statements in Attachment A to this resolution; and a certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of Alameda County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

Financial Implications: See report.

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

24. Agreement with AC Transit for Operation and Maintenance of Transit Signal Priority Equipment

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to negotiate and approve a Cooperative Agreement to enable Alameda-Contra Costa County Transit District and its contractor(s) to perform all operation and maintenance activities to Transit Signal Priority (TSP) equipment deployed by the Rapid Corridors Project within the City.

Financial Implications: See report.

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

25. Surplus Lands Act

From: City Manager

Recommendation: Adopt a Resolution to comply with the terms of the Surplus Lands Act (California Government Code § 54220, Et Seq.), as exists now or may be amended in the future, including, but not limited to, AB 1255 (Rivas, 2019), which requires jurisdictions to compile and report annually an inventory of surplus lands to the California Department of Housing and Community Development.

Financial Implications: See report.

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

Consent Calendar

- 26. Lease Agreement: 2010 Addison Street at Center Street Garage with Vito Loconte and Alexie LeCount d.b.a Lexie's Frozen Custard**
From: City Manager
Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement for 2010 Addison Street at the Center Street Garage with Vito Loconte and Alexie LeCount d.b.a Lexie's Frozen Custard, a sole proprietorship, for an initial term of ten (10) years with one optional five-year lease extension AND approve payment of a commission of \$9,331.23 to Colliers International for commercial brokerage fees for locating a tenant for the premises.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 27. Appointment of Monica Renee Jones to Mental Health Commission**
From: Mental Health Commission
Recommendation: Adopt a Resolution appointing: Monica Renee Jones as a representative of the General Public Interest Category, to complete her first 3-year term beginning May 26, 2021 and ending May 25, 2024.
Financial Implications: None.
Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400
- 28. Police Review Commission online poll**
From: Police Review Commission
Recommendation: Authorize the Police Review Commission to conduct an online poll regarding awareness of the Commission and experience with its complaint process.
Financial Implications: None.
Contact: Katherine Lee, Commission Secretary, (510) 981-4950

Council Consent Items

- 29. Support of AB 1177 – California Public Banking Options Act**
From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Recommendation: Adopt a Resolution in support of Assembly Bill 1177 and send a copy of the Resolution to Governor Newsom, Senator Skinner and Assemblymember Wicks.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100

Council Consent Items

- 30. Budget Referral: Sixth Street Traffic Calming Improvements for the Improvement of Pedestrian and Cyclist Safety**
From: Councilmember Taplin (Author)
Recommendation: That the City Council refers to the budget process the funding of traffic calming improvements as follows: 1. Rapid Rectangular Flashing Beacons (RRFB) and a median refuge island at Sixth and Channing Way; 2. A median refuge island at Sixth and Addison Street.
Financial Implications: See report
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120
- 31. COVID Economic Recovery - Expanding Local Purchasing Preferences to Rebuild the City's Local Economy and Tax Base**
From: Councilmember Hahn (Author), Councilmember Bartlett (Co-Sponsor)
Recommendation:
1. To support urgently needed economic recovery in the wake of the COVID-19 crisis and direct more City of Berkeley dollars to Berkeley businesses, adopt a Resolution to expand Berkeley's existing local vendor preference program, effective September 1, 2021, by increasing the value of eligible contracts as follows: a. Contracts for supplies, equipment, materials, and other goods, raise the eligible contract value to \$100,000. b. Contracts for non-professional services, raise the eligible contract value to \$250,000. Direct the City Manager to develop and implement a local vendor preference program for contracts for professional services of up to \$250,000 in value (or up to a higher amount), to be effective January 1, 2022, to further support economic recovery in the City of Berkeley.
 2. Refer to the City Manager to reach-out to Berkeley businesses to publicize, offer training and provide other meaningful access to the City's expanded local preferences programs including outreach to businesses owned by people of color, people with disabilities, women, immigrants, and other traditionally marginalized business communities to ensure equitable access to contracting opportunities with the City of Berkeley.
 3. Refer to the City Manager to quickly incorporate, when available, any relevant or actionable results of the Mason Tillman Associates study reviewing and identifying disparities in the awarding of contracts affecting local, small, emerging enterprises and other enterprises with possible barriers to access in City construction, architecture, engineering, professional services, goods, and other services contracts.
 4. Refer to the City Manager to track and issue periodic reports to Council (or include in existing reports such as the annual Economic Dashboard), and/or to track on an online dashboard, the City's success expanding contracting for goods, equipment, and services with local vendors.
- Financial Implications:** See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Council Consent Items

- 32. Budget Referral: City of Berkeley Annual Holocaust Remembrance Day**
From: Councilmember Wengraf (Author), Mayor Arreguin (Co-Sponsor), Councilmember Hahn (Co-Sponsor), Councilmember Taplin (Co-Sponsor)
Recommendation: Refer to the Fiscal Year 2022/2023 budget process a request for \$6,000 annually to fund the City of Berkeley's Annual Holocaust Remembrance Day Program.
Financial Implications: \$6,000
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 33. Budget Referral: Increased Funding for Neighborhood Traffic Calming**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Droste (Co-Sponsor)
Recommendation: Refer to the Fiscal Year 2022/2023 Budget Process an annual increase in allocation for neighborhood traffic calming from the current 100 thousand dollars to 200 thousand dollars.
Financial Implications: \$100,000
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 34. Amend BMC 14.72.105**
From: Councilmember Wengraf (Author)
Recommendation: Adopt first reading of an Ordinance amending BMC 14.72.105 Neighborhood-Serving Community Facility Permits, to allow a broader range of community facilities to be eligible for parking permits.
Financial Implications: See report
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160
- 35. Budget Referral: Willard Park Ambassador**
From: Councilmember Droste (Author), Mayor Arreguin (Co-Sponsor), Councilmember Robinson (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Recommendation: Refer to the Budget and Finance Committee a request for \$100,000 in funding for a Park Ambassador at Willard Park for 1 year.
Financial Implications: \$100,000
Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

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.

36. Rescinding and Adopting the Environmental Health Division Fee Schedule From: City Manager

Recommendation: Conduct a Public Hearing and, upon conclusion, adopt a Resolution to rescind Resolution 67,495-N.S. which established the current Environmental Health fee schedule and adopt a new fee schedule. The new fee schedule keeps all existing fees at the same level and adds a new permit fee category for Microenterprise Home Kitchen Operations (MEHKOs) with a proposed fee of \$510 annually to cover permit and inspection fees. The new fees will be effective June 1, 2021 until subsequently modified.

Financial Implications: See report

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

37. Selected Recreation and Camps Program Fee Increases From: City Manager

Recommendation: Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select Recreation Division programs and rescinding Resolution No. 68,898-N.S. and all amendatory resolutions.

Financial Implications: See report.

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

Action Calendar – Public Hearings

38. FY 2022 Proposed Budget and Proposed Budget Public Hearing #1

From: City Manager

Recommendation: Accept the FY 2022 Proposed Budget for review and consideration by the City Council and final adoption on June 29, 2021 and conduct Public Hearing #1 on the FY 2022 Proposed Budget.

Financial Implications: See FY 2022 Proposed Biennial Budget

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

Action Calendar – New Business

39a. Grant Allocation: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)

From: Sugar Sweetened Beverage Product Panel of Experts

Recommendation: Approve the SSBPPE Commission's recommendations and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the Berkeley Unified School District and the Community Based Organizations (CBOs) listed below to distribute a total of \$2,662,506 for FY 2022 and FY 2023 according to the schedule below and to also provide \$239,626 to the City of Berkeley Public Health Division (BPHD) during the same period to support administering and enhancing this program as approved by the Berkeley City Council as follows: 1. \$951,452 total grant to Berkeley Unified School District to implement the Gardening and Cooking Program for FY 2022 and FY 2023 to be disbursed as follows: \$475,726 for FY 2022 and \$475,726 for FY 2023. 2. \$242,250 total grant to the Ecology Center to implement For Thirst, Water First! program for FY 2022 and FY 2023 to be disbursed as follows: \$121,125 in FY 2022 and \$121,125 in FY 2023. 3. \$445,330 grant to Healthy Black Families to implement Thirsty for Change! (T4C) program for FY 2022 and FY 2023 to be disbursed as follows: \$222,665 in FY 2022 and \$222,665 in FY 2023. 4. \$30,000 grant to the Multicultural Institute to implement the Life Skills/Day Laborer Program: Health Activity program for FY 2022 and FY 2023 to be disbursed as follows: \$15,000 in FY 2022 and \$15,000 in FY 2023. 5. \$80,000 grant to the YMCA of the East Bay to implement the YMCA Diabetes Prevention (YDPP) program for FY 2022 and FY 2023 to be disbursed as follows: \$40,000 in FY 2022 and \$40,000 in FY 2023. 6. \$90,550 grant to the YMCA of the East Bay to implement the YMCA Healthy Me! program for FY 2022 and FY 2023 to be disbursed as follows: \$45,275 in FY 2022 and \$45,275 in FY 2023. 7. \$237,150 grant to Lifelong Medical Care to implement the Chronic Disease and Oral Health Prevention Project for FY 2022 and FY 2023 to be disbursed as follows: \$118,575 in FY 2022, and \$118,575 in FY 2023. 8. \$37,600 grant to Fresh Approach to implement the Veggie Rx Program for Healthy Foods and Beverages program for FY 2022 and FY 2023 to be disbursed as follows: \$18,800 in FY 2022, and \$18,800 in FY 2023. 9. \$116,000 grant to Bay Area Community Resources to implement the Healthy Options at Point of Sale program for FY 2022 and FY 2023 to be disbursed as follows: \$58,000 in FY 2022, and \$58,000 in FY 2023. 10. \$55,448 grant to Community Health Education Institute to implement the Artists Against Soda program for FY 2022 and FY 2023 to be disbursed as follows: \$27,724 in FY 2022, and \$27,724 in FY 2023. 11. \$77,600 grant to Berkeley Youth Alternatives to

Action Calendar – New Business

implement the Urban Agriculture and Team Nutrition Program for FY 2022 and FY 2023 to be disbursed as follows: \$38,800 in FY 2022 and \$38,800 in FY2023. 12. \$59,500 grant to 18 Reasons to implement the Cooking Matters program for FY2022 and FY2023 to be disbursed as follows: \$29,750 in FY2022 and \$29,750 in FY2023. 13. \$239,626 to the City of Berkeley Public Health Division (BPHD) to support the SSBPE Commission and assist with outside evaluations to be disbursed as follows: \$119,813 in FY 2022 and \$119,813 in FY 2023. 14. The Commission recommends that indirect or administrative expenses not exceed 10% of the program budget for any entity and that the funds awarded not be used to supplant any other source of funding. 15. The Commission recommends that City Council authorize the City Manager to authorize advances for BUSD and the selected community agencies receiving funds in FY 2022 and FY2023. The advances are to be equivalent to 25% of the agency's allocation.

Financial Implications: See report

Contact: Dechen Tsering, Commission Secretary, (510) 981-5300

39b. Companion Report: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)

From: City Manager

Recommendation: Approve the SSBPE Commission's recommendation for funding for Community Based Organizations (CBOs) and Berkeley Unified School District (BUSD) and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the CBOs and BUSD to distribute a total of \$2,662,506 for FY 2022 and FY 2023 according to the schedule recommended by the SSBPE. Uphold the City of Berkeley Public Health Division allocation previously approved through Resolution No. 69,669-N.S. by allocating \$399,374 during the same time period.

Financial Implications: See report.

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

Council Action Items

40. Amending the Berkeley Election Reform Act (BERA) Relating to Officeholder Accounts *(Reviewed by the Agenda & Rules Committee)*

From: Agenda & Rules Committee: Mayor Arreguin, Councilmembers Hahn and 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: Agenda & Rules Committee members: Jesse Arreguin, Committee Chair, (510) 981-7100, Sophie Hahn, Councilmember, District 5, (510) 981-7150, Susan Wengraf, Councilmember, District 6, (510) 981-7160

Council Action Items

- 41. Commission Reorganization for Post-COVID19 Budget Recovery**
From: Councilmember Droste (Author), Councilmember Robinson (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor) *(Reviewed by the Agenda & Rules Committee)*
- Recommendation:**
1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.
 2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.
 3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.
 4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.
 5. Refer to City Manager and Commissions the following additional considerations:
 - Federal, state or other external mandates that might be impacted, and determine how to handle.
 - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted.
 - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission's charter.
 - Whether the merged Commission might include 9, or a greater number of members.
 - The possibility of requiring specific qualifications for appointment to the merged Commission.
 - The possibility of recommended or required Standing Committees of the Merged Commission.
 - Volunteer workload and capacity given scope of Commission's charter
- Policy Committee Recommendation: Make a Qualified Positive Recommendation to City Council to: 1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach. Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions. Phase 2: All other Commissions as proposed in the report. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one. 2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City*

Council Action Items

Manager on revised charge/responsibilities of merged commissions. 3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes. 4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions. 5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees. 6. Refer Councilmember Hahn questions to City Manager and Commissions: “Commissions to Combine/Merge - Suggested Considerations” - Federal, state or other external mandates that might be impacted, and determine how to handle. - Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted. - What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter. - Whether the merged Commission might include 9, or a greater number of members. - The possibility of requiring specific qualifications for appointment to the merged Commission. - The possibility of recommended or required Standing Committees of the Merged Commission - Volunteer workload and capacity given scope of Commission’s charter.

Financial Implications: See report

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

Information Reports

42. Mental Health Commission Work Plan 2021-2022

From: Mental Health Commission

Contact: Jamie Works-Wright, Commission Secretary, (510) 981-5400

Public Comment – Items Not Listed on the Agenda

Adjournment

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

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

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

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

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

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

COMMUNICATION ACCESS INFORMATION:

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



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

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*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 13, 2021.*

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

## Communications

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

### Tenant Opportunity to Purchase Act

1. 4 similarly-worded form letter (My name is)
2. Mary Behm-Steinberg
3. David Nutt
4. Annie Koruga
5. Kathleen Crandall
6. Berkeley Rental Housing Coalition
7. East Bay Young Democrats
8. California Democratic Renters Council

**1921 Walnut Street Demolition**

- 9. Northern Alameda County Sierra Club
- 10. University of California, Berkeley

**COVID-19**

- 11. Ava See (2)

**City of Berkeley Crime**

- 12. Erwan Illian

**2021 LRDP and Housing Projects #1 and #2 – UC Berkeley**

- 13. City of Berkeley Landmarks Preservation Commission

**Affordable Housing Overlay**

- 14. Cal Berkeley Democrats
- 15. Associated Student University of California

**Public Comment at Agenda and Rules Meeting**

- 16. Thomas Lord

**Supplemental Communications and Reports**

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

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



ORDINANCE NO. 7,761-N.S.

AMENDING THE ANNUAL APPROPRIATIONS ORDINANCE NO. 7,748–N.S. FOR FISCAL YEAR 2021

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2021 submitted by the City Manager and passed by the City Council be amended as follows and as summarized in Exhibit A:

|                                                |                    |
|------------------------------------------------|--------------------|
| A. General Fund (Funds 001-099)                | 256,699,070        |
| B. Special Funds ( Funds 100-199)              | 156,408,059        |
| C. Grant Funds (Funds 300-399)                 | 64,565,434         |
| D. Capital Projects Funds (Funds 500-550)      | 91,468,847         |
| E. Debt Service Fund (Funds 551-599)           | 9,777,705          |
| F. Enterprise Funds (Funds 600-669)            | 153,774,845        |
| G. Internal Service Funds (Funds 146, 670-699) | 60,099,350         |
| H. Successor Agency (Funds 760-769)            | 57,120             |
| I. Agency Funds (Funds 771-799)                | 8,357,381          |
| J. Other Funds (Funds 800-899)                 | 6,222,560          |
| <u>K. Total</u>                                |                    |
| Total General Fund                             | 256,699,070        |
| Add: Total Other Than General Fund             | 550,731,301        |
| <b>Gross Revenue Appropriated</b>              | <b>807,430,370</b> |
| Less: Dual Appropriations                      | -62,090,513        |
| Less: Revolving/Internal Service Funds         | -60,099,350        |
| <b>Net Revenue Appropriated</b>                | <b>685,240,507</b> |

Section 2. The City Manager is hereby permitted, without further authority from the City Council, to make the following transfers by giving written notice to the Director of Finance:

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Paramedic Tax Fund; Health State Aid Realignment; Fair Election Fund; Capital Improvement Fund; Phone System Replacement;

Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; Police Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.

- b. To the General Fund from the General Fund – Stability Reserves Fund; Catastrophic Reserves Fund; Community Development Block Grant Fund; Street Lighting Assessment District Fund; Zero Waste Fund; Marina Operations and Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Unified Program (CUPA); IT Cost Allocation Fund; and Health State Aid Realignment Fund.
- c. To the First Source Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- d. From UC Settlement Fund to General Fund and Clean Storm Water Fund.
- e. From Capital Improvement Fund to PERS Savings Fund; Berkeley Repertory Theater Fund; and 2010 COP (Animal Shelter) Fund.
- f. To the Public Art Fund from the Parks Tax Fund; Capital Improvement Fund; and the Marina Fund.
- g. To CFD#1 District Fire Protection Bond (Measure Q) from Special Tax Bonds CFD#1 ML-ROOS.
- h. To Private Sewer Lateral Fund from Sanitary Sewer Operation Fund.
- i. To Catastrophic Loss Fund from Permit Service Center Fund.
- j. To Catastrophic Loss Fund from Unified Program (CUPA) Fund.
- k. To the Building Purchases and Management Fund from General Fund; Health (General) Fund; Rental Housing Safety Program Fund; Measure B Local Streets & Road Fund; Employee Training Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Health State Aide Realignment Trust Fund.
- l. To Equipment Replacement Fund from General Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.

- m. To the Equipment Maintenance Fund from General Fund; Health (General) Fund; Mental Health Services Act Fund; Health (Short/Doyle) Fund; Vector Control Fund; Paramedic Tax Fund; Library - Discretionary Fund; Playground Camp Fund; State Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.
- n. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- o. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- p. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.
- q. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure

F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers’ Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- r. To the Sick Leave and Vacation Leave Accrual Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers’ Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

- s. To the Payroll Deduction Trust Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; Fair Election Fund; Measure U1 Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers’ Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

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

**Attachment for Annual Appropriations Ordinance - Fiscal Year 2021**

**REVOLVING FUNDS/INTERNAL SERVICE FUNDS**

Appropriations are identified with revolving and internal service funds. Such funds derive revenue by virtue of payment from other fund sources as benefits are received by such funds, and the total is reflected in the "Less Revolving Funds and Internal Service Funds" in item I. The funds are:

**Revolving/Internal Service Funds**

|                                           |                      |
|-------------------------------------------|----------------------|
| Employee Training Fund                    | 902,197              |
| Equipment Replacement Fund                | 17,366,016           |
| Equipment Maintenance Fund                | 8,657,942            |
| Building Maintenance Fund                 | 4,438,018            |
| Central Services Fund                     | 388,490              |
| Workers' Compensation Fund                | 6,586,355            |
| Public Liability Fund                     | 4,193,218            |
| Information Technology Fund               | 17,567,113           |
| Subtotal Revolving/Internal Service Funds | <u>\$ 60,099,350</u> |

**DUAL APPROPRIATIONS - WORKING BUDGET**

Dual appropriations are identified with revenues generated by one fund and transferred to another fund. Both funds are credited with the applicable revenue, and the total is reflected in the "Less Dual Appropriations" in item I. The dual appropriations are:

Transfers to the General Fund

|                                       |                     |
|---------------------------------------|---------------------|
| <u>Indirect Cost Reimbursement</u>    |                     |
| CDBG Fund                             | 143,373             |
| Street Light Assessment District Fund | 115,865             |
| Zero Waste Fund                       | 2,326,015           |
| Marina Enterprise Fund                | 415,427             |
| Sanitary Sewer Fund                   | 1,071,882           |
| Clean Storm Water Fund                | 252,015             |
| Permit Service Center Fund            | 1,874,805           |
| Unified Program (CUPA) Fund           | <u>87,242</u>       |
| Subtotal Transfers to General Fund:   | <u>\$ 6,286,624</u> |

|                                                                                               |                    |
|-----------------------------------------------------------------------------------------------|--------------------|
| Transfer to Safety Members Pension Fund from General Fund                                     | 551,804            |
| Transfer to Measure U1 Fund from General Fund                                                 | 13,862,628         |
| Transfer to GF - Stabilization Reserves from General Fund                                     | 1,836,309          |
| Transfer to GF - Catastrophic Reserves from General Fund                                      | 1,502,434          |
| Transfer to Library Tax from General Fund                                                     | 17,150             |
| Transfer to Paramedic Tax Fund from General Fund                                              | 703,103            |
| Transfer to Health State Aid Realignment from General Fund                                    | 1,953,018          |
| Transfer to Fair Election Fund from General Fund                                              | 917,799            |
| Transfer to Capital Improvement Fund (CIP) from General Fund                                  | 3,255,167          |
| Transfer to Phone System Replacement - VOIP from General Fund                                 | 160,000            |
| Transfer to Off-Street Parking from General Fund                                              | 1,910,250          |
| Transfer to Building Purchases and Mgmt from General Fund                                     | 92,062             |
| Transfer to Equipment Replacement Fund from General Fund                                      | -                  |
| Transfer to Worker's Compensation from General Fund                                           | 406,952            |
| Transfer to Public Liability Fund from General Fund                                           | 3,131,417          |
| Transfer to Catastrophic Loss Fund from General Fund                                          | 2,295,334          |
| Transfer to IT Cost Allocation Fund from General Fund                                         | 431,802            |
| Transfer to Police Employee Retiree Health Assistance Plan from General Fund                  | 400,136            |
| Transfer to Sick Leave Entitlement Fund from General Fund                                     | 201,501            |
| Transfer to General Fund from General Fund Stabilization Reserves Fund                        | 6,900,000          |
| Transfer to General Fund from General Fund Catastrophic Reserves Fund                         | 4,500,000          |
| Transfer to Measure T1 Fund from Measure BB - Local Streets & Roads Fund                      | 600,000            |
| Transfer to Measure T1 Fund from Parks Tax Fund                                               | 600,000            |
| Transfer to General Fund from UC Settlement Fund                                              | 907,554            |
| Transfer to Clean Storm Water Fund from UC Settlement Fund                                    | 302,519            |
| Transfer to General Fund from Health State Aid Realignment Fund                               | 2,643,280          |
| Transfer from CIP Fund to PERS Savings Fund                                                   | 151,632            |
| Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund                        | 499,802            |
| Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund                                      | 402,613            |
| Transfer to Private Sewer Lateral Fund from Sewer Fund                                        | 90,501             |
| Transfer to Catastrophic Loss Fund from Permit Service Center Fund                            | 50,555             |
| Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund                           | 5,082              |
| Transfer to General Fund from Parking Meter Fund                                              | 1,742,288          |
| Transfer to General Fund from IT Cost Allocation Fund                                         | 794,160            |
| Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire Protect Bond (Measure Q) | 1,877,759          |
| Transfer to First Source Fund from Parks Tax Fund                                             | 14,093             |
| Transfer to First Source Fund from Capital Improvement Fund                                   | 26,943             |
| Transfer to First Source Fund from Marina Fund                                                | 1,875              |
| Transfer to Public Art Fund from Parks Tax Fund                                               | 21,140             |
| Transfer to Public Art Fund from Capital Improvement Fund                                     | 40,414             |
| Transfer to Public Art Fund from Marina Fund                                                  | 2,813              |
| Subtotal Transfers to Other Funds:                                                            | 55,803,889         |
| Sub-Total Dual Appropriations                                                                 | 62,090,513         |
| <b>Grand Total Dual Appropriations</b>                                                        | <b>122,189,863</b> |

At a regular meeting of the Council of the City of Berkeley held on May 11, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: None.

Absent: None.





Office of the City Attorney

CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Farimah Faiz Brown, City Attorney

Subject: Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)

RECOMMENDATION

Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021 and March 30, 2021.

FISCAL IMPACT OF RECOMMENDATION

To be determined.

CURRENT SITUATION AND ITS EFFECTS

Pursuant to California Government Code section 8630 and Berkeley Municipal Code Chapter 2.88, on March 3, 2020, the City Manager, in her capacity as Director of Emergency Services, proclaimed a local emergency due to conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19), including a confirmed case in the City of Berkeley. As a result of multiple confirmed and presumed cases in Alameda County, the County has declared a local health emergency. The Proclamation of Local Emergency empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such local emergency. Pursuant to Government Code section 8630(b) and Berkeley Municipal Code section 2.88.040.A.1, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution No. 69-312.

Pursuant to Government Code section 8630(c), the City Council must review the need for continuing the local emergency at least once every sixty (60) days. The Council last reviewed and ratified the Proclamation of Local Emergency on March 30, 2021. The Council therefore must review the continuing need for the local emergency by May 29, 2021.

This item requests that the Council review the continued need for the local emergency and again ratify the Proclamation of Local Emergency issued on March 3, 2020, initially ratified by the Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021 and March 30, 2021. If reviewed and ratified on May 25, 2021, the Council will need to again review and ratify the proclamation by July 24, 2021 in order to continue the local emergency.

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

#### BACKGROUND

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

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

On March 10, 2020, the City Council ratified the Proclamation of Local Emergency. Since that date, there have been over 3,000 confirmed cases of COVID-19 and at least thirty-three deaths in the City of Berkeley.

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

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable.

#### RATIONALE FOR RECOMMENDATION

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

#### ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

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

Attachments:

1: Resolution

RESOLUTION NO. –N.S.

RESOLUTION REVIEWING AND RATIFYING THE  
PROCLAMATION OF LOCAL EMERGENCY

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

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

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

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

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

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

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

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

WHEREAS, the City Council does find that the aforesaid conditions of extreme peril continue to exist, and now include over 3,500 confirmed cases of COVID-19 and at least 41 deaths in the City of Berkeley, thereby warranting and necessitating the continuation of the local emergency; and

WHEREAS, the City Council will need to again review the need for continuing the local emergency and ratify the Proclamation of Local Emergency by July 24, 2021.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that it is hereby proclaimed and ordered that the Proclamation of Local Emergency, issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the City Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021 and March 30, 2021, has been reviewed and is hereby again ratified and confirmed; and

BE IT FURTHER RESOLVED that during the existence of this local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, and the Charter, ordinances, resolutions and approved plans of the City of Berkeley.





03

Office of the City Manager

CONSENT CALENDAR  
May 25, 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 April 13, 2021 (special), April 20, 2021 (special and regular), April 27, 2021 (regular) and April 29, 2021 (closed).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. April 13, 2021 – Special City Council Meeting
2. April 20, 2021 – Special City Council Meeting
3. April 20, 2021 – Regular City Council Meeting
4. April 27, 2021 – Regular City Council Meeting
5. April 29, 2021 – Closed City Council Meeting

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

**Tuesday, April 13, 2021  
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

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*To join by phone: Dial 1-669-900-9128 or 1-877-853-5257 (Toll Free) and enter Meeting ID: 854 4548 9790. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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



## Preliminary Matters

**Roll Call:** 6:01 p.m.

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

**Absent:** Taplin

Councilmember Taplin present at 6:05 p.m.

## Action Calendar – New Business

Recess 8:26 p.m. – 8:36 p.m.

- 1. University of California, Berkeley Long Range Development Plan Update and Housing Projects #1 and #2 Draft Environmental Impact Report**  
**From: City Manager**  
**Recommendation:** Review the California Environmental Quality Act (CEQA) process, and take comments on the Draft Environmental Impact Report (EIR) on the Long Range Development Plan Update (LRDP) and Housing Projects #1 and #2.  
**Financial Implications:** None  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** 42 speakers. Presentation made and comments taken on the Draft Environmental Impact Report (EIR) on the Long Range Development Plan Update (LRDP) and Housing Projects #1 and #2.

Councilmember Droste absent 9:20 – 9:43 p.m.

## Adjournment

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

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

Adjourned at 9:43 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on April 13, 2021.

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Mark Numainville  
City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

### **Item #1: University of California, Berkeley Long Range Development Plan Update and Housing Projects #1 and #2 Draft Environmental Impact Report**

1. Carol Denney
2. Sanah Basrai
3. Christine Youn
4. Zahra Anwar
5. Michele Trahan

## Supplemental Communications and Reports 3

### **Item #1: University of California, Berkeley Long Range Development Plan Update and Housing Projects #1 and #2 Draft Environmental Impact Report**

6. Presentation, submitted by Planning
7. Josue Sandoval
8. Harvey Smith (2)
9. Zach Stewart
10. Rachel Rovinsky
11. Ace Chen
12. Moni Law (3)
13. Ethan Lee
14. Jordan Burns
15. Julie Luu
16. Chimey Lee (2)

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

**Tuesday, April 20, 2021  
5:30 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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## Preliminary Matters

**Roll Call:** 5:37 p.m.

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

**Absent:** Kesarwani, Taplin, Droste

Councilmember Taplin present at 5:38 p.m.

Councilmember Kesarwani present at 5:42 p.m.

## Action Calendar

### 1. Appointment of City Attorney

**From:** Mayor Arreguin

**Recommendation:** Adopt a Resolution confirming the appointment of Farimah Faiz Brown as City Attorney and approving an employment agreement to be effective immediately.

**Financial Implications:** See report

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

**Action:** 1 speaker. M/S/C (Arreguin/Hahn) to adopt Resolution No. 69,787–N.S.

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

## Adjournment

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

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

Adjourned at 5:51 p.m.

I hereby certify that the foregoing is a true and correct record of the special session meeting held on April 20, 2021.

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Mark Numainville  
City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## **Supplemental Communications and Reports 2**

- None

## **Supplemental Communications and Reports 3**

- None

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, April 20, 2021**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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## Preliminary Matters

**Roll Call:** 6:03 p.m.

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

**Absent:** Bartlett, Droste

Councilmember Bartlett present at 6:05 p.m.

Councilmember Droste present at 6:17 p.m.

## Ceremonial Matters:

1. Recognition of Victims' Rights Week
2. Recognition of Dimitri Belser, Berkeley Community Leader
3. Adjourned in Memory of Dale Jensen, Community Activist
4. Adjourned in Memory of Al Young, Local Writer and Former California Poet Laureate
5. Adjourned in Memory of Julia Lippman, Berkeley Resident and Activist

## City Manager Comments:

Recognition of Fire Chief David Brannigan.

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

## Consent Calendar

**Action:** M/S/C (Arreguin/Wengraf) to accept revised material from Parks, Recreation and Waterfront on Item 16 and to accept supplemental material from Councilmember Bartlett on Item 27.

**Vote:** All Ayes.

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

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

**Vote:** All Ayes.

## Recess Items

- 1. Addition of Subcontractors to Robert E. Boyer Construction, Inc. Contract No. 32000230**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to add the following subcontractors to Contract No. 32000230 with Robert E. Boyer Construction, Inc. for the construction of the Berkeley Tuolumne Camp Project (“Project”): Morrison Home Improvement, John Losoya Construction, Inc., and Dave Smith Construction, Inc.; and approving the finding that this action is necessary to mitigate the impact of significant labor shortages resulting from the effects of COVID-19 on the Project.  
**Financial Implications:** None  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,788–N.S.
- 2. Increase of Authorized Funding: Contact No. 8051 for Police Department Substation, 841 Folger Street/3000 Seventh Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying the action taken by the City Manager during recess to increase the amount of funding authorized under Contract No. 8051 by \$250,000 from \$2,245,726 to \$2,495,726 for rental of the property at 841 Folger Street/3000 Seventh Street.  
**Financial Implications:** Various Funds - \$250,000  
Contact: Jen Louis, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 69,789–N.S.

## Consent Calendar

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



## Consent Calendar

### 4. Measure T1 Loan

**From: City Manager**

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

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 69,790–N.S.

### 5. Minutes for Approval

**From: City Manager**

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

**Financial Implications:** None

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

**Action:** Approved the minutes as submitted.

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

**From: City Manager**

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

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

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

**Action:** Adopted Resolution No. 69,791–N.S.

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

**From: City Manager**

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

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

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

**Action:** Adopted Resolution No. 69,792–N.S.

## Consent Calendar

- 8. Contract No. 32100053 Amendment: Orsolya Kuti, DVM for services at the Dona Spring Animal Shelter**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100053 with Orsolya Kuti, DVM adding \$4,800 to provide free spay and neuter surgeries at the Dona Spring Animal Shelter to eligible low/no-income and homeless pet owners who reside in Berkeley, Albany, Emeryville or Piedmont. Authorize the receipt of additional donations up to a total of \$40,000 over the three year period of FY 2021, FY2022 and FY2023, for a total contract amount not to exceed \$220,000.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 69,793–N.S.
- 9. Contract No. 32100022 Amendment: Michael Arcega for San Pablo Park Measure T1 Public Art Commission**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32100022 with Michael Arcega for additional artwork elements costing up to \$9,936 for a total contract amount not to exceed \$219,936. This is for the public art commission project located at San Pablo Park and funded by Measure T1.  
**Financial Implications:** Measure T1 Public Art Fund - \$9,936  
**Contact:** Eleanor Hollander, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 69,794–N.S.
- 10. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on April 20, 2021**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** \$1,581,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.

## Consent Calendar

- 11. Predevelopment Funding Recommendations: 2024 Ashby Avenue and 1708 Harmon Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Reserving predevelopment funding in the amount of: a) \$1,198,960 for Community Housing Development Corporation/St. Paul AME's new construction development of affordable housing at 2024 Ashby Avenue; and b) \$1,056,400 for Community Housing Development Corporation/Ephesians Church of God in Christ (ECOGIC)'s new construction development of affordable housing at 1708 Harmon Street; and 2. Authorizing the City Manager, or her designee, to execute all original or amended documents or agreements to effectuate this action.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,795–N.S.
- 12. Revenue Contract: Alameda County Behavioral Health Care Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract and any amendments with Alameda County Behavioral Health Care Services (ACBH) for the provision of mental health services, including Medi-Cal, Medicare, Educationally Related Mental Health Services (ERMHS), and Early Periodic Screening, Diagnosis and Treatment (EPSDT) billing and reimbursement for through June 30, 2021.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,796–N.S.
- 13. Shelter Plus Care Program Renewal Grants**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to receive funds and execute any agreements and amendments resulting from the renewal of the following grants: 1. Two Shelter Plus Care grants from the U.S. Department of Housing and Urban Development (HUD): a) \$4,124,485 for the Supportive Housing Collaborative for the period June 1, 2021 through May 31, 2022; b) \$2,411,026 for the COACH Project grant for the period of January 1, 2022 through December 31, 2022; and 2. One grant from the County of Alameda for \$881,046 to provide tenant-based rental assistance to individuals who are chronically homeless and disabled. Some assistance may be further extended to individuals' families as part of the supported household on an individual case by case basis for the period of March 1, 2021 through February 28, 2022.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,797–N.S.

## Consent Calendar

- 14. Contract No. 32000082 Amendment: Mar Con Builders, Inc. for Live Oak Community Center Seismic Upgrade Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000082 with Mar Con Builders, Inc. for the Live Oak Community Center Seismic Upgrade Project, increasing the contract amount by \$160,562 for a total amount not to exceed of \$6,066,230.  
**Financial Implications:** Parks Tax Fund - \$160,562  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,798–N.S.
- 15. Contract No. 32000274 Amendment: Suarez and Munoz Construction, Inc. for San Pablo Park Playground and Tennis Court Renovation Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 32000274 with Suarez and Munoz Construction, Inc. for the San Pablo Park Playground and Tennis Court Renovation Project, increasing the amount by \$125,000 for an amended total amount not to exceed \$2,094,056.  
**Financial Implications:** Parks Tax Fund - \$125,000  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,799–N.S.
- 16. Contract: ERA Construction Inc. for King School Park Play Area Renovation Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the King School Park Play Area Renovation Project, Specification No. 21-11435-C; 2. Rejecting the lowest bid from Kompan California Inc. as non-responsive; 3. Accepting the bid of the lowest responsive and responsible bidder, ERA Construction Inc.; and 4. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with ERA Construction Inc. for the King School Park Play Area Renovation Project at 1700 Hopkins Street, Berkeley, CA 94702, in an amount not to exceed \$650,438, which includes a contract amount of \$542,032 and a 20% contingency in the amount of \$108,406.  
**Financial Implications:** Parks Tax Fund - \$650,438  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,800–N.S. as revised in the supplemental material received at the meeting from the Parks, Recreation and Waterfront Department.

## Consent Calendar

17. **Contract: O.C. Jones & Sons, Inc. for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project (Bid Specification No. 20-11388-C); 2. Accepting the bid of O.C. Jones & Sons, Inc. as the lowest responsive and responsible bidder on the Project; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with O.C. Jones & Sons, Inc., for the Berkeley Marina Roadway Improvements Project: University Avenue (West Frontage Road to Marina Boulevard), Marina Boulevard, and Spinnaker Way Project, in an amount not to exceed \$6,175,186, which includes a contract amount of \$5,369,727 and a 15% contingency in the amount of \$805,459.  
**Financial Implications:** Various Funds - \$6,175,186  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,801–N.S.
18. **Grant Application: California Proposition 68 Statewide Parks Program for New Park Development at Selected Santa Fe Right-of-Way Parcels**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to: 1. Submit a grant application in the amount of up to \$8,000,000 to the California Proposition 68 Statewide Parks Program for new park development at selected Santa Fe Right-of-Way parcels; 2. Accept any grants; 3. Execute any resulting grant agreements and any amendments; and 4. Authorizing the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.  
**Financial Implications:** See report  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,802–N.S.
19. **Recommendation to Incorporate Hate Crimes Against Persons with Homeless Status in Improving Hate Crime Reporting and Response**  
**From: Homeless Commission**  
**Recommendation:** That Council refer to the City Manager to develop a targeted approach, towards persons with homeless status, to improving hate crime reporting and response consistent with the other approaches being developed for other populations under the City of Berkeley's Improving Hate Crimes Reporting and Response legislation passed by Council on November 17, 2020.  
**Financial Implications:** See report  
 Contact: Josh Jacobs, Commission Secretary, (510) 981-5400  
**Action:** Approved recommendation.

## Consent Calendar

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

**From: Measure O Bond Oversight Committee**

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

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 69,803–N.S. as revised in Supplemental Communications Packet #1 from the Health, Housing, and Community Services Department.

## Council Consent Items

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

**From: Mayor Arreguin (Author)**

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

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

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

**Action:** Adopted Resolution No. 69,804–N.S.

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

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

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

**Financial Implications:** See report

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

**Action:** Approved recommendation.

## Council Consent Items

- 23. Support for AB 1401: Parking Reform**  
**From: Councilmember Taplin (Author), Councilmember Kesarwani (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember Laura Friedman, State Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 1401, which would eliminate parking requirements for housing and commercial buildings near transit and in low-VMT areas.  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmember Droste and Mayor Arreguin added as co-sponsors. Approved recommendation.
- 24. Support for SB-519: Controlled Substances**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** Send a letter of support for Senator Wiener’s Senate Bill 519, which would decriminalize psilocybin, psilocyn, MDMA, DMT, ketamine, mescaline, and ibogaine; expunge criminal records for use and possession of these substances; and establish a commission to provide recommendations to the state legislature on therapeutic uses.  
**Financial Implications:** None  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation.
- 25. Urge the AC Transit Board of Directors to Restore the 80-Ashby/Sixth Street Bus Line**  
**From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** Send a letter to the AC Transit Board of Directors urging the restoration of the 80-Ashby/Sixth Street bus line to its pre-pandemic level of service.  
**Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmember Droste added as a co-sponsor. Approved recommendation.
- 26. Letter in Support of AB 816 “State and Local Agencies: Homelessness Plan”**  
**From: Councilmember Bartlett (Author), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** That the Mayor of Berkeley and Members of City Council supports AB 816 “State and Local Agencies: Homelessness Plan” by sending a letter of support to Assemblymember David Chiu, State Senator Nancy Skinner, and Assemblymember Buffy Wicks to express the City of Berkeley’s support for AB 816.  
**Financial Implications:** None  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Councilmember Hahn added as a co-sponsor. Approved recommendation.

## Council Consent Items

- 27. Letter of Opposition to the Federal Aviation Administration’s Proposal to Shift the WNSDR Commercial Airliner Flight Corridor Directly Over Residential Neighborhoods in Berkeley, Richmond, El Cerrito, and Albany**  
**From: Councilmember Bartlett (Author), Councilmember Taplin (Co-Sponsor), Councilmember Harrison (Co-Sponsor)**  
**Recommendation:** That the Mayor of Berkeley and Members of the City Council oppose the Federal Aviation Administration’s (FAA) proposal to re-route commercial airline traffic (the WNSDR arrival flight path to Oakland International Airport) directly over residential neighborhoods in Berkeley, Richmond, El Cerrito, and Albany beginning in October 2021. The Council should send letters to Rep. Barbara Lee, Rep. Mark DeSaulnier, Sen. Dianne Feinstein, Sen. Alex Padilla, Governor Gavin Newsom, State Senator Nancy Skinner, Assemblymember Buffy Wicks, US Secretary of Transportation Pete Buttigieg, the FAA’s Western Pacific Regional Director, Raquel Girvin, and the Oakland Airport Community Management Noise Forum facilitator, Mike McClintock.  
**Financial Implications:** Staff time  
 Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Mayor Arreguin added as a co-sponsor. Approved recommendation including supplemental material received at the meeting from Councilmember Bartlett.
- 28. Resolution in Support of Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections**  
**From: Councilmember Harrison (Author), Councilmember Robinson (Author), Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of Senate Bill 271, the Sheriff Democracy and Diversity act, to allow for more diverse and democratic Sheriff elections. Send copies of the resolution to Governor Newsom and State Senator Scott Wiener.  
**Financial Implications:** Staff time  
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted Resolution No. 69,805–N.S.
- 29. Support for AB 1199: Homes for Families and Corporate Monopoly Transparency Excise Tax**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Adopt a Resolution proclaiming support for AB 1199, including support for the legislation in the 2020-2021 State Legislative Program, and sending copies of a letter to Assemblymember Mike Gipson, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 1199, which would create a database of rental properties, levy a tax on the rental profits of some people or entities holding many properties, and use the funds to support services for tenants and small landlords.  
**Financial Implications:** Staff time  
 Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted Resolution No. 69,806–N.S.



## Council Consent Items

- 30. Budget Referral: Solano Avenue Revitalization Plan**  
**From: Councilmember Hahn (Author), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)**  
**Recommendation:** Refer up to \$300,000 to the FY2022-FY2023 Budget Process for the development of a two-part Solano Avenue “Master” Revitalization Plan; Part A for the Upper/Eastern end of Solano Avenue and Part B for mid-corridor blocks within the City of Berkeley, to coordinate with the City of Albany’s mid-corridor Solano Avenue Reconfiguration Plan.  
**Financial Implications:** See report  
 Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150  
**Action:** Approved recommendation.
- 31. Personal Liability Protection for Small Businesses Impacted by COVID-19**  
**From: Councilmember Hahn (Author)**  
**Recommendation:**  
 1. Adopt an urgency ordinance adding Berkeley Municipal Code (BMC) Chapter 13.113, relating to personal liability in commercial leases during the COVID-19 pandemic; declaring the urgency thereof; and declaring that this ordinance shall take effect immediately, in order to protect the health, safety, and economic wellbeing of the people of Berkeley.  
 2. Direct the City Manager to conduct outreach to all commercial tenants regarding any protections enacted by the City Council, with a particular focus on businesses that were required to stop serving food or beverages (e.g., restaurants, bars); close to the public (e.g., hair salons, barbershops, tattoo parlors); cease operations (e.g., gyms, fitness centers); or sharply limit operations (e.g., schools, retail shops, nurseries) due to the COVID-19 crisis.  
**Financial Implications:** See report  
 Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150  
**Action:** 1. Adopt Urgency Ordinance No. 7,758-N.S. 2. Approved recommendation as revised in Supplemental Communications Packet #2 from Councilmember Hahn.
- 32. Support for AB 455: Bay Bridge Transit-Only Lane**  
**From: Councilmember Robinson (Author), Councilmember Kesarwani (Co-Sponsor)**  
**Recommendation:** Send a letter to Assemblymember Rob Bonta, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 455, which would authorize the Bay Area Toll Authority, in consultation with the Department of Transportation, to designate transit-only traffic lanes on the San Francisco-Oakland Bay Bridge.  
**Financial Implications:** None  
 Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Councilmembers Taplin and Harrison added as co-sponsors. Approved recommendation.

## Action Calendar – New Business

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

**From: City Manager**

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

**Financial Implications:** None

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

**Action:** M/S/C (Arreguin/Harrison) to accept supplemental material from Councilmember Taplin on Item 33.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to call the question on Item 33.

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

**Action:** 15 speakers. M/S/C (Arreguin/Wengraf) to adopt Resolution No. 69,807–N.S. as revised in Supplemental Communications Packet #2 from Councilmember Hahn, further amended to change the sunset date to July 28, 2021. Additional direction provided to the City Manager to re-agendize the item for the July 27, 2021 for Council to decide whether to extend the temporary policy.

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

## Council Action Items

- 34. Requesting the California State Legislature to introduce actions to value human life and to condemn racial injustice and police brutality**  
**From: Councilmember Davila (Author)** *(Reviewed by the Health, Life Enrichment, Equity and Community Committee)*  
**Recommendation:**  
 1. Adopt a resolution requesting the California State Legislature to introduce legislation incorporating recommendations from the community to value human life and to condemn racial injustice and police brutality.  
 2. Send copies of this resolution to State Assemblymember Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.  
*Policy Committee Recommendation: Forward the item to Council with a negative recommendation given that there are a number of questions as to some of the points of the resolution including the purview of the Legislature, legal questions, and feasibility. The Committee recommends that the Council refer to the Public Safety Committee to consider the state Police Officer's Bill of Rights and possible subsequent action by the City Council. Further, that the office of Councilmember Taplin will look into specific state bills on police reform and public safety issues to determine which bills warrant a letter of support from the City Council.*  
**Financial Implications:** See report  
 Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Moved to Consent Calendar to adopt the recommendation of the Health, Life Enrichment, Equity and Community Committee.
- 35. Referral to the Planning Commission to Establish a Zoning Overlay at the Pacific Steel Casting Property**  
**From: Councilmember Kesarwani (Author), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** Refer to the Planning Commission to create a zoning overlay at the Pacific Steel Casting (PSC) property in West Berkeley—currently zoned Manufacturing (M) and redesignate it as Mixed Use - Light Industrial (MULI) due to the unique issues of public concern associated with this property (described below); specifically, include in the PSC zoning overlay allowances to enable all MULI uses and override any existing constraints in the Berkeley Municipal Code for Zoning (Title 23) on such MULI uses for the PSC property.  
**Financial Implications:** Staff time  
 Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110  
**Action:** Councilmember Wengraf added as a co-sponsor. Moved to Consent Calendar and amended to include a referral to the Planning Commission to explore the inclusion of skilled and trained workforce provision in SB 7 and the Berkeley Municipal Code.
- 36. \*\*\*Removed from Agenda by Councilmember Taplin\*\*\* Local Parks Option for the Percentage for Public Art on Private Projects**  
**From: Councilmember Taplin (Author)**  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

## Council Action Items

37. **Refer to the City Manager to Prioritize Municipal Fleet Modal Shift to Electric Bicycles and Other Forms of Zero-Emissions Mobility Where Feasible**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Refer to the City Manager to prioritize municipal fleet modal shift to electric bicycles and other forms of zero-emissions mobility, where feasible, as part of ongoing efforts to achieve a zero-emissions fleet by 2030.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Councilmember Wengraf added as a co-sponsor. Moved to Consent Calendar.

## Information Reports

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

**Public Comment – Items Not Listed on the Agenda - 5 speakers.**

## Adjournment

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

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

Councilmember Droste absent 9:58 p.m. – 10:02 p.m.

Adjourned at 10:02 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session meeting held on April 20, 2021.

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Mark Numainville  
City Clerk

## Communications

### Transient Occupancy Tax Allocated to the Marina Fund

1. Gordon Wozniak

### Illegal Encampment at the Telegraph-Channing Mall

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

### Gilman and the I-80 Interchange

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

### Hopkins Street Parking

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

### Berkeley Asphalt

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

### 5G + Cell Antennas

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

### Homelessness

19. Kai Horng
20. Jamie Greenblatt (2)
21. Kristen Barneich

- 22. Kathy Krebs
- 23. Chris Ahoy, on behalf of the Berkeley Rotary Club

**Bicycle and Pedestrian Safety**

- 24. Ed Reid
- 25. Beatriz Motta
- 26. Aviv Schifrin
- 27. Tom Lent
- 28. Bhima Sheridan
- 29. Sean McLaughlin
- 30. Noah Budnick (2)
- 31. Councilmember Taplin
- 32. Teresa Clarke
- 33. Elise Brewster
- 34. Dana Hymel
- 35. MaryAnn Furda
- 36. David Lerman
- 37. Jeffrey Black
- 38. Katy Love

**Robberies near Ellsworth**

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

**Vaccinations**

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

**Redistricting**

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

**Zoning and Housing**

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

- 58. Linda Maio
- 59. Barbara Gilbert

**Green Monday**

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

**School Reopening's**

- 62. Maxine Skaggs Kennedy

**Nuclear Ban Treaty**

- 63. Gar Smith

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

- 64. Camille Antinori, on behalf of Cal Sailing

**Stop Asian Hate Demonstration**

- 65. Jennifer Rose

**Cesar Chavez Park Conservancy Grant**

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

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

- 67. Carol Denney

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

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

**Milk Condition**

- 69. Phil Allen

**ZAB Use Permit for 3031 Telegraph Avenue**

- 70. Steve Medbery

**1900 Fourth Street Fencing**

- 71. Stephanie Manning

**Climate Emergency**

- 72. Thomas Lord

**Support Rooftop Solar**

- 73. Kathleen Giustino (2)

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

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

**Police Violence**

- 75. Ris Coto
- 76. Shellie Wharton

**Quake Scenario Exercise**

- 77. David Peattie

**On-Demand Mobile App**

- 78. Sandy

**BART Housing Development**

- 79. 11 similarly-worded form letters (BART Development)
- 80. 37 similarly-worded form letters (North Berkeley BART Development)
- 81. Laura Stevens
- 82. Forest Kaser
- 83. Toni Casal
- 84. Vicki Sommer (3)
- 85. Stephen Sperber and Roberta Silverstein
- 86. Eric Johnson (2)
- 87. Leah Levy
- 88. Chimey Lee
- 89. David Brandon
- 90. Albert Buixade Farre
- 91. Serena Lim and Family
- 92. Mariko Nobori
- 93. Todd Jailer
- 94. Friends of Adeline
- 95. Anna Cederstav
- 96. Tom Athanasiou and Rachel Sommerville
- 97. Janet Byron
- 98. Randy Shaw
- 99. Lee Bishop
- 100. Stephen Dalton
- 101. Robin Henke
- 102. Elie Hassenfeld
- 103. Jenny Johnston
- 104. Nritkaar Dhesi
- 105. David Brandon

**URL's Only**

- 106. 11 russbumper
- 107. Vivian Warkentin

**Supplemental Communications and Reports 1**



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

- 108. Supplemental materials, submitted by Health, Housing & Community Services

**Item #30: Budget Referral: Solano Avenue Revitalization Plan**

- 109. Ray Yep
- 110. Cheryl and Toby Lou
- 111. David Peattie
- 112. Esther Hill
- 113. Pam Zelnik
- 114. Valerie Hambas
- 115. Hildy Revenaugh
- 116. Franco
- 117. Valerie Hambas
- 118. Elizabeth Sklut
- 119. Christine Mewha
- 120. Molly Couto
- 121. Judy Logan

**Supplemental Communications and Reports 2**

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

- 122. Human Welfare and Community Action Commission

**Item #27: Letter of Opposition to the Federal Aviation Administration's Proposal to Shift the WNSDR Commercial Airliner Flight Corridor Directly Over Residential Neighborhoods in Berkeley, Richmond, El Cerrito, and Albany**

- 123. 100 similarly-worded form letters
- 124. Sally Nelson
- 125. Alice Rosenthal
- 126. Megan Finaly
- 127. Susan Calico
- 128. Mary Prophet
- 129. Kirsten Benjamin
- 130. Bob Martin
- 131. Jill Anthes
- 132. Gwen Allamby
- 133. Ann Einstein

**Item #31: Personal Liability Protections for Small Businesses Impacted by COVID-19**

- 134. Supplemental material, submitted by Councilmember Hahn

**Item 33: City Council Rules of Procedures and Order Revisions**

- 135. Supplemental material, submitted by Councilmember Hahn
- 136. 8 similarly-worded form letters

- 137. Gregory Kalkanis
- 138. Democratic Club of Cal

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

#### **Item #16: Contract: ERA Construction Inc. for King School Park Play Area Renovation Project**

- 139. Revised material, submitted by Parks, Recreation & Waterfront

#### **Item #27: Letter of Opposition to the Federal Aviation Administration's Proposal to Shift the WNSDR Commercial Airliner Flight Corridor Directly Over Residential Neighborhoods in Berkeley, Richmond, El Cerrito, and Albany**

- 140. Supplemental material, submitted by Councilmember Bartlett
- 141. 63 similarly-worded form letters
- 142. Phil Allen
- 143. Wini Williams
- 144. John Haptas
- 145. Janet Cole
- 146. Sloane Morgan
- 147. Pamela Michaud
- 148. Adam Dawson
- 149. Maxina Ventura
- 150. W.K. Seely
- 151. Igor Tregub
- 152. Michael Smith
- 153. Jesse McFarland
- 154. Frances Schultz
- 155. Jeff Hoffman
- 156. Sarah Garrett

#### **Item #28: Resolution in Support of Senate Bill 271, the Sheriff Democracy and Diversity Act, to Allow for More Diverse and Democratic Sheriff Elections**

- 157. Sally Nelson
- 158. Judith Stacey
- 159. Sharon Rose

#### **Item 33: City Council Rules of Procedures and Order Revisions**

- 160. Supplemental material, submitted by Councilmember Taplin
- 161. 6 similarly-worded form letters
- 162. Judy MacLean
- 163. Ruth Learn
- 164. Andrea Mullarkey (2)
- 165. Elizabeth Grubb (2)
- 166. John Smith
- 167. Berkeley Tenants Union
- 168. Chimey Lee
- 169. Jack Green

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, April 27, 2021**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82895393673>. 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: **828 9539 3673**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

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

## Preliminary Matters

**Roll Call:** 6:11 p.m.

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

**Absent:** None.

### Ceremonial Matters:

1. Recognition of Michael Cooper, Berkeley Cannabis Commissioner
2. Adjourn in memory of Peter Manso, Berkeley Resident and Journalist
3. Adjourn in memory of Dimitri Belser, Former Commissioner and Ed Roberts Center Director

### City Manager Comments:

The City Manager provided an update to the Reimagining Public Safety Process

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

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 26 speakers.

**Action:** M/S/C (Arreguin/Robinson) to accept supplemental material from the City Manager on Item 15.

**Vote:** All Ayes.

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

**Vote:** All Ayes.

## Consent Calendar

1. **Referral Response: Urgency Ordinance for leasing the real property at 742 Grayson**  
**From: City Manager**  
**Recommendation:** Adopt an Urgency Ordinance to enter into a lease for the real property located at 742 Grayson St. Berkeley for a term of 11 months, after which it becomes a month to month lease through September 30, 2022.  
**Financial Implications:** See report  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000  
**Action:** Adopted Urgency Ordinance No. 7,759–N.S.

## Consent Calendar

- 2. Contract: Dorothy Day House to operate shelter at 742 Grayson**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with Dorothy Day House to operate a shelter at 742 Grayson through September 30, 2022, for a total contract amount not to exceed \$1,109,522.  
**Financial Implications:** Measure P funding - \$1,109,522  
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 69,808–N.S.
- 3. Appointment of Planning and Development Department Director**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution confirming the appointment of Jordan Klein as the Director of the Planning and Development Department effective May 3, 2021 at an annual salary of \$194,765.  
**Financial Implications:** See report  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000  
**Action:** Adopted Resolution No. 69,809–N.S.
- 4. Contract No. 32000171 Amendment: Michael Brady Emergency Management Training**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment extending the contract period to June 30, 2023 for Contract No. 32000171 with Michael Brady for Emergency Management Training.  
**Financial Implications:** See report  
Contact: David Brannigan, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 69,810–N.S.
- 5. Donation of Fire Apparatus and Equipment**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution donating surplus fire apparatus and equipment, including one surplus fire engine and one surplus ambulance, to the McCloud Fire Department.  
**Financial Implications:** See report  
Contact: David Brannigan, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 69,811–N.S.

## Consent Calendar

- 6. Rebuilding Together East Bay-North Contract Continuation Recommendation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Providing additional two-year General Fund allocations for Rebuilding East Bay-North's Safe at Home and Community Facility Improvement programs; and 2. Authorizing the City Manager to enter into any agreements or amendments to effectuate this action, including an amendment to Contract No. 31900263 with Rebuilding Together East Bay-North for an amended amount of \$245,700 for a new not to exceed amount of \$491,400 and extending the contract term to June 30, 2023.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 69,812–N.S.
- 7. Contract No. 31900065-1 Amendment: Cyber Leadership and Strategy Solutions, LLC for Professional Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No 31900065-1 with Cyber Leadership and Strategy Solutions, LLC (CLASS) for professional services in an amount not to exceed \$180,100, and a total contract value not to exceed \$230,000 from January 7, 2019 through June 30, 2022.  
**Financial Implications:** Various Funds - \$180,100  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,813–N.S.
- 8. Contract No. 32100051 Amendment: Edgeworth Integration for Additional Security Cameras at the Berkeley Waterfront**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32100051 with Edgeworth Integration, LLC to install additional security cameras at the Berkeley Waterfront by increasing the existing contract amount by \$80,000 for a not-to-exceed amount of \$140,000.  
**Financial Implications:** Marina Fund - \$80,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,814–N.S.
- 9. Contract Amendment: Bellingham Inc. to replace additional finger docks at the Berkeley Marina**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract amendment with Bellingham Inc. to replace additional finger docks at the Berkeley Marina by increasing the construction contract amount by \$110,000 for a not-to-exceed amount of \$240,000.  
**Financial Implications:** Marina Fund - \$110,000  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,815–N.S.

## Consent Calendar

- 10. Contract: Raimi + Associates for Professional Planning Services for the 2023–2031 Housing Element Update**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Raimi + Associates to perform professional planning services for the 2023 - 2031 Housing Element Update in an amount not to exceed \$540,000 for the period of May 15, 2021 to May 15, 2023.  
**Financial Implications:** See report  
Contact: Jordan Klein, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,816–N.S.
- 11. Contract: Bay Cities Paving & Grading, Inc. for Street Rehabilitation FY 2021 Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Street Rehabilitation FY 2021 Project, Specification No. 21-11422-C; accepting the bid of Bay Cities Paving & Grading, Inc. as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project, in accordance with the approved plans and specifications in an amount not to exceed \$4,296,733.  
**Financial Implications:** Various Funds - \$4,296,733  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,817–N.S.
- 12. Purchase Order: Jack Doheny Company for One CCTV Sewer Camera Truck**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell Contract No. 122017-RVL bid procedures, and authorizing the City Manager to execute a purchase order for one Closed Circuit Television (CCTV) Camera Sewer Truck with Jack Doheny Company in an amount not to exceed \$465,000.  
**Financial Implications:** Various Funds - \$465,000  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,818–N.S.

## Consent Calendar

- 13. Purchase Order: Nicholas K Corp DBA The Ford Store San Leandro for Eight Ford Interceptor Utility Hybrid SUVs**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in The County of Alameda bid procedures and authorize the City Manager to execute a purchase order for eight (8) Ford Interceptor Utility Hybrids with Nicholas K Corp DBA The Ford Store San Leandro in an amount not to exceed \$390,000 with additional up-fitting costs with various vendors in an amount not to exceed \$120,000 for a total not to exceed of \$510,000.  
**Financial Implications:** Equipment Replacement Fund - \$510,000  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,819–N.S.
- 14. Contract No. 31900031 Amendment: Downtown Streets Team**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to amend Contract No. 31900031 with Downtown Streets Team to add additional scope to address enhanced needs for services around encampments and neighborhoods, and increase the contract by \$50,000 for a new not to exceed amount of \$920,304.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,820–N.S.
- 15. Contract: California Constructores for Sidewalk Repairs FY 2020 Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Sidewalk Repairs FY 2020 Project, Specification No. 20-11409-C; accepting the bid of California Constructores as the lowest responsive and responsible bidder; and authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project, in accordance with the approved plans and specifications in an amount not to exceed \$2,000,000.  
**Financial Implications:** Various Funds - \$2,000,000  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,821–N.S. including supplemental materials submitted at the meeting to reject the bid protest for this contract award.



## Consent Calendar

- 16. Contract No. 32000147 Amendment: Trip Stop Sidewalk Repair, Inc. for FY 2020 Sidewalk Inspection and Shaving Services Project**  
**From: City Manager**  
**Recommendation:** Adopt Resolution authorizing the City Manager to execute amendment to Contract No. 32000147 with Trip Stop Sidewalk Repair, Inc. for FY2020 Sidewalk Inspection and Shaving Services, increasing the original contract amount by \$1,000,000 for a total not-to-exceed amount of \$1,450,000 and extend the term by two years for a revised contract expiration date of March 9, 2024.  
**Financial Implications:** Various Funds - \$1,000,000  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,822–N.S.
- 17. Contract No. 31900288 Amendment: Disability Access Consultants for ADA Transition Plan**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 31900288 with Disability Access Consultants for Americans with Disabilities Act (ADA) Transition Plan increasing the contract amount by \$78,200 for a total not-to-exceed of \$484,800 and extend the contract term to June 30, 2022.  
**Financial Implications:** Capital Improvement Fund - \$78,200  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,823–N.S.
- 18. Approving Proposed Projects Anticipated to be paid for by the State’s Road Maintenance and Rehabilitation Account (RMRA) Funds for FY2022**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving a proposed list of projects that will utilize funding from the State of California’s Road Maintenance and Rehabilitation Account, and authorize the City Manager to submit the proposed list to the California Transportation Commission.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,824–N.S.

## Consent Calendar

19. **Contract No. 31900104 & Contract No. 32000003 Amendments: Nelson\Nygaard for Parking Data Collection and Community Outreach Services for the goBerkeley Residential Shared Parking Pilot**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute amendments to Contract No. 31900104 and Contract No. 32000003 with Nelson\Nygaard for parking data collection and community outreach and engagement services for the goBerkeley Residential Shared Parking Pilot, respectively, extending each contract term to December 31, 2023.  
**Financial Implications:** None  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,825–N.S.
20. **Contract No. 32000124 Amendment: D.L Falk Construction, Inc. for Central Library Interior Renovations Project at 2090 Kittredge Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32000124 with D.L. Falk Construction, Inc. to complete interior renovations work at the Central Library, increasing the current contract not-to-exceed amount of \$3,056,900 by \$100,000 for a revised total amount not-to-exceed \$3,156,900.  
**Financial Implications:** Library Tax Fund - \$100,000  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,826–N.S.
21. **Vision Zero Annual Report**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Accepting the City of Berkeley Vision Zero Annual Report for 2020-2021; 2. Affirming the actions and priorities as stated in the 2020 Berkeley Vision Zero Action Plan; 3. Directing the City Manager to form a Vision Zero Coordinating Committee for guiding the implementation of the 2020 Vision Zero Action Plan, including coordinating with the ongoing Berkeley Department of Transportation (BerKDOT) referral response and the Reimagining Public Safety Task Force, with the goal of developing a Vision Zero Traffic Enforcement policy before proceeding with the “Safer Streets by Everyone: Enforcement” actions described in the Vision Zero Action Plan.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,827–N.S.

## Consent Calendar

- 22. Contract No. 31900158 Amendment: D.L. Falk Construction for North Berkeley Senior Center Seismic Upgrades and Renovations Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900158 with D.L. Falk Construction to complete renovation and seismic upgrade work at the North Berkeley Senior Center, increasing the current contract amount of \$8,320,400 by \$350,000 for a total amount not-to-exceed of \$8,670,400.  
**Financial Implications:** T1 Fund - \$350,000  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Adopted Resolution No. 69,828–N.S.
- 23. Lease Agreement: 2010 Addison Street at Center Street Garage with Vito Loconte and Alexie LeCount DBA Lexie’s Frozen Custard**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement for 2010 Addison Street at the Center Street Garage with Vito Loconte and Alexie LeCount DBA Lexie’s Frozen Custard, a sole proprietorship, for an initial term of ten (10) years with one optional five-year lease extension AND approve payment of a commission of \$9,331.23 to Colliers International for commercial brokerage fees for locating a tenant for the premises.  
**Financial Implications:** See report  
Contact: Liam Garland, Public Works, (510) 981-6300  
**Action:** Item removed from the agenda by the City Manager.

## Council Consent Items

**24. Assessing the City's Bonding Capacity and Considering Strategy for Multiple Needs**

**From: Mayor Arreguin (Author)**

**Recommendation:** Refer to the City Manager to explore various options for a future city bond measure in November 2022 to support the growing need for affordable housing, street improvements, and infrastructure citywide. Analysis should include an assessment of the city's long-range capital needs (street repaving, bicycle and pedestrian improvements, and other infrastructure needs, as is being developed through CIP/Vision 2050 planning) and long-term affordable housing needs. The analysis should explore the city's bond capacity and ability to incur further indebtedness, the potential for a single bond measure or multiple bond measures in 2022 or over a phased period, explore budget scenarios at various amounts, any other mechanisms to maximize and leverage city bonding capacity. Staff analysis should also explore different bond programs and revenue mechanisms employed by other California cities to support affordable housing finance and infrastructure projects.

**Financial Implications:** See report

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

**Action:** Councilmembers Hahn and Taplin added as co-sponsors. Approved recommendation as revised by Mayor Arreguin in Supplemental Communications Packet #1.

**25. Support for AB-490: positional asphyxia**

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

**Recommendation:** Send a letter of support to Assemblymember Mike Gipson (D-Carson), Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 490, which would prohibit law enforcement agency use of force policies to prohibit techniques and transport methods with substantial risk of positional asphyxia.

**Financial Implications:** None

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

**Action:** Approved recommendation.

## Council Consent Items

- 26. Budget Referral: Urgent Remediation of Unsafe Ninth Street Traffic Conditions From: Councilmember Taplin (Author), Mayor Arreguin (Co-Sponsor)**  
**Recommendation:** That the City Council refers to the budget process the funding of traffic calming, traffic diversion, and bike network improvements on Ninth Street between Gilman and Ashby Avenue including but not limited to:
1. Three traffic diverters, one within each collector/arterial segment that currently lacks a diverter: a. Gilman to Cedar b. University to Dwight c. Dwight to Heinz
  2. Six permanent traffic circles, including a. Ninth and Page b. Ninth and Virginia c. Ninth and Channing d. Ninth and Parker e. Ninth and Grayson f. Ninth and Heinz
  3. Two ADA-compliant, bicycle-friendly speed tables per block
  4. Re-engineer the diverter at 9th and Delaware to prevent cut through traffic on 9th, particularly from casual carpool during morning rush hour
  5. Initiate a community engagement process to elicit neighborhood feedback and prepare a pilot program for quick-build protected bike lanes along Ninth Street between Bancroft Way and Heinz Avenue
  6. Green bike waiting spaces on Ninth Street at University Avenue, both northbound and southbound with loop detectors for bikes at the waiting boxes.
  7. Three STOP signs on the north, east and west ends of the intersection at Ninth and Murray Street
- Financial Implications:** See report  
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation as revised by Councilmember Taplin in Supplemental Communications Packet #2.
- 27. Adopt Resolution Requesting CalPERS Divest from Industrial Animal Protein and Factory Farming Companies and Invest in California's Local Plant-Based Food Economy**  
**From: Councilmember Harrison (Author)**  
**Recommendation:** Adopt Resolution Requesting CalPERS Divest from industrial animal protein and factory farming companies and invest in California's local plant-based food economy. Send a copy and letter to California Public Employees' Retirement System (CalPERS) requesting their consideration.  
**Financial Implications:** Staff time  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted Resolution No. 69,829–N.S.

## Action Calendar – Public Hearings

### 28. Submission of the PY 2021 (FY 2022) Annual Action Plan Containing Allocations of Federal Funds

**From: City Manager**

**Recommendation:** Conduct a public hearing on the federal Program Year (PY) 2021 Annual Action Plan (AAP) for federal Housing and Urban Development Department (HUD) funds, including the allocation of federal funding for community agencies, and upon conclusion, adopt a Resolution:

1. Approving proposed funding allocations under the FY 2022 Community Development Block Grant (CDBG), Emergency Solutions Grant (ESG), and Home Investment Partnerships Program (HOME); and
2. Authorizing the execution of resultant agreements and amendments with community agencies for the above-mentioned funds; and
3. Allocate 10% for HOME program administration, up to 5% to support Community Housing Development Organization (CHDO) operations, and the remaining (approximately 85%) of the PY 2021 HOME funds to the Housing Trust Fund; and
4. Allocate 20% of the PY 2021 CDBG funds to Planning and Administration, up to 17.83% for public services, and the remaining to be distributed to Housing Services and Community Facility Improvements as outlined in Exhibit A with the Public Facility Improvements being a flexible line item should the HUD allocation and/or program income and earlier unused funds, be more or less than estimated; and
5. Allocate the allowable 7.5% of the PY 2021 ESG to Administration, \$6,676 to the HMIS system, up to the allowable 60% to emergency shelter/street outreach, and the remaining amount to Rapid Rehousing as outlined in Exhibit A, and
6. Finalize the PY 2021 Annual Action Plan, including planned expenditures, adding required HUD application forms and certifications, and including other HUD-required information, submit it to the U.S. Department of Housing and Urban Development (HUD), and execute all documents necessary to receive the City's entitlement grants under the CDBG, ESG and HOME Programs.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 3 speakers. M/S/C (Arreguin/Wengraf) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Hahn) to adopt Resolution No. 69,830–N.S.

**Vote:** All Ayes.

## Action Calendar – New Business

29. **Refinancing of 2010 Certificates of Participation Originally Issued to Finance Animal Shelter Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution ratifying Resolution No. 69,309-N.S., approving a preliminary official statement, approving the method of sale and approving documents and official actions related to the refinancing of outstanding 2010 certificates of participation.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** 0 speakers. M/S/C (Wengraf/Harrison) to adopt Resolution No. 69,831–N.S.  
**Vote:** All Ayes.
30. **Issuance of \$45,000,000 in General Obligation Bonds, Series B for the 2016 Election - Infrastructure and Facilities Improvements, Measure T1**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the issuance of \$45,000,000 aggregate principal amount of general obligation bonds, series B (Infrastructure and Facilities Improvements, Measure T1), approving an official statement and authorizing actions related hereto.  
**Financial Implications:** See report  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** 0 speakers. M/S/C (Arreguin/Wengraf) to adopt Resolution No. 69,832–N.S.  
**Vote:** All Ayes.

Recess 8:22 p.m. – 8:33 p.m.

## Action Calendar – New Business

### 31. City Affordable Housing Funds: Ashby and North Berkeley BART Station Areas and Future Housing Funding Notices of Funding Availability (NOFA)

**From: City Manager**

**Recommendation:** Adopt a Resolution to:

1. 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 allow for a portion of funding (to be determined at a later date) to be considered for predevelopment;
2. Provisionally reserve 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, and allow for a portion of the funding (to be determined at a later date) to be considered for predevelopment;
3. Refer to the City Manager to investigate a new bond measure that could fund housing and/or infrastructure needs at the two BART sites and in the Adeline Corridor, or in the City as a whole, and to establish a timeline and community process for such a bond measure with a goal of maximizing affordable housing (up to 100%) at either or both BART sites; and
4. Release one or more NOFAs to support development of new affordable housing projects or rehabilitation of existing affordable projects, using Permanent Local Housing Allocation (PLHA) funds allocated for operating subsidies for homeless households and housing rehabilitation, HOME funds and the balance of City Housing Trust Funds, in combination with the balance of any remaining Measure O funds available from the second tranche; and using the Housing Trust Fund Guidelines and operating subsidy guidance established by staff, and reviewed by the Housing Advisory Commission.

**Financial Implications:** See report

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

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

**Action:** Moved to Consent Calendar. Adopted Resolution No. 69,833–N.S.



## Council Action Items

- 32. Adopt an Ordinance Adding Chapter 2.100 to the Berkeley Municipal Code Regulating Police Acquisition and Use of Controlled Equipment** *(Reviewed by the Public Safety Policy Committee)*  
**From: Councilmember Harrison (Author), Councilmember Bartlett (Author), Councilmember Taplin (Author)**  
**Recommendation:** Adopt an Ordinance Adding Chapter 2.100 to the Berkeley Municipal Code to Regulate Police Acquisition and Use of Controlled Equipment.  
*Policy Committee Recommendation: Send the item with a Qualified Positive Recommendation, removing definition #13 (LRAD) and further recommending that Council deliberate on definitions for #8, #9 (40 mm projectile only), and #12 due to concern about duplication with the Use of Force policy. Council may consider possible amendments to the Use of Force policy to ensure that all controlled equipment specified in #8, the 40 mm projectile in definition #9, and #12 are covered and reported by our City's Use of Force policy, including reporting on police beat areas in quarterly use of force reporting to Council. Consider possible replacement of "display" in Controlled Equipment Ordinance to "deploy" defined as "to utilize for a deliberate purpose in the presence of members of the public.*  
**Financial Implications:** Staff time  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

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

**Vote:** All Ayes.

**Action:** M/S/C (Harrison/Arreguin) to suspend the rules and extend the meeting to 11:40 p.m.

**Vote:** All Ayes.

**Action:** 32 speakers. Mayor Arreguin added as a co-sponsor. M/S/C (Arreguin/Hahn) to adopt first reading of Ordinance No. 7,760-N.S. as amended by Councilmember Harrison in Supplemental Communications Packet #2 and further amended to clarify the definition of Controlled Equipment, clarify the applicability to the LRAD device and SRT deployments, and clarify reporting by "days" and "instances" as appropriate. Second reading scheduled for May 11, 2021.

**Vote:** All Ayes.

## Information Reports

- 33. Zero Waste Commission Fiscal Year 2021-22 Work Plan**  
**From: Zero Waste Commission**  
Contact: Heidi Obermeit, Commission Secretary, (510) 981-6300  
**Action:** Received and filed.

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

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 11:39 p.m.

I hereby certify that the foregoing is a true and correct record of the regular session meeting held on April 27, 2021.

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Mark Numainville  
City Clerk

## Communications

### **Item #27: Adopt Resolution Requesting CalPERS Divest from Industrial Animal Protein and Factory Farming Companies and Invest in California's Local Plant-Based Food Economy**

1. Alexandra Colacito
2. Gretchen Ellis

### **BART Housing Development**

3. Stephen Shiboski
4. Laura Enriquez
5. Ednah Beth Friedman
6. Barbara Anscher
7. Lynda Caesara
8. Valerie McDermott
9. Margot Smith
10. Carol Hirth
11. Linda Press Wulf
12. John Hagopian
13. Anne Boersma
14. Laura Magnani
15. Adam Davis
16. Burr Tyler
17. Dorothea Dorenz
18. Judith Brown
19. Phyllis Oyama
20. Madeline Hero
21. Laura Lipman

### **Hopkins Street Corridor Traffic Study**

22. Paul Johnson (2)

- 23. Farid Javandel, on behalf of the City of Berkeley (2)
- 24. Councilmember Hahn (2)
- 25. Merle Weiner
- 26. Art Goldberg

**Golden Gate Fields Horses**

- 27. Ryan

**Exclusionary Zoning**

- 28. Rhonda Gruska

**Unsafe Activities on the 2100 Block of Curtis Street**

- 29. Theresa Hwang

**Proposed Project at 600 Addison Street**

- 30. Parks and Waterfront Commission

**Untrash It Volunteer Work**

- 31. Irene Rice

**Art Kala Institute Thanks!**

- 32. Ellen Lake, on behalf of Kala Art Institute

**Ohlone Park East Improvements**

- 33. LA Wood

**Homeless Action**

- 34. jimarrone@

**Arts Funding from the American Rescue Plan Act**

- 35. 20 similarly-worded form letters

**Supplemental Communications and Reports 1**

**Item #21: Vision Zero Annual Report**

- 36. Moni Law

**Item #24: Assessing the City's Bonding Capacity and Considering Strategy for Multiple Needs**

- 37. Revised material, submitted by Mayor Arreguin

**Item #32: Adopt an Ordinance Adding Chapter 2.100 to the Berkeley Municipal Code Regulation Police Acquisition and Use of Controlled Equipment**

- 38. Revised material, submitted by Councilmember Harrison
- 39. Barbara Atwell

**Supplemental Communications and Reports 2**

**Item #26: Budget Referral: Urgent Remediation of Unsafe Ninth Street Traffic Conditions**

40. Supplemental material, submitted by Councilmember Taplin

**Item #27: Adopt Resolution Requesting CalPERS Divest from Industrial Animal Protein and Factory Farming Companies and Invest in California's Local Plant-Based Food Economy**

41. Katia Antonova

42. Adrian Singh

**Item #32: Adopt an Ordinance Adding Chapter 2.100 to the Berkeley Municipal Code Regulation Police Acquisition and Use of Controlled Equipment**

43. Revised material, submitted by Councilmember Kesarwani

44. Revised material, submitted by Councilmember Harrison

45. Gayle Eleanor

46. Summer Brenner

47. Kelly Hammargren

48. Sally Nelson

49. Linda Franklin

50. Wendy Alfsen

51. James Brook

52. 29 similarly-worded form letters

**Supplemental Communications and Reports 3**

**Item #15: Contract: California Constructores for Sidewalk Repairs FY 2020 Project**

53. Revised material, submitted by Public Works

**Item #17: Contract No. 31900288 Amendment: Disability Access Consultants for ADA Transition Plan**

54. Mary Behm-Steinberg

**Item #26: Budget Referral: Urgent Remediation of Unsafe Ninth Street Traffic Conditions**

55. Sierra Club Northern Alameda County Group

56. Marjorie Alvord

**Item #27: Adopt Resolution Requesting CalPERS Divest from Industrial Animal Protein and Factory Farming Companies and Invest in California's Local Plant-Based Food Economy**

57. Sierra Club Northern Alameda County Group

**Item #28: Submission of the PY 2021 (FY 2022) Annual Action Plan Containing Allocations of Federal Funds**

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

**Item #32: Adopt an Ordinance Adding Chapter 2.100 to the Berkeley Municipal Code Regulation Police Acquisition and Use of Controlled Equipment**

59. Marilyn Cleveland

60. Reesa Gonclaves

61. Lori Fagerholm

62. Elliot Halpern
63. Sara Gray
64. Emma Gobler
65. Steve Thomasberger
66. Anna Tseselsky
67. Audrey Love
68. Ali Lafferty
69. 17 similarly-worded form letters

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**THURSDAY, APRIL 29, 2021**

**3:00 P.M.**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

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

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

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

*To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/89203024650>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.*

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)**; enter Meeting ID: **892 0302 4650**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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

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

## Preliminary Matters

**Roll Call:** 3:03 p.m.

**Present:** Bartlett, Harrison, Hahn, Robinson, Droste

**Absent:** Kesarwani, Taplin, Wengraf, Arreguin

Councilmember Kesarwani present at 3:07 p.m.

Councilmember Taplin present at 3:07 p.m.

Councilmember Wengraf present at 3:45 p.m.

Mayor Arreguin present at 3:57 p.m.

**Public Comment - Limited to items on this agenda only – 11 speakers**

## CLOSED SESSION:

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

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

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

**Action:** No reportable action.

## OPEN SESSION:

No reportable action.

## Adjournment

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

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

Councilmember Kesarwani absent 4:58 p.m. – 5:18 p.m.

Councilmember Droste absent 5:01 p.m. – 5:18 p.m.

Adjourned at 5:18 p.m.

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

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Mark Numainville  
City Clerk

**Communications**

- None

**Supplemental Communications and Reports 1**

- None

**Supplemental Communications and Reports 2**

- None

**Supplemental Communications and Reports 3**

1. Ryan Murray
2. Gordon Hansen





Office of the City Manager

04

CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Acting Manager, Office of Economic Development

Subject: Assessments: Berkeley Tourism Business Improvement District

RECOMMENDATION

Adopt a Resolution approving the Annual Report of FY 2021 and preliminary budget for FY22 for the Berkeley Tourism Business Improvement District (BTBID) as recommended by the BTBID Owners' Association.

FISCAL IMPACTS OF RECOMMENDATION

The BTBID levies an annual assessment of one percent (1%) of gross short term room rental revenue for lodging establishments. Annual assessment funds will be deposited and expended from the Tourism BID Fund. Based on City of Berkeley proposed budget revenue projections for the Transient Occupancy Tax (TOT) for FY 2022 (made in the third quarter of FY21) and spring 2021 hotel occupancy rates, the BTBID optimistically budgeted to receive \$300,000 in funding for FY 2022. As of May 2021, the current City of Berkeley's TOT projection for FY 2022 is \$2,173,500. That would mean the TBID revenue would be \$181,125 in FY 2022. This is \$118,875 less than what Visit Berkeley staff have estimated in their preliminary evaluation for the FY 2022 Tourism BID assessment. Both parties understand that the actual amount may change in the coming months, reflecting the state of the pandemic and corresponding economic recovery. The City retains a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration associated with the Tourism BID.

The exact amount of any FY 2021 BTBID fund balance will only be known with certainty in August 2021. This is because the City collects BTBID assessments on a monthly basis along with Transient Occupancy Taxes (TOT). As a result, the finance department will only know the receipts for June 2021 after those assessments are collected at the beginning of July 2021. If revenues come in higher than anticipated, the Office of Economic Development will determine the amount and make a one-time "true up" payment for FY2021 during FY 2022. The appropriation of these additional funds will be included as a one-time "true up" payment with the amount articulated and authorized in the First Amendment to the FY 2022 Annual Appropriations Ordinance (November 2021).

CURRENT SITUATION AND ITS EFFECTS

The Convention and Visitors Bureau, known as Visit Berkeley, has an active contract with the City to implement the Management District Plan for the Tourism Business Improvement District through FY 2027 to support tourism marketing and promotion.

Under the Property and Business Improvement District Law of 1994 (California Streets and Highways Code section 36600 et.seq.) the City Council may approve an Annual Report prepared by the Tourism Business Improvement District Owners' Association with a proposed budget for the next year. Accordingly, at its meeting on April 1, 2021, the BTBID Owners' Association voted to approve the Tourism BID's Annual Planning Report and budget for BTBID's Fiscal Year 2022. Council can adopt the recommended resolution which will confirm the TBID assessment and thus enable continuous BID operations for another year.

The Management District Plan that was adopted by Council in 2017 as part of the reestablishment of the District provides a framework and budget for the Tourism BID's activities. In FY 2022, the Tourism BID will work with stakeholders, the City of Berkeley, and community leaders to develop strategies and initiatives to support and rebuild Berkeley's hospitality industry recovery amidst the COVID-19 pandemic. Additionally, the Tourism BID will develop digital marketing and promotions utilizing the power of Visit Berkeley's website and social media strengths to push positive messaging to the visitor and meetings industry and continue to develop and manage positive relationships with local, regional and statewide marketing and hospitality partners to create overnight room demand and to ensure the organization has the resources and support needed to successfully execute the BTBID mission.

#### BACKGROUND

The Berkeley Tourism Business Improvement District includes all lodging businesses with five (5) rooms or more, available for public occupancy within the boundaries of the City of Berkeley. The City is responsible for collecting the assessment on a monthly basis from each lodging business with five (5) rooms or more located in the District boundaries. The City forwards the assessments to Visit Berkeley, which has the responsibility of managing District programs as provided in the Management District Plan.

The Berkeley Tourism BID was first established for a period of five years on September 18, 2012 to raise revenues to finance marketing and sales promotions, increase tourism, and promote Berkeley hotels as tourist, meeting, and event destinations. The Berkeley Municipal Code was amended on November 27, 2012 to modify its definition of room rent that so that BTBID assessments passed through to guests are exempt from the Transient Occupancy Tax (TOT) which is also applied to room rent. A portion of TOT revenue also funds the Berkeley Convention and Visitors Bureau, but under a separate contract. On April 25, 2017, Council approved Resolution No. 67,926-N.S. reestablishing the Tourism BID starting on July 1, 2017 for an additional 10 years,

expiring in 2027. The Tourism BID is authorized through June 30, 2027 unless action is taken to disestablish it. In October of 2019, the City Council authorized the City Manager to execute a contract and any amendments (Contract # 32000101) with Visit Berkeley, not to exceed \$7,966,000 of BTBID revenues, to support tourism marketing and promotion for the period through June 30, 2027.

ENVIRONMENTAL SUSTAINABILITY

The BTBID works to promote the Bay Area Green Business certification program with Berkeley's hotel owners, thereby encouraging the local lodging industry to take actions to meet environmental sustainability objectives.

RATIONALE FOR RECOMMENDATION

The State Property and Business Improvement District Law of 1994 requires that the City Council accept an annual report from the Owners' Association for each fiscal year in which assessments are to be levied. The report shall include any proposed changes in the boundaries of the district, the activities proposed for the year, and an estimate of the cost for providing them. Council action is required to approve the Tourism BID's Annual Report. This will, in turn, confirm disbursement of Tourism BID assessment revenue to Visit Berkeley. This private/public partnership generates significant resources for the City, indirectly enhancing sales tax, business license tax, and other business-related City revenue sources such as transit occupancy tax.

ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

CONTACT PERSON

Elizabeth Redman Cleveland, Economic Development Project Coordinator, Office of Economic Development, (510) 981-7532

Attachments:

- 1: Resolution: Annual Report and Proposed Budget  
Exhibit A: 2020-2021 Annual Report and proposed FY 2022 budget of the Berkeley Tourism Business Improvement District

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

APPROVING THE 2020-2021 ANNUAL REPORT AND PROPOSED FY 2022 BUDGET  
OF THE BERKELEY TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, Property and Business Improvement District Law of 1994 (California Streets and Highways Code section 36600 et.seq.) authorizes cities to establish business improvement districts for the purpose of imposing assessments on businesses for certain purposes; and

WHEREAS, on April 25, 2017, the Berkeley City Council re-established such a district known as the Berkeley Tourism Business Improvement District (the "District"); and

WHEREAS, the City Council designated the Berkeley Tourism Business Improvement District Owners' Association (Owners' Association) to oversee the activities of the District; and

WHEREAS, the Owners' Association has submitted an Annual Report to the Berkeley City Council that outlines the activities of the District proposed for fiscal year (FY) 2022 and a budget for providing them, as required by the California Streets and Highways Code Section 36650; and

WHEREAS, the Annual Report is clear and complete and found to comply with the interests of the District assesses; and

WHEREAS, the Annual Report proposes no changes to rates, boundaries or services to the Business Improvement District.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council of the City of Berkeley hereby approves the Berkeley Tourism Business Improvement District Annual Report for 2020-21 and budget for FY2022 (Exhibit A) as submitted to the City Clerk by the Berkeley Tourism Business Improvement District Owners' Association.

Exhibit A: 2020-2021 Annual Report and Proposed FY2022 Budget of the Berkeley Tourism Business Improvement District

## 2021-22 Annual Planning Report

### Berkeley Tourism Business Improvement District Marketing Plan

**District Name:** This report is for the Berkeley Tourism Business Improvement District (TBID).

**Fiscal Year of Report:** This report applies to the fiscal year 2021 (July 1, 2020 – June 30, 2021) and proposes a budget for fiscal year 2022 (July 1, 2021 – June 30, 2022).

**Background:**

The Berkeley TBID is a benefit assessment district created in 2012 by a group of hoteliers to fund marketing and promotional efforts for Berkeley lodging businesses. The first 5-year agreement with the City of Berkeley was from November 1, 2012 to October 31, 2017. On November 18, 2014, the Berkeley City Council approved the transition of the BTBID to a fiscal year contract effective FY2015-16. On April 25, 2017 City Council adopted the renewal of the Berkeley Tourism Business Improvement District for a ten (10) year term to maintain a revenue source devoted to marketing and promoting specific hotel-serving activities, beginning July 1, 2017 through June 30, 2027.

**Boundaries:**

The Berkeley TBID includes all hotels with five or more rooms, existing and in the future, available for public occupancy within the boundaries of the City of Berkeley. The boundary is estimated to include approximately 26 hotel businesses. One new hotel property is slated to open in the summer of 2021, and a second in the early fall of 2021. There are no proposed changes to the boundaries of the Tourism BID for fiscal year 2022.

**Improvements and Activities for 2021-22:**

This planning report is provided for informational purposes. Actual projects are subject to approval by the BTBID Committee and the Visit Berkeley board. Below are the improvements and activities planned for fiscal year 2022. The ideas presented below are subject to change during the course of the year depending on circumstances and availability of funds. The estimated budget is \$300,000.00.

Both the City of Berkeley and Visit Berkeley will continue to experience low occupancies and declined TOT revenues through 2022. While Berkeley recently moved into the Red Tier of the Alameda County Shelter in Place order, our offices remain closed and existing staff is continuing to work remotely.

As you are aware, Covid-19 hit the tourism/hospitality industry much harder than any other. Most Berkeley lodging facilities remain open under essential

business only, with occupancies running in the 30-35% range. Indoor meetings and events remain closed while the State of CA researches appropriate safety guidelines and protocols for both employees and attendees. Restaurants teeter back and forth between limited outdoor and indoor dining. Although the hospitality industry remains unstable, Visit Berkeley will continue to partner with our local property-based BIDS, the City's Office of Economic Development (OED), restaurants, and retailers by creating marketing and social media campaigns urging Berkeley residents and neighboring cities to patronize and buy local.

As we anticipate TOT revenues to remain challenging, Visit Berkeley will redouble its efforts on Community Building and Hospitality Industry Recovery, a major shift from our 5-Year Strategic Plan. As Covid-19 remains a public health crisis, we must follow the lead from public health officials ending stay-at-home restrictions and reopening businesses. We are prepared for what may be a slow, tentative, and unstable recovery.

### **1) SALES AND MARKETING (99%)**

Sales and Marketing shall be 99% of the assessment that is estimated to be \$297,000.00 in FY 2022.

#### **Phase 1: Help Local Industry Get Back To Work**

**Strategy:** Work with Stakeholders, City of Berkeley and Community Leaders to develop strategies and initiatives to rebuild the hospitality businesses citywide.

- a. **Lodging** (ensure all lodging properties maintain the Clean & Safe Certification through the California Hotel & Lodging Association and public health officer)
- b. **Restaurants/Libations** (provide and assist restaurant and libation businesses with reopening and cleaning protocols provided by California Restaurant Association and Berkeley Health Officer)
- c. **Arts & Culture Venues** (provide marketing support to venues when they are approved for reopening)
- d. **Merchant Districts** (work with and advocate for overall safety and hygiene of Berkeley's streetscape).

#### **Phase 2: Develop Internal Marketing Strategies**

**Strategy:** Develop digital marketing and promotions utilizing the power of Visit Berkeley's website and social media strengths to push positive messaging to the visitor and meetings industry:

- a. **Website** (maintain a robust website that promotes all tourism and meeting related businesses)
- b. **Partner Packages** (work with marketing partners to create visitor packages for 'Explore Berkeley 3D')
- c. **Outdoor Adventure** (Promote outdoor activities, such as district shopping, parks and outdoor dining as consumers become comfortable and look to satisfy pent-up demand by taking local/regional outings)
- d. **Digital Familiarization Tours and Meetings** (maintain contact with meeting planners and travel writers/media with individual and small group zoom meetings to promote industry cleaning certifications and protocols, hotel promotions and packages)

#### **Phase 3: Local, Regional and Statewide Marketing Outreach**

**Strategy:** Continue to develop and manage positive relationships with local, regional and statewide marketing and hospitality partners to create overnight room demand and to ensure Visit Berkeley has the resources and support needed to successfully execute the BTBID mission.

- a. **Local** (maintain and build positive relationships with UC Berkeley, Lawrence Berkeley Lab and other local businesses that produce lodging overnight stays and small conferences)
- b. **Regional** (9 Bay Area Counties) (strategize opportunities to attract leisure and family visitations to patronize Berkeley's merchant districts, businesses and outdoor activities)
- c. **Statewide** (leverage our ongoing relationship with Visit California to participate in cooperative programs and marketing opportunities to attract Regional and Statewide visitation to Berkeley).

## **2. CITY COLLECTION COSTS (1%)**

The City of Berkeley shall be paid a fee equal to 1% of the amount of assessment collected to cover its costs of collection and administration. The estimated costs for fiscal year 2022 are \$3,000.

## **3. TOTAL ESTIMATE OF COSTS FOR FISCAL YEAR 2021-22:**

A breakdown of the total estimated \$300,000.00 budget for fiscal year 2022 is attached to this report as Appendix A: Total Estimated Costs and Revenue for the Berkeley Tourism Business Improvement District (BTBID) Fiscal Year 2022 (July 1, 2021 to June 30, 2022).

### **Method and Basis of Assessment:**

The annual assessment rate is one percent (1%) of gross short term (stays less than 30 days) room rental revenue for hotels. Based on the benefit received, assessments will not be collected: on stays of more than thirty (30) consecutive days; on stays by any officer or employee of government who is exempt by express provisions of federal international treaty; or on stays by any customer of a bed and breakfast establishment as defined in Section 23F.94.010 of the Berkeley Municipal Code, which is located in a residential zoning district, has been in consistent operation as of January 1, 2003, and the continued operation of which is permitted under Chapter 23C.06 of the Berkeley Municipal Code. (See Appendix B: Map of the Berkeley Tourism Business Improvement District (BTBID)).

### **Amount of Surplus/Deficit from previous Fiscal Year:**

The BTBID assessment was estimated to bring in approximately \$400,000.00 in revenues. As Berkeley TOT has experienced a rapid decline in FY2020, and has consistently decreased since then, we do not expect a surplus for FY 2020-21.

### **Amount of Contributions from other sources:**

There are no plans to apply for funding from other sources.

Thank you for the opportunity to present our Annual Planning Report for fiscal year 2022. If you have any questions regarding this report, please contact Barbara Hillman, President/CEO of Visit Berkeley at (510) 549-7040 / Cell# (925) 876-4825.

**Appendix A: Total Estimated Costs and Revenue for the Berkeley Tourism Business Improvement District (BTBID) Fiscal Year 2022 (July 1, 2021 to June 30, 2022)**

**Revenues**

|                                 |                     |
|---------------------------------|---------------------|
| 2021-22 Assessments             | \$300,000.00        |
| 2020-21 Carryover               | TBD                 |
| <b>Total Estimated Revenues</b> | <b>\$300,000.00</b> |

**Expenditures**

|                                                             |                     |
|-------------------------------------------------------------|---------------------|
| Sales & Marketing<br><i>(Hospitality Industry Recovery)</i> | \$297,000.00        |
| City of Berkeley Collection Costs                           | \$3,000.00          |
| 2020-21 Carryover (estimated)                               | TBD                 |
| <b>Total Estimated Expenditures</b>                         | <b>\$300,000.00</b> |
| <b>Total 2021-22 BTBID Budget</b>                           | <b>\$300,000.00</b> |



**Appendix B: Map of the Berkeley Tourism Business Improvement District (BTBID)**

Note: The BTBID will include all hotels with five or more rooms, existing and in the future, available for public occupancy within the boundaries of the City of Berkeley. The boundary currently includes 26 hotels. Please see the map below.

Source: Berkeley Tourism Business Improvement District Management District Plan (2017)



## APPENDIX C – ASSESSED BUSINESSES

| <b>Business Name</b>                                      | <b>Address</b>       | <b>City, State</b> | <b>ZIP</b> |
|-----------------------------------------------------------|----------------------|--------------------|------------|
| Bancroft Hotel                                            | 2680 Bancroft Way    | Berkeley, CA       | 94704      |
| Berkeley City Club                                        | 2315 Durant Ave.     | Berkeley, CA       | 94704      |
| Berkeley Inn (Ganga Holdings, LLC)                        | 1720 San Pablo Ave.  | Berkeley, CA       | 94702      |
| Berkeley Travelodge                                       | 1820 University Ave. | Berkeley, CA       | 94703      |
| Downtown Berkeley YMCA                                    | 2001 Allston Way     | Berkeley, CA       | 94704      |
| Cal Hotel                                                 | 2008 Shattuck Ave.   | Berkeley, CA       | 94704      |
| Church Divinity School of the Pacific                     | 2451 Ridge Road      | Berkeley, CA       | 94709-1211 |
| Doubletree Berkeley Marina                                | 200 Marina Blvd.     | Berkeley, CA       | 94710      |
| Downtown Berkeley Inn                                     | 2001 Bancroft Way    | Berkeley, CA       | 94704      |
| Golden Bear Inn                                           | 1620 San Pablo Ave.  | Berkeley, CA       | 94702      |
| Holiday Inn Express                                       | 1175 University Ave. | Berkeley, CA       | 94702      |
| Graduate Berkeley                                         | 2600 Durant Ave.     | Berkeley, CA       | 94704      |
| Hotel Shattuck Plaza                                      | 2086 Allston Way     | Berkeley, CA       | 94704      |
| Howard Johnson                                            | 1512 University Ave. | Berkeley, CA       | 94702      |
| La Quinta University Inn                                  | 920 University Ave.  | Berkeley, CA       | 94710      |
| Marina Lodge                                              | 975 University Ave.  | Berkeley, CA       | 94710      |
| Nash Hotel                                                | 2045 University Ave. | Berkeley, CA       | 94704      |
| Pacific School of Religion                                | 1798 Scenic Ave.     | Berkeley, CA       | 94703      |
| Prima Donna Hotels Inc., dba Sens Hotel & Bistro Berkeley | 1540 Shattuck Ave.   | Berkeley, CA       | 94709      |
| Rose Garden Inn                                           | 2740 Telegraph Ave.  | Berkeley, CA       | 94705      |
| Shree Jalasai Lodge, dba Roadway Inn                      | 1461 University Ave. | Berkeley, CA       | 94702      |
| Super 8                                                   | 1619 University Ave. | Berkeley, CA       | 94703      |
| University Hotel                                          | 2057 University Ave. | Berkeley, CA       | 94704      |
| Vista Inn & Suites, dba Quality Inn                       | 1761 University Ave. | Berkeley, CA       | 94703      |
| Marriott Residence Inn                                    | 2129 Shattuck Ave    | Berkeley, CA       | 94704      |
| Aiden Best Western                                        | 1499 University Ave  | Berkeley, CA       | 94702      |



Office of the City Manager

05

CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Acting Economic Development Manager

Subject: Assessments: Downtown Berkeley Property Based Business Improvement District

RECOMMENDATION

Adopt two Resolutions:

1. Approving the Downtown Berkeley Property Based Business Improvement District (DPBID) Annual Report of Fiscal Year (FY) 2021 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the DPBID for FY 2022.
2. Authorizing the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA or "the Association") not to exceed \$7,285,257 of DPBID funds to support the Downtown area for the period July 1, 2021 to December 31, 2026, through the expiration of the DPBID.

SUMMARY

The Downtown Berkeley Property Based Business Improvement District (DPBID, "Downtown BID" or "the District") provides cleaning, hospitality and marketing services for Berkeley's central business district. In May of 2016 the DPBID was geographically expanded and renewed for a ten year period, authorizing operations through December 31, 2026, and designating the Downtown Berkeley Association (DBA) as the District's Owners' Association. Annually, Council must approve the DPBID's annual report and proposed budget and declare its intention to levy an annual assessment.

The City of Berkeley owns eleven parcels within the boundaries of the DPBID and is required by state law to pay the associated assessments. In FY 2022, the assessment payment will be \$133,449.82, for 11 parcels; and \$11,457.04 for a parcel owned by the City of Berkeley Joint Powers Authority at 2015 Addison Street. The total for twelve parcels in FY22 is \$144,906.86. In addition, the City will pay the General Benefit portion of the DPBID costs. The engineer's report commissioned for the reestablishment of the Downtown BID in 2016 calculated that the general benefit for the district is \$17,234 annually. In 2011, the City increased parking meter rates (see Ordinance No. 7,183-N.S.) in the Downtown area to fund payment of the general benefit fees.

### FISCAL IMPACTS OF RECOMMENDATION

Assessments levied in the Downtown Berkeley Property Based Business Improvement District (DPBID) support a package of improvements and activities approved by the property owners and the City Council when the District was renewed for a ten year period on May 31, 2016 (Resolution No. 67,520-N.S.). Assessment funds are collected by Alameda County, relayed to the City of Berkeley, and disbursed through a contract with the Downtown Berkeley Association (DBA), a private owners' association that was established to implement the Management District Plan.

In May of 2016, the City Council authorized the City Manager to execute a contract and any amendments with the DBA, not to exceed \$3,940,625 of BID revenues, to implement the Downtown Berkeley Management District Plan for the period January 1, 2017 to December 31, 2019, with the option to extend the contract for two additional years (Contract No. 10462). Staff implemented that extension, which increased the contract's total amount to \$6,907,039 for a term to conclude on June 30, 2021.

To continue to implement the Management District Plan, a new contract with the DBA must be established through the expiration of the DPBID in 2026 (5 years). The attached resolution authorizes the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA or "the Association") not to exceed \$7,285,257 of DPBID funds to support the Downtown area for the period July 1, 2021 to December 31, 2026.

In addition, the University of California has agreed to a contribution to the DPBID of \$114,592.58 for FY 2022. Overall the budget of the DPBID for FY 2022 is approximately \$1,642,509.99 inclusive of taxable and non-taxable parcels and private donations, and net of the County 1.7% collection fee on private parcels. The DPBID Assessment Revenue amount articulated in Exhibit A (\$1,576,805) is slightly different (\$65,705) to account for uncollectable property tax and funds that will be carried forward from the prior year.

The assessment billing for private commercial property, including properties billed on the utility roll, less the county collection fee (approximately \$22,413.61), is expected to be \$1,313,214.23 in FY 2022. Annual and accrued assessment funds are deposited in and expended from the Downtown Property Based Business Improvement District (DPBID) Fund. These totals reflect a 2.5% assessment increase, as determined at the DBA Board of Directors meeting on April 22, 2021. Per the Management District Plan, an annual increase of 5% is allowable to cover inflation costs if approved by a majority of the Owners' Association Board of Directors.

Under the provisions of Proposition 218 in the California Constitution, government agencies must pay assessments on properties they own in property based business improvement districts, just like private property owners, unless they receive no benefit. Payment is collected from private property owners through property tax bills near the

end of the calendar year. Payments are due from non-property tax-paying entities concurrently. The City of Berkeley owns eleven parcels within the DPBID boundaries; the City's assessment payment in FY 2022 would be \$133,449.82 and \$11,457.04 for a parcel owned by the City of Berkeley Joint Powers Authority at 2015 Addison Street, which is increased slightly from the FY 2021 assessment amount. The total for twelve parcels in FY22 is \$144,906.86.

The City also pays the "general benefit" portion of the PBID budget, or roughly \$17,234.45 for fiscal year 2022. "General benefits" represent that small portion of the overall benefits generated by a PBID which are found to accrue to the general public who are not assessed and do not participate in the economic or social activities of the district. In total, the City is responsible for a contribution of \$162,141.31 to the DPBID in FY 2022. This amount is billed directly to the City. On June 14, 2011, Council adopted Ordinance No. 7,183-N.S. increasing parking meter rates in the Downtown to fund payment of these fees.

By financing improvements, maintenance and welcoming activities for the City's central business district, the DPBID indirectly enhances sales tax, business license tax and other business-related City revenue sources.

#### CURRENT SITUATION AND ITS EFFECTS

State legislation that authorizes formation of property-based BIDs (*California Streets and Highways Code*, Sections 36600 et. seq.) requires that the BID governing body submit an Annual Report on operations and a budget proposal to the City Council each year. The City Council may approve the report with a Resolution to reauthorize the annual assessments.

The Board of Directors of the Downtown Berkeley Association met in a publicly noticed meeting on April 22, 2021 to review the Annual Report for the DPBID for FY 2021 and budget for FY 2022 (Exhibit A). The Board of Directors voted to recommend an increase of 2.5% in the assessment for FY22, and to approve the proposed budget for FY 2022 and the Annual Report for FY 2021. The Board recommended that the FY 2021 Annual Report and Proposed Budget for FY 2022 be approved by the City Council. There were no recommended changes to the DPBID boundaries nor changes to the assessment formula as established during the district renewal in 2016. Council can adopt the recommended Resolution which will confirm the DPBID assessment, and thus enable continuous BID operations for another year.

Additionally, a new contract with the DBA must be established through the expiration of the DPBID in 2026 (5 years) in order to administrate the DPBID funds. The attached resolution authorizes the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA or "the Association") not to exceed \$7,285,257 of DPBID funds to support the Downtown area for the period July 1, 2021 to December 31, 2026 through the expiration of the DPBID's operations period.

Any funds in the existing DPBID contract (Contract No. 10462) as of June 30, 2021 are to be carried forward.

### BACKGROUND

The DPBID is a benefit assessment district that provides cleaning, hospitality and marketing services for Downtown Berkeley. The DPBID was created in 2011 pursuant to California's "Property and Business Improvement District Law of 1994" to provide needed improvements and activities to assessed property owners. The DPBID was re-established and expanded by Resolution of the Berkeley City Council on May 31, 2016 (Resolution No. 67,520-N.S.) for the ten-year term beginning July 1, 2016 and ending June 30, 2026, with operations to occur over the ten year calendar year period beginning January 1, 2017 and ending December 31, 2026.

The DPBID finances services and improvements that maintain and improve the district's streetscape and public areas, improve the pedestrian experience for workers, visitors and residents, and attract new businesses and development. Key services include hospitality and cleaning ambassador teams, beautification projects, business attraction and retention, marketing and events. The improvements and activities that the DPBID finances to enhance Downtown Berkeley's environment for property owners, residents, workers and visitors include:

#### *Environmental Enhancements:*

- Maintenance teams sweep, scrub, and pressure wash sidewalks, remove litter and graffiti, and increase the frequency of trash removal and maintain landscaping throughout the District.
- Hospitality Ambassadors provide visitor information, safety escorts, merchant outreach, liaison activities with city services, event support, homeless services outreach and referrals, and coordinate work with local police, businesses and property owners to prevent crime and address quality of life issues.
- Beautification and place-making improvements that make Downtown Berkeley more attractive, including enhanced landscaping, holiday décor, way-finding signage, trash receptacles, planters, urban design plans, bike racks, programming of BART Plaza and other public spaces, etc.

#### *Economic Enhancements:*

- Promote and support local business through providing liaison services with City staff, and attracting new businesses and investment that further the strategic goals of the Downtown.
- Advance Downtown Berkeley's evolution as a regional destination for arts, culture and entertainment.
- Marketing and communications to support DPBID activities and improvements
- Strategies to improve the parking and transit experience to support local businesses, residents, and arts/culture/civic destinations.

- Leadership through research and community education to represent the Downtown community with one voice.

Due to high levels of pedestrian traffic in the core of the Downtown and the attendant need for higher levels of service there, the DPBID has three benefit zones as delineated in the 2016 District Management Plan. There is a two-tiered core service zone and a third zone which covers the three block 2016 expansion area along the southern portion of Shattuck Avenue.

ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the DPBID, the DBA creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The District encompasses the area surrounding the Downtown BART Station and several AC Transit lines that provide easy accessibility for visitors coming to and from this popular regional destination. Because the District is well served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation choices.

RATIONALE FOR RECOMMENDATION

Property and Business Improvement District Law of 1994 requires that the BID Board prepare an Annual Report for each fiscal year in which assessments are to be levied. Council action is required to approve the BID’s Annual Report and declare its intent to levy assessments. This private/public partnership will continue to provide significant resources for revitalization of the Downtown Core Commercial District, which has had a transformational effect on the physical and economic health of the City of Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The DBA Board of Directors considered an increase in assessment rates, up to the allowable 5%, but instead decided on a 2.5% increase, determining that the slightly increased rate would sufficiently cover the slate of services outlined in the FY2022 budget and work plan.

CONTACTS

David White, Deputy City Manager, (510) 981-7000  
Eleanor Hollander, Acting Economic Development Manager, Office of Economic Development, (510) 981-7536

Attachments:

- 1: Resolution: Confirm Downtown Property Based Business Improvement District (DPBID) Annual Report and Levy Annual Assessment
  - Exhibit A: DPBID Annual Report for FY 2021 and Proposed Budget for FY 2022
  - Exhibit B: DPBID FY 2022 Assessment Roll

Assessments:  
Downtown Berkeley Property Based Business Improvement District

CONSENT CALENDAR  
May 25, 2021

2: Resolution Authorizing the City Manager to Execute a Contract with Downtown Berkeley Association to Implement the Management District Plan for the Downtown Property Business Improvement District



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

APPROVING THE ANNUAL REPORT OF THE DOWNTOWN PROPERTY BASED BUSINESS IMPROVEMENT DISTRICT AND LEVYING ASSESSMENTS FOR FY 2022

WHEREAS, the Property and Business Improvement District Law of 1994 as amended (California Streets and Highways Code Section 36600 et.seq.) authorizes cities, with the consent of property owners, to fund property-related improvements, maintenance and activities through the levy of assessments upon the real property that benefits from the improvements, maintenance and activities; and

WHEREAS, the City Council renewed the Downtown Property Based Business Improvement District (hereafter, "the District") by Resolution No. 67,520 -N.S. on May 31, 2016; and

WHEREAS, the City Council has now received the *Annual Report of the Downtown Property Based Business Improvement District for FY 2021* (Annual Report, attached as Exhibit A) from the Downtown Business Association, the governing body for the District, that describes the operations of the District in FY 2021, recommends services for FY 2022 and proposes a budget for FY 2022.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to provisions of Section 36600 et. seq. of the California Streets and Highways Code, the City Council approves the Annual Report for FY 2021 and declares its intent to levy special assessments on property within the boundaries of the District for FY2022.

BE IT FURTHER RESOLVED that that the boundaries of the District and the method and basis for the assessment remain the same as those set forth and approved in the *Downtown Business Improvement District Management Plan* (Plan) which was made part of Resolution No. 67,520 -N.S., renewing the District.

BE IT FURTHER RESOLVED that the improvements and activities to be provided are those described in the Plan and the Annual Report and that the cost of providing the improvements and activities is as described in the budget attached to the Annual Report.

BE IT FURTHER RESOLVED that to finance these improvements and activities, the Annual Report and Budget includes a 2.5% increase in assessment rates. Following adoption of this resolution, the City Council may confirm the Annual Report and levy assessments for FY 2022 and confirm disbursement of DPBID assessment revenue.

Exhibits

- A: DPBID Annual Report for FY 2021 and Proposed Budget for FY 2022
- B: DPBID Assessment Roll FY 2022

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

AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH  
DOWNTOWN BERKELEY ASSOCIATION TO IMPLEMENT THE MANAGEMENT  
DISTRICT PLAN FOR THE DOWNTOWN PROPERTY BUSINESS IMPROVEMENT  
DISTRICT

WHEREAS, the Downtown Berkeley Association (DBA) has proven to be an effective partner implementing the Management District Plan for the Downtown Property Business Improvement District (DPBID) since its establishment in 2011; and

WHEREAS, the DBA has worked steadily for more than a decade to develop and implement programs that address a wide range of important commercial revitalization issues and improve the economic vitality of the Downtown area; and

WHEREAS, the DPBID has been re-established for a term of ten years from July 1, 2016 to December 31, 2026 and assures a future source of revenue for the service, provided assesses or Council do not take action to dis-establish the DPBID; and

WHEREAS, the DPBID Management District Plan allows the Owners' Association to approve assessment increases by up to 5% per year to cover inflation costs.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to execute a contract with the Downtown Berkeley Association to continue to implement the adopted District Management Plan for the Downtown Property Business Improvement District and any currently available carry forward from prior years payments of the Downtown Property BID funds to implement the adopted District Management Plan for the DPBID. A record signature copy of said contract and any amendments are to be filed in the Office of the City Clerk.

BE IT FURTHER RESOLVED by the City Council of the City of Berkeley to authorize the City Manager to execute a sole source contract and any amendments with the Downtown Berkeley Association (DBA) not to exceed \$7,285,257 of DPBID funds to support the Downtown area for the period July 1, 2021 to December 31, 2026, through the expiration of the DPBID's current operational period.

**EXHIBIT A**  
**2021 ANNUAL REPORT OF THE DOWNTOWN BERKELEY PROPERTY-BASED  
BUSINESS IMPROVEMENT DISTRICT (PBID)**

By the Downtown Berkeley Association

The Downtown Berkeley Property-Based Business Improvement District (DBPBID), managed by the Downtown Berkeley Association (DBA) was approved for a ten-year period by an affirmative vote of the property owners of the Downtown Berkeley commercial district by mail-in ballot during the spring 2016. This vote was affirmed without protest by City Council on May 31, 2016. The DBPID commenced operations on January 1, 2017, and the DBA operates on a calendar year basis for services and a fiscal year basis for assessment funding. In accordance with 36650 (b) of the Streets and Highway Code for the State of California, the DBA affirms the following:

1. The DBA proposes no changes in PBID boundaries for the 2022 fiscal/calendar year.
2. The DBA will continue with the same services as has been outlined in the Management District Plan Final Plan of May 30, 2016. These services include Environmental Enhancements such as Ambassador hospitality services, cleaning services, beautification, and landscaping; as well as Economic Enhancements such as district marketing, promotion, event, and business attraction and retention.
3. The budget approved on January 28, 2021 the DBA Board of Directors calls for expenditures in the FY 2022 to be \$1,859,145.
4. On April 22, 2021, the DBA Board approved a 2.5% assessment rate increase for FY2022, to cover the slate of services proposed.
5. The 2021-22 budget (FY22) approved by the DBA Board of Directors includes a carry forward of \$825,589 in assets.
6. The approved FY2022 budget envisions a loss of (\$209,540) to be incurred to the carry forward funds of \$825,589, resulting in a year-end balance of \$616,049.
7. In addition to assessments levied on real property, the 2021-22 budget (FY22) budget envisions \$18,000 additional revenue will be derived from contract services for ambassador hospitality and cleaning services, \$10,000 in event sponsorship revenue, \$40,000 from City Measure P to co-fund Downtown Social Service Outreach position, well as, \$4,800 interest earned paid by financial institutions.

**Fiscal Year 2022 (FY22)**  
**BUDGET OF THE DOWNTOWN BERKELEY PROPERTY-BASED BUSINESS**  
**IMPROVEMENT DISTRICT (PBID)**  
By the Downtown Berkeley Association

**REVENUE**

|                                   |                    |
|-----------------------------------|--------------------|
| PBID Assessment Revenue           | \$1,576,805        |
| Contract Services                 | \$18,000           |
| Interest Income and Other Revenue | <u>\$54,800</u>    |
| <b>Total Revenue</b>              | <b>\$1,649,605</b> |

**EXPENSES**

|                                               |                    |
|-----------------------------------------------|--------------------|
| Environmental Enhancement Services*           | \$1,433,275        |
| Marketing & Economic Enhancement Services     | \$252,996          |
| General Administrative and Operating Expenses | <u>162,874</u>     |
| <b>Total Expenses</b>                         | <b>\$1,859,145</b> |

\*Environmental enhancements include cleaning, hospitality, landscaping, and homeless outreach.

## Exhibit B: DOWNTOWN BERKELEY PBID ASSESSMENT ROLL FY 2022

Prepared April 2021 for Fiscal Year 2022

| APN              | Owner                                | Site Address            | FY 2022 Assessment |            |              |
|------------------|--------------------------------------|-------------------------|--------------------|------------|--------------|
|                  |                                      |                         | Private Parcels    | Tax Exempt | Utility Roll |
| 057--2016-021-01 | 1812 University Ave LLC              | 1810 UNIVERSITY AVE     | \$ 5,513.04        |            |              |
| 057--2059-009-00 | 1915 UNIVERSITY AVENUE PARTNER       | 1915 UNIVERSITY AVE     | \$ 1,448.76        |            |              |
| 057--2024-007-01 | 1935 ADDISON STREET LLC              | 1935 ADDISON ST         | \$ 3,915.06        |            |              |
| 057--2022-019-01 | 1950 ADDISON APARTMENT JOINT VENTURE | 1950 ADDISON ST         | \$ 14,168.06       |            |              |
| 057--2060-001-00 | 1950 MLK LLC                         | 1988 M L KING JR WAY    | \$ 19,779.14       |            |              |
| 057--2053-002-00 | 1974 SHATTUCK AVENUE LLC             | 1974 SHATTUCK AVE       | \$ 2,175.28        |            |              |
| 057--2026-007-02 | 2000 CENTER STREET LLC               | 2175 MILVIA ST          | \$ 15,018.56       |            |              |
| 057--2023-013-00 | 2001 CENTER STREET LLC               | 2001 CENTER ST          | \$ 10,493.48       |            |              |
| 057--2029-009-00 | 2015 BANCROFT FEE OWNER CA LLC       | 2105 BANCROFT WAY       | \$ 11,173.96       |            |              |
| 055--1894-014-01 | 2025 DURANT AVENUE LLC               | 2025 DURANT AVE         | \$ 12,666.66       |            |              |
| 055--1894-015-00 | 2028 BANCROFT WAY LLC                | 2028 BANCROFT WAY       | \$ 737.92          |            |              |
| 057--2025-017-03 | 2054 UNIVERSITY LLC                  | 2054 UNIVERSITY AVE     | \$ 8,917.44        |            |              |
| 057--2026-004-12 | 2068 CENTER FAMILY LIMITED PAR       | 2068 CENTER ST          | \$ 2,086.82        |            |              |
| 057--2023-001-00 | 2100 SHATTUCK AVE LP                 | 2104 SHATTUCK AVE       | \$ 12,889.18       |            |              |
| 057--2030-001-00 | 2108 ALLSTON LLC                     | 2108 ALLSTON WAY        | \$ 10,566.82       |            |              |
| 057--2029-013-00 | 2110 KITTREDGE LLC                   | 2110 KITTREDGE ST       | \$ 9,041.32        |            |              |
| 055--1893-006-01 | 2125 DURANT AVENUE LLC               | 2125 DURANT AVE         | \$ 360.72          |            |              |
| 057--2031-011-00 | 2130 CENTER LLC                      | 2130 CENTER ST          | \$ 6,176.38        |            |              |
| 057--2031-003-00 | 2161 ALLSTON WAY LLC                 | 2161 ALLSTON WAY        | \$ 10,443.86       |            |              |
| 057--2029-016-00 | 2176 KITTREDGE LLC                   | 2150 KITTREDGE ST       | \$ 8,405.24        |            |              |
| 055--1893-005-03 | 2310 FULTON LLC                      | 2310 FULTON ST          | \$ 9,542.30        |            |              |
| 055--1894-017-04 | 2322 SHATTUCK AVENUE LLC             | 2300 SHATTUCK AVE       | \$ 18,261.18       |            |              |
| 055--1822-005-00 | 2524 SHATTUCK BLAKE LLC              | 2524 SHATTUCK AVE       | \$ 1,614.50        |            |              |
| 057--2024-010-02 | 384 PROMENADE LLC & WPG PROMEN       | 1936 UNIVERSITY AVE     | \$ 9,766.46        |            |              |
| 057--2023-014-00 | 440 JACKSON STREET LLC               | 2115 MILVIA ST          | \$ 4,736.34        |            |              |
| 055--1893-019-00 | A T & T CO 279-1-12-6                | 0 DURANT AVE            |                    |            | \$ 16,201.38 |
| 055--1893-020-00 | A T & T CO 279-1-12-6                | 0 BANCROFT WAY          |                    |            | \$ 978.58    |
| 057--2024-016-02 | AARONIAN V J & M JR & SEVERY M       | 1926 UNIVERSITY AVE     | \$ 569.94          |            |              |
| 057--2060-022-00 | ACAMPORA ANTHONY & MARGARET R        | 1801 UNIVERSITY AVE 301 | \$ 174.52          |            |              |
| 057--2060-046-00 | ACAMPORA ANTHONY & MARGARET R        | 1801 UNIVERSITY AVE 309 | \$ 174.52          |            |              |
| 057--2033-004-00 | ADDISON BUILDING LLC                 | 2020 KALA BAGAI WAY     | \$ 5,814.38        |            |              |
| 057--2022-014-01 | ADDISON LLC                          | 1912 ADDISON ST         | \$ 931.82          |            |              |
| 057--2060-041-00 | ALBANESE ANDRES & CELINA             | 1801 UNIVERSITY AVE 407 | \$ 174.52          |            |              |
| 055--1823-011-01 | ALTA BATES CORPORATION               | 2104 DWIGHT WAY         | \$ 6,343.26        |            |              |
| 057--2050-031-01 | AMISTAD HOUSE LLC                    | 1810 SHATTUCK AVE       | \$ 4,803.08        |            |              |
| 055--1821-026-00 | AMPRI INVESTMENTS INC                | 2030 BLAKE ST C         | \$ 224.98          |            |              |
| 055--1821-027-00 | AMPRI INVESTMENTS INC                | 2030 BLAKE ST B         | \$ 224.54          |            |              |
| 057--2060-048-00 | ANJANEYAR LLC                        | 1801 UNIVERSITY AVE 210 | \$ 174.52          |            |              |
| 057--2028-013-00 | AOCHI FUSAKO J TR                    | 2000 KITTREDGE ST       | \$ 3,420.60        |            |              |
| 057--2060-050-03 | AREFI EHSAN & AREFY KATRIN           | 1809 UNIVERSITY AVE     | \$ 99.86           |            |              |
| 057--2032-018-00 | ARLINGTON INVESTMENT CO              | 134 BERKELEY SQ         | \$ 1,053.28        |            |              |

| APN              | Owner                           | Site Address            | FY 2022 Assessment |              |              |
|------------------|---------------------------------|-------------------------|--------------------|--------------|--------------|
|                  |                                 |                         | Private Parcels    | Tax Exempt   | Utility Roll |
| 057--2049-024-00 | ATKINS GEORGE C                 | 1849 SHATTUCK AVE 404   | \$ 88.12           |              |              |
| 057--2059-007-00 | AYYAD FRED & MONA               | 1929 UNIVERSITY AVE     | \$ 1,366.70        |              |              |
| 055--1893-013-00 | BAKER EDWARD L                  | 2327 SHATTUCK AVE       | \$ 307.30          |              |              |
| 057--2046-001-00 | BAY PROPERTIES INC              | 2108 BERKELEY WAY       | \$ 8,371.12        |              |              |
| 055--1821-025-00 | BELGROVE ANGELA M & SWINDERMAN  | 2030 BLAKE ST D         | \$ 602.82          |              |              |
| 057--2016-025-01 | BERKELEY CHAMBER OF COM         | 1834 UNIVERSITY AVE     | \$ 922.24          |              |              |
| 057--2032-005-03 | BERKELEY DOWNTOWN HOTEL OWNER   | 2119 CENTER ST          | \$ 8,116.56        |              |              |
| 055--1824-015-00 | BERKELEY FREE MARKET LLC        | 2567 SHATTUCK AVE       | \$ 5,088.58        |              |              |
| 057--2028-011-00 | BERKELEY INN LLC                | 2001 BANCROFT WAY       | \$ 3,555.38        |              |              |
| 057--2025-024-00 | BERKELEY JOINT POWERS FINANCIN  | 2015 ADDISON ST         |                    | \$ 11,457.04 |              |
| 057--2029-004-00 | BERKELEY LODGE NO 270 I O O F   | 2288 FULTON ST          | \$ 4,426.98        |              |              |
| 057--2049-037-00 | BERKELEY LOFTS LLC              | 1803 UNIVERSITY AVE     | \$ 104.18          |              |              |
| 057--2049-038-00 | BERKELEY LOFTS LLC              | 1849 SHATTUCK AVE C2    | \$ 295.56          |              |              |
| 057--2025-005-03 | BERKELEY REPERTORY THEATRE      | 2071 ADDISON ST         | \$ 843.50          |              |              |
| 057--2025-008-00 | BERKELEY REPERTORY THEATRE      | 2025 ADDISON ST         | \$ 4,023.40        |              |              |
| 057--2025-023-00 | BERKELEY REPERTORY THEATRE      | 2009 ADDISON ST         | \$ 1,960.44        |              |              |
| 057--2032-017-00 | BERKELEY STATION PARTNERS LLC   | 130 BERKELEY SQ         | \$ 1,267.22        |              |              |
| 057--2023-021-02 | BERKELEY TRADITIONAL MUSIC FOU  | 2026 ADDISON ST         | \$ 2,050.30        |              |              |
| 057--2023-021-03 | BERKELEY TRADITIONAL MUSIC FOU  | 2020 ADDISON ST         | \$ 2,247.40        |              |              |
| 055--1894-007-02 | BERKELEY UNIFIED SCHOOL DISTRI  | 2000 BANCROFT WAY       |                    | \$ 2,501.46  |              |
| 057--2020-004-00 | BERKELEY UNIFIED SCHOOL DISTRI  | 1980 ALLSTON WAY        |                    | \$ 3,228.52  |              |
| 057--2020-005-03 | BERKELEY UNIFIED SCHOOL DISTRI  | 2223 M L KING JR WAY    |                    | \$ 19,128.50 |              |
| 057--2026-015-00 | BERKELEY YOUNG MENS CHRISTIAN   | 2001 ALLSTON WAY        | \$ 18,503.94       |              |              |
| 057--2032-010-00 | BETTENCOURT CHARLES A & JEANNE  | 2109 KALA BAGAI WAY     | \$ 3,445.58        |              |              |
| 057--2060-023-00 | BIGGS RALPH E                   | 1801 UNIVERSITY AVE 401 | \$ 174.52          |              |              |
| 057--2049-017-00 | BLANCHARD WILLIAM J             | 1849 SHATTUCK AVE 302   | \$ 88.12           |              |              |
| 057--2023-004-00 | BOLLIBOKKA SHATTUCK LLC         | 2144 SHATTUCK AVE       | \$ 22,755.80       |              |              |
| 057--2027-008-00 | BPR PROPERTIES BERKELEY LLC     | 2060 ALLSTON WAY C      | \$ 29,932.30       |              |              |
| 057--2049-030-00 | BROOKS JODY & WIGGIN ANNETTE    | 1849 SHATTUCK AVE 406   | \$ 88.12           |              |              |
| 057--2060-050-01 | BROWNING ROBERT P & MAIO LINDA  | 1801 UNIVERSITY AVE A   | \$ 97.42           |              |              |
| 055--1892-001-01 | BUDDHIST CHURCHES OF AMERICA    | 2140 DURANT AVE         | \$ 3,817.32        |              |              |
| 057--2022-008-00 | BUTLER LARRY TR                 | 1907 CENTER ST          | \$ 1,380.44        |              |              |
| 057--2023-003-00 | C & V SHATTUCK LLC              | 2120 SHATTUCK AVE       | \$ 1,582.08        |              |              |
| 057--2031-009-00 | C S COMPANY                     | 2161 SHATTUCK AVE       | \$ 10,432.92       |              |              |
| 055--1895-018-05 | CA AG LOGAN PARK PROPERTY OWNER | 2352 SHATTUCK AVE       | \$ 11,033.92       |              |              |
| 057--2034-007-00 | CALIF STATE EMPL CR UN          | 2033 KALA BAGAI WAY     | \$ 1,511.16        |              |              |
| 055--1893-011-00 | CALIFORNIA FIRST BANK           | 2107 DURANT AVE         | \$ 978.58          |              |              |
| 055--1893-012-00 | CALIFORNIA FIRST BANK           | 2333 SHATTUCK AVE       | \$ 4,123.84        |              |              |
| 057--2060-030-00 | CALOCA ROSA N                   | 1801 UNIVERSITY AVE 204 | \$ 174.52          |              |              |
| 057--2031-014-00 | CENTER GALLERY LP               | 2136 CENTER ST          | \$ 2,773.54        |              |              |
| 057--2023-016-01 | CENTURY PROPERTIES LLC          | 0 MILVIA ST             | \$ 1,745.28        |              |              |
| 057--2030-003-00 | CERFAM LLC                      | 2134 ALLSTON WAY        | \$ 2,339.22        |              |              |
| 055--1891-012-00 | CHAN FAT & KUM L TRS            | 2429 SHATTUCK AVE       | \$ 4,373.24        |              |              |
| 057--2060-024-00 | CHEN QU                         | 1801 UNIVERSITY AVE 202 | \$ 174.52          |              |              |
| 057--2032-012-00 | CHENG FRANK & DOROTHY           | 2112 ADDISON ST         | \$ 4,427.46        |              |              |
| 057--2016-003-00 | CHENG TE C TR                   | 2070 M L KING JR WAY    | \$ 743.72          |              |              |
| 057--2060-028-00 | CHUA SHIRLEY C & SUI SUILYN     | 1801 UNIVERSITY AVE 303 | \$ 174.52          |              |              |
| 057--2017-016-01 | CITY OF BERKELEY                | 2100 M L KING JR WAY    |                    | \$ 18,017.10 |              |
| 057--2021-001-00 | CITY OF BERKELEY                | 2180 MILVIA ST          |                    | \$ 15,621.08 |              |
| 057--2021-002-00 | CITY OF BERKELEY                | 0 CENTER ST             |                    | \$ 16,374.84 |              |
| 057--2022-006-00 | CITY OF BERKELEY                | 1947 CENTER ST          |                    | \$ 9,093.54  |              |
| 057--2022-020-00 | CITY OF BERKELEY                | 0 CENTER ST             |                    | \$ 3,914.92  |              |
| 057--2023-020-03 | CITY OF BERKELEY                | 2025 CENTER ST          |                    | \$ 43,557.48 |              |
| 057--2028-005-00 | CITY OF BERKELEY                | 2031 BANCROFT WAY       |                    | \$ 2,975.18  |              |
| 057--2028-017-01 | CITY OF BERKELEY                | 2090 KITTREDGE ST       |                    | \$ 13,490.92 |              |
| 057--2053-022-01 | CITY OF BERKELEY                | 0 BERKELEY WAY          |                    | \$ 2,760.24  |              |

| APN               | Owner                           | Site Address            | FY 2022 Assessment |             |              |
|-------------------|---------------------------------|-------------------------|--------------------|-------------|--------------|
|                   |                                 |                         | Private Parcels    | Tax Exempt  | Utility Roll |
| 057- -2118-001-00 | CITY OF BERKELEY                | 2200 FULTON ST          |                    | \$ -        |              |
| 057- -2119-001-00 | CITY OF BERKELEY                | 2200 FULTON ST A        |                    | \$ 7,644.52 |              |
| 057- -2049-040-00 | CLPF HILLSIDE VILLAGE LP        | 2102 DELAWARE ST        | \$ 4,897.06        |             |              |
| 055- -1895-019-01 | CPF BERKELEY VARSITY LLC        | 2024 DURANT AVE         | \$ 2,039.12        |             |              |
| 055- -1822-003-02 | CRESTON DEVELOPMENTS LLC        | 2514 SHATTUCK AVE       | \$ 1,707.40        |             |              |
| 057- -2026-013-00 | CSQ FEE ONWER CA LLC            | 2168 SHATTUCK AVE       | \$ 13,038.94       |             |              |
| 057- -2023-026-00 | CVBAF ACQ LLC                   | 2055 CENTER ST          | \$ 38,813.44       |             |              |
| 055- -1821-024-02 | CYH COMPANY INC                 | 2034 BLAKE ST           | \$ 3,643.76        |             |              |
| 057- -2049-021-00 | DANG DENNIS H                   | 1849 SHATTUCK AVE 403   | \$ 88.12           |             |              |
| 057- -2120-001-00 | DAVID BROWER CENTER             | 2150 ALLSTON WAY        | \$ 6,372.06        |             |              |
| 057- -2049-020-00 | DELBONTA MATTHEW A              | 1849 SHATTUCK AVE 303   | \$ 88.12           |             |              |
| 055- -1892-015-00 | DURANT BERKELEY PARTNERS LP     | 2367 SHATTUCK AVE       | \$ 1,669.60        |             |              |
| 055- -1892-016-00 | DURANT BERKELEY PARTNERS LP     | 2349 SHATTUCK AVE       | \$ 2,818.30        |             |              |
| 055- -1890-012-01 | DWIGHT WAY RESIDENTIAL PROPERTY | 2107 DWIGHT WAY         | \$ 6,516.84        |             |              |
| 057- -2024-004-00 | EAST BAY MEDIA CENTER           | 1939 ADDISON ST         | \$ 569.72          |             |              |
| 057- -2024-008-01 | EAST END INVESTORS GROUP INC    | 1950 UNIVERSITY AVE     | \$ 3,920.32        |             |              |
| 055- -1892-013-01 | EASTBOROUGH PROPERTIES LP       | 2399 SHATTUCK AVE       | \$ 5,050.04        |             |              |
| 057-2046-011-01   | EQR ACHESON COMMONS LP          | 1987 SHATTUCK AVE       | \$ 3,305.32        |             |              |
| 057- -2053-003-01 | FIFTH KEIL CO                   | 1998 SHATTUCK AVE       | \$ 4,935.62        |             |              |
| 057- -2053-003-02 | FIFTH KEIL CO                   | 1984 SHATTUCK AVE       | \$ 1,068.18        |             |              |
| 055- -1894-006-00 | FIGUEROA XAVIER & JOSEFINA J    | 2017 DURANT AVE         | \$ 931.74          |             |              |
| 057- -2022-003-01 | FIRST MILVIA LLC                | 2108 MILVIA ST          | \$ 1,046.34        |             |              |
| 057- -2022-017-01 | FIRST MILVIA LLC                | 2100 MILVIA ST          | \$ 13,375.26       |             |              |
| 057- -2026-002-01 | FIRST SHATTUCK LLC              | 2150 SHATTUCK AVE       | \$ 44,549.20       |             |              |
| 057- -2026-005-01 | FIRST SHATTUCK LLC              | 2043 ALLSTON WAY        | \$ 5,351.18        |             |              |
| 057- -2026-012-03 | FIRST SHATTUCK LLC              | 2052 CENTER ST          | \$ 29,939.98       |             |              |
| 057- -2028-002-00 | FU JIHW A & JI H TRS            | 2270 SHATTUCK AVE       | \$ 2,076.98        |             |              |
| 055- -1896-002-00 | FUJIKAWA MARK A & GEORGIA       | 2414 SHATTUCK AVE       | \$ 349.74          |             |              |
| 055- -1822-009-01 | GEMDALE 2035 BLAKE STREET LLC   | 2035 BLAKE ST           | \$ 3,501.22        |             |              |
| 055- -1895-015-01 | GENIRBERG SIBLINGS LLC          | 2000 DURANT AVE         | \$ 4,511.14        |             |              |
| 057- -2049-022-00 | GIEBELER PERSIS A               | 1849 SHATTUCK AVE 204   | \$ 88.12           |             |              |
| 057- -2049-026-00 | GILMOUR SUSAN R & THOMAS S      | 1849 SHATTUCK AVE 305   | \$ 88.12           |             |              |
| 055- -1896-004-00 | GIOTINIS MICHAEL C & ATHIA M T  | 2428 SHATTUCK AVE       | \$ 1,213.00        |             |              |
| 057- -2025-004-00 | GLYNN EDITH W TR                | 2020 SHYATTUCK AVE      | \$ 2,872.10        |             |              |
| 057- -2053-004-02 | GLYNN EDITH W TR                | 2071 UNIVERSITY AVE     | \$ 2,548.34        |             |              |
| 057- -2034-009-00 | GOLDEN CA PROPERTY 1 LLC        | 2017 KALA BAGAI WAY     | \$ 1,710.44        |             |              |
| 057- -2025-019-00 | GORDON JOHN K & MITCHELL JANIS  | 2058 UNIVERSITY AVE     | \$ 2,273.68        |             |              |
| 055- -1892-014-00 | GORDON JOHN K & MITCHELL JANIS  | 2375 SHATTUCK AVE       | \$ 817.96          |             |              |
| 055- -1897-006-00 | GORDON JOHN K & MITCHELL JANIS  | 2450 SHATTUCK AVE       | \$ 4,222.92        |             |              |
| 057- -2024-021-01 | GORDON JOHN K & MITCHELL JANIS  | 1952 UNIVERSITY AVE     | \$ 4,293.24        |             |              |
| 057- -2025-005-02 | GORDON JOHN K & MITCHELL JANIS  | 2024 SHATTUCK AVE       | \$ 5,651.88        |             |              |
| 057- -2025-006-00 | GORDON JOHN K & MITCHELL JANIS  | 2036 SHATTUCK AVE       | \$ 5,194.50        |             |              |
| 057- -2025-022-00 | GORDON JOHN K & MITCHELL JANIS  | 2014 SHATTUCK AVE       | \$ 1,582.08        |             |              |
| 057- -2030-011-00 | GORDON JOHN K & MITCHELL JANIS  | 2225 SHATTUCK AVE       | \$ 1,029.50        |             |              |
| 057- -2029-011-00 | GORDON JOHN K & MITCHELL JANIS  | 2277 SHATTUCK AVE       | \$ 2,224.34        |             |              |
| 057- -2049-029-00 | GOTTLIEB SHARONA D              | 1849 SHATTUCK AVE 306   | \$ 88.12           |             |              |
| 057- -2028-014-02 | GRANITE LIBRARY GARDENS LP      | 2022 KITTREDGE ST       | \$ 43,423.50       |             |              |
| 057- -2024-015-03 | GREENLINING INSTITUTE           | 1916 UNIVERSITY AVE     | \$ 2,328.68        |             |              |
| 057- -2029-012-00 | H DRAKE CORPORATION             | 2271 SHATTUCK AVE       | \$ 2,456.50        |             |              |
| 055- -1821-028-00 | HA YANGWON K                    | 2030 BLAKE ST A         | \$ 243.86          |             |              |
| 057- -2016-027-02 | HADJIAN SIMIN & PAYVAND ETAL    | 1840 UNIVERSITY AVE     | \$ 3,215.14        |             |              |
| 057- -2060-036-00 | HAMMOND LUCIA                   | 1801 UNIVERSITY AVE 206 | \$ 174.52          |             |              |
| 057- -2059-006-00 | HAN CHANG S & YOON J            | 1941 UNIVERSITY AVE     | \$ 1,800.74        |             |              |
| 057- -2060-043-00 | HART ELIZABETH                  | 1801 UNIVERSITY AVE 308 | \$ 174.52          |             |              |
| 057- -2027-002-02 | HEAD LAMA TIBETAN NYINGMA MEDI  | 2210 HAROLD WAY         | \$ 1,682.64        |             |              |
| 057- -2027-002-03 | HEAD LAMA TIBETAN NYINGMA MEDI  | 2018 ALLSTON WAY        | \$ 5,635.02        |             |              |

| APN              | Owner                          | Site Address            | FY 2022 Assessment |            |              |
|------------------|--------------------------------|-------------------------|--------------------|------------|--------------|
|                  |                                |                         | Private Parcels    | Tax Exempt | Utility Roll |
| 057--2027-004-00 | HEAD LAMA TIBETAN NYINGMAPA ME | 2222 HAROLD WAY         | \$ 8,410.22        |            |              |
| 057--2046-002-00 | HEDGEMON REAL LLC              | 2120 BERKELEY WAY       | \$ 8,329.98        |            |              |
| 057--2060-037-00 | HERNANDEZ KARYN L              | 1801 UNIVERSITY AVE 306 | \$ 174.52          |            |              |
| 057--2034-006-00 | HIGHWAY 61                     | 2037 SHATTUCK AVE       | \$ 7,163.02        |            |              |
| 057--2031-006-00 | HIRAHARA FAMILY LIMITED PARTNE | 2187 SHATTUCK AVE       | \$ 5,417.78        |            |              |
| 057--2025-002-00 | HO MENG H & SHIN J TRS & HO MI | 2008 SHATTUCK AVE       | \$ 4,763.98        |            |              |
| 057--2027-006-00 | HSR BERKELEY INVESTMENTS LLC   | 2060 ALLSTON WAY A      | \$ 30,288.04       |            |              |
| 057--2027-007-00 | HSR BERKELEY INVESTMENTS LLC   | 2070 ALLSTON WAY        | \$ 10,712.94       |            |              |
| 057--2049-015-00 | HU VICTORIA L                  | 1849 SHATTUCK AVE 401   | \$ 88.12           |            |              |
| 057--2060-040-00 | HUANG SHIYUN & ZHENQIANG ET AL | 1801 UNIVERSITY AVE 307 | \$ 174.52          |            |              |
| 057--2059-010-00 | HULTGREN ROBERT P & SUSAN S TR | 1909 UNIVERSITY AVE     | \$ 1,454.62        |            |              |
| 057--2049-019-00 | HUYNH MATTHEW & REGINA TRS     | 1849 SHATTUCK AVE 203   | \$ 88.12           |            |              |
| 057--2032-015-00 | JANTA REALTY INC & BATRA MANJU | 2100 KALA BAGAI WAY     | \$ 1,496.76        |            |              |
| 057--2030-010-00 | JEON ROBERT S & JUNE I         | 2231 SHATTUCK AVE       | \$ 6,297.32        |            |              |
| 055--1894-002-00 | JINDO VENTURES LLC             | 2037 DURANT AVE         | \$ 3,867.02        |            |              |
| 057--2053-001-00 | JLLJAR LLC                     | 1950 SHATTUCK AVE       | \$ 3,261.98        |            |              |
| 057--2030-009-00 | JOHNSON CECILIA & LENT ROBIN V | 2115 KITTREDGE ST       | \$ 6,478.26        |            |              |
| 055--1821-003-00 | JOHNSTON STEWART L             | 2558 SHATTUCK AVE       | \$ 1,805.54        |            |              |
| 055--1821-004-00 | JOHNSTON STEWART L             | 2576 SHATTUCK AVE       | \$ 1,038.20        |            |              |
| 057--2031-004-00 | JUDAH L MAGNES MUSEUM INC      | 2121 ALLSTON WAY        | \$ 6,022.22        |            |              |
| 057--2049-023-00 | KALOFONOS ANGELIKI & MARIA S   | 1849 SHATTUCK AVE 304   | \$ 88.12           |            |              |
| 057--2025-016-00 | KAM YIU LAM & SHUN TO LO LAM L | 2042 UNIVERSITY AVE     | \$ 3,489.18        |            |              |
| 057--2032-011-00 | KAMENY HARVEY TR               | 2101 KALA BAGAI WAY     | \$ 3,949.90        |            |              |
| 057--2060-006-00 | KAMI BARRY G & CATHY J TRS     | 1813 UNIVERSITY AVE     | \$ 2,035.28        |            |              |
| 057--2060-004-00 | KANG BU U & JEONG H ETAL       | 1823 UNIVERSITY AVE     | \$ 1,581.82        |            |              |
| 057--2060-005-00 | KANG BU U & JEONG H ETAL       | 1821 UNIVERSITY AVE     | \$ 1,259.36        |            |              |
| 057--2030-008-00 | KAO ROGER Y                    | 2117 KITTREDGE ST       | \$ 2,423.34        |            |              |
| 057--2032-019-00 | KAPLAN EDUCATIONAL CENTERS INC | 2144 KALA BAGAI WAY     | \$ 3,716.50        |            |              |
| 057--2031-002-00 | KASHANI NASSER & PAMELA L TRS  | 2171 ALLSTON WAY        | \$ 9,361.44        |            |              |
| 057--2025-013-00 | KASHEF M MEHDI & KATHERINE TRS | 2000 UNIVERSITY AVE     | \$ 2,335.14        |            |              |
| 057--2060-031-00 | KEAS MABEL E                   | 1801 UNIVERSITY AVE 304 | \$ 174.52          |            |              |
| 057--2060-044-00 | KEHRET JOSEPH G                | 1801 UNIVERSITY AVE 408 | \$ 174.52          |            |              |
| 057--2060-050-05 | KENNEDY PATRICK C & JULIE M TR | 1809 UNIVERSITY AVE     | \$ 95.62           |            |              |
| 057--2060-050-06 | KENNEDY PATRICK C & JULIE M TR | 1807 UNIVERSITY AVE     | \$ 102.08          |            |              |
| 057--2060-050-07 | KENNEDY PATRICK C & JULIE TRS  | 1807 UNIVERSITY AVE A   | \$ 30.26           |            |              |
| 057--2049-034-00 | KHO ERIC L                     | 1849 SHATTUCK AVE 208   | \$ 88.12           |            |              |
| 057--2053-005-00 | KL2067 UNIVERSITY LLC          | 2067 UNIVERSITY AVE     | \$ 2,988.68        |            |              |
| 057--2060-003-00 | KLATT PETER & JOAN C TRS       | 1849 UNIVERSITY AVE     | \$ 1,887.92        |            |              |
| 057--2030-012-00 | KOOYMAN STEVEN P & SUSAN J     | 2219 SHATTUCK AVE       | \$ 2,405.58        |            |              |
| 057--2049-016-00 | LAI ROGER Y                    | 1849 SHATTUCK AVE 202   | \$ 88.12           |            |              |
| 055--1893-015-01 | LAKIREDDY PRASAD R & SANTI     | 2323 SHATTUCK AVE       | \$ 3,028.60        |            |              |
| 057--2024-018-01 | LAKIREDDY PRASAD R & SANTI     | 1942 UNIVERSITY AVE     | \$ 5,319.38        |            |              |
| 055--1897-002-00 | LAKIREDDY PRASAD R & SANTI & H | 2484 SHATTUCK AVE       | \$ 8,666.86        |            |              |
| 057--2059-008-00 | LAM PAULINE P ETAL             | 1921 UNIVERSITY AVE     | \$ 1,199.16        |            |              |
| 057--2023-012-00 | LANGUAGE STUDIES INC           | 2015 CENTER ST          | \$ 4,203.22        |            |              |
| 057--2025-001-00 | LAUSON LLC                     | 2000 SHATTUCK AVE       | \$ 6,542.42        |            |              |
| 057--2024-011-00 | LEE SANG H & CHUNG EUNJUNG     | 1915 ADDISON ST         | \$ 1,987.12        |            |              |
| 055--1894-016-00 | LI JULIAN J & SOPHIA Y         | 2030 BANCROFT WAY       | \$ 1,128.06        |            |              |
| 057--2034-011-00 | LIU JIM K                      | 2138 UNIVERSITY AVE     | \$ 2,643.52        |            |              |
| 057--2049-014-00 | LLOYD BENJAMIN & JULIE K ET AL | 1849 SHATTUCK AVE 301   | \$ 88.12           |            |              |
| 057--2034-010-00 | LORI BCA 2120 LP               | 2015 KALA BAGAI WAY     | \$ 15,132.98       |            |              |
| 057--2025-010-01 | MAIA HOLDINGS LLC              | 2001 ADDISON ST         | \$ 10,635.32       |            |              |
| 057--2060-034-00 | MAK KWAN & LISHAN              | 1801 UNIVERSITY AVE 305 | \$ 174.52          |            |              |
| 057--2050-005-00 | MALIN ROBERT O INC             | 1848 SHATTUCK AVE       | \$ 1,224.28        |            |              |
| 057--2060-025-00 | MAO YULI                       | 1801 UNIVERSITY AVE 302 | \$ 174.52          |            |              |
| 057--2031-005-00 | MARTIN DAVID J & MARILYN R TRS | 2115 ALLSTON WAY        | \$ 2,161.84        |            |              |



| APN              | Owner                                  | Site Address            | FY 2022 Assessment |              |              |
|------------------|----------------------------------------|-------------------------|--------------------|--------------|--------------|
|                  |                                        |                         | Private Parcels    | Tax Exempt   | Utility Roll |
| 057--2031-007-00 | MARTIN DAVID J & MARILYN R TRS         | 2181 SHATTUCK AVE       | \$ 2,456.28        |              |              |
| 057--2031-008-00 | MARTIN DAVID J & MARILYN R TRS         | 2171 SHATTUCK AVE       | \$ 4,251.76        |              |              |
| 057--2051-004-00 | MARTIN DAVID J & MARILYN R TRS         | 1920 SHATTUCK AVE       | \$ 948.62          |              |              |
| 057--2051-053-00 | MARTIN REID & JOHN                     | 1912 SHATTUCK AVE       | \$ 738.40          |              |              |
| 057--2046-008-04 | MCREF ACHENSON LLC                     | 2125 UNIVERSITY AVE     | \$ 14,281.06       |              |              |
| 057--2046-009-00 | MCREF BACHENHEIMER LLC                 | 2119 UNIVERSITY AVE     | \$ 11,148.98       |              |              |
| 057--2049-036-00 | MEJIA CESAR A                          | 1849 SHATTUCK AVE 408   | \$ 88.12           |              |              |
| 057--2034-008-00 | MEVLANARUMI LLC                        | 2025 KALA BAGAI WAY     | \$ 1,748.64        |              |              |
| 057--2060-026-00 | MICHAELS MARY F & CORR JAMES C         | 1801 UNIVERSITY AVE 402 | 174.52             |              |              |
| 055--1822-002-01 | MMP CHESTNUT LLC                       | 2506 SHATTUCK AVE       | \$ 1,217.80        |              |              |
| 057--2033-001-01 | MO SHATTUCK LLC                        | 2000 KALA BAGAI WAY     | \$ 8,290.36        |              |              |
| 057--2016-002-00 | MOAVEN SAGHI                           | 2054 M L KING JR WAY    | \$ 338.60          |              |              |
| 057--2051-006-01 | MORAN EVERETT S JR & CATHARINE         | 1936 SHATTUCK AVE       | \$ 2,247.72        |              |              |
| 055--1821-001-01 | NATURAL GREEN CORPORATION              | 2550 SHATTUCK AVE       | \$ 4,224.14        |              |              |
| 057--2051-005-00 | NINETEEN HUNDRED TWENTY SIX SH         | 1926 SHATTUCK AVE       | \$ 915.80          |              |              |
| 057--2049-031-00 | NIRAMOL CHITRCHARATN 2016 LIVING TRUST | 1849 SHATTUCK AVE 207   | \$ 88.12           |              |              |
| 057--2049-032-00 | NISEN FREDERICK P                      | 1849 SHATTUCK AVE 307   | \$ 88.12           |              |              |
| 057--2024-014-00 | NORCAL PROPERTIES LLC                  | 1900 UNIVERSITY AVE     | \$ 3,737.92        |              |              |
| 057--2016-024-01 | OHAY PHILIP L & BARBARA L TRS          | 1824 UNIVERSITY AVE     | \$ 3,128.42        |              |              |
| 057--2060-047-00 | OLSON JAMES R                          | 1801 UNIVERSITY AVE 409 | \$ 174.52          |              |              |
| 057--2120-002-00 | OXFORD COMMERCIAL LLC                  | 2200 OXFORD ST          | \$ 3,715.94        |              |              |
| 057--2031-001-01 | OXFORD DEVELOPMENT GROUP LP            | 2128 OXFORD ST          | \$ 4,786.34        |              |              |
| 057--2031-013-00 | OXFORD DEVELOPMENT GROUP LP            | 2142 CENTER ST          | \$ 8,263.90        |              |              |
| 057--2121-001-00 | OXFORD PLAZA LP                        | 2175 KITTREDGE ST       | \$ 16,407.54       |              |              |
| 057--2016-018-01 | P P M&B BERKELEY LLC                   | 1800 UNIVERSITY AVE     | \$ 2,558.00        |              |              |
| 055--1820-001-01 | PARKERSHATTUCK OWNER LLC               | 2600 SHATTUCK AVE       | \$ 13,251.06       |              |              |
| 055--1821-005-00 | PARKERSHATTUCK OWNER LLC               | 2598 SHATTUCK AVE       | \$ 1,166.78        |              |              |
| 057--2028-004-00 | PASAND COURTYARD LLC                   | 2276 SHATTUCK AVE       | \$ 11,188.14       |              |              |
| 057--2029-014-00 | PELEG YORAM & BARBARA L                | 2124 KITTREDGE ST       | \$ 2,965.82        |              |              |
| 057--2022-005-01 | PERALTA COMMUNITY COLLEGE DIST         | 2118 MILVIA ST          |                    | \$ 5,607.08  |              |
| 057--2026-010-00 | PERALTA COMMUNITY COLLEGE DIST         | 2016 CENTER ST          |                    | \$ 1,313.54  |              |
| 057--2026-014-00 | PERALTA COMMUNITY COLLEGE DIST         | 2048 CENTER ST          |                    | \$ 24,914.94 |              |
| 055--1894-003-01 | PERSIAN CENTER                         | 2029 DURANT AVE         | \$ 951.36          |              |              |
| 057--2026-004-05 | PR III SHATTUCK LLC                    | 2190 SHATTUCK AVE       | \$ 17,871.16       |              |              |
| 057--2053-006-00 | REDDY HANUMANDLA J & HANUMANDL         | 2057 UNIVERSITY AVE     | \$ 5,780.24        |              |              |
| 057--2025-021-00 | REDDY HANUMANDLA R & HANUMANDL         | 2066 UNIVERSITY AVE     | \$ 6,107.96        |              |              |
| 055--1891-014-01 | REGENTS OF THE UNIVERSITY OF C         | 2401 SHATTUCK AVE       |                    | \$ 6,297.36  |              |
| 057--2029-007-02 | REGENTS OF THE UNIVERSITY OF C         | 2113 BANCROFT WAY       |                    | \$ 4,388.90  |              |
| 057--2032-014-01 | REGENTS OF THE UNIVERSITY OF C         | 2120 OXFORD ST          |                    | \$ 13,720.86 |              |
| 057--2034-003-00 | REGENTS OF THE UNIVERSITY OF C         | 0 ADDISON ST            |                    | \$ 743.68    |              |
| 057--2034-004-00 | REGENTS OF THE UNIVERSITY OF C         | 2123 ADDISON ST         |                    | \$ 246.26    |              |
| 057--2034-012-00 | REGENTS OF THE UNIVERSITY OF C         | 2154 UNIVERSITY AVE     |                    | \$ 4,087.80  |              |
| 057--2034-014-02 | REGENTS OF THE UNIVERSITY OF C         | 2199 ADDISON ST         |                    | \$ 67.52     |              |
| 057--2034-014-03 | REGENTS OF THE UNIVERSITY OF C         | 2199 ADDISON ST         |                    | \$ 27,102.52 |              |
| 057--2045-002-00 | REGENTS OF THE UNIVERSITY OF C         | 1952 OXFORD ST          |                    | \$ 1,994.58  |              |
| 057--2045-003-00 | REGENTS OF THE UNIVERSITY OF C         | 1990 OXFORD ST          |                    | \$ 859.66    |              |
| 057--2045-006-00 | REGENTS OF THE UNIVERSITY OF C         | 1925 WALNUT ST          |                    | \$ 388.44    |              |
| 057--2047-004-00 | REGENTS OF THE UNIVERSITY OF C         | 1900 OXFORD ST          |                    | \$ 35,475.64 |              |
| 057--2045-005-00 | REGENTS OF THE UNIVERSITY OF CA        | 1933 WALNUT ST          |                    | \$ 338.76    |              |
| 057--2054-012-01 | REGENTS OF UNIVERSITY CALIFORN         | 1995 UNIVERSITY AVE     |                    | \$ 16,363.48 |              |
| 057--2045-004-00 | REGENTS UNIVERSITY OF CALIFORN         | 2161 UNIVERSITY AVE     |                    | \$ 2,517.12  |              |
| 057--2023-002-00 | RHODES MICHAEL L & DOBBENGARHO         | 2116 SHATTUCK AVE       | \$ 1,312.40        |              |              |
| 057--2023-023-00 | RILCO ADDISON LLC                      | 2030 ADDISON ST         | \$ 10,916.76       |              |              |
| 057--2023-024-00 | RILCO ADDISON LLC                      | 2040 ADDISON ST         | \$ 4,682.28        |              |              |

|                  |                                     |                         | FY 2022 Assessment |              |              |
|------------------|-------------------------------------|-------------------------|--------------------|--------------|--------------|
| APN              | Owner                               | Site Address            | Private Parcels    | Tax Exempt   | Utility Roll |
| 057--2023-025-00 | RUEGG & ELLSWORTH                   | 2072 ADDISON ST         | \$ 1,578.62        |              |              |
| 057--2049-033-00 | RYU DAVID J & WU CHRISTINA L        | 1849 SHATTUCK AVE 407   | \$ 88.12           |              |              |
| 055--1895-018-01 | SATELLITE FIRST COMMUNITIES L       | 2020 DURANT AVE         | \$ 2,717.60        |              |              |
| 055--1896-003-00 | SCHIPANI ANNA A                     | 2420 SHATTUCK AVE       | \$ 1,404.04        |              |              |
| 057--2049-028-00 | SCHIRLE ANN M                       | 1849 SHATTUCK AVE 206   | \$ 88.12           |              |              |
| 057--2029-015-00 | SCHNEIDER STEPHEN E TR              | 2138 KITTREDGE ST       | \$ 2,203.12        |              |              |
| 055--1893-016-00 | SEGERBERG KENNETH TRUST             | 2301 SHATTUCK AVE       | \$ 2,287.76        |              |              |
| 057--2022-009-02 | SHAMZAD SASHA G & MERIDETH B        | 2105 M L KING JR WAY    | \$ 2,545.04        |              |              |
| 057--2022-013-04 | SHAMZAD SASHA G & MERIDETH B        | 1900 ADDISON ST         | \$ 3,855.72        |              |              |
| 057--2024-002-02 | SHAMZAD SASHA G & MERIDETH B        | 2020 MILVIA ST          | \$ 8,595.16        |              |              |
| 057--2033-003-00 | SHAMZAD SASHA G & MERIDETH B        | 2021 SHATTUCK AVE       | \$ 6,563.34        |              |              |
| 055--1891-013-01 | SHATTUCK SENIOR HOMES ASSOCIAT      | 2421 SHATTUCK AVE       | \$ 1,447.34        |              |              |
| 055--1897-001-03 | SHATTUCK WICKS PARTNERSHIP LTD      | 2480 SHATTUCK AVE       | \$ 2,681.44        |              |              |
| 055--1822-006-00 | SHEN TSUI Y & WU YEU B              | 2530 SHATTUCK AVE       | \$ 1,565.56        |              |              |
| 057--2029-002-04 | SHIMEK MICHAEL R & KATHERINE S      | 2176 KITTREDGE ST       | \$ 7,575.74        |              |              |
| 057--2060-038-00 | SHOJI JOSEPH                        | 1801 UNIVERSITY AVE 406 | \$ 174.52          |              |              |
| 057--2016-022-00 | SHREE LAXMI LLC                     | 1822 UNIVERSITY AVE     | \$ 3,447.28        |              |              |
| 057--2053-014-02 | SHRIMATIS LIMITED INC               | 2011 UNIVERSITY AVE     | \$ 2,161.58        |              |              |
| 057--2060-045-00 | SIKAFFY AMAL                        | 1801 UNIVERSITY AVE 209 | \$ 174.52          |              |              |
| 055--1824-016-00 | SOUTHWICK TIMOTHY K & SUSAN E       | 2555 SHATTUCK AVE       | \$ 1,289.64        |              |              |
| 055--1892-018-01 | SOUTHWICK TIMOTHY K & SUSAN E       | 2110 DURANT AVE         | \$ 2,935.72        |              |              |
| 055--1896-001-00 | SOUTHWICK TIMOTHY K & SUSAN E       | 2410 SHATTUCK AVE       | \$ 3,345.98        |              |              |
| 057--2060-002-00 | SOUTHWICK TIMOTHY SR & SUSAN T      | 1865 UNIVERSITY AVE     | \$ 2,828.82        |              |              |
| 057--2032-016-00 | SPITZER NORMAN S & MARY J TRS       | 2115 SHATTUCK AVE       | \$ 1,456.86        |              |              |
| 057--2023-017-01 | STERLING BERKELEY ADDISON L P       | 2101 MILVIA ST          | \$ 3,624.22        |              |              |
| 057--2030-002-00 | STERLING BERKELEY ALLSTON LP        | 2116 ALLSTON WAY        | \$ 17,976.98       |              |              |
| 055--1890-013-02 | STERLING BERKELEY HASTE LP          | 2451 SHATTUCK AVE       | \$ 12,619.18       |              |              |
| 057--2047-002-01 | STERLING BERKELEY OXFORD LP         | 1910 OXFORD ST          | \$ 5,487.30        |              |              |
| 057--2025-014-00 | STERLING BERKELEY UNIVERSITY AVE LP | 2004 UNIVERSITY AVE     | \$ 6,914.84        |              |              |
| 057--2024-001-02 | STONEFIRE PARTNERS LLC              | 1974 UNIVERSITY AVE     | \$ 15,216.12       |              |              |
| 057--2049-035-00 | SU FU & CHUANG C ETAL               | 1849 SHATTUCK AVE 308   | \$ 88.12           |              |              |
| 057--2060-035-00 | SWANSON LINDA L                     | 1801 UNIVERSITY AVE 405 | \$ 174.52          |              |              |
| 057--2049-025-00 | SWEENEY ZEPHYR & DENNIS A           | 1849 SHATTUCK AVE 205   | \$ 88.12           |              |              |
| 057--2060-042-00 | SZABO MARSHIKA L                    | 1801 UNIVERSITY AVE 208 | \$ 174.52          |              |              |
| 055--1896-005-00 | T J WHITTEN FAMILY LLC              | 2440 SHATTUCK AVE       | \$ 2,558.14        |              |              |
| 057--2053-008-01 | TALAI MOHAMMAD E & KOKAB S TRS      | 2035 UNIVERSITY AVE     | \$ 5,298.56        |              |              |
| 057--2060-033-00 | TAVAKOLIZADEH MEHDI                 | 1801 UNIVERSITY AVE 205 | \$ 174.52          |              |              |
| 055--1824-014-00 | THALLAUG KIRSTEN L & THALLAUG TR    | 2105 PARKER ST          | \$ 3,898.32        |              |              |
| 057--2060-027-00 | THEVANAYAGAM SABANAYAGAM & VAS      | 1801 UNIVERSITY AVE 203 | \$ 174.52          |              |              |
| 057--2024-013-00 | THOMPSON DON J & AUDREY A & KI      | 2099 M L KING JR WAY    | \$ 2,496.10        |              |              |
| 057--2049-013-00 | TILLER ANDREA M & EMERSON H         | 1849 SHATTUCK AVE 201   | \$ 88.12           |              |              |
| 057--2049-018-00 | TIPHANE GUY TR                      | 1849 SHATTUCK AVE 402   | \$ 88.12           |              |              |
| 057--2051-051-00 | TIPPING STEVEN B & ZENIADA L T      | 1900 SHATTUCK AVE       | \$ 1,878.46        |              |              |
| 057--2051-052-00 | TIPPING STEVEN B & ZENIADA L T      | 1908 SHATTUCK AVE       | \$ 952.44          |              |              |
| 057--2053-007-00 | TRILINK REAL ESTATE INVESTMENT      | 2041 UNIVERSITY AVE     | \$ 7,313.76        |              |              |
| 057--2025-015-00 | U C STUDIOS LLC                     | 2018 UNIVERSITY AVE     | \$ 12,292.02       |              |              |
| 057--20270-05-00 | UNITED STATES POSTAL SERVICE        | 0 MILVIA ST             |                    | \$ 13,102.28 |              |
| 055--1825-015-02 | VALIYEE REZA                        | 2621 SHATTUCK AVE       | \$ 7,274.86        |              |              |
| 055--1825-019-00 | VALIYEE REZA                        | 2609 SHATTUCK AVE       | \$ 3,235.92        |              |              |
| 057--2024-012-00 | VEDENSKY PROPERTIES LLC             | 1911 ADDISON ST         | \$ 2,547.90        |              |              |
| 055--1893-007-01 | VERO PROPERTIES LLC                 | 2124 BANCROFT WAY       | \$ 6,839.14        |              |              |
| 055--1893-018-00 | VERO PROPERTIES LLC                 | 2126 BANCROFT WAY       | \$ 959.68          |              |              |
| 057--2051-007-00 | VINLAND PROPERTY INVETMENT LL       | 2053 BERKELEY WAY       | \$ 1,197.82        |              |              |
| 057--2053-012-00 | VIRK DHIAN & GURCHAN TRS            | 1949 MILVIA ST          | \$ 2,548.70        |              |              |
| 057--2028-003-00 | WADE WILLIAM J TR                   | 2274 SHATTUCK AVE       | \$ 13,829.48       |              |              |
| 057--2060-039-00 | WAGELE NICHOLAS                     | 1801 UNIVERSITY AVE 207 | \$ 174.52          |              |              |
| 057--2028-012-00 | WANDER ROBERT H & INGRID            | 2235 MILVIA ST          | \$ 633.68          |              |              |
| 057--2045-001-00 | WATERBURY PROPERTIES INC            | 1921 WALNUT ST          | \$ 813.54          |              |              |
| 057--2022-015-00 | WESTWOOD BAYROCK ADDISON LP         | 1916 ADDISON ST         | \$ 1,016.24        |              |              |
| 055--1822-001-00 | WONG FRANKLIN & PUI T ET AL         | 2500 SHATTUCK AVE       | \$ 1,675.98        |              |              |
| 057--2060-029-00 | WONG MEI L & KUOCHEN                | 1801 UNIVERSITY AVE 403 | \$ 174.52          |              |              |
| 057--2025-012-00 | WOO VIVIAN & SUZANNE TRS            | 2001 MILVIA ST          | \$ 872.04          |              |              |

| APN                              | Owner                                     | Site Address            | FY 2022 Assessment  |                 |                        |
|----------------------------------|-------------------------------------------|-------------------------|---------------------|-----------------|------------------------|
|                                  |                                           |                         | Private Parcels     | Tax Exempt      | Utility Roll           |
| 057- -2031-010-00                | WU SHU F TR                               | 2124 CENTER ST          | \$ 3,354.04         |                 |                        |
| 057- -2049-027-00                | YANG JUDY C TR & YANG LUCINDA             | 1849 SHATTUCK AVE 405   | \$ 88.12            |                 |                        |
| 057- -2034-005-00                | YANIV GERSHON & RACHEL D ETAL             | 2119 ADDISON ST         | \$ 5,174.50         |                 |                        |
| 057- -2060-049-00                | YASUMOTO CHITOSE TRS                      | 1801 UNIVERSITY AVE 310 | \$ 174.52           |                 |                        |
| 057- -2059-011-00                | YEARWOOD INES L & KHALIL & ROD            | 1901 UNIVERSITY AVE     | \$ 1,499.20         |                 |                        |
| 057- -2053-011-00                | YEE DAVID                                 | 2017 UNIVERSITY AVE     | \$ 3,323.00         |                 |                        |
| 057- -2060-021-00                | YEH JENG R & YANG CHINGMEI                | 1801 UNIVERSITY AVE 201 | \$ 174.52           |                 |                        |
| 057- -2029-010-02                | YOUNG JAMES C & EDDIE JR                  | 2281 SHATTUCK AVE       | \$ 936.46           |                 |                        |
| 057- -2029-010-01                | YOUNG JAMES C & YOUNG EDDIE JR            | 2283 SHATTUCK AVE       | \$ 701.40           |                 |                        |
| 057- -2022-018-00                | YOUNG MENS CHRISTIAN ASSOCIATION          | 2109 M L KING JR WAY    | \$ 1,830.90         |                 |                        |
| 055- -1893-001-00                | YU CHING H & INN N TRS                    | 2190 BANCROFT WAY       | \$ 1,978.84         |                 |                        |
| 055- -1822-004-00                | YU WAH Y & RUICHAN                        | 2520 SHATTUCK AVE       | \$ 722.66           |                 |                        |
| 057- -2060-032-00                | ZOBRIST ALBERT L & TERESA T               | 1801 UNIVERSITY AVE 404 | \$ 174.52           |                 |                        |
| TOTAL:                           |                                           |                         | \$ 1,318,447.88     | \$ 329,295.76   | \$ 17,179.96           |
| Count of Properties              |                                           |                         | Private Parcels 302 | Tax Exempt 35   | Utility Roll 2         |
|                                  | County Fee @1.7% (on Private Parcels):    |                         |                     | \$ 22,413.61    |                        |
|                                  | Net Assessment Revenue (Private Parcels): |                         |                     | \$ 1,296,034.27 |                        |
| Total Assessment Revenue:        |                                           |                         | \$ 1,642,509.99     |                 |                        |
| <b>Total Assessment Revenue:</b> |                                           |                         |                     |                 | <b>\$ 1,642,509.99</b> |

Note: Data for APN, Owner, and Land Use from the City's Land Management System is current as of April 8, 2021.

Updated data from the County as of January 1, 2021 will be available in July 2021.





Office of the City Manager

06

CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Eleanor Hollander, Acting Economic Development Manager  
 Subject: Assessments: North Shattuck Property Based Business Improvement District

RECOMMENDATION

Adopt a Resolution approving the North Shattuck Property Based Business Improvement District (NSBID) Annual Report of Fiscal Years (FYs) 2021 & 20 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the NSBID for FY 2022.

FISCAL IMPACTS OF RECOMMENDATION

Assessments levied in the North Shattuck Business Improvement District (NSBID) support a package of improvements and activities approved by the property owners and the City Council when the District was renewed for a ten year period on June 16, 2020 (Resolution No. 69,454–N.S). Assessment funds are collected by Alameda County, relayed to the City of Berkeley, and disbursed through a contract with the North Shattuck Association (NSA), a private owners' association that was established to implement the Management District Plan.

In June of 2020, the City Council authorized the City Manager to execute a contract and any amendments with the North Shattuck Association, not to exceed \$2,652,778 of BID revenues, to implement the North Shattuck Management District Plan for the period July 1, 2020 to June 30, 2031 (Contract No. 32100055). The contract covers the years remaining in the current term of the NSBID establishment.

NSBID assessments are projected and budgeted at approximately \$210,363 in FY 2022. Assessment funds are deposited into and expended from the NSBID Fund. Though the NSBID's adopted Management District plan allows for an annual 5% assessment increase for inflation, the majority of the North Shattuck Association's Board of Directors met on April 8, 2021, and determined that no rate increase was warranted in FY22 as the current assessment sufficiently covers the slate of services proposed for the coming year. Project funds not spent in any given fiscal year are carried over into future years.

By financing improvements, maintenance and marketing activities for the North Shattuck business district, the NSBID indirectly enhances sales tax, business license

tax and other business-related City revenue sources. No City properties have been or will be assessed in the NSBID.

### CURRENT SITUATION AND ITS EFFECTS

State legislation that authorizes formation of property-based BIDs (*California Streets and Highways Code*, Sections 36600 et. seq.) requires that the BID governing body submit an Annual Report on operations and a budget proposal to the City Council each year. The City Council may approve the report with a Resolution to reauthorize the annual assessments.

The Board of Directors of the NSA met in a publicly noticed meeting on April 8, 2021 to review and approve the attached Annual Report for the NSBID for FY 2021 (Exhibit A). The annual report for FY2020 is also included in the attachment for reference. The report includes a budget for improvements and activities for FY 2022 and an estimated cost for providing them. The report also recommends that the assessments for FY 2022 be levied on the same basis and method, and within the same boundaries, as they were levied for FY 2021 *without* the allowable annual 5% fee increase. See Exhibit B: North Shattuck BID FY 2022 Assessment Roll. Council can adopt the recommended resolution which will confirm the NSBID assessment, thus enabling continuous BID operations in the North Shattuck district for another year.

### BACKGROUND

The NSBID was first established by Resolution of the Berkeley City Council in 2001 (Resolution No. 61,168-N.S.) to implement a Management District Plan that had been developed by a steering committee of merchants and property owners. In accordance with the Management District Plan adopted in Resolution No. 61,168-N.S, the NSBID had a lifetime of ten years, expiring in 2011. On May 3, 2011, Council approved Resolution No. 65,265-N.S. reestablishing the NSBID for 10 more years, ending in Fiscal Year 2021. Further, on June 16, 2020, Council approved Resolution No. 69,454–N.S reestablishing the NSBID for an additional 10 years. Thus, the NSBID is authorized through 2031 unless action is taken to dis-establish it.

The NSBID finances special improvement, maintenance and marketing activities that benefit commercial properties and businesses in the North Shattuck District. NSBID activities are above and beyond baseline services provided by the City.

The Management District Plan that was adopted by Council in 2020 as part of the reestablishment of the District provides a framework and budget for the NSBID's activities. In FY 2022, the NSBID will continue its ongoing services including District maintenance, public improvements, holiday lighting, and marketing/promotional activities. The NSBID will continue to provide cleaning and outreach services in the public right of way. Events and activities promoting the District will continue throughout the year, including winter holiday promotions and safe group outdoor commerce installations. Regular arts and events newsletters will be sent out, and ongoing marketing efforts will continue via the NSBID website and other social media. The NSBID will also continue to liaise and coordinate with other business

district organizations, Visit Berkeley, the Chamber of Commerce, and the Berkeley Business District Network (BBDN) to promote local business and economic development opportunities in Berkeley.

ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the District, the NSA creates shopping opportunities for residents and visitors alike while encouraging alternative forms of transportation. The District is walking distance from the North Berkeley and Downtown Berkeley BART Stations. Several AC transit lines provide easy accessibility to visitors coming to this popular regional destination. Because the District is well served by public transportation and biking infrastructure, these services support environmental sustainability goals of encouraging alternative transportation choices and reducing vehicle miles traveled.

RATIONALE FOR RECOMMENDATION

Property and Business Improvement District Law of 1994 requires that the BID Board prepare an Annual Report for each fiscal year in which assessments are to be levied. Council action is required to approve the BID's Annual Report, and declare its intent to levy assessments.

This private/public partnership generates significant resources for revitalization of the North Shattuck District has a positive effect on the physical and economic health of the City of Berkeley.

ALTERNATIVE ACTIONS CONSIDERED

The Board of the NSBID considered opting for the allowable 5% increase in assessment rates but instead decided not to levy an increase in the assessment rate, declaring that an increase, would not be necessary to cover the slate of proposed services. The NSA Board determined that the existing assessment level would be sufficient to address the goals outlined in the FY2022 budget and work plan.

CONTACT PERSON

Eleanor Hollander, Acting Manager, Office of Economic Development, (510) 981-7536

Attachments:

- 1: Resolution: Confirm Annual Report and Levy Annual Assessment
  - Exhibit A: NSBID Report for FYs 2021 & 20 and Proposed Budget for FY 2022
  - Exhibit B: North Shattuck BID FY 2022 Assessment Roll

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

APPROVING THE ANNUAL REPORT OF THE NORTH SHATTUCK BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2021 AND DECLARING INTENT TO LEVY ASSESSMENTS FOR FISCAL YEAR 2022.

WHEREAS, the Property and Business Improvement District Law of 1994 as amended (California Streets and Highways Code Section 36600 et. seq.) authorizes cities, with the consent of property owners, to fund property-related improvements, maintenance and activities through the levy of assessments upon the real property that benefit from the improvements, maintenance and activities; and

WHEREAS, after ten years of successful operation, on June 16, 2020 the Berkeley City Council reestablished the North Shattuck Business Improvement District (hereafter, “the District”) for an additional ten year period by Resolution No. 69,454-N.S.; and

WHEREAS, on April 8, 2021 the Board of Directors of the North Shattuck BID adopted the *Annual Report to the City of Berkeley FY 2021* (hereafter “Annual Report”) that describes the operations of the District in FY 2021, recommends services for FY 2022 and proposes a budget for FY 2022 (Exhibit A).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to provisions of Section 36600 et. seq. of the California Streets and Highways Code, the City Council approves the Annual Report of the North Shattuck Association (Exhibit A) and declares its intent to levy special assessments on property within the boundaries of the District for FY 2022.

BE IT FURTHER RESOLVED that that the boundaries of the District and the method and basis for the assessment remain the same as those set forth and approved in the Management District Plan (Plan) that was adopted on June 16, 2020, when Council renewed the North Shattuck BID through Resolution No. 69,454-N.S.

BE IT FURTHER RESOLVED that the improvements and activities to be provided are those described in the Plan and the Annual Report.

BE IT FURTHER RESOLVED that the cost of providing the improvements and activities is as described in the budget that accompanies the Annual Report.

BE IT FURTHER RESOLVED that the Assessment Rate for FY 2022 shall not increase from the rates established in FY 2021 (despite that an increase of 5% is allowed annually by the District Management Plan). Following adoption of this resolution, the City Council may confirm the Annual Report and levy assessments for FY 2022 and confirm disbursement of NSBID assessment revenue to the North Shattuck Association provided for in Contract No.32100055, authorized in Resolution No. 69,455–N.S (2020).

Exhibit:

A: Annual Report for FYs 2021 & 20 and Proposed Budget for FY 2022

B: NSBID Assessment Roll FY 2022





NORTH SHATTUCK ASSOCIATION  
ANNUAL REPORT TO THE CITY OF BERKELEY  
FISCAL YEAR 2021

Introduction

The North Shattuck Business Improvement District (NSBID) was reestablished for a new 10-year period by the Berkeley City Council on June 16, 2020 (Resolution No. 69,454-N.S.) under provisions of the State of California Property and Business Improvement District Law of 1994. The NSBID was formed in 2001 and renewed in 2011 to implement a Management District Plan developed to address the specific needs of the District and which sets forth the projected activities of the NSBID and the allocation of BID assessment revenues to each activity. The NSBID has a life of ten years from the date of establishment of the District and operates on a July through June fiscal year. The renewed North Shattuck BID consists of 54 parcels owned by 48 property owners, generally bounded by Rose on the north, Delaware on the south, taking in the block of Vine east of Shattuck Ave. The assessments will fund special benefits within the District, enhancing the North Shattuck area's streetscape environment with infrastructure improvements, ongoing maintenance, and special events to new customers and visitors, increase business sales, and attract and retain businesses.

The NSBID is managed by the non-profit North Shattuck Association, whose Board of district business and property owners and Executive Director coordinate implementation of the Management Plan. The Property and Business **Improvement District Law of 1994 requires that the owners' association that is responsible for administering a BID** prepare an annual report for each fiscal year for which assessments are to be levied. The report shall include any proposed changes in the boundaries of the district, the improvements and activities for the year, an estimate of the cost of the improvements and activities, the method and basis for levying the assessment, the amount of any surplus or deficit revenues to be carried over from a previous fiscal year and the amount of any contributions from other sources. The City Council may approve the report as filed or may modify any particular section contained in the report and then approve it as modified.

This report reviews Fiscal Year 2020-2021 operations, and states goals and objectives for Fiscal Year 2021-2022 of the NSBID, which begins July 1, 2021.

Please find a summary of each of the previous years accomplishments and actions by the North Shattuck Association at the end of this report as Exhibit A. A listing of Fiscal Year 2022 assessments is attached as Exhibit B.

Fiscal Year 2021 Summary

*Budget*

The budget for Fiscal Year 2021 included BID assessments which resulted in new revenue of \$210,908 with the approved increase in assessments under the renewed BID. The following table shows the carryforward of \$547 from FY 2020, which will be added to the 2021 Contingency Fund, and Budget Allocations by category and percentages as well as the estimated expenditures to the end of the fiscal year on June 30, 2021. Total expenditures for the year were \$161,111, with the remaining funds to carry forward in each category to FY 2022.

| <i>NORTH SHATTUCK ASSOCIATION Service/Expense Category</i> | <i>Allowable % of Annual Budget</i> | <i>Carry Forward from Fiscal Year 2020 (Actual)</i> | <i>Fiscal Year 2021 Assessment Revenue</i> | <i>2021 Budget with Carry Forward &amp; New Revenue</i> | <i>Fiscal Year 2021 Expenditures (Estimated to 6/30/21)</i> |
|------------------------------------------------------------|-------------------------------------|-----------------------------------------------------|--------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------|
| Maintenance/Civil Sidewalks                                | 40%                                 | \$0                                                 | \$84,363                                   | \$84,363                                                | \$61,333                                                    |
| District Identity & Placemaking                            | 25%                                 | \$0                                                 | \$52,727                                   | \$52,727                                                | \$46,884                                                    |
| Administration/Management                                  | 30%                                 | \$0                                                 | \$63,272                                   | \$63,272                                                | \$51,200                                                    |
| Contingency                                                | 5%                                  | \$547                                               | \$10,546                                   | \$11,093                                                | \$ 1,700                                                    |
| Total Budget                                               | 100%                                |                                                     | 210,908                                    | \$211,455                                               | \$161,117                                                   |

*Accomplishments*

During Fiscal Year 2021, the North Shattuck Association continued implementation of the activities and services outlined in the Management District Plan under a renewed annual contract between the City of Berkeley and the Association. Activities of the district are organized into Administration/ Program Management, District Identity and Placemaking, and Civil Sidewalks. Accomplishments in each area are summarized below.

Administration/Program Management

- The Executive Director held regular meetings of the Board of Directors and General Association meetings with merchants, property owners, City staff and elected officials were held via zoom regularly during the year to further the goals and objectives of the Association, focusing on business assistance and retention during the shutdown and reopening. This included updates on current health orders and guidelines for re-opening, relief programs, the City’s Business Continuity Grant, discussion of the Safe Air Open Dining/Expanded Outdoor Seating program, a Marketing for Re-opening webinar with Visit Berkeley, and a tutorial on use of the North Shattuck Association website.
- The Association continued its involvement with the Berkeley Business District Network (BBDN) with the Executive Director to deal with citywide issues, and worked with the Berkeley Chamber of Commerce, Visit Berkeley, and non-profit groups to provide information on the local advisories and relief programs, as well as workshops and webinars with local health officials and the SBA and experts to explain the Federal CARES Act programs and Payroll Protection Program and other loans and programs for Berkeley businesses.
- In response to the Covid-19 restrictions, the Association reallocated landscaping funds to support businesses to expand their outdoor operations and worked with the City to permit the creation of on-street enclosures in the parking lanes. Phase 1 was completed in July and included 8 businesses, including 6 eateries (Saul’s, Victory Point Café, Agrodolce, Guerilla Café, Taste of the Himalayas, The Cheese Board) and 2 salons (The Shop, Solemates). Funds were used to move 20 of our landscaped planters to create some of the enclosures, construction materials, and purchase of the needed water-filled barricades for the

## North Shattuck Association Annual Report

April 8, 2021

projects. The Executive Director provided input in the City's **Outdoor** Commerce Grant Program, and was asked to coordinate the program, which provided grant to completed projects and will provide funding for new projects, including planned projects at Corso and FAVA, as well as funds to make the existing projects permanent.

- The Executive Director worked with **the Ecology Center's market managers** to reorganize the layout of the Farmers Market Thursday operations, which had been expanded to comply with social distancing and capacity limitations during the shutdown, to accommodate the group outdoor commerce area in the service road north of Vine St.
- The Association maintained an inventory of all businesses and vacant retail and office space in the district and provided updates to **the City's Economic Development** office on business openings and closures due to the pandemic. The Executive Director worked with the City and brokers to market vacant properties for prospective new businesses and began work on a business attraction strategy for the larger sites, including the former Walgreen's store at Cedar and Shattuck.
- The Association provided market and support to new businesses and new owners in the area this year including a new owner of Corso, which had closed down during the pandemic, Zoonie's **candies** in Epicurious Garden, North Berkeley Wine Shop, who moved back into their original location on Shattuck Ave., Ceci Bowman Design in Shattuck Commons, and the third local location of CupCakin' **Bake Shop**, which took over Virginia Bakery.

## Civil Sidewalks/Maintenance

- The Association continued to provide funding and oversight for a regular maintenance program for sidewalks, public spaces, and public property including sidewalk and gutter sweeping, weeding of tree wells, and maintenance of the landscaped ceramic planters throughout the District.
- The Executive Director coordinated with City of Berkeley staff to address maintenance issues including street tree replacements, graffiti abatement, sidewalk steam cleaning and repair, trash receptacle maintenance and sewer and street repair projects.
- Coordinated meetings of merchants, property owners, BPD, and the City's **HOTT** team to deal with street behavior issues, trespassing and illegal dumping issues on private property and sleeping during the day in the public right of way.
- Holiday lighting was installed for the entire length of the district for the winter holiday season in the sidewalk street trees as well as in median tree locations with electricity access. This was done even with the partial shutdown to provide security and pedestrian lighting in the evenings.

## District Identity/Placemaking

- The Association continued to produce a bi-weekly e-newsletter featuring the latest updates on business operations and hours, safety protocols, and ways to shop online or by phone, with curbside pick-up or delivery, etc. Social media posts on Facebook, Instagram and Twitter were done daily to boost exposure of our

businesses, drive sales, and help businesses connect with customers. The district website was updated with new business for the directory and links to online events, classes, and information about district activities and re-opening. The Association also placed print and digital ads on local online sites online highlighting events such as our Sidewalk Sales and a series of ads promoting shopping at small local businesses in the district in new ways.

- Worked with the Ecology Center to organize and promote a Virtual **“Thirsty Third Thursdays”** which took place online on July 6<sup>th</sup> with performances from local musicians who had played at the events at the market in previous years, interviews with farmers, cooking demos, etc. The event was a fundraiser for the Ecology Center Farmers Market program.
- The Association assisted ACCI Gallery to bring their annual Seconds Sale outdoors comply with COVID-19 restrictions for a one day event adjacent to the gallery on Lincoln Street with 18 artist vendors, and Fogg's artisan donut truck. The August 29<sup>th</sup> event was combined with a Summer **“Sidewalk Sale”** with participation from other area businesses, including a board games flea market at Victory Point Games Café, music, a raffle and jewelry trunk show at M. Lowe & Co. Jewelry, and a Saturday Summer Pig Roast at The Local Butcher Shop. Marketing and promotion included print and online ads, and highlighted the expanded outdoor dining areas at Saul's, Agrodolce, Guerilla Cafe, Taste of the Himalayas and Victory Point Café, as well as outdoor salon services starting at Solemates and The Shop.
- With the pandemic-related cancellation of our annual **“Snow Day in Berkeley”** and the Saul's Deli Latke Party, and the success of the Summer event, the Association produced another Holiday Sidewalk Sale in the district in conjunction with ACCI Gallery's Holiday Street Market on Lincoln St. Other area businesses joined in with special sales and giveaways, M. Lowe & Co. had acoustic music outside, and Kitchen on Fire came outdoors to launch their line of wellness teas and drinks during the event, held on Nov. 14<sup>th</sup>. The event was marketed with print and online ads, and through our social media channels.
- The Executive Director worked with the Chamber of Commerce and the City of Berkeley on the citywide #BerkeleyHolidays Virtual Gift Guide, promoting business participation and marketing of the guide and offerings in our district through our social media outlets.
- 300 **“Shop North Berkeley” canvas totes** were produced by the Association to promote holiday shopping and for use as giveaways by businesses and contests to gain followers on social media. These were distributed in mid-December to open retailers with a few held back for future promotions.
- In addition to promotion of business offerings through e-blasts and social media, ads promoting the district, the Holiday marketing program included production of a Direct Mail postcard with our branded images promoting holiday shopping and support for our small businesses. The mailer went out to over 15,000 household in the immediate zip codes and announced a contest for a **“Shop North Berkeley”** tote filled with gift certificates from local businesses, including Yogakula, M. Lowe & Co. and the Cheese Board.
- Worked with Visit Berkeley to promote their **“March Munch Madness”** version of Berkeley Restaurant Week in March 2021, which offered both to-go and outdoor dining options at several levels in conjunction with the college basketball finals. Victory Point Café, Agrodolce, Abstract Table and Kitchen on Fire participated, with ACCI Gallery offering a raffle with purchase of a set of tabletop dishware as a tie-in to the event.

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- The Association coordinated another "Sidewalk" Sale on May 1st, which was promoted as a celebration of Reopening, Spring, and as a Mother's Day shopping event. ACCI Gallery held their biannual exhibition of garden and botanical themed pieces, along with an Art & Plant Street Sale in partnership with the Berkeley Garden Club (BGC). More than 20 ACCI artists showcased their work on Lincoln Street, and other businesses did sales events and pop-ups including a Games Flea Market at Victory Point Cafe and an art show & succulent bowl sale at M. Lowe Jewelry.
- Working with our event producer, the Chocolate & Chalk Art Festival was rescheduled and reimagined to a hybrid event with online registration and assigned spaces for chalk artists/family groups to maintain social distancing to take place on June 19<sup>th</sup>. The Association provided outreach to businesses for participation with chocolate food items or related items for sale on the day of the event, along with gift certificates for chocolate items for the Chalk Art contest winners. This event received a Civic Arts Grant of \$3696 for this fiscal year, which will provide for marketing and promotion of the event online and larger prizes for chalk artists.
- The Association is working with a local artist to apply for a City of Berkeley ArtWorks micro-grant set up to fund public art projects to promote community recovery and resilience. The artist, Chris Peterson, is an illustrator who has drawn a series of "North Berkeley Luminaries" portraits, and the concept is to add to the series and produce life size cut-outs that would be hosted outside businesses and have a link to the stories and other locations on the district website.

## Fiscal Year 2022

*Work Plan*

The North Shattuck Association will continue implementation of the activities initiated in previous fiscal years with the renewal of the BID. Funds not expended in the previous year will be carried forward in addition to estimated Fiscal Year 2021 revenues. The work of the Association will continue to be guided by the Board of Directors and its committees. The goals and objectives for Fiscal Year 2022 are organized as outlined in the new Management District Plan.

## Administration/Program Management

*Goals:* General oversight and direction of district activities; development of relations and coordination with outside groups and agencies, coordination of projects and programs, management of sponsorships and volunteers.

*Objectives:*

- 1) Oversee development of annual District work plan and detailed budgets, financial records and annual tax returns.
- 2) Conduct property owner outreach, property owner and business input to the Management Plan and various programs and activities.
- 3) Attend needed City of Berkeley Council and Commission meetings and prepare all required reports related to the annual City of Berkeley contract with the Association.
- 4) Prepare correspondence, letters of support, and grant applications with the City of Berkeley and other agencies, present testimony at meetings as needed.
- 5) Coordinate Board elections in July 2021 including nominations and property owner balloting.
- 6) Liaison with property owners, merchants, City of Berkeley, Chamber of Commerce, Visit Berkeley, Berkeley

Cultural Trust, Event Producers Group, local schools, and neighborhood groups.

- 7) Continue to participate in the Berkeley Business District Network to review and evaluate proposed City policy changes, public improvement projects, planning changes and zoning amendments relevant to the commercial district. Coordinate with district businesses and property owners to develop appropriate responses and present to City Council and Commissions.
- 8) Continue to work on parking issues in the district with the GoBerkeley Parking Program and investigate of improved usage of existing private parking resources for paid employee parking.
- 9) Work with the City and Ecology Center on issues related to the Farmers Market operations and marketing.
- 10) Develop and distribute quarterly e-mail newsletter updates to merchants and neighborhood groups with service accomplishments, event information, issue updates, and new business contacts. Continue to connect with outside groups and promote activities through various social media.
- 1) Identify and act on any business education/assistance needs for business retention and inform businesses and property owner of how to access all available business support financial and technical services.
- 11) Maintain inventory and lease information for vacant retail and office space in the District, current information for zoning regulations/amendments, and liaison with City and commercial brokers to attract and assist new businesses.
- 12) Prepare funding applications for public art and events through the City and State grant programs and administer projects with business involvement.
- 13) Coordinate the City's Outdoor Commerce Grant Program and assist businesses with creating outdoor areas, upgrading structures and extending permits beyond the pandemic.
- 14) Work with the Berkeley Public Education Foundation, local schools and the Berkeley Business District Network, strategize on additional fundraising events to provide additional funding for classroom grants, for theater, science, art and gardening programs.

#### District Identity & Placemaking

*Goals:* Create a unified, quality image for the district and implement promotion strategies that capitalize on the unique aspects of the area, including advertising, social media, brochures, special events, holiday promotions, etc. Strengthen the physical environment and sense of place with public art, landscaping improvements and parklets, etc.

*Objectives:*

- 1) Oversee implementation of the marketing and promotions strategy including designer/consultant selections, design processes, budgeting, and advertising placements.
- 2) Manage and promote the special events calendar and institute new events to further the image and various market segments of the district, including apparel, culinary, healthy living, and the arts.
- 3) Integrate existing businesses into special events and marketing campaigns through various means, including sponsorship, participation, promotional tie-ins, etc.
- 4) Coordinate public relations for the district and special events as needed. Generate press releases and promote editorial pieces on commercial and retail developments in the area.
- 5) Continue regular updates of the district website with business information and upcoming classes, special events, etc., produce a monthly Constant Contact e-newsletter, and maintain regular Facebook and other social media entries promoting business activities and press coverage.
- 6) Coordinate Thirsty Third Thursday events during the summer of 2021 and other special event and business tie-ins with the Ecology Center.
- 7) Work with ACCI Gallery to on Annual Seconds Sale in August with activities to involve other businesses.

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- 8) Oversee installation of annual winter holiday street tree lighting throughout the district.
- 9) Organize a Holiday Events calendar including a “Snow Day” or other winter Festival, Sidewalk Sales and Outdoor Art Markets, in coordination with ACCI Gallery and neighborhood shops.
- 10) Identify a non-profit partner and produce a Wine Walk fundraiser event, coordinating wineries, business participation, and marketing when appropriate.
- 11) Produce the “Taste of North Berkeley” **restaurant walk** to benefit local charities and highlight neighborhood shops and restaurants when appropriate.
- 12) Organize Association booths/tables **at the weekly Farmers’ Market** and other fairs and festivals to promote the district and gain newsletter and social media subscribers.
- 13) Promote virtual and in-person events when they resume at nearby venues such as Live Oak Park, the Jewish Community Center, Berkeley Arts Center, Theatre First and the Hillside Club. Work with producers to tie in district businesses through advertising and promotions.
- 14) Investigate grant funding opportunities and provide coordination between area businesses and property owners, City Departments, and outside agencies towards implementation of district- initiated projects and programs towards median improvement, pedestrian safety, improved bike facilities, and parking.
- 15) Investigate design and finding possibilities for a median landscaping improvement project to coincide with the Shattuck Ave. roadway repair project, including City funding and a UC Berkeley Chancellor’s Grant.
- 16) Investigate opportunities for public art projects with ACCI Gallery, artists, and local schools, including rotating storefront exhibits, art projects, temporary mural projects, etc.

## Civil Sidewalks

*Goals:* Address issues related to cleaning and maintenance of the district; design and implement landscaping and other streetscape beautification improvements; provide input on development projects.

*Objectives:*

- 1) Provide ongoing maintenance monitoring, needs assessment, and coordination with appropriate city departments and contractors on projects including bicycle racks/facilities placement, street tree replacements and median landscaping as needed.
- 2) Oversee Peralta Service Corporation services in completing regular sidewalk cleaning and special projects including tree well maintenance as needed.
- 3) Coordinate work of the City-funded Streets Team to assist with area clean-up one day per week.
- 4) Identify and address security and safety issues working with the Berkeley Police Department. Organize meetings of district businesses with patrol officers including walk-throughs and at general meetings, etc.
- 5) Coordinate meetings of merchants, property owners, BPD, and the City’s HOTT team to deal with street behavior issues, trespassing and illegal dumping issues on private property and sleeping during the day in the public right of way.
- 6) Work with property owners and appropriate city departments to address signage conditions and the appearance of empty storefronts and vacant properties in the district.
- 7) Work with appropriate City departments, interested business and property owners, contractors, and volunteers to complete Outdoor Commerce areas in the district.

*Budget*

BID collections for Fiscal Year 2022 are projected to be \$210,908 with no annual increase in assessments from Fiscal Year 2021. An estimated carryforward of \$50,338 in unexpended funds from Fiscal Year 2021 will be added to each expense category for a total budget of \$253,554. Services and expenditures will be made in accordance

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with the revised Management District Plan categories as follows:

| <i>NORTH SHATTUCK ASSOCIATION<br/>Service/Expense Category under new<br/>Management Plan</i> | <i>% of<br/>Annual<br/>Budget</i> | <i>Estimated Carryforward<br/>from 2021 Fiscal Year</i> | <i>Fiscal Year 2022 Projected<br/>New Revenues</i> |
|----------------------------------------------------------------------------------------------|-----------------------------------|---------------------------------------------------------|----------------------------------------------------|
| Civil Sidewalks                                                                              | 40%                               | \$23,030                                                | \$84,363                                           |
| District Identity & Placemaking                                                              | 25%                               | \$5,843                                                 | \$52,000                                           |
| Administration/Program Management                                                            | 30%                               | \$12,073                                                | \$63,000                                           |
| Contingency                                                                                  | 5%                                | \$9,392                                                 | \$ 10,908                                          |
| Total Estimated Budget                                                                       | 100%                              | \$50,338                                                | \$210,908                                          |

The above budget is based upon the maximum amount of BID assessment revenues that could be collected in the District. Actual BID revenues may be lower if some assessments are not paid within the Fiscal Year. No changes to the boundaries of the district and the method and basis for levying the BID assessments were taken this year. A listing of Fiscal Year 2022 assessments is attached as Exhibit B to this report.

Approved by:

Approved by the Board of Directors  
 Kirk McCarthy, Acting President, North Shattuck Association  
 On April 8th, 2021

Prepared by: Heather E. Hensley, Executive Director, North Shattuck Association



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### EXHIBIT A - SUMMARY OF PRIOR FISCAL YEARS

In FY2002, the North Shattuck Association, a private 501 (c) (6) non-profit corporation, was formed to manage the NSBID, which had been established with a majority weighted vote of property owners in July 2001. The North Shattuck Association entered into a contract with the City of Berkeley administration of BID revenues, which are collected annually **through Alameda County's property tax collection process and forwarded to the City**. The North Shattuck Association began implementation of the approved District Management Plan for economic development organized around business assistance/attraction, marketing/promotions, and maintenance/beautification activities. Operations began late 2002 with the opening a district office, establishment of a Board of Directors, entering into a contract for regular sidewalk and public space maintenance, and installing 35 new planters and coordinating with **the City of Berkeley to place 22 new "Recycliter" cans in the district**. In FY2003, the Association produced public information and marketing materials including a newsletter, website, and business directory. Maintenance and beautification activities included installation of additional landscaped planters, painting of all district area light poles, and newsrack consolidation. The Association completed a holiday marketing campaign and produced the first annual **Spice of Life Festival held in October 2003 to highlight the area's diverse selection of food, arts, and health** and wellness resources. This signature event continued until through 2011, featuring cooking demonstrations by local chefs, gourmet food sampling, wine tasting, yoga and bodywork classes, live music, art activities and artisan booths. Local non-profit organizations and schools, along with area businesses, were highlighted during this event, which grew to draw over 10,000 people to the district.

In FY2004, **the Association's** Board was successfully expanded from 7 to 9 members representing properties and businesses throughout the district, and memberships in the Berkeley Chamber of Commerce and Berkeley Convention and Visitors Bureau were initiated. Association staff provided information and assistance to new and existing businesses in the district, including lobbying on behalf of use permits and other needed zoning clearances, and working with the Ecology Center to gain **needed approvals to move the North Berkeley Organic Farmer's Market** to a year-round street location at Rose and Shattuck.

During FY2005, a Marketing and Promotions Subcommittee oversaw the design of a new visual brand for the area capitalizing on the **strength of the "Gourmet Ghetto" moniker and developed a two-year marketing strategy** district to integrate the brand into general and holiday advertising, an area brochure, and the website. The strategy also included hiring a publicist to generate press releases and promote editorial pieces. The Association participated as a sponsor of the Himalayan Fair and exhibited at the Solano Stroll and the two-day Live Oak Park Fair, promoting **the district's businesses, events, and website with a raffle and product giveaways**.

In FY2006, the Association was active in the Berkeley Business District Network, and became a member of the California Downtown Association, a statewide network of groups focused on economic development and commercial revitalization. Maintenance and beautification activities included the coordination of the design and **installation of 19 decorative banners for the North Berkeley Farmers' Market**. The Association continued marketing/promotions activities, including showcasing the area and its new businesses at local festivals, and a series of general ads in local magazines and newspapers. The district was also the focus of several editorial pieces including a one-page feature on the area that appeared in the April 2006 issue of San Francisco Magazine. In late 2006, the district welcomed a host of new businesses including 8 new food related businesses in the new Epicurious Gardens development in the former Dale Sanford building.

During FY2007, the Association extended its decorative banner project to the entire district with a series of banners **celebrating ACCI Gallery's 50<sup>th</sup> Anniversary**. The district organized the North Berkeley ArtWALK as part of the celebration, which showcased ACCI and other local artists whose work was placed in area businesses. The event became an ongoing monthly event highlighting special exhibitions at area galleries, including the Berkeley Art Center and Firehouse North Gallery. The Association also joined the Berkeley Cultural Trust to promote arts and event development and funding in the city with other district associations and arts organizations. The Association was active in the Berkeley Business District Network (BBDN) **participating in BALLE's national economic sustainability convention** held in the city in June 2007 and initiating the Buy Local Berkeley citywide marketing program.

In FY2008, a **survey of business and property owners was conducted to gain input on the direction of the district's marketing activities**. The results guided the Association to organize a weekly culinary/shopping tour for the district featuring area history, interviews with local shopkeepers and chefs, product sampling and a visit to the **North Berkeley Organic Farmers' Market**. The survey also indicated support for additional arts related events, and the Director worked with Another Bullwinkel Show to locate and produce the Chocolate and Chalk Art Festival in the North Shattuck district in May 2008 (moving it from Solano Avenue) featuring chocolate sampling and specialty products in area businesses, and a sidewalk chalk art contest.

The Association coordinated with the City on implementation of parking meter timing changes to extend meters along Shattuck to a two-hour maximum time limit and working with the owners of private lots in the area to identify monthly employee parking. The Association provided **input and support for Mayor's Public Commons for Everyone Initiative** and changes to existing laws to control inappropriate street behavior and ensure business vitality in the **city's commercial districts**, working with local service providers to develop working relationships and strategize on future improvements to social service delivery. The district also assisted businesses with several special events and fundraisers, including a fundraiser for the Berkeley High Development Group at the Cheeseboard, the Cheeseboard 30<sup>th</sup> **Anniversary celebration**, and Gregoire's 5<sup>th</sup> Anniversary party.

During FY2009, the Association worked with the Berkeley Business District Network (BBDN) on the Buy Local Berkeley campaign, assisting with a Holiday marketing campaign, recruitment of local businesses, ads, marketing materials, and website development. Winter Holiday promotional activities in the NSBID area included extension of holiday lighting to the sidewalk street trees for the entire length of the district, as well as lighting and decorations in median tree locations with electricity access, holiday banners, and musical performances throughout the district on Saturdays and Sundays in December.

The Executive Director attended quarterly meetings with the City Manager and regularly coordinated with City of Berkeley staff to address maintenance issues and to coordinate public improvement projects, including forming a Pedestrian Safety and Transportation Working group with members of the Board of Directors, and AC Transit and City of Berkeley staff to look at potential improvements to parking, pedestrian crossings and bus stops in the area.

The Association received a \$1027 City of Berkeley Civic Arts Grant for the Chocolate and Chalk Art Festival, which again featured chocolate sampling and specialty products in area businesses, and a sidewalk chalk art contest. A new festival area was added to the event hosting chocolate and chocolate related vendors and sponsor booths.

The Association also **partnered on a community art project entitled “Paving the Way”, which involved area businesses, ACCI Gallery, and the MLK Jr. Middle School community to create and display mosaic art tiles and raise funds for the school.** The project paired volunteer artists and MLK art teachers to work with students to create over 100 tile pavers which were auctioned at a fundraising event at the Gallery that raised over \$1000 for the **school’s art program.** The Association continued to produce a monthly Arts and Events guide, moving it to a web-based newsletter format, featuring information about exhibition openings and special events as well as business news and shopping specials.

During FY2010, the Association formed a Stakeholder Group and undertook a selection process for hiring a BID renewal consultant, entering into a contract with New City America to complete the project. They also provided **input on the City’s Pedestrian Plan and supported several successful grant applications for a bicycle parking shelter at Vine St. and improvements to the Virginia street crossing at Shattuck under the “Safe Routes to Schools”** program to include a beacon light and expanded curbs.

The Association assisted a local artist group, Growing Connections, to secure a mural site at Virginia Bakery, get the Berkeley Foundation for the Arts as a fiscal sponsor, solicit donations for a fundraiser at ACCI Gallery, and provided \$1500 in seed funds for the mural which featured a **“Slow Food” theme.** In 2010, the Association worked with the East Bay Style Collective to produce a Food, Wine and Fashion event on Saturday, July 11<sup>th</sup> on the access street north of Vine. The event featured a runway show with fashions from local boutiques and make-up and hair by the East Bay Style Collective. Food was provided by several district restaurants and local businesses. Another new event, the **“Taste of North Berkeley” restaurant walk** was held in early spring **with the Berkeley Lion’s Club to benefit their community** fund. The event involved over 25 businesses and restaurants who offered tastes of their cuisine and wine tasting. The event was a sell-out, bringing over 500 people into the district, and raised over \$9,000 for the non-profit.

In FY 2011, the Association worked with BID renewal consultant New City America to successfully complete a petition drive and formal balloting for the project. The BID passed in May 2011 for another 10-year cycle with an 83.52% weighted majority vote. Assessment rates and formulas remained at the levels specified in the original 2001 Management Plan. Allocations to the program elements were changed slightly, with a reduction of 10% into Maintenance/Beautification budget which was redirected to increase the Marketing/Promotions and Organization/Administration program elements budgets by 5% each.

During this year, the Association provided input on proposed zoning amendments for the C-2 and NS-1 commercial districts governing the area including lifting limitations on medical offices, gyms, and dance uses on ground floors, provisions for exceeding use quotas, and regulations regarding amplified music in commercial establishments. The Association also participated in meetings between area businesses and property owners and the Safeway staff and project architects regarding their proposed remodel of the Shattuck store, providing input and support for the project through the City review process. The Board of Directors and AC Transit and City of Berkeley staff continued to meet to discuss improvements to parking, pedestrian crossings and bus stops in the area.

During the spring, the Association worked with area businesses, various City Departments and Councilmember Capitelli to gain approval for a weekly gourmet mobile food market in the district. **“Off the Grid North Berkeley”** had

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its kick-off in early June 2011 and garnered extensive media coverage in the lead up to the start date including various food bloggers, daily and weekly newspapers, and a national TV spot on the NBC Morning Show.

During FY 2012, **“Off the Grid North Berkeley”** hosted a number of area eateries in a rental food truck and their participation was part of the **Association’s marketing efforts around the event**, along with tie-ins to local business offerings of food and drink specials, music, and art exhibits to draw event patrons into the wider area. The event continued in the area until December 2012, until it was decided to end operations because of parking concerns. The Association sponsored several art-related projects in FY2012, including a **community art project entitled “Take 5: Art Break Day”** held simultaneously on September 2nd, 2011 in five cities in the Bay Area. The district provided funding and hosted an art-making station at the corner of Vine and Shattuck where the public was invited to take a break and make art.

Working with LocalOn, a website update was started using their platform that allows for business listing personalization and automated social media links. The Association developed a social media presence on Facebook and Twitter, produced an updated Shopping and Dining guide/map, placed ads in the Visit Berkeley and Chamber of Commerce guides, Eco-Metro Guide, and numerous local papers highlighting events, and provided information for editorial pieces on the district.

The Association worked with elected official and City of Berkeley staff on developing a Pilot Parklets Program based on the success of the parklets created during Spice of Life Festival and on Parking Day. A group of merchants and local residents started meeting toward the creation of parklets in parking spaces at several locations to provide additional seating and bicycle facilities in the district.

During FY 2013, the Executive Director met with and made presentations to various City Commissions, community groups and the Board of Realtors about proposed City and Association sponsored public improvement projects in the district, including the grant funded bicycle parking shelter at Vine St. and improvements to the Virginia street crossing at Shattuck under the **“Safe Routes to Schools” program**. A plan for reconfiguration to diagonal spaces near Rose St. to create 10 more parking spaces, and the proposed parklets projects were also detailed. The Association coordinated with local businesses and the City on the installation of the grant funded bicycle shelter at Vine St. and Shattuck in April 2013.

The Association continued to work with interested businesses and local designers on a **“parklets” program** to provide additional seating and bicycle facilities. Meetings were held with City Departments to discuss program elements in San Francisco and Oakland and advocate for development a City program. The parklets group designed an online survey, worked with businesses and designers to develop conceptual plans for projects near interested businesses, and coordinated the placement of a demonstration parklet constructed by a local designer in the parking bay in front of Philz Coffee during Sunday Streets. The Association agreed to provide seed funds for the projects and help coordinate permitting and construction.

The Executive Director worked with the Berkeley Arts Magnet Elementary school to fundraise for short-term improvement projects and a longer-term schoolyard remodel to incorporate outdoor learning areas. The Association coordinated merchant donations of supplies and refreshments for community work days and organized

meetings to connect the PTA and BAM school administrators with the Foundation for Youth Initiatives, a non-profit funding organization, for longer term projects.

On October 17, 2012 the Association partnered with Livable Berkeley and the Downtown Berkeley Association to produce the first Sunday Streets Berkeley, open-streets event, in lieu of the Spice of Life Festival. The event closed Shattuck from Rose to Haste Street with health and environmental activities by local organizations and businesses, and community group and non-profit information booths. No outside commercial vendors are allowed in the event, which instead features the businesses along the route. District businesses participated with outdoor yoga classes, special art exhibits and activities, sidewalk sales, etc. and restaurants brought seating into the streets.

Winter Holiday 2012 promotional activities included installation of holiday lighting in the street trees, holiday banners, ads in the Express and Chronicle newspapers, online promotion through e-blasts and Facebook, and musical performances throughout the district on Saturdays and Sundays in December. The 3<sup>rd</sup> **“Snow Day in Berkeley” was held on Sunday, December 2.** Other local businesses had related events that day, including M. Lowe and Co.’s **“Find the Ice in the Snowball” school fundraiser and Saul’s annual Latke Party.** The district also participated in the Buy Local Berkeley Holiday Campaign which featured a free holiday mobile phone coupon application developed with Chinook Book offering discounts at independent businesses. The application was marketed to their 15,000 mobile app users and to the public through ads, posters, and banners promoting the mobile app and encouraging holiday shopping at locally owned small businesses.

**With the Berkeley Lion’s Club,** the Association again **produced a Spring “Taste of North Berkeley” on the evening of May 7<sup>th</sup>** with event proceeds benefitting local charities through the Lions Community Fund, and the Chocolate and Chalk Art Festival in June, with chocolate sampling and specialty products in area businesses, a sidewalk chalk art contest, a festival area with crafts, chocolate and chocolate related vendors, music, circus arts performers, and face painting, **and other kid’s activities.**

During FY2014, **The Association took a lead role in advocating for the City’s Parklets Pilot Program,** designing an online survey for community input, meeting with City Departments to discuss program elements and requirements, and supporting and providing input at the Commission and Council level. The Association provided seed finding to the Cheese Board for engineering review of their design and worked with Philz Coffee/Guerilla Café on revising their design and initiating a crowd-funding program to raise funds for construction. The Executive Director coordinated with the City and nearby businesses on construction issues during improvements to the Virginia street **crossing at Shattuck under the “Safe Routes to Schools” program** and assisted with the sidewalk seating permit and planter placement on the newly constructed bulb-out area created by the project. Other public improvements included a BID sponsored artist-**designed “wrap” for the utility box at Vine and Shattuck** and completion of the BID-funded reconfiguration of parking from parallel to angled in the area near Rose St. resulting in the creation of 10 new spaces including a new handicapped space with adjacent sidewalk ramp, and design and installation of new decorative light pole banners reflecting the unique aspects of the district.

The Association provided support to the Berkeley Public Schools Cooking and Gardening Program by promoting their Berkeley Dine Out event and coordinating a Fall 2013 Taste of North Berkeley restaurant event to raise funds and awareness for the program. The Association again partnered with Livable Berkeley and the Downtown

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Berkeley Association to produce Sunday Streets Berkeley in October 2014, which drew over 30,000 people to Shattuck Ave. in the district and downtown. Other annual events included the Chocolate and Chalk Art Festival, the Dia de los Muertos festival and candlelight procession in October, and Snow Day in December.

Also in FY2014, the Executive Director organized training sessions for merchants on utilizing the new website platform for social media, hosted presentations by organizations for loyalty programs and other business products at general membership meetings, and coordinated district participation in the Buy Local Berkeley Holiday Campaign which featured a free holiday mobile phone coupon application developed with Chinook Book.

In FY2015, the Association assisted the Cheese Board Collective to complete the first parklet project under the approved Parklets Pilot Program and worked with businesses and local designers on the two other parklet projects underway which will provide additional public seating and bicycle facilities for the district. A demonstration parklet and fundraiser at the parklet site in front of Philz Coffee and Guerilla Café was held on Park-ing Day in September 2014 and a crowd-funding campaign was organized to raise funds for construction with gifts from local businesses. The design was revised to include a grant-funded bike “corral” **which** was installed by the City in April. The Association also **provided seed finding to Saul’s for permit fees** for their application, and handled notifications of nearby business and property owners for the project.

The Association helped organize a new entity, East Bay Open Streets, to produce Sunday Streets Berkeley in October 2015, under the auspices of the non-profit Walk Oakland Bike Oakland (WOBO). District businesses participated with outdoor yoga classes, special art exhibits and activities, sidewalk sales, etc. and restaurants brought seating into the streets. A pop-up art gallery was established in the vacant Black Oak Books space and the Association again produced the companion Vine Street Block Party event, which created a picnic area and beer/wine garden hosted by the Vintage Berkeley wine shop along with business and artisan crafts booths.

Other special events in this fiscal year included the Dia de los Muertos festival and candlelight procession on November 2, and **“Snow Day in Berkeley”** in early December as a kick-off to the holiday shopping season and promotional activities. The annual **Valentine’s Wine Walk paired local wineries with shops and galleries** for an evening of shopping and wine tasting as a fundraiser for the Berkeley Public School Gardening and Cooking Program. **With the Berkeley Lion’s Club, the Association again produced the “Taste of North Berkeley”** in early May.

The Association provided market and support to new businesses opening in the area this year including Kamado Sushi and a UPS Store in the 1400 Shattuck building, Tiger Lily in Epicurious Garden, Mission Heirloom Garden Café on Vine St., and Books Inc., which relocated from 4<sup>th</sup> St. to the former Black Oak Books site.

During FY2016, **the Association worked with Saul’s Deli to complete a second parklet project in front of their** business under the approved Parklets Pilot Program coordinating the city permitting process and business and property owner notifications. The Executive Director also worked with City staff, nearby businesses and the Ecology **Center’s market managers on** the reconfiguration of the North Berkeley Farmers Market into the service road, including merchant relations, organization of a grand re-opening event, parking signage, and operational issues.

The Association **assisted Andronico's to organize a "Fit Faire" at their Shattuck store in August which featured** classes and bodywork demonstrations by neighborhood practitioners. The Association also produced annual special events including Sunday Streets Berkeley, the Dia de los Muertos festival, Snow Day, the Valentines Wine Walk, and the Taste of North Berkeley.

During the 2017 Fiscal Year, the Association continued marketing and promotion of area businesses through regular e-newsletters, social media, and events, and worked with the East Bay Express to produce the Shattuck Street Guide, a district shopping and dining guide to be distributed to Visit Berkeley, local hotels, UC Berkeley Faculty, and Culinary Tour attendees, etc. The Association also worked with the Ecology Center to organize a series of monthly events during the summer of 2016 **at the Farmers Market called "Thirsty Third Thursdays" which included a beer/wine garden hosted by Saul's Deli and business information tables.** The Executive Director also worked with Buy Local Berkeley Program to leverage their media presence for our businesses and events, and to promote shopping at local independent businesses through the Small Business Saturday and the citywide Holiday marketing campaign. The Association also again promoted participating area businesses for Berkeley Restaurant Week in conjunction with Visit Berkeley.

Throughout the year, the Association coordinated area cleaning and maintenance of our landscaped planters and worked with city departments on major sewer replacement projects, tree trimming, and other sidewalk and street issues. The district hosted Gig Car Share to discuss the roll out of their program in Berkeley, and Bay Area Bike Share to discuss their East Bay bike share network and stations planned for the district. The Executive Director also worked with merchants, property owners, BPD, and homeless service providers to address trespassing and illegal dumping issues on private property and sleeping during the day in the public right of way.

The district provided marketing and support to several new businesses opening during the fiscal year including Agrodolce Osteria, Berkeley Running Company, Spokes Bike Shop, Safeway Community Market, and Guacamole 61 in the Epicurious Garden food hall.

In Fiscal Year 2018, the Association coordinated a larger Sunday Streets Berkeley event including Telegraph Ave. as well as downtown and North Berkeley. The event had to be rescheduled due to poor air quality from the North bay wildfires from Oct. 2017 to June 2018. Working with businesses and property owners, two Bay Area Bike Share stations were installed in the district, on Vine St. at Mission Heirloom and on Virginia below Shattuck Ave.

**Winter Holiday 2017 promotional activities included the "Snow Day in Berkeley" event in early December,** participation in the national Small Business Saturday local shopping promotion which provides a marketing kit with tote bags, signage, doormats, and banners that were featured at a district event hosted by M. Lowe & Co. with music and giveaways, and **the Saul's Deli Latke Party, which ran two weekends with fresh latkes prepared in a tent adjacent to the parklet with beer, wine and live music.** The district also participated in the Buy Local Berkeley Holiday Campaign which again featured a free holiday mobile phone shopping application developed with Chinook Book supported by gift guide e-blasts, ads, posters, and banners encouraging the public to shop at locally owned small businesses for the holidays. The Gourmet Ghetto Wine Walk was held in March 2018, pairing local and North Bay wineries with area businesses.

## North Shattuck Association Annual Report – EXHIBIT A

April 8, 2021

The Executive Director continued working with the Berkeley Business District Network (BBDN) on various issues related to economic development in the district, providing input on the Small Business Support package of planning and zoning changes, and installation of digital information kiosks. The district provided market and support to new businesses opening in the area this year including Vitality Bowl, Peter Engel Architecture, and Heart Source Center.

During Fiscal Year 2019, the Association had a full calendar of events and promotions. The Executive Director worked the Ecology Center to produce weekly Thirsty Thursday summer events with live music, cooking demos, and a beer garden to enliven the North Berkeley Farmers Market. In August, the Chocolate and Chalk Art Festival was held, and holiday events included **“Snow Day in Berkeley”** event in early December, **and the Saul’s Deli Latke Party**, which ran two weekends with fresh latkes prepared in a tent adjacent to the parklet with beer, wine and live music. The Association promoted Berkeley Restaurant Week in January 2019 in conjunction with Visit Berkeley, with ACCI Gallery hosting the kick-off party as well as a related artist talk and raw oyster event tasting event promoting a new art book about oysters. In spring 2019, we partnered with The Berkeley Public Schools Fund for the Gourmet Ghetto Wine Walk and Taste of North Berkeley fundraising events.

Our special events calendar also included Sunday Streets Berkeley event in June 2019, featuring the Cheese Board Collective’s 50<sup>th</sup> anniversary activities and music. The Association served as the fiscal agent for the Sunday Streets Berkeley event, managing grant funds and coordinating recruitment of sponsors and activity leaders. The district supported these events and business promotions with digital ads on Berkeleyside.com and eastbayexpress.com, in the Express Gift Guide edition, and online promotion through e-blasts and social media.

The Executive Director worked with the Berkeley Business District Network (BBDN) to provide input on citywide issues and proposals, including the Disposable-Free Dining Ordinance, and Small Business Support Program zoning changes. As needed, meeting of meetings of merchants, property owners, BPD, and the City’s **new HOTT** were coordinated team to deal with street behavior issues, trespassing and illegal dumping issues. In addition to regular sidewalk cleaning, the Association worked with the City and the non-profit Streets Team to start a volunteer clean-up crew to assist with area clean-up one day per week in exchange for business gift cards as part of a re-entry to work program.

The Association provided market and support to new businesses and new owners in the area this year including Left Margin Lit, Poulet, and Wrecking Ball Coffee, and coordinated presentations at the April 2019 General Association meeting by Project Equity and Uptima Business Bootcamp, business assistance and succession planning consultants under contract with the City of Berkeley to area merchants.

During Fiscal Year 2020, the Executive Director held regular meetings of the Board of Directors and General Association meeting with merchants and property owners to further the goals and objectives of the Association. As the pandemic forced the shutdown in March 2020, the Association moved to Zoom meetings and worked to shift budget priorities to respond to pandemic needs, including outdoor commerce support to businesses and worked with the Berkeley Chamber of Commerce, Visit Berkeley, and non-profit groups to provide information on the local advisories and relief programs, as well as Federal employment protection and SBA loans and grants.

During the shutdown, the Association also worked with the Berkeley Business District Network (BBDN) to promote



the private fundraising effort for the Berkeley Relief Fund, and to provide input on the fund's Business Continuity Grant program and Outdoor Commerce Program. The Executive Director worked with the Ecology Center's market managers on expanding operations to comply with social distancing and capacity limitations during the shutdown, and promotion for the Farmer's Market as an essential service during the shutdown.

Earlier in the fiscal year, the Board of Directors voted to drop the "Gourmet Ghetto" moniker from our advertising and banners in response to a request from a new business. The Association also coordinated with the City's goBerkeley parking management program to complete a district parking survey and implement recommendations for 3-hour parking in the neighborhood with demand pricing. Special events included of "Thirsty Third Thursdays" at the North Berkeley Farmers Market with live music, a cooking demo tent staffed by Kitchen on Fire, and various local business tabling and activities, held from May to October, and the Chocolate & Chalk Art Festival in August 2019, supported with a Civic Arts grant. Winter Holiday 2019 promotional activities included the annual "Snow Day in Berkeley" event and the Saul's Deli Latke Party. The district also worked with the Chamber of Commerce and Visit Berkeley to promote business participation in a new online #BerkeleyHolidays Gift Guide and marketing of the guide through our social media channels.

The Association supported these events and other business promotions with digital ads on Berkeleyside.com and eastbayexpress.com, in the Express Gift Guide edition, and online promotion through e-blasts and social media. We continued to produce an e-newsletter featuring artist receptions, information about business openings/events, and special events in the district and at nearby venues. During the Covid-19 shutdown, these were sent out every week, with the latest updates on business operations and hours, safety protocols, and ways to shop online or by phone, with curb pick-up or delivery, etc.

The North Shattuck BID was renewed for another 10-year period, with a new Management Plan. The boundaries of the District were extended to include several commercial properties on the north side of Rose Street, The BID renewal was approved by a weighted mail-in ballot with a majority in favor and was approved by the City Council in June.

The Association provided market and support to new businesses and new owners in the area this year including the Pot-Pourri gift store on Vine St., Vitality Bowls, Victory Point Café, The Coder School, along with Guacamole 61 and Cheesequakes in Epicurious Garden. The Juice Bar was reopened as FAVA by two Chez Panisse alums for take-out. Virginia Bakery's owners also retired and sold this year to another bakery. The site will become the third local location of CupCakin' Bake Shop.



**NORTH SHATTUCK ASSOCIATION**  
**ANNUAL REPORT TO THE CITY OF BERKELEY**  
**FISCAL YEAR 2020**

**Introduction**

The North Shattuck Business Improvement District (NSBID) was reestablished for a new 10-year period by the Berkeley City Council on May 3, 2011 (Resolution No. 61,168-N.S.) under provisions of the State of California Property and Business Improvement District Law of 1994. The NSBID was formed in 2001 to implement a Management District Plan developed to address the specific needs of the District, which encompasses 49 properties located on Vine Street and along Shattuck Avenue from Delaware to Rose Street. The Management District Plan sets forth the projected activities of the NSBID and the allocation of BID assessment revenues to each activity. The NSBID has a life of ten years from the date of establishment of the District and operates on a July through June fiscal year. This is the last year of the current BID and to renew, a New Management Plan will be drafted based on current needs and another weighted vote of all property owners will be conducted.

The NSBID is managed by the non-profit North Shattuck Association, whose Board of district business and property owners and Executive Director coordinate implementation of the Management Plan. The Property and Business Improvement District Law of 1994 requires that the owners' association that is responsible for administering a BID prepare an annual report for each fiscal year for which assessments are to be levied. The report shall include any proposed changes in the boundaries of the district, the improvements and activities for the year, an estimate of the cost of the improvements and activities, the method and basis for levying the assessment, the amount of any surplus or deficit revenues to be carried over from a previous fiscal year and the amount of any contributions from other sources. The City Council may approve the report as filed or may modify any particular section contained in the report and then approve it as modified.

This report reviews Fiscal Year 2019-2020 operations, and states goals and objectives for Fiscal Year 2020-2021 of the NSBID, which begins July 1, 2020.

Please find a summary of each of the previous years accomplishments and actions by the North Shattuck Association at the end of this report.

**Fiscal Year 2020 Summary**

***Budget***

The budget for Fiscal Year 2020 included BID assessments which resulted in new revenue of \$184,835 with the approved 5% increase in assessments. The following table shows the carryforward/deficit from FY 2019, the 2020 Budget Allocations by category and percentages as well as the expenditures to the end of the fiscal year on June 30, 2020.

North Shattuck Association Annual Report

July 1, 2020

| <i>NORTH SHATTUCK ASSOCIATION<br/>Service/Expense Category</i> | <i>Allowable<br/>% of<br/>Annual<br/>Budget</i> | <i>Carry<br/>Forward<br/>from Fiscal<br/>Year 2019<br/>(Actual)</i> | <i>Fiscal Year<br/>2020<br/>Assessment<br/>Revenue<br/>(with 5%<br/>Increase)</i> | <i>2020 Budget<br/>with Carry<br/>Forward &amp;<br/>New Revenue</i> | <i>Fiscal Year<br/>2020<br/>Expenditures<br/>(To 6/30/20)</i> |
|----------------------------------------------------------------|-------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------|
| Maintenance/Beautification                                     | 40%                                             | \$1057                                                              | \$73,059                                                                          | \$74,116                                                            | \$74,117                                                      |
| Marketing/Promotion                                            | 25%                                             | \$1661                                                              | \$45,662                                                                          | \$47,323                                                            | \$47,232                                                      |
| Organization/Administration                                    | 30%                                             | \$(531)                                                             | \$54,794                                                                          | \$54,263                                                            | \$54,167                                                      |
| Contingency                                                    | 5%                                              | \$1                                                                 | \$9,132                                                                           | \$9,133                                                             | \$8,773                                                       |
| Total Budget                                                   | 100%                                            | \$2188                                                              | \$182,647                                                                         | \$184,835                                                           | \$184,288                                                     |

### ***Accomplishments***

During Fiscal Year 2020, the North Shattuck Association continued implementation of the activities and services outlined in the Management District Plan under a renewed annual contract between the City of Berkeley and the Association. Activities of the district are organized into Organization/Administration, Marketing and Promotion, Beautification and Design, and Economic Development. Accomplishments in each area are summarized below.

### **Organization/Administration**

- The Executive Director held regular meetings of the Board of Directors and General Association meeting with merchants, property owners, and community members were held regularly during the year to further the goals and objectives of the Association. Due to the shutdown in March 2020, the Association moved to Zoom meetings and worked to shift budget priorities to respond to pandemic needs, including outdoor commerce support, within the expenditure categories of the District Management Plan.
- Facilitated ongoing communications and provided on-site supervision of contractors and district operations.
- Organized a special meeting of the Board of Directors in Sept. 2019 with merchants and property owners to address the request to the Association to drop the “Gourmet Ghetto” moniker from our advertising and banners. Handled press inquiries and drafted written confirmation of the decision to drop the name from our marketing and social media and remove banners with the moniker.
- Coordinated with the City’s goBerkeley parking management program to complete a district parking survey and implement recommendations for 3-hour parking in the neighborhood with demand pricing. The Board also met with private lot operators to investigate use of spaces for paid employee parking with an app-based reservation system.
- The Association also moved forward on renewal of the BID for another 10-year period, engaging

with New City America as a consultant to complete the Management Plan and balloting process under the latest guidelines. The Board, acting as the stakeholder group, voted to extend the boundaries of the District to include several commercial properties on the north side of Rose Street, and to adopt a slightly larger budget for district activities to reflect the growing costs of maintenance in the district. The BID renewal was approved by a weighted mail-in ballot with a majority in favor and was approved by the City Council on June 16<sup>th</sup>.

- The Association continued its involvement with the Berkeley Business District Network (BBDN) with the Executive Director attending its quarterly meetings with the City Manager to deal with citywide issues. As the pandemic hit, the Association worked with the group to promote the private fundraising effort for the Berkeley Relief Fund, and to provide input on the fund's Business Continuity Grant program and Outdoor Commerce Program.
- The Association worked with the Berkeley Chamber of Commerce, Visit Berkeley, and non-profit groups to provide information on the local advisories and relief programs, as well as Federal CARES Act programs, including the Payroll Protection Program and other SBA loans and programs.
- The Executive Director worked with the Ecology Center's market managers on expanding operations to comply with social distancing and capacity limitations during the shutdown, and promotion for the Market as an essential service during the shutdown.

### **Maintenance and Beautification**

- The Association continued to provide funding and oversight for a regular maintenance program for sidewalks, public spaces, and public property including sidewalk and gutter sweeping, weeding of tree wells, and maintenance of the landscaped ceramic planters throughout the District.
- The Executive Director attended quarterly meetings with the City Manager and coordinated with City of Berkeley staff to address maintenance issues including street tree replacements, graffiti abatement, sidewalk steam cleaning and repair, trash receptacle maintenance and sewer and street repair projects.
- Coordinated meetings of merchants, property owners, BPD, and the City's HOTT team to deal with street behavior issues, trespassing and illegal dumping issues on private property and sleeping during the day in the public right of way.
- Holiday lighting was installed for the entire length of the district for the winter holiday season in the sidewalk street trees as well as in median tree locations with electricity access.
- Coordinated with the City and the non-profit Streets Team assigned to assist with area clean-up until the March 2020 shutdown.
- Produced a small run of banners in May 2020 for the North Berkeley Farmers Market area to

enliven the area and promote the market as an essential service open during the shutdown.

### **Marketing and Promotion**

- Worked with the Ecology Center to organize and promote another series of “Thirsty Third Thursdays” which took place monthly from June through October 2019 with a beer & wine garden hosted by Saul’s, a cooking demo tent staffed by Kitchen on Fire, and various local business tabling and activities. Worked with the Center on taking the event virtual for summer of 2020.
- Coordinated the 2019 Chocolate & Chalk Art Festival in August, including outreach to businesses for participation in chocolate tasting aspect of the event, organization of an association festival booth, and judging of the Chalk Art contest. This event received a Civic Arts Grant of \$6,035 for the fiscal year.
- Exhibited at the annual Solano Stroll in September 2019 to promote the district’s businesses, events, and website with marketing materials, raffles, and product giveaways.
- Organized the annual free art-making station at the corner of Vine and Shattuck for the Art is Moving “Take 5: Art Break Day”, a national community art project in September 2019.
- Winter Holiday 2019 promotional activities included the annual “Snow Day in Berkeley” event on Dec. 8th, and the Saul’s Deli Latke Party, which ran Dec. 22-24<sup>th</sup> with fresh latkes prepared in a tent adjacent to the parklet with live music and a beer garden. The district supported these events and business promotions with digital ads on Berkeleyside.com and eastbayexpress.com, in the Express Gift Guide edition, and online promotion through e-blasts and social media.
- Worked with the Chamber of Commerce and Visit Berkeley to promote business participation in a new online #BerkeleyHolidays Gift Guide and marketing of the guide through our social media channels.
- The Association continued to produce an e-newsletter featuring our local galleries’ monthly exhibition openings and artist receptions, information about business openings/events, and special events in the district and at nearby venues. During the Covid-19 shutdown, these were sent out every week, with the latest updates on business operations and hours, safety protocols, and ways to shop online or by phone, with curbside pick-up or delivery, etc.
- Worked with local media including Berkeleyside that provided business associations free ad space during the shutdown, and placed print and digital ads in the Express through a special package deal, including in their Shelter in Place Guide, to promote open businesses and curbside pick-up and delivery options.
- The Association coordinated with Visit Berkeley for their “TO-GO” version of Berkeley Restaurant Week in April 2020 due to Covid-19 restrictions and promoted participating area businesses.

- Updated the district website regularly with new business for the directory and links to events, classes, and information about district activities. Did regular Facebook and Instagram posts and advertising.
- Produced press releases and handled press inquiries on the district name change and provided information for editorial pieces on the district.
- Placed print and digital ads on local news sites online highlighting events and a series of branded stories promoting the neighborhood in the Chinook Book, a sustainable business guide.

### **Economic Development**

- The Association continued to maintain an inventory of all businesses and vacant retail and office space in the district, including square footage, lease rates, and broker contact information. The Director conducted site visits of the district and vacant properties for prospective new businesses and provided updates to the City's Economic Development office on business openings and closures due to the pandemic.
- Sent regular email Merchant Updates on district activities, and organized quarterly General Meetings of the Association for networking, presentations on City programs and initiatives, and training sessions for merchants on alternative loan programs, green business certifications, best practices for social media, etc. With the Covid-19 shutdown, meetings moved to Zoom and focused on current health orders, business pivots and recovery efforts and financial and technical assistance programs, including webinars with the Small Business Administration.
- The Executive Director continued to work with the Berkeley Business District Network (BBDN) and Chamber of Commerce on various issues related to economic development in the district. After the shutdown in March, worked together to host online meetings with City leaders and health officials, promote workshops on Federal, State and City programs, and provide input on the City's Small Business Relief Fund grant program for small businesses and Outdoor Commerce guidelines.
- The Association provided market and support to new businesses and new owners in the area this year including the Pot-Pourri gift store on Vine St., Vitality Bowls, Victory Point Café, The Coder School, along with Guacamole 61 and Cheesequakes in Epicurious Garden. The Juice Bar was reopened as FAVA by two Chez Panisse alums for take-out. Virginia Bakery's owners also retired and sold this year to another bakery. The site will become the third local location of CupCakin' Bake Shop.

### **Fiscal Year 2021**

#### ***Work Plan***

The North Shattuck Association will continue implementation of the activities initiated in previous fiscal years with the renewal of the BID. Funds not expended in previous years will again be carried forward in addition to estimated Fiscal Year 2021 revenues. The work of the Association will continue to be

guided by the Board of Directors and its committees. The goals and objectives for Fiscal Year 2021 have been re-organized as outlined in the new Management District Plan.

### **Administration/Program Management**

*Goals:* General oversight and direction of district activities; development of relations and coordination with outside groups and agencies, coordination of projects and programs, management of sponsorships and volunteers.

#### *Objectives:*

- 1) Oversee development of annual District work plan and detailed budgets, financial records and annual tax returns.
- 2) Conduct property owner outreach, property owner and business input to the Management Plan and various programs and activities.
- 3) Attend needed City of Berkeley Council and Commission meetings and prepare all required reports related to the annual City of Berkeley contract with the Association.
- 4) Prepare correspondence, letters of support, and grant applications with the City of Berkeley and other agencies, present testimony at meetings as needed.
- 5) Coordinate Board elections in June 2021 including nominations and property owner balloting.
- 6) Liaison with property owners, merchants, City of Berkeley, Chamber of Commerce, Visit Berkeley, Berkeley Cultural Trust, Event Producers Group, local schools, and neighborhood groups.
- 7) Continue to participate in the Berkeley Business District Network to review and evaluate proposed City policy changes, public improvement projects, planning changes and zoning amendments relevant to the commercial district. Coordinate with district businesses and property owners to develop appropriate responses and present to City Council and Commissions.
- 8) Continue to work on parking issues in the district with the GoBerkeley Parking Program and investigation of improved usage of existing private parking resources for paid employee parking.
- 9) Work with the City and Ecology Center on issues related to the Farmers Market operations and marketing.
- 10) Develop and distribute quarterly e-mail newsletter updates to merchants and neighborhood groups with service accomplishments, event information, issue updates, and new business contacts. Continue to connect with outside groups and promote activities through various social media.
- 1) Identify and act on any business education/assistance needs for business retention and inform businesses and property owner of how to access all available business support financial and technical services.
- 11) Maintain inventory and lease information for vacant retail and office space in the District, current information for zoning regulations/amendments, and liaison with City and commercial brokers to attract and assist new businesses.
- 12) Prepare funding application for events through the City and State grant programs.
- 13) Work with the Berkeley Public Education Foundation, local schools and the Berkeley Business District Network, strategize on additional fundraising events to provide additional funding for classroom grants, for theater, science, art and gardening programs.

### **District Identity & Placemaking**

*Goals:* Create a unified, quality image for the district and implement promotion strategies that capitalize on the unique aspects of the area, including advertising, social media, brochures, special events, holiday promotions, etc. Strengthen the physical environment and sense of place with public art, landscaping improvements and parklets, etc.

*Objectives:*

- 1) Oversee implementation of the marketing and promotions strategy including designer/consultant selections, design processes, budgeting, and advertising placements.
- 2) Manage and promote the special events calendar and institute new events to further the image and various market segments of the district, including apparel, culinary, healthy living, and the arts.
- 3) Integrate existing businesses into special events and marketing campaigns through various means, including sponsorship, participation, promotional tie-ins, etc.
- 4) Coordinate public relations for the district and special events as needed. Generate press releases and promote editorial pieces on commercial and retail developments in the area.
- 5) Continue regular updates of the district website with business information and upcoming classes, special events, etc., produce a monthly Constant Contact e-newsletter, and maintain regular Facebook and other social media entries promoting business activities and press coverage.
- 6) Coordinate and promote a Virtual Thirsty Third Thursday event with the Ecology Center in July.
- 7) Work with ACCI Gallery to pivot their annual Seconds Sale in August to an outdoor market with social distancing on Lincoln St. and organize Sidewalk Sale for district to involve other businesses that are open.
- 8) Oversee installation of annual winter holiday street tree lighting throughout the district.
- 9) Organize a Holiday Sidewalk Sale and Outdoor Art Market with ACCI Gallery and neighborhood shops at the winter holidays in lieu of the regular musical performances and “Snow Day in Berkeley” event which has been cancelled due to the pandemic.
- 10) Coordinate a Chocolate & Chalk Art Festival by June 30<sup>th</sup>, date to be determined, with a revised format incorporating online registration, and without an outdoor festival component. Outreach to businesses for participation in chocolate special for the day for purchase, organize gift certificates or chocolate-related items for the contest, and judge the Chalk Art contest. Work with event producer to engage with the City on approval of changes to the festival which has a \$3696 grant awarded for FY 2020-21.
- 11) Identify a non-profit partner and produce a Wine Walk fundraiser event, coordinating wineries, business participation, and marketing when appropriate.
- 12) Produce the “Taste of North Berkeley” restaurant walk to benefit local charities and highlight neighborhood shops and restaurants when appropriate.
- 13) Organize Association booths/tables at the weekly Farmers’ Market and other fairs and festivals to promote the district when regulations allow.
- 14) Promote virtual and in-person events when they resume at nearby venues such as Live Oak Park, the Jewish Community Center, Berkeley Arts Center, Theatre First and the Hillside Club. Work with producers to tie in district businesses through advertising and promotions.
- 15) Investigate grant funding opportunities and provide coordination between area businesses and property owners, City Departments, and outside agencies towards implementation of district-



initiated projects and programs towards median improvement, pedestrian safety, improved bike facilities, and parking.

- 16) Investigate design and finding possibilities for a median landscaping improvement project to coincide with the Shattuck Ave. roadway repair project, including City funding and a UC Berkeley Chancellor’s Grant.
- 17) Investigate opportunities for public art projects with ACCI Gallery, artists, and local schools, including rotating storefront exhibits, art projects, temporary mural projects, etc.

**Civil Sidewalks**

*Goals:* Address issues related to cleaning and maintenance of the district; design and implement landscaping and other streetscape beautification improvements; provide input on development projects.

*Objectives:*

- 1) Provide ongoing maintenance monitoring, needs assessment, and coordination with appropriate city departments and contractors on projects including bicycle racks/facilities placement, street tree replacements and median landscaping as needed.
- 2) Oversee Peralta Service Corporation services in completing regular sidewalk cleaning and special projects including tree well maintenance as needed.
- 3) Coordinate work of the City-funded Streets Team to assist with area clean-up one day per week.
- 4) Identify and address security and safety issues working with the Berkeley Police Department. Organize meetings of district businesses with patrol officers including walk-throughs and at general meetings, etc.
- 5) Coordinate meetings of merchants, property owners, BPD, and the City’s HOTT team to deal with street behavior issues, trespassing and illegal dumping issues on private property and sleeping during the day in the public right of way.
- 6) Work with property owners and appropriate city departments to address signage conditions and the appearance of empty storefronts and vacant properties in the district.
- 7) Work with appropriate City departments, interested business and property owners, contractors, and volunteers to complete Outdoor Commerce areas in the district.

**Budget**

BID collections for Fiscal Year 2021 are estimated to be \$210,908 with the renewal of the BID and implementation of the revised Management Plan. A projected carryforward of \$547 from Fiscal Year 2020 will be added to the Contingency expense category. Services and expenditures will be made in accordance with the revised Management District Plan categories as follows:

| <i>NORTH SHATTUCK ASSOCIATION<br/>Service/Expense Category under new<br/>Management Plan</i> | <i>% of<br/>Annual<br/>Budget</i> | <i>Fiscal Year 2021 Projected<br/>Revenues under Renewal Plan</i> |
|----------------------------------------------------------------------------------------------|-----------------------------------|-------------------------------------------------------------------|
| Civil Sidewalks                                                                              | 40%                               | \$85,000                                                          |
| District Identity & Placemaking                                                              | 25%                               | \$52,000                                                          |
| Administration/Program Management                                                            | 30%                               | \$63,000                                                          |
| Contingency                                                                                  | 5%                                | \$ 10,908                                                         |
| Total Estimated Budget                                                                       | 100%                              | \$210,908                                                         |

The above budget is based upon the maximum amount of BID assessment revenues that could be collected in the District. Actual BID revenues may be lower if some assessments are not paid within the Fiscal Year. Changes in the boundaries of the district and the method and basis for levying the BID assessments were approved and are contained in the Management Plan. A listing of Fiscal Year 2021 assessments is attached as Exhibit A to this report. The formula for property assessment is attached as Exhibit B to this report.

Approved by:

Approved by the Board of Directors  
Cathy Goldsmith, President, North Shattuck Association  
On July 1, 2020

Prepared by: Heather E. Hensley, Executive Director, North Shattuck Association

Addendum to Report:

**SUMMARY OF PRIOR FISCAL YEARS**

In **FY2002**, the North Shattuck Association, a private 501 (c) (6) non-profit corporation, was formed to manage the NSBID, which had been established with a majority weighted vote of property owners in July 2001. The North Shattuck Association entered into a contract with the City of Berkeley administration of BID revenues, which are collected annually through Alameda County’s property tax collection process and forwarded to the City. The North Shattuck Association began implementation of the approved District Management Plan for economic development organized around business assistance/attraction, marketing/promotions, and maintenance/beautification activities. Operations began late 2002 with the opening a district office, establishment of a Board of Directors, entering into a contract for regular sidewalk and public space maintenance, and installing 35 new planters and coordinating with the City of Berkeley to place 22 new “Recycliter” cans in the district. In FY2003, the Association produced public information and marketing materials including a newsletter, website, and business directory. Maintenance and beautification activities included installation of additional landscaped planters, painting of all district area light poles, and newsrack consolidation. The Association completed a holiday marketing campaign and produced the first annual Spice of Life Festival held in October 2003 to highlight the area’s diverse selection of food, arts, and health and wellness resources. This signature event continued until through 2011, featuring cooking demonstrations by local chefs, gourmet food sampling, wine tasting, yoga and bodywork classes, live music, art activities and artisan booths. Local non-profit organizations and schools, along with area businesses, were highlighted during this event, which grew to draw over 10,000 people to the district.

In **FY2004**, the Association’s Board was successfully expanded from 7 to 9 members representing properties and businesses throughout the district, and memberships in the Berkeley Chamber of Commerce and Berkeley Convention and Visitors Bureau were initiated. Association staff provided

information and assistance to new and existing businesses in the district, including lobbying on behalf of use permits and other needed zoning clearances, and working with the Ecology Center to gain needed approvals to move the North Berkeley Organic Farmer's Market to a year-round street location at Rose and Shattuck.

During **FY2005**, a Marketing and Promotions Subcommittee oversaw the design of a new visual brand for the area capitalizing on the strength of the "Gourmet Ghetto" moniker and developed a two-year marketing strategy district to integrate the brand into general and holiday advertising, an area brochure, and the website. The strategy also included hiring a publicist to generate press releases and promote editorial pieces. The Association participated as a sponsor of the Himalayan Fair and exhibited at the Solano Stroll and the two-day Live Oak Park Fair, promoting the district's businesses, events, and website with a raffle and product giveaways.

In **FY2006**, the Association was active in the Berkeley Business District Network, and became a member of the California Downtown Association, a statewide network of groups focused on economic development and commercial revitalization. Maintenance and beautification activities included the coordination of the design and installation of 19 decorative banners for the North Berkeley Farmers' Market. The Association continued marketing/promotions activities, including showcasing the area and its new businesses at local festivals, and a series of general ads in local magazines and newspapers. The district was also the focus of several editorial pieces including a one-page feature on the area that appeared in the April 2006 issue of San Francisco Magazine. In late 2006, the district welcomed a host of new businesses including 8 new food related businesses in the new Epicurious Gardens development in the former Dale Sanford building.

During **FY2007**, the Association extended its decorative banner project to the entire district with a series of banners celebrating ACCI Gallery's 50<sup>th</sup> Anniversary. The district organized the North Berkeley ArtWALK as part of the celebration, which showcased ACCI and other local artists whose work was placed in area businesses. The event became an ongoing monthly event highlighting special exhibitions at area galleries, including the Berkeley Art Center and Firehouse North Gallery. The Association also joined the Berkeley Cultural Trust to promote arts and event development and funding in the city with other district associations and arts organizations. The Association was active in the Berkeley Business District Network (BBDN) participating in BALLE's national economic sustainability convention held in the city in June 2007 and initiating the Buy Local Berkeley citywide marketing program.

In **FY2008**, a survey of business and property owners was conducted to gain input on the direction of the district's marketing activities. The results guided the Association to organize a weekly culinary/shopping tour for the district featuring area history, interviews with local shopkeepers and chefs, product sampling and a visit to the North Berkeley Organic Farmers' Market. The survey also indicated support for additional arts related events, and the Director worked with Another Bullwinkel Show to locate and produce the Chocolate and Chalk Art Festival in the North Shattuck district in May 2008 (moving it from Solano Avenue) featuring chocolate sampling and specialty products in area businesses, and a sidewalk chalk art contest.

The Association coordinated with the City on implementation of parking meter timing changes to extend

meters along Shattuck to a two-hour maximum time limit and working with the owners of private lots in the area to identify monthly employee parking. The Association provided input and support for Mayor's Public Commons for Everyone Initiative and changes to existing laws to control inappropriate street behavior and ensure business vitality in the city's commercial districts, working with local service providers to develop working relationships and strategize on future improvements to social service delivery. The district also assisted businesses with several special events and fundraisers, including a fundraiser for the Berkeley High Development Group at the Cheeseboard, the Cheeseboard 30<sup>th</sup> Anniversary celebration, and Gregoire's 5<sup>th</sup> Anniversary party.

During **FY2009**, the Association worked with the Berkeley Business District Network (BBDN) on the Buy Local Berkeley campaign, assisting with a Holiday marketing campaign, recruitment of local businesses, ads, marketing materials, and website development. Winter Holiday promotional activities in the NSBID area included extension of holiday lighting to the sidewalk street trees for the entire length of the district, as well as lighting and decorations in median tree locations with electricity access, holiday banners, and musical performances throughout the district on Saturdays and Sundays in December.

The Executive Director attended quarterly meetings with the City Manager and regularly coordinated with City of Berkeley staff to address maintenance issues and to coordinate public improvement projects, including forming a Pedestrian Safety and Transportation Working group with members of the Board of Directors, and AC Transit and City of Berkeley staff to look at potential improvements to parking, pedestrian crossings and bus stops in the area.

The Association received a \$1027 City of Berkeley Civic Arts Grant for the Chocolate and Chalk Art Festival, which again featured chocolate sampling and specialty products in area businesses, and a sidewalk chalk art contest. A new festival area was added to the event hosting chocolate and chocolate related vendors and sponsor booths. The Association also partnered on a community art project entitled "Paving the Way", which involved area businesses, ACCI Gallery, and the MLK Jr. Middle School community to create and display mosaic art tiles and raise funds for the school. The project paired volunteer artists and MLK art teachers to work with students to create over 100 tile pavers which were auctioned at a fundraising event at the Gallery that raised over \$1000 for the school's art program. The Association continued to produce a monthly Arts and Events guide, moving it to a web-based newsletter format, featuring information about exhibition openings and special events as well as business news and shopping specials.

During **FY2010**, the Association formed a Stakeholder Group and undertook a selection process for hiring a BID renewal consultant, entering into a contract with New City America to complete the project. They also provided input on the City's Pedestrian Plan and supported several successful grant applications for a bicycle parking shelter at Vine St. and improvements to the Virginia street crossing at Shattuck under the "Safe Routes to Schools" program to include a beacon light and expanded curbs.

The Association assisted a local artist group, Growing Connections, to secure a mural site at Virginia Bakery, get the Berkeley Foundation for the Arts as a fiscal sponsor, solicit donations for a fundraiser at ACCI Gallery, and provided \$1500 in seed funds for the mural which featured a "Slow Food" theme. In 2010, the Association worked with the East Bay Style Collective to produce a Food, Wine and

Fashion event on Saturday, July 11<sup>th</sup> on the access street north of Vine. The event featured a runway show with fashions from local boutiques and make-up and hair by the East Bay Style Collective. Food was provided by several district restaurants and local businesses. Another new event, the “Taste of North Berkeley” restaurant walk was held in early spring with the Berkeley Lion’s Club to benefit their community fund. The event involved over 25 businesses and restaurants who offered tastes of their cuisine and wine tasting. The event was a sell-out, bringing over 500 people into the district, and raised over \$9,000 for the non-profit.

In **FY 2011**, the Association worked with BID renewal consultant New City America to successfully complete a petition drive and formal balloting for the project. The BID passed in May 2011 for another 10-year cycle with an 83.52% weighted majority vote. Assessment rates and formulas remained at the levels specified in the original 2001 Management Plan. Allocations to the program elements were changed slightly, with a reduction of 10% into Maintenance/Beautification budget which was redirected to increase the Marketing/Promotions and Organization/Administration program elements budgets by 5% each.

During this year, the Association provided input on proposed zoning amendments for the C-2 and NS-1 commercial districts governing the area including lifting limitations on medical offices, gyms, and dance uses on ground floors, provisions for exceeding use quotas, and regulations regarding amplified music in commercial establishments. The Association also participated in meetings between area businesses and property owners and the Safeway staff and project architects regarding their proposed remodel of the Shattuck store, providing input and support for the project through the City review process. The Board of Directors and AC Transit and City of Berkeley staff continued to meet to discuss improvements to parking, pedestrian crossings and bus stops in the area.

During the spring, the Association worked with area businesses, various City Departments and Councilmember Capitelli to gain approval for a weekly gourmet mobile food market in the district. “Off the Grid North Berkeley” had its kick-off in early June 2011 and garnered extensive media coverage in the lead up to the start date including various food bloggers, daily and weekly newspapers, and a national TV spot on the NBC Morning Show.

During **FY 2012**, “Off the Grid North Berkeley” hosted a number of area eateries in a rental food truck and their participation was part of the Association’s marketing efforts around the event, along with tie-ins to local business offerings of food and drink specials, music, and art exhibits to draw event patrons into the wider area. The event continued in the area until December 2012, until it was decided to end operations because of parking concerns. The Association sponsored several art-related projects in FY2012, including a community art project entitled “Take 5: Art Break Day” held simultaneously on September 2nd, 2011 in five cities in the Bay Area. The district provided funding and hosted an art-making station at the corner of Vine and Shattuck where the public was invited to take a break and make art.

Working with LocalOn, a website update was started using their platform that allows for business listing personalization and automated social media links. The Association developed a social media presence on Facebook and Twitter, produced an updated Shopping and Dining guide/map, placed ads in the Visit

Berkeley and Chamber of Commerce guides, Eco-Metro Guide, and numerous local papers highlighting events, and provided information for editorial pieces on the district.

The Association worked with elected official and City of Berkeley staff on developing a Pilot Parklets Program based on the success of the parklets created during Spice of Life Festival and on Parking Day. A group of merchants and local residents started meeting toward the creation of parklets in parking spaces at several locations to provide additional seating and bicycle facilities in the district.

During **FY 2013**, the Executive Director met with and made presentations to various City Commissions, community groups and the Board of Realtors about proposed City and Association sponsored public improvement projects in the district, including the grant funded bicycle parking shelter at Vine St. and improvements to the Virginia street crossing at Shattuck under the “Safe Routes to Schools” program. A plan for reconfiguration to diagonal spaces near Rose St. to create 10 more parking spaces, and the proposed parklets projects were also detailed. The Association coordinated with local businesses and the City on the installation of the grant funded bicycle shelter at Vine St. and Shattuck in April 2013.

The Association continued to work with interested businesses and local designers on a “parklets” program to provide additional seating and bicycle facilities. Meetings were held with City Departments to discuss program elements in San Francisco and Oakland and advocate for development a City program. The parklets group designed an online survey, worked with businesses and designers to develop conceptual plans for projects near interested businesses, and coordinated the placement of a demonstration parklet constructed by a local designer in the parking bay in front of Philz Coffee during Sunday Streets. The Association agreed to provide seed funds for the projects and help coordinate permitting and construction.

The Executive Director worked with the Berkeley Arts Magnet Elementary school to fundraise for short-term improvement projects and a longer-term schoolyard remodel to incorporate outdoor learning areas. The Association coordinated merchant donations of supplies and refreshments for community work days and organized meetings to connect the PTA and BAM school administrators with the Foundation for Youth Initiatives, a non-profit funding organization, for longer term projects.

On October 17, 2012 the Association partnered with Livable Berkeley and the Downtown Berkeley Association to produce the first Sunday Streets Berkeley, open-streets event, in lieu of the Spice of Life Festival. The event closed Shattuck from Rose to Haste Street with health and environmental activities by local organizations and businesses, and community group and non-profit information booths. No outside commercial vendors are allowed in the event, which instead features the businesses along the route. District businesses participated with outdoor yoga classes, special art exhibits and activities, sidewalk sales, etc. and restaurants brought seating into the streets.

Winter Holiday 2012 promotional activities included installation of holiday lighting in the street trees, holiday banners, ads in the Express and Chronicle newspapers, online promotion through e-blasts and Facebook, and musical performances throughout the district on Saturdays and Sundays in December. The 3<sup>rd</sup> “Snow Day in Berkeley” was held on Sunday, December 2. Other local businesses had related events that day, including M. Lowe and Co.’s “Find the Ice in the Snowball” school fundraiser and

Saul's annual Latke Party. The district also participated in the Buy Local Berkeley Holiday Campaign which featured a free holiday mobile phone coupon application developed with Chinook Book offering discounts at independent businesses. The application was marketed to their 15,000 mobile app users and to the public through ads, posters, and banners promoting the mobile app and encouraging holiday shopping at locally owned small businesses.

With the Berkeley Lion's Club, the Association again produced a Spring "Taste of North Berkeley" on the evening of May 7<sup>th</sup> with event proceeds benefitting local charities through the Lions Community Fund, and the Chocolate and Chalk Art Festival in June, with chocolate sampling and specialty products in area businesses, a sidewalk chalk art contest, a festival area with crafts, chocolate and chocolate related vendors, music, circus arts performers, and face painting, and other kid's activities.

During **FY2014**, The Association took a lead role in advocating for the City's Parklets Pilot Program, designing an online survey for community input, meeting with City Departments to discuss program elements and requirements, and supporting and providing input at the Commission and Council level. The Association provided seed finding to the Cheese Board for engineering review of their design and worked with Philz Coffee/Guerilla Café on revising their design and initiating a crowd-funding program to raise funds for construction. The Executive Director coordinated with the City and nearby businesses on construction issues during improvements to the Virginia street crossing at Shattuck under the "Safe Routes to Schools" program and assisted with the sidewalk seating permit and planter placement on the newly constructed bulb-out area created by the project. Other public improvements included a BID sponsored artist-designed "wrap" for the utility box at Vine and Shattuck and completion of the BID-funded reconfiguration of parking from parallel to angled in the area near Rose St. resulting in the creation of 10 new spaces including a new handicapped space with adjacent sidewalk ramp, and design and installation of new decorative light pole banners reflecting the unique aspects of the district.

The Association provided support to the Berkeley Public Schools Cooking and Gardening Program by promoting their Berkeley Dine Out event and coordinating a Fall 2013 Taste of North Berkeley restaurant event to raise funds and awareness for the program. The Association again partnered with Livable Berkeley and the Downtown Berkeley Association to produce Sunday Streets Berkeley in October 2014, which drew over 30,000 people to Shattuck Ave. in the district and downtown. Other annual events included the Chocolate and Chalk Art Festival, the Dia de los Muertos festival and candlelight procession in October, and Snow Day in December.

Also in FY2014, the Executive Director organized training sessions for merchants on utilizing the new website platform for social media, hosted presentations by organizations for loyalty programs and other business products at general membership meetings, and coordinated district participation in the Buy Local Berkeley Holiday Campaign which featured a free holiday mobile phone coupon application developed with Chinook Book.

In **FY2015**, the Association assisted the Cheese Board Collective to complete the first parklet project under the approved Parklets Pilot Program and worked with businesses and local designers on the two other parklet projects underway which will provide additional public seating and bicycle facilities for the district. A demonstration parklet and fundraiser at the parklet site in front of Philz Coffee and Guerilla

Café was held on Park-ing Day in September 2014 and a crowd-funding campaign was organized to raise funds for construction with gifts from local businesses. The design was revised to include a grant-funded bike “corral” which was installed by the City in April. The Association also provided seed finding to Saul’s for permit fees for their application, and handled notifications of nearby business and property owners for the project.

The Association helped organize a new entity, East Bay Open Streets, to produce Sunday Streets Berkeley in October 2015, under the auspices of the non-profit Walk Oakland Bike Oakland (WOBO). District businesses participated with outdoor yoga classes, special art exhibits and activities, sidewalk sales, etc. and restaurants brought seating into the streets. A pop-up art gallery was established in the vacant Black Oak Books space and the Association again produced the companion Vine Street Block Party event, which created a picnic area and beer/wine garden hosted by the Vintage Berkeley wine shop along with business and artisan crafts booths.

Other special events in this fiscal year included the Dia de los Muertos festival and candlelight procession on November 2, and “Snow Day in Berkeley” in early December as a kick-off to the holiday shopping season and promotional activities. The annual Valentine’s Wine Walk paired local wineries with shops and galleries for an evening of shopping and wine tasting as a fundraiser for the Berkeley Public School Gardening and Cooking Program. With the Berkeley Lion’s Club, the Association again produced the “Taste of North Berkeley” in early May.

The Association provided market and support to new businesses opening in the area this year including Kamado Sushi and a UPS Store in the 1400 Shattuck building, Tiger Lily in Epicurious Garden, Mission Heirloom Garden Café on Vine St., and Books Inc., which relocated from 4<sup>th</sup> St. to the former Black Oak Books site.

During **FY2016**, the Association worked with Saul’s Deli to complete a second parklet project in front of their business under the approved Parklets Pilot Program coordinating the city permitting process and business and property owner notifications. The Executive Director also worked with City staff, nearby businesses and the Ecology Center’s market managers on the reconfiguration of the North Berkeley Farmers Market into the service road, including merchant relations, organization of a grand re-opening event, parking signage, and operational issues.

The Association assisted Andronico’s to organize a “Fit Faire” at their Shattuck store in August which featured classes and bodywork demonstrations by neighborhood practitioners. The Association also produced annual special events including Sunday Streets Berkeley, the Dia de los Muertos festival, Snow Day, the Valentines Wine Walk, and the Taste of North Berkeley.

During the **2017 Fiscal Year**, the Association continued marketing and promotion of area businesses through regular e-newsletters, social media, and events, and worked with the East Bay Express to produce the Shattuck Street Guide, a district shopping and dining guide to be distributed to Visit Berkeley, local hotels, UC Berkeley Faculty, and Culinary Tour attendees, etc. The Association also worked with the Ecology Center to organize a series of monthly events during the summer of 2016 at the Farmers Market called “Thirsty Third Thursdays” which included a beer/wine garden hosted by Saul’s



Deli and business information tables. The Executive Director also worked with Buy Local Berkeley Program to leverage their media presence for our businesses and events, and to promote shopping at local independent businesses through the Small Business Saturday and the citywide Holiday marketing campaign. The Association also again promoted participating area businesses for Berkeley Restaurant Week in conjunction with Visit Berkeley.

Throughout the year, the Association coordinated area cleaning and maintenance of our landscaped planters and worked with city departments on major sewer replacement projects, tree trimming, and other sidewalk and street issues. The district hosted Gig Car Share to discuss the roll out of their program in Berkeley, and Bay Area Bike Share to discuss their East Bay bike share network and stations planned for the district. The Executive Director also worked with merchants, property owners, BPD, and homeless service providers to address trespassing and illegal dumping issues on private property and sleeping during the day in the public right of way.

The district provided marketing and support to several new businesses opening during the fiscal year including Agrodolce Osteria, Berkeley Running Company, Spokes Bike Shop, Safeway Community Market, and Guacamole 61 in the Epicurious Garden food hall.

In **Fiscal Year 2018**, the Association coordinated a larger Sunday Streets Berkeley event including Telegraph Ave. as well as downtown and North Berkeley. The event had to be rescheduled due to poor air quality from the North bay wildfires from Oct. 2017 to June 2018. Working with businesses and property owners, two Bay Area Bike Share stations were installed in the district, on Vine St. at Mission Heirloom and on Virginia below Shattuck Ave.

Winter Holiday 2017 promotional activities included the “Snow Day in Berkeley” event in early December, participation in the national Small Business Saturday local shopping promotion which provides a marketing kit with tote bags, signage, doormats, and banners that were featured at a district event hosted by M. Lowe & Co. with music and giveaways, and the Saul’s Deli Latke Party, which ran two weekends with fresh latkes prepared in a tent adjacent to the parklet with beer, wine and live music. The district also participated in the Buy Local Berkeley Holiday Campaign which again featured a free holiday mobile phone shopping application developed with Chinook Book supported by gift guide e-blasts, ads, posters, and banners encouraging the public to shop at locally owned small businesses for the holidays. The Gourmet Ghetto Wine Walk was held in March 2018, pairing local and North Bay wineries with a portion of the proceeds benefitting the wildfire relief fund at Habitat for Humanity of Sonoma County.

The Executive Director continued working with the Berkeley Business District Network (BBDN) on various issues related to economic development in the district, providing input on the Small Business Support package of planning and zoning changes, and installation of digital information kiosks. The district provided market and support to new businesses opening in the area this year including Vitality Bowl, Peter Engel Architecture, and Heart Source Center.

During **Fiscal Year 2019**, the Association had a full calendar of events and promotions. The Executive Director worked the Ecology Center to produce weekly Thirsty Thursday summer events with live

music, cooking demos, and a beer garden to enliven the North Berkeley Farmers Market. In August, the Chocolate and Chalk Art Festival was held, and holiday events included “Snow Day in Berkeley” event in early December, and the Saul’s Deli Latke Party, which ran two weekends with fresh latkes prepared in a tent adjacent to the parklet with beer, wine and live music. The Association promoted Berkeley Restaurant Week in January 2019 in conjunction with Visit Berkeley, with ACCI Gallery hosting the kick-off party as well as a related artist talk and raw oyster event tasting event promoting a new art book about oysters. In spring 2019, we partnered with The Berkeley Public Schools Fund for the Gourmet Ghetto Wine Walk and Taste of North Berkeley fundraising events.

Our special events calendar also included Sunday Streets Berkeley event in June 2019, featuring the Cheese Board Collective’s 50<sup>th</sup> anniversary activities and music. The Association served as the fiscal agent for the Sunday Streets Berkeley event, managing grant funds and coordinating recruitment of sponsors and activity leaders. The district supported these events and business promotions with digital ads on Berkeleyside.com and eastbayexpress.com, in the Express Gift Guide edition, and online promotion through e-blasts and social media.

The Executive Director worked with the Berkeley Business District Network (BBDN) to provide input on citywide issues and proposals, including the Disposable-Free Dining Ordinance, and Small Business Support Program zoning changes. As needed, meeting of meetings of merchants, property owners, BPD, and the City’s new HOTT were coordinated team to deal with street behavior issues, trespassing and illegal dumping issues. In addition to regular sidewalk cleaning, the Association worked with the City and the non-profit Streets Team to start a volunteer clean-up crew to assist with area clean-up one day per week in exchange for business gift cards as part of a re-entry to work program.

The Association provided market and support to new businesses and new owners in the area this year including Left Margin Lit, Poulet, and Wrecking Ball Coffee, and coordinated presentations at the April 2019 General Association meeting by Project Equity and Uptima Business Bootcamp, business assistance and succession planning consultants under contract with the City of Berkeley to area merchants.

North Shattuck Business Improvement District  
FY 2022 Assessment Roll

| APN                                  | Owner Name                                | Site Address            | FY 2022 Assessment     |                                |                  |                     |
|--------------------------------------|-------------------------------------------|-------------------------|------------------------|--------------------------------|------------------|---------------------|
|                                      |                                           |                         | Private Parcels        | Public / Exempt                | Utilities        |                     |
| 058 -2173-002-03                     | 1600 SHATTUCK ASSOCIATES                  | 1600 SHATTUCK AVE #1010 | \$ 8,799.50            |                                |                  |                     |
| 058 -2173-004-00                     | IRA SERVICES TRUST                        | 1620 SHATTUCK AVE       | \$ 916.84              |                                |                  |                     |
| 058 -2173-005-00                     | KIM SAMIL & YOUNGJUNG                     | 1650 SHATTUCK AVE       | \$ 1,968.00            |                                |                  |                     |
| 058 -2174-001-00                     | ARTS & CRAFT COOPERATIVE INC              | 1652 SHATTUCK AVE       | \$ 1,588.26            |                                |                  |                     |
| 058 -2174-002-00                     | NEIL JOE R & CAROL L                      | 1654 SHATTUCK AVE       | \$ 1,208.92            |                                |                  |                     |
| 058 -2174-003-00                     | SATAKE 1 LLC                              | 1662 SHATTUCK AVE       | \$ 1,115.48            |                                |                  |                     |
| 058 -2174-004-01                     | 1995 KAM Y LAM & SHUN FAMILY TRS          | 1670 SHATTUCK AVE       | \$ 1,168.60            |                                |                  |                     |
| 058 -2174-006-02                     | ERDMAN JOHN C & ANNE M TRS                | 1690 SHATTUCK AVE       | \$ 4,939.46            |                                |                  |                     |
| 058 -2175-001-01                     | SCHWARTZ MICHELL J                        | 1700 SHATTUCK AVE       | \$ 3,849.16            |                                |                  |                     |
| 058 -2175-003-00                     | BLUME JAMES & FRANK KATHRYN W             | 1708 SHATTUCK AVE       | \$ 1,455.80            |                                |                  |                     |
| 058 -2175-004-00                     | ROBINSON SCOTT & CHRISTINA C              | 1720 SHATTUCK AVE       | \$ 737.34              |                                |                  |                     |
| 058 -2175-005-00                     | PIERACKI ANDRZEJ TR                       | 1730 SHATTUCK AVE       | \$ 1,096.30            |                                |                  |                     |
| 058 -2175-006-00                     | YI CHONG S                                | 1748 SHATTUCK AVE       | \$ 1,262.50            |                                |                  |                     |
| 058 -2176-001-01                     | CAMPUS AUTO CARE                          | 1752 SHATTUCK AVE       | \$ 2,600.60            |                                |                  |                     |
| 058 -2176-003-01                     | SHATTUCK INVESTMENT GROUP LLC             | 2083 DELAWARE           | \$ 9,047.46            |                                |                  |                     |
| 058 -2177-015-01                     | CLPF HILLSIDE VILLAGE LP                  | 1797 SHATTUCK AVE       | \$ 13,442.96           |                                |                  |                     |
| 058 -2178-018-00                     | AMERICAN COMMONWEALTH ASSOC.              | 2109 VIRGINIA ST        | \$ 6,159.30            |                                |                  |                     |
| 058 -2178-023-00                     | DELANDA PAUL & SUSAN/KENDALL BETTY L      | 1619 SHATTUCK AVE       | \$ 1,353.50            |                                |                  |                     |
| 058 -2178-024-01                     | JCC SHATTUCK LLC                          | 1607 SHATTUCK AVE       | \$ 8,794.50            |                                |                  |                     |
| 058 -2178-026-00                     | SHATTUCK OFFICE LLC                       | 1625 SHATTUCK AVE       | \$ 1,584.10            |                                |                  |                     |
| 058 -2178-027-00                     | SHATTUCK OFFICE LLC                       | 1625 SHATTUCK AVE       | \$ 2,654.50            |                                |                  |                     |
| 058 -2178-028-00                     | SHATTUCK OFFICE LLC                       | 1625 SHATTUCK AVE       | \$ 2,654.50            |                                |                  |                     |
| 059 -2260-001-00                     | CONNOLLY ALLEN & CHRISTINE                | 2100 VINE ST            | \$ 3,710.20            |                                |                  |                     |
| 059 -2260-002-01                     | WALNUT SQUARE CENTER LP                   | 2110 VINE ST            | \$ 8,289.50            |                                |                  |                     |
| 059 -2260-015-01                     | SWEET BOMBAY INC                          | 1549 SHATTUCK AVE       | \$ 1,212.80            |                                |                  |                     |
| 059 -2260-015-02                     | MANN MELVIN M TR                          | 1543 SHATTUCK AVE       | \$ 2,039.18            |                                |                  |                     |
| 059 -2260-016-00                     | GOODMAN CAROL E TRS ETAL                  | 1537 SHATTUCK AVE       | \$ 2,255.36            |                                |                  |                     |
| 059 -2260-017-00                     | GACH MICHAEL R                            | 1533 SHATTUCK AVE       | \$ 1,680.30            |                                |                  |                     |
| 059 -2260-018-00                     | LAM KELVIN S & JACKIE S/LAM GRACE & ALICE | 1531 SHATTUCK AVE       | \$ 3,526.08            |                                |                  |                     |
| 059 -2260-019-00                     | MEYER PATRICIA L TRS & WARD DAW           | 1525 SHATTUCK AVE       | \$ 2,268.24            |                                |                  |                     |
| 059 -2260-020-03                     | APTE ROBERT Z & EVELYN L FAMILY           | 1519 SHATTUCK AVE       | \$ 2,895.72            |                                |                  |                     |
| 059 -2260-021-00                     | PAGNOL ET CIE INC                         | 1517 SHATTUCK AVE       | \$ 1,119.68            |                                |                  |                     |
| 059 -2260-022-01                     | WONG PUI & HOSANNA H                      | 1515 SHATTUCK AVE       | \$ 1,044.96            |                                |                  |                     |
| 059 -2260-022-02                     | ELITE PROPERTIES LLC                      | 1511 SHATTUCK AVE       | \$ 3,208.62            |                                |                  |                     |
| 059 -2261-001-02                     | RUE ELL ENTERPRISES INC                   | 1451 SHATTUCK AVE       | \$ 10,768.12           |                                |                  |                     |
| 059 -2261-004-03                     | WALNUT VINE LLC & WALNUT STAY             | 1444 WALNUT ST          | \$ 2,287.68            |                                |                  |                     |
| 059 -2261-005-00                     | RUEGG & ELLSWORTH                         | 2113 VINE ST            | \$ 1,125.50            |                                |                  |                     |
| 059 -2261-006-00                     | RUEGG & ELLSWORTH                         | 2111 VINE ST            | \$ 1,993.76            |                                |                  |                     |
| 059 -2261-007-00                     | RUEGG & ELLSWORTH                         | 1495 SHATTUCK AVE       | \$ 2,655.00            |                                |                  |                     |
| 059 -2261-008-00                     | TARVER DEWEY G & CARMEL A TRS             | 1481 SHATTUCK AVE       | \$ 1,143.80            |                                |                  |                     |
| 059 -2261-009-00                     | LATKE ENTERPRISES LLC                     | 1475 SHATTUCK AVE       | \$ 1,383.00            |                                |                  |                     |
| 059 -2261-010-00                     | WONG HENRY F TR & WONG PUI T E            | 1463 SHATTUCK AVE       | \$ 2,412.24            |                                |                  |                     |
| 059 -2262-001-00                     | SHATTUCK ROSE L P                         | 1400 SHATTUCK AVE       | \$ 5,768.68            |                                |                  |                     |
| 059 -2262-005-00                     | HIRAHARA BRIAN & TAMURA RAYMOND           | 1480 SHATTUCK AVE       | \$ 3,009.04            |                                |                  |                     |
| 059 -2262-006-00                     | RIPSTEEN RYAN & ARLINGTON INVESTMENT CO   | 2085 VINE ST            | \$ 1,334.56            |                                |                  |                     |
| 059 -2262-021-02                     | SAFEBWAY INC                              | 1425 HENRY ST           | \$ 22,794.68           |                                |                  |                     |
| 059 -2262-021-03                     | SAFEBWAY INC                              | 1425 HENRY ST           | \$ 1,761.80            |                                |                  |                     |
| 059 -2263-003-01                     | HEFTER & MURPHY LLC                       | 2044 VINE ST            | \$ 4,547.54            |                                |                  |                     |
| 059 -2263-006-01                     | BANK OF AMERICA NATIONAL TRUST            | 1516 SHATTUCK AVE       | \$ 4,326.08            |                                |                  |                     |
| 059 -2263-009-00                     | PRIMA DONNA HOTELS INC                    | 1540 SHATTUCK AVE       | \$ 1,647.40            |                                |                  |                     |
| 059 -2263-010-01                     | BERKELEY BAZAAR PARTNERS                  | 1550 SHATTUCK AVE       | \$ 18,076.68           |                                |                  |                     |
| 059 -2263-024-01                     | BANK OF AMERICA NATIONAL TRUST            | 1536 SHATTUCK AVE       | \$ 2,415.90            |                                |                  |                     |
| 060 -2455-064-01                     | CALTHORPE PETER & DRISCOLL JEAN           | 2095 ROSE ST            | \$ 3,219.82            |                                |                  |                     |
| 060 -2455-067-00                     | GORDON JOHN K & MITCHELL JANIS            | 2091 ROSE ST            | \$ 6,044.00            |                                |                  |                     |
| <b>Totals</b>                        |                                           |                         | <b>Private Parcels</b> | <b>Public / Exempt</b>         | <b>Utilities</b> | <b>Totals</b>       |
|                                      |                                           |                         | \$210,363.51           | \$0.00                         | \$0.00           | \$210,363.51        |
| <b>Count of Properties</b>           |                                           |                         | <b>54</b>              | <b>0</b>                       | <b>0</b>         | <b>54</b>           |
| <b>County Collection Fee @ 1.7%:</b> |                                           |                         | <b>\$ 3,576.18</b>     | <b>Net Assessment Revenue:</b> |                  | <b>\$206,787.33</b> |

Note: Data for APN, Owner and Land Use from the City's Land Management System is current as of April 8, 2021.  
Updated data from the County current as of December 31, 2020, will be available in July 2021.





Office of the City Manager

07

CONSENT CALENDAR

May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Eleanor Hollander, Acting Economic Development Manager

Subject: Assessments: Telegraph Property Based Business Improvement District

RECOMMENDATION

Adopt a Resolution approving the Telegraph Property Based Business Improvement District (TBID) Annual Report for FY 2021 and proposed budget for FY 2022, and declaring Council's intention to levy an annual assessment for the TBID for FY 2022.

SUMMARY

The Telegraph Property Based Business Improvement District (TBID or "the District") provides cleaning, hospitality and marketing services for Berkeley's Telegraph Avenue commercial district. In May of 2017 the TBID was geographically expanded and renewed for a ten year period, authorizing operations through December 31, 2027, and designating the Telegraph Property and Business Management Corporation (TPBMC) as the District's Owners' Association. Annually, Council must approve the TBID's annual report and proposed budget and declare its intention to levy an annual assessment.

The City of Berkeley owns one parcel (the Telegraph Channing Parking Garage at 2431 Channing Way) within the boundaries of the TBID and is required by state law to pay the associated assessments. The assessment payment will be \$47,672.92 in FY 2022; in addition, the City will pay the General Benefit portion of the TBID costs, or roughly \$28,948. The City already makes an annual grant to TBID, through the Public Commons for Everyone Initiative (PCEI), which exceeds this amount, so there will be no new fiscal impacts related to funding the general benefit.

FISCAL IMPACTS OF RECOMMENDATION

Assessments levied in the Telegraph Property Based Business Improvement District (TBID or "the District") support a package of improvements and activities approved by the property owners and the City Council when the District was renewed for a ten year period on May 2, 2017 (Resolution No. 67,940-N.S.). Assessment funds are collected by the Alameda County Assessor's Office, relayed to the City of Berkeley, and disbursed through a contract with the Telegraph Property and Business Management Corporation (TPBMC), a private owners' association that was established to implement the Management District Plan. TPBMC has an active contract with the City, not to

exceed \$7,410,024 of BID revenues, to implement the Telegraph Management District Plan for the period January 1, 2018 to December 31, 2027 (Contract No. 10835).

Collections from private parcel assessments are projected and budgeted at approximately \$540,654 in FY 2022. Collections from tax exempt parcels (owned by the Regents of the University of California and the City of Berkeley) are projected and budgeted at approximately \$178,467 in FY 2022. Annual and accrued private parcel assessment funds are deposited into and expended from the Telegraph BID Fund. An annual increase of up to 3% to account for inflation is allowed by the Management District Plan and must be approved by a majority of the TPBMC's Board of Directors. On April 13, 2021 the TPBMC board met and voted to raise assessments by only 1.5% from the FY21 level due to the ongoing COVID-19 pandemic and its associated impacts on the local economy. Project funds not spent in any given fiscal year are carried over into future years. TPBMC collects assessments directly from the University of California with no involvement from the City.

Under the provisions of Proposition 218 in the California Constitution, government agencies must pay assessments on properties they own in property based BIDs, just like private property owners, unless they receive no benefit. Payment is collected from private property owners through property tax bills near the end of the calendar year. Payments are due from non-property tax-paying entities concurrently. The City's assessment payment in FY 2022 would be \$47,673 (increased by \$705) from the FY2021 assessment of \$46,968. The City's assessment is paid annually through the Off-Street Parking Fund.

The City also pays for the "general benefit" portion of the TBID budget. "General benefits" represent that small portion of the overall benefits generated by a property based business improvement district which are found to accrue to the general public who are not assessed and do not participate in the economic or social activities of the district. The engineer's report commissioned for the reestablishment of the TBID in 2017 calculated that the general benefit for the district would be approximately \$28,104 annually. The City already makes annual grants to the TBID which far exceed this amount, so there will be no new fiscal impacts related to funding the general benefit.

By financing improvements, maintenance and welcoming activities for the City's central business district, the TBID indirectly enhances sales tax, business license tax and other business-related City revenue sources.

#### CURRENT SITUATION AND ITS EFFECTS

State legislation that authorizes formation of property-based business improvement districts (BID) (*California Streets and Highways Code*, Sections 36600 et. seq.) requires that the BID governing body submit an Annual Report on operations and a budget proposal to the City Council each year. The City Council may approve the report with a Resolution to reauthorize the annual assessments.

The Board of Directors of the Telegraph Property and Business Management Corporation (TPBMC), the non-profit that manages the TBID, met in a publicly noticed meeting on April 13, 2021 to review and approve the attached Annual Report for the TBID for FY 2022 (Exhibit A). The report includes a budget for improvements and activities for FY 2022 and an estimated cost for providing them. The report also recommends that the assessments for FY 2022 be levied on the same basis and method, and within the same boundaries, as they were levied for FY 2021, with a 1.5% increase (Exhibit B: Telegraph BID FY 2022 Assessment Roll). Council can adopt the recommended Resolution which will confirm the TBID assessment, and thus enable continuous BID operations for another year.

### BACKGROUND

The TBID is a benefit assessment district that provides cleaning, hospitality and marketing services for Berkeley's Telegraph Avenue commercial district. The TBID was created in 1998 pursuant to California's "Property and Business Improvement District Law of 1994" to provide needed improvements and activities to assessed property owners. Since the initial five year term, the TBID has been renewed for a second five year term in 2003, a ten year term in 2008, and underwent an expansion and ten-year renewal in 2017. As such, the TBID is authorized through 2027 unless action is taken to disestablish it.

In FY 2022, the District should generate approximately \$753,306 for the provision of "Clean, Safe, and Beautification" services, communications and economic development, and related management and administration. The budget of the TBID is approximately \$753,306 inclusive of taxable and non-taxable parcels and private donations, and net of the County 1.7% collection fee on private parcels. The TBID Assessment Revenue amount articulated in Exhibit A (\$523,371) is slightly different (\$17,283) to account for uncollectable property tax and funds that will be carried forward from the prior year.

The Management District Plan that was adopted by Council in 2017 as part of the reestablishment of the District provides a framework and budget for the TBID's activities, assessment method, and illustrates the TBID boundary and benefit zones. The Management District Plan provides for services above and beyond those provided by the City of Berkeley. Under "The Right to Vote on Taxes Act" (also known as Proposition 218) all public agencies are required to pay the same assessments for public property that apply to private property. The City owns one property within the district: the Telegraph Channing Garage at 2431 Channing Way. The FY22 assessment for that property will be \$47,673, a \$703 increase (1.5%) from the FY2021 assessment.

In FY 2022, the TBID will continue its ongoing "clean safe and beautification" activities, including ambassador services, graffiti removal, manual sidewalk cleaning and sidewalk pressure washing, hazardous waste cleanup, gutter and storm drain cleaning, street sweeping, litter removal, enhanced landscaping and landscape maintenance, and small infrastructure improvements including holiday lights, place-making activities, seasonal

promotions, and other special projects. The TBID will also continue its program of communications and economic development to provide a unified voice to represent the best interests of the assessed parcels, and fulfill a slate of stakeholder communications that support the District's agenda to attract visitors via email newsletters, social media, a proactive public relations strategy, and a comprehensive District website. TBID communications and economic development funds are not used for lobbying efforts such as attempting to influence legislation or candidates for office. The TBID will also continue to liaison and coordinate with other business district organizations, including Visit Berkeley, the Chamber, and the Berkeley Business District Network to promote local business and economic development opportunities in Berkeley.

#### ENVIRONMENTAL SUSTAINABILITY

By maintaining and enhancing the district, the TBID creates shopping opportunities for residents and visitors while encouraging alternative forms of transportation. The District includes the area immediately south of the University of California, Berkeley campus and therefore provides essential commercial goods and services to the student body. The District is also served by several AC Transit lines and BART, which provide access to visitors from around the region. Because the District is well served by public transportation and biking infrastructure, these services indirectly support environmental sustainability goals of encouraging alternative transportation choices.

#### RATIONALE FOR RECOMMENDATION

Property and Business Improvement District Law of 1994 requires that the BID Board prepare an Annual Report for each fiscal year in which assessments are to be levied. Council action is required to approve the BID's Annual Report, and declare its intent to levy assessments. This private/public partnership will continue to provide significant resources for Telegraph area revitalization, which has had a positive effect on the physical and economic health of the district.

#### ALTERNATIVE ACTIONS CONSIDERED

The Board of the TBID considered a 1% increase in assessment rates but instead decided to opt for a 1.5% increase (the maximum allowable is 3%) to its existing assessment rate, in order to make adequate investments in expanded capacity of the Ambassador Program, and increased marketing to promote district businesses.

#### CONTACT PERSON

Kieron Slaughter, Community Development Project Coordinator, (510) 981-2490

#### Attachments:

1: Resolution Confirm Annual Report and Levy Annual Assessment of the Telegraph Property and Business Improvement District

Exhibit A: Telegraph Property and Business Improvement District: Annual Report 2021 and Budget FY 2022



Exhibit B: Telegraph Property and Business Improvement District FY2022  
Assessments

May 25, 2021

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

APPROVING THE ANNUAL REPORT OF THE TELEGRAPH BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2021 AND DECLARING INTENT TO LEVY ASSESSMENTS FOR FISCAL YEAR 2022

WHEREAS, the Property and Business Improvement District Law of 1994 (California Streets and Highways Code section 36600 et Seq., hereafter the "Act") authorizes cities to fund property related improvements, maintenance and activities through the levy of assessments upon the real property that benefits from those assessments; and

WHEREAS, after ten years of successful operation, on May 2, 2017 the Berkeley City Council reestablished the Telegraph Business Improvement District (hereafter, "the District") for an additional ten year period by Resolution No. 67,940-N.S.; and

WHEREAS, on April 13, 2021 the Board of Directors of the Telegraph BID adopted the *Annual Report to the City of Berkeley FY 2021* (hereafter "Annual Report") that describes the operations of the District in FY 2021, recommends services for FY 2022 and proposes a budget for FY 2022 (Exhibit A).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that pursuant to provisions of Section 36600 et. seq. of the California Streets and Highways Code, the City Council approves the Annual Report (Exhibit A) and declares its intent to levy special assessments on property within the boundaries of the District for FY 2022.

BE IT FURTHER RESOLVED that that the boundaries of the District and the method and basis for the assessment remain the same as those set forth and approved in the Management District Plan (Plan) that was adopted on May 2, 2017, when Council renewed the Telegraph BID through Resolution No. 67,940-N.S.

BE IT FURTHER RESOLVED that the improvements and activities to be provided are those described in the Plan and the Annual Report.

BE IT FURTHER RESOLVED that the cost of providing the improvements and activities is as described in the budget that accompanies the Annual Report.

BE IT FURTHER RESOLVED that to finance these improvements and activities, the Annual Report and Budget includes a 1.5% increase to the assessment rate for 2022. Following adoption of this resolution, the City Council may confirm the Annual Report and levy assessments for FY2022 and confirm disbursement of TBID assessment revenue to the Telegraph Property and Business Management Corporation provided for in Contract No.10835.

Exhibits:

A: TBID Annual Report for FY 2021 and Proposed Budget for FY 2022

B: TBID Assessment Roll FY 2022

**EXHIBIT A**

**Annual Report of the Telegraph Property and Business Improvement District for Fiscal Year 2020-2021**

The Telegraph Property and Business Improvement District (TBID), managed by the Telegraph Property and Business Management Corporation (TPBMC), was renewed for a ten-year period by an affirmative vote of the property owners of the Telegraph commercial district by mail-in ballot in the spring of 2017. This vote was affirmed without protest by City Council on May 2, 2017. This report is for the fiscal year starting July 1, 2020 and ending June 30, 2021 of this ten-year period.

In accordance with 36650 (b) of the Streets and Highway Code for the State of California, the TPBMC affirms the following:

1. The TPBMC proposes no changes in TBID boundaries for the 2021-22 fiscal year (abbreviated "FY").
2. The TPBMC will continue to provide the same services as has been outlined in the Management District Plan of September 21, 2016. These services include street and sidewalk cleaning and beautification, marketing and promotions, decoration, and maintenance of a district office.
3. The budget for FY 2021-2022 approved by the TPBMC Board of Directors on April 13, 2021 provides for \$727,688.26 in expenditures and \$753,306.00 in revenues. An estimated \$68,811 of net revenue from FY 2021 will carry over to FY 2022.
4. On April 13, 2021, the TPBMC Board of Directors approved a 1.5% assessment rate increase for FY 2021-22, as allowed in the Management District Plan.
5. In addition to assessments levied on real property, including the City-owned Telegraph Channing Garage, FY 2022 income will be derived from the following sources: (1) an annual contribution from University of California of (\$127,722.53); (2) PCEI (Public Commons for Everyone Initiative) grant funds from the City of Berkeley of \$49,139; (3) the fiscal sponsorship fee of \$1,250 from the Solano Business Improvement District; and (4) anticipated grants and private donations, for special programs.

Based on the TBID Strategic Plan that was developed in 2016 and updated in 2018, the TBID has six strategic goals.

1. Improve the pedestrian environment
2. Support businesses, non-profits, and residents within the District
3. Make the District more accessible (bicycling, parking, and transit)
4. Improve the Telegraph brand through marketing, events, and promotions
5. Better serve District stakeholders as a convener and advocate on issues that impact the success of the District
6. Develop and foster a vibrant destination and experience (including nightlife; diversity of programs, venues, and activities)

## EXHIBIT A

## Annual Report of the Telegraph Property and Business Improvement District for Fiscal Year 2020-2021

## FY2021-2022 Budget of the Telegraph Property and Business Improvement District

|                                      |                     |
|--------------------------------------|---------------------|
| <b>Revenue</b>                       |                     |
| Tax Assessments TBID Members         | \$523,371.56        |
| Tax Assessments -COB Property        | \$47,672.92         |
| Tax Assessment - UC Berkeley         | \$127,722.53        |
| City of Berkeley - PCEI Grant        | \$49,139.00         |
| City of Berkeley Events Contribution | \$4,000.00          |
| Solano BID Fiscal Sponsorship        | \$1,250.00          |
| Interest                             | \$150.00            |
| <b>Total Revenue</b>                 | <b>\$753,306.00</b> |
| <b>Expenses</b>                      |                     |
| Administration                       | \$211,563.12        |
| Maintenance                          | \$472,175.14        |
| Marketing                            | \$33,950.00         |
| Events                               | \$10,000.00         |
| <b>Total Expenses</b>                | <b>\$727,688.26</b> |

In addition to the operating expenses adopted in the FY22 budget, the TBID board of directors established a Capital Improvements Fund with a balance of \$45,000 of available net assets. The fund is part of the organization's Clean, Safe & Beautification budget and will be used for the purchase, maintenance, and replacement of art and special projects in the public realm. Anticipated projects that will be supported by the fund in FY22 include: the Dwight Triangle rebuild, a 24/7 public restroom, new peace symbol bike racks, murals and other public art projects.

**FY21 Accomplishments and FY22 Planned Activities**

The following is a summary of the activities that the TBID undertook in Fiscal Year 2020-21 to further their strategic goals, and the planned activities for Fiscal Year 2021-2022:

## 1. Improve the pedestrian environment

- Worked with the City staff to initiate the reconfiguration of Haste Street between Telegraph and Bowditch. The project is currently under-way and is scheduled for completion in May 2021.
- Enhanced merchant and visitor safety with dedicated prevention efforts active incident response by Telegraph Ambassadors. Additional investments in the program will expand capacity and effectiveness of the ambassadors.
- Successfully advocated for and supported the addition of a BPD Bike Unit which has provided an increased, visible and welcoming patrol presence. Ongoing coordination with the Community Services Bureau will provide for routine community safety forums and strengthening connections between merchants and public safety services.

**EXHIBIT A**

**Annual Report of the Telegraph Property and Business Improvement District for Fiscal Year 2020-2021**

- Served as a partner in the UC Move-out process with the University and City of Berkeley's neighborhood services/code enforcement. Received a very positive response to the reduction in waste and increase in donated items from both the City and campus stakeholders. Partnership is ongoing.
  - Facilitated close coordination with UC Berkeley and City partners around the service and maintenance needs at People's Park, resulting in enhanced mitigation of health and safety hazards. Greater quality of life Continued coordination along with supporting the success of the multi-dimensional development project at People's Park.
  - Provided advice and guidance to merchants and property owners navigating quality of life, crime and public safety issues. A partnership with BPD and the Downtown Berkeley Association produced a new Merchant Public Safety Guide which will be distributed to retail businesses in mid-2021. Additional programs are being developed to partner with property owners on improving physical security and pedestrian lighting.
2. Support businesses, non-profits, and residents within the District
- Continued our partnership with Golden Bear Orientation on the New Student Dine-Around and are collaborating with SnackPass to implement a new more efficient format that accounts for COVID safety needs.
  - Advanced the review and implementation plan for a 24/7 public restroom in the Telegraph District. The ongoing partnership includes UC Berkeley and City of Berkeley with active support from Councilmember Robinson.
  - Engaged with the BEACN Project on a market research and retail study which produced targeted insights and enhanced our business support services.
  - Provided merchants with free and subsidized access to PPE equipment utilizing a grant from UC Berkeley: launched a partnership with GoodGuards to purchase custom sneeze guards, distributed over 5,000 face masks to merchants, vendors, and pedestrians, and have maintained two portable restrooms for use by the general public.
3. Make the District more accessible
- Supported the initial phase of the Southside Complete Streets project which seeks to advance the Telegraph Shared Streets proposal and Telegraph Public Realm Plan. TBID support for the upcoming community engagement and design process will help with the project's effectiveness. TBID has allocated funds to support the Dwight Triangle rebuild and other public realm enhancements.
  - Initiated a review of reconfiguration options for Durant Ave. to address significant traffic congestion and pedestrian safety concerns. Ongoing partnership with the City aims to find reconfiguration options that are mutually beneficial for retail businesses, customers, and visitors.

**EXHIBIT A**

**Annual Report of the Telegraph Property and Business Improvement District for Fiscal Year 2020-2021**

- Advanced improvements for the Telegraph-Channing garage and successfully advocated for funding for restroom renovations. Partnerships with Public Works are planned to provide for additional beautification projects.
4. Improve the Telegraph brand through marketing, events, and promotions
- Held the 4th annual Grateful Day Fest in October. The event was modified as a socially distanced and safe outdoor marketplace, which attracted new customers to the district and brought in significant foot traffic. Plans are underway for the next event in the Fall of 2021.
  - Conducted a new ad campaign to boost the visibility of the Telegraph District to attract residents from the greater Bay Area. Online and print ads ran in the SF Chronicle and Berkeleyside over the summer through early 2021. Increased funding has been allocated in FY22 for advertising to attract more visitors and patrons to the district.
  - Collaborated on the city-wide #BerkeleyHolidays marketing campaign to promote shopping at Berkeley small businesses. Increased funding and support are planned for the 2021-2022 holiday season.
5. Better serve District stakeholders as a convener and advocate on issues
- Coordinated relief and support efforts in response to the COVID-19 outbreak, in partnership with the City, UC Berkley, and business organizations city-wide. Provided personalized assistance to merchants seeking information and resources.
  - Promoted new mixed-use housing developments in the district by voicing support during the entitlements process, and encouraging changes to land-use policies that increase density and reduce barriers to growth. Participation in the Southside EIR planning process is ongoing to represent the concerns of district stakeholders and policy considerations that will advance our strategic goals.
  - Organized and encouraged stakeholder participation in public meetings with City officials to elevate concerns related to public safety and financial stress. Planned improvements to administrative processes will help elevate the voice and perspective of the TBID and district stakeholders in public discourse.

The single most significant element of the TBID's ongoing work is their ambassador program which is provided through a contract with Block by Block. In keeping with the Management District Plan, the program provides 240 hours per week of cleaning and hospitality services including: trash and graffiti removal, power washing, sanitation, and beautification projects. The ambassadors regularly engage in response to safety incidents by applying de-escalation tactics and contacting public safety services. The ambassador program comprises roughly 65% of the TBID's budget.

## Exhibit B:

## Telegraph Business Improvement District (TBID) FY2022 Assessments

| APN           | OWNER NAME                                      | STREET NUMBER | STREET NAME   | UNIT # | Tax Exempt   | Private Parcel |
|---------------|-------------------------------------------------|---------------|---------------|--------|--------------|----------------|
| 055 188600300 | 2312 ELLSWORTH LLC                              | 2312          | ELLSWORTH ST  |        |              | \$ 887.66      |
| 055 187800300 | 2340 TELEGRAPH PROPERTY LLC                     | 2328          | TELEGRAPH AVE |        |              | \$ 10,721.32   |
| 055 187601200 | 2369 TELEGRAPH LLC                              | 2369          | TELEGRAPH AVE |        |              | \$ 1,628.00    |
| 055 188000100 | 2400 TELEGRAPH AVE LLC                          | 2486          | CHANNING WAY  |        |              | \$ 6,091.48    |
| 055 188300500 | 2414 DANA ST L P                                | 2414          | DANA ST       |        |              | \$ 802.34      |
| 055 186801100 | 2415 COLLEGE LLC                                | 2415          | COLLEGE AVE   |        |              | \$ 3,176.02    |
| 055 187800701 | 2425 DURANT AVENUE LLC                          | 2425          | DURANT AVE    |        |              | \$ 1,612.34    |
| 055 188101800 | 2442 HASTE STREET LLC                           | 2442          | HASTE ST      |        |              | \$ 1,951.88    |
| 055 184600101 | 2501 BENVENUE LLC                               | 2501          | BENVENUE AVE  |        |              | \$ 3,413.90    |
| 055 187503001 | 2506 HASTE STREET PARTNERS LLC                  | 2506          | HASTE ST      |        |              | \$ 1,857.84    |
| 055 187701100 | 2509 DURANT LLC                                 | 2347          | TELEGRAPH AVE |        |              | \$ 4,347.40    |
| 055 187701400 | 2522 BANCROFT WAY LLC                           | 2522          | BANCROFT WAY  |        |              | \$ 1,433.06    |
| 055 183902000 | 2539 TELEGRAPH LLC                              | 2539          | TELEGRAPH AVE |        |              | \$ 3,572.82    |
| 055 183901901 | 2565 2589 TELEGRAPH BLAKE LLC                   | 2587          | TELEGRAPH AVE |        |              | \$ 7,142.84    |
| 055 183700300 | 2588 TELEGRAPH AVENUE LLC                       | 2590          | TELEGRAPH AVE |        |              | \$ 3,525.26    |
| 055 183600802 | 2614 TELEGRAPH LLC                              | 2614          | TELEGRAPH AVE |        |              | \$ 792.04      |
| 055 183603100 | 2616 TELEGRAPH AVENUE LLC                       | 2616          | TELEGRAPH AVE |        |              | \$ 2,475.98    |
| 055 187100600 | 2631 DURANT DEVELOPER LLC                       | 2637          | DURANT AVE    |        |              | \$ 3,304.88    |
| 055 184600300 | 2644 BERKELEY LLC                               | 2644          | DWIGHT WAY    |        |              | \$ 2,632.38    |
| 055 183500901 | 2650 TELEGRAPH LP                               | 2650          | TELEGRAPH AVE |        |              | \$ 1,464.44    |
| 055 183802300 | A & A BERKELEY PARTNERS LLC                     | 2501          | DANA ST       | 2      |              | \$ 158.80      |
| 055 187602200 | ALLEN HYE K & KIM JOE TR                        | 2511          | CHANNING WAY  |        |              | \$ 1,932.18    |
| 055 186901100 | ALPHA BETA HALL                                 | 2345          | COLLEGE AVE   |        |              | \$ 1,656.76    |
| 055 184302603 | AM BAPTIST SEMINARY OF WEST                     | 2511          | HILLEGASS AVE |        |              | \$ 6,314.18    |
| 055 187100103 | AMI LLC ETAL                                    | 2680          | BANCROFT WAY  |        |              | \$ 2,846.96    |
| 055 187100203 | AMI LLC ETAL                                    | 2310          | COLLEGE AVE   |        |              | \$ 1,443.34    |
| 055 187102000 | AMI LLC ETAL                                    | 2680          | BANCROFT WAY  |        |              | \$ 765.80      |
| 055 183503300 | ANANTHARAM VENKATACHALAM                        | 2628          | TELEGRAPH AVE | 502    |              | \$ 132.94      |
| 055 188200200 | ANDREONI THOMAS L & STANTON KAREN J TRS         | 2440          | DANA ST       |        |              | \$ 804.26      |
| 055 184200100 | ARANGUREN MARY L & JACKSON ALEX ETAL            | 2503          | REGENT ST     |        |              | \$ 563.72      |
| 055 188303000 | AYSOY SUKRAN TR                                 | 2406          | DANA ST       | A      |              | \$ 161.42      |
| 055 187800200 | AYYAD FUAD & MUNA I                             | 2312          | TELEGRAPH AVE |        |              | \$ 2,977.52    |
| 055 187000900 | BALAJI EQUITY MANAGEMENT LLC                    | 2319          | COLLEGE AVE   |        |              | \$ 1,462.74    |
| 055 186801300 | BEAR HAVEN LLC                                  | 2409          | COLLEGE AVE   |        |              | \$ 2,243.06    |
| 055 188401500 | BERKELEY ARCHITECTURAL HERITAGE ASSOCIATION     | 2318          | DURANT AVE    |        |              | \$ 1,458.74    |
| 055 188500800 | BERKELEY CANTERBURY FOUNDATION INC              | 2334          | BANCROFT WAY  |        |              | \$ 1,394.32    |
| 055 188500201 | BERKELEY CITY CLUB                              | 2315          | DURANT AVE    |        |              | \$ 1,392.36    |
| 055 188500202 | BERKELEY CITY CLUB                              | 2315          | DURANT AVE    |        |              | \$ 8,290.04    |
| 055 187601302 | BERKELEY MULTIFAMILY I PROPERTY                 | 2500          | DURANT AVE    |        |              | \$ 10,033.44   |
| 055 187701300 | BERKELEY MULTIFAMILY I PROPERTY                 | 2301          | TELEGRAPH AVE |        |              | \$ 11,490.10   |
| 055 183500700 | BERKELEY TELEGRAPH LLC & 2640 TELEGRAPH AVE LLC | 2640          | TELEGRAPH AVE |        |              | \$ 1,130.18    |
| 055 183502100 | BOLT DIANNA                                     | 2628          | TELEGRAPH AVE | 203    |              | \$ 132.94      |
| 055 187001000 | BREIT SH BERKELEY LLC                           | 2700          | BANCROFT WAY  |        |              | \$ 5,567.86    |
| 055 183801300 | CABRERA ROBERT TR                               | 2410          | DWIGHT WAY    |        |              | \$ 1,306.82    |
| 055 184002401 | CALIF ANN CONF METH CH                          | 2655          | TELEGRAPH AVE |        |              | \$ 7,922.78    |
| 055 187900400 | CAMOU TELEGRAPH AVENUE PROPERTIES LLC           | 2386          | TELEGRAPH AVE |        |              | \$ 963.94      |
| 055 183503200 | CHANG DAVID F & KUO MARGARET                    | 2628          | TELEGRAPH AVE | 501    |              | \$ 132.94      |
| 055 184003500 | CHANG MARINA                                    | 2615          | TELEGRAPH AVE | 201    |              | \$ 111.66      |
| 055 183502800 | CHEN ZIXIN                                      | 2628          | TELEGRAPH AVE | 402    |              | \$ 132.94      |
| 055 183802800 | CHEN ZIXIN                                      | 2501          | DANA ST       | 7      |              | \$ 181.38      |
| 055 188303200 | CHIEN CHARLES & SHERI I                         | 2406          | DANA ST       | C      |              | \$ 161.42      |
| 055 183802200 | CHIN JACKSON                                    | 2501          | DANA ST       | 1      |              | \$ 152.24      |
| 055 184200500 | CHIU EDMUND S & BONNETTE S                      | 2532          | DWIGHT WAY    |        |              | \$ 789.68      |
| 055 183900400 | CHU FAMILY LLC                                  | 2517          | TELEGRAPH AVE |        |              | \$ 5,858.64    |
| 055 183502400 | CHUANG PATRICK C & HSIUNG YINGSHENG             | 2628          | TELEGRAPH AVE | 303    |              | \$ 132.94      |
| 055 188200100 | CHURCH IN BERKELEY                              | 2430          | DANA ST       |        |              | \$ 1,955.28    |
| 055 187900601 | CITY OF BERKELEY                                | 2431          | CHANNING WAY  |        | \$ 47,672.90 |                |
| 055 183901502 | CLARA&SONIA LLC                                 | 2529          | TELEGRAPH AVE |        |              | \$ 2,518.26    |

## Exhibit B:

## Telegraph Business Improvement District (TBID) FY2022 Assessments

| APN           | OWNER NAME                                         | STREET NUMBER | STREET NAME   | UNIT # | Tax Exempt | Private Parcel |
|---------------|----------------------------------------------------|---------------|---------------|--------|------------|----------------|
| 055 188300100 | COLLIER PAMELA & BATTI GREG TRS                    | 2400          | DANA ST       |        |            | \$ 679.54      |
| 055 187100401 | CORKINS A A, RUSHTON R P, MISHRA S K, BROWN C E TR | 2639          | DURANT AVE    |        |            | \$ 1,061.66    |
| 055 188000400 | CREATIVE PROPERTY TELEGRAPH LLC                    | 2426          | TELEGRAPH AVE |        |            | \$ 957.30      |
| 055 187900500 | DABEL GRETCHEN W TR BYPASS TRUST & DABEL GRET ETAL | 2392          | TELEGRAPH AVE |        |            | \$ 1,100.62    |
| 055 183802900 | DAI GEORGE S. & LUNA Y TRS & DAI CORNELIA          | 2501          | DANA ST       | 8      |            | \$ 189.94      |
| 055 184005200 | DELENGOCKY TAYSON                                  | 2615          | TELEGRAPH AVE | 404    |            | \$ 127.10      |
| 055 187100300 | DELTA DEUTERON BLDG ASN                            | 2647          | DURANT AVE    |        |            | \$ 2,030.80    |
| 055 186701300 | DISANO JOSEPH R & DISANO JO                        | 2435          | COLLEGE AVE   |        |            | \$ 1,097.68    |
| 055 184200401 | DOTP 2530 LLC                                      | 2526          | DWIGHT WAY    |        |            | \$ 2,036.32    |
| 055 187800100 | DOWNEY NANCY B TR & ROUSH VIRGINIA B TR            | 2310          | TELEGRAPH AVE |        |            | \$ 4,368.82    |
| 055 187700200 | DOYLE ELAINE M TR                                  | 2310          | BOWDITCH ST   |        |            | \$ 875.80      |
| 055 183502300 | DU LIMING                                          | 2628          | TELEGRAPH AVE | 302    |            | \$ 132.94      |
| 055 187700900 | DURANT PLACE                                       | 2517          | DURANT AVE    |        |            | \$ 3,194.52    |
| 055 183801600 | DWIGHT BLAKE APARTMENTS                            | 2420          | DWIGHT WAY    |        |            | \$ 979.14      |
| 055 184004300 | ELA PROPERTIES LLC                                 | 2615          | TELEGRAPH AVE | 302    |            | \$ 121.98      |
| 055 188600200 | ELLSWORTH INVESTMENT LLC                           | 2306          | ELLSWORTH ST  |        |            | \$ 1,565.12    |
| 055 188600100 | ELRICH HELEN B & WISE LINDA                        | 2300          | ELLSWORTH ST  |        |            | \$ 1,352.96    |
| 055 187504100 | ENCLAVE PARTNERS DH LLC                            | 2503          | HASTE ST      |        |            | \$ 23,866.88   |
| 055 188000501 | ENT KENNETH E & GREGORY W TRS                      | 2441          | HASTE ST      |        |            | \$ 9,961.90    |
| 055 188000700 | ENT KENNETH E & GREGORY W TRS                      | 2435          | HASTE ST      |        |            | \$ 961.94      |
| 055 187101300 | ESLAMI AHMAD A                                     | 2311          | BOWDITCH ST   |        |            | \$ 347.54      |
| 055 183802400 | FANG KEITH F & TSENG SUHSIEN T                     | 2501          | DANA ST       | 3      |            | \$ 156.00      |
| 055 184600400 | FERGUSON JAMES I & ARLENE M TRS                    | 2646          | DWIGHT WAY    |        |            | \$ 954.64      |
| 055 187401200 | FIRST CHURCH CHRIST SCIENTIST                      | 2619          | DWIGHT WAY    |        |            | \$ 1,755.26    |
| 055 188001100 | FIRST CHURCH FOUNDATION                            | 2423          | HASTE ST      |        |            | \$ 587.18      |
| 055 188400100 | FIRST CONG CH OF BERK                              | 2345          | CHANNING WAY  |        |            | \$ 5,722.16    |
| 055 188401600 | FIRST CONGREGATIONAL CHURCH OF BERKELEY            | 2326          | DURANT AVE    |        |            | \$ 696.18      |
| 055 188401700 | FIRST CONGREGATIONAL CHURCH OF BERKELEY            | 2330          | DURANT AVE    |        |            | \$ 982.16      |
| 055 188401800 | FIRST CONGREGATIONAL CHURCH OF BERKELEY            | 2334          | DURANT AVE    |        |            | \$ 260.14      |
| 055 188001502 | FIRST PRESBYTERIAN CHURCH OF BERKELEY              | 2407          | DANA ST       |        |            | \$ 9,307.32    |
| 055 183500402 | FITZER TIMOTHY A                                   | 2636          | TELEGRAPH AVE |        |            | \$ 1,385.84    |
| 055 187800400 | FORTUNEWORLD INC                                   | 2439          | DURANT AVE    |        |            | \$ 3,444.72    |
| 055 187601100 | FUENTES JENNAN K                                   | 2375          | TELEGRAPH AVE |        |            | \$ 6,729.62    |
| 055 187502500 | GEE JEW Y TR                                       | 2509          | DWIGHT WAY    |        |            | \$ 1,346.92    |
| 055 183502500 | GEORGE ASHIQ M                                     | 2628          | TELEGRAPH AVE | 304    |            | \$ 132.94      |
| 055 184003200 | GIORDANO ARLENE A                                  | 2435          | CARLETON ST   |        |            | \$ 1,236.20    |
| 055 183800201 | GLENN BUILDING                                     | 2430          | DWIGHT WAY    |        |            | \$ 11,603.80   |
| 055 184003800 | GOFF EDWARD V                                      | 2615          | TELEGRAPH AVE | 204    |            | \$ 83.80       |
| 055 183502000 | GOLD BONNIE & PAYNE DAVID E                        | 2628          | TELEGRAPH AVE | 202    |            | \$ 132.94      |
| 055 187701003 | GOODHUE NEIL B & DIANE C TRS                       | 2513          | DURANT AVE    |        |            | \$ 1,120.32    |
| 055 187701006 | GOODHUE NEIL B & DIANE C TRS                       | 2515-B        | DURANT AVE    | B      |            | \$ 1,734.04    |
| 055 188100200 | GORDON JOHN K & MITCHELL J ETAL                    | 2470          | TELEGRAPH AVE |        |            | \$ 4,214.58    |
| 055 183900102 | GORDON JOHN K & MITCHELL JANIS L TRS               | 2502          | DWIGHT WAY    |        |            | \$ 2,475.42    |
| 055 183900303 | GORDON JOHN K & MITCHELL JANIS L TRS               | 2508          | REGENT ST     |        |            | \$ 1,792.60    |
| 055 183901601 | GORDON JOHN K & MITCHELL JANIS L TRS               | 2513          | TELEGRAPH AVE |        |            | \$ 2,050.64    |
| 055 187700600 | GROWERS PROPERTIES NO 52                           | 2533          | DURANT AVE    |        |            | \$ 4,413.94    |
| 055 188300200 | GUERARD JACQUES                                    | 2402          | DANA ST       |        |            | \$ 646.10      |
| 055 184600500 | HAKAM ALAEDDIN & FOUDEH SAEED TR                   | 2504          | COLLEGE AVE   |        |            | \$ 795.12      |
| 055 184004100 | HAROUN ANSAR M & NASRA TRS                         | 2615          | TELEGRAPH AVE | 207    |            | \$ 115.82      |
| 055 188200300 | HASHEMI HOMAYOUN & GOVASHIRI HOMA TRS              | 2446          | DANA ST       |        |            | \$ 826.58      |
| 055 183802600 | HOANG VY T & LYNH T                                | 2501          | DANA ST       | 5      |            | \$ 195.94      |
| 055 188300600 | HON HENRY D & SYLVIA TRS                           | 2418          | DANA ST       |        |            | \$ 743.82      |
| 055 187000800 | HOWLAND DAVID L TR & BERG DAVID                    | 2701          | DURANT AVE    |        |            | \$ 2,069.86    |
| 055 184003600 | HSIA SAMSON & ALICIA TRS                           | 2615          | TELEGRAPH AVE | 202    |            | \$ 121.98      |
| 055 184004700 | HU HANG L & TYNG J                                 | 2615          | TELEGRAPH AVE | 306    |            | \$ 118.70      |
| 055 184004800 | HU TYNG J & HANG L                                 | 2615          | TELEGRAPH AVE | 307    |            | \$ 115.82      |
| 055 183501900 | HUANG ISABELLA                                     | 2628          | TELEGRAPH AVE | 201    |            | \$ 132.94      |
| 055 184004200 | HUANG LI L                                         | 2615          | TELEGRAPH AVE | 301    |            | \$ 111.66      |



## Exhibit B:

Telegraph Business Improvement District (TBID) FY2022 Assessments

| APN           | OWNER NAME                              | STREET NUMBER | STREET NAME   | UNIT # | Tax Exempt   | Private Parcel |
|---------------|-----------------------------------------|---------------|---------------|--------|--------------|----------------|
| 055 187802200 | HUNOLT JAMES B TR & THOMAS E TR         | 2480          | BANCROFT WAY  |        |              | \$ 2,656.20    |
| 055 187701201 | JANGMI LLC                              | 2327          | TELEGRAPH AVE |        |              | \$ 2,152.82    |
| 055 187900100 | KICK-AXE PROPERTIES                     | 2350          | TELEGRAPH AVE |        |              | \$ 4,433.94    |
| 055 184004600 | KPARTNERS LLC                           | 2615          | TELEGRAPH AVE | 305    |              | \$ 131.02      |
| 055 187801900 | KUANG DIANA Q ETAL                      | 2456          | BANCROFT WAY  |        |              | \$ 2,475.62    |
| 055 187700500 | KURDYS DOUGLAS & SHAWVER LOIS           | 2539          | DURANT AVE    |        |              | \$ 2,766.38    |
| 055 184003900 | KWOK VICTOR Y                           | 2615          | TELEGRAPH AVE | 205    |              | \$ 131.02      |
| 055 187700700 | LANDIS JUDSON R & SHERON C TRS          | 2525          | DURANT AVE    |        |              | \$ 4,862.00    |
| 055 187801000 | LANDIS JUDSON R & SHERON C TRS          | 2419          | DURANT AVE    |        |              | \$ 2,348.40    |
| 055 187801200 | LANDIS JUDSON R & SHERON C TRS          | 2411          | DURANT AVE    |        |              | \$ 1,029.56    |
| 055 184005300 | LEUNG VELIA N                           | 2615          | TELEGRAPH AVE | 101    |              | \$ 111.60      |
| 055 184005400 | LEUNG VELIA N                           | 2615          | TELEGRAPH AVE | 102    |              | \$ 79.80       |
| 055 188100500 | LI ZHAOYANG & WAN KE                    | 2437          | DWIGHT WAY    |        |              | \$ 2,275.56    |
| 055 184000101 | LIEBERT BRUCE E TR & CARLYN M TR        | 2601          | TELEGRAPH AVE |        |              | \$ 1,267.06    |
| 055 183502900 | LIM ING Y & KANWIT ELIZABETH D TRS      | 2628          | TELEGRAPH AVE | 403    |              | \$ 132.94      |
| 055 188100300 | LIPPETT PETER E TR                      | 2476          | TELEGRAPH AVE |        |              | \$ 3,459.06    |
| 055 183801800 | LUNDIN JANE M TR                        | 2428          | DWIGHT WAY    | 1-11   |              | \$ 949.70      |
| 055 183801700 | LUNDIN JANE TR                          | 2424          | DWIGHT WAY    |        |              | \$ 931.50      |
| 055 187602101 | LYMAN JOHN T & MARLEY (STILES HALL)     | 2538          | DURANT AVE    |        | \$ 3,899.92  |                |
| 055 188303100 | MA JANICE L & KENNETH                   | 2406          | DANA ST       | B      |              | \$ 161.42      |
| 055 184004500 | MAKHJANI MEENA S                        | 2615          | TELEGRAPH AVE | 304    |              | \$ 83.80       |
| 055 187701902 | MARK AT BERKELEY LLC                    | 2580          | BANCROFT WAY  |        |              | \$ 6,084.64    |
| 055 183802500 | MASON ELIZABETH F & JAMES W ET AL       | 2501          | DANA ST       | 4      |              | \$ 157.60      |
| 055 184005100 | MAUS MARLON TR                          | 2615          | TELEGRAPH AVE | 403    |              | \$ 153.36      |
| 055 183502600 | MEYYPAPPAN MURUGAPPAN & RAMANAT         | 2628          | TELEGRAPH AVE | 305    |              | \$ 132.94      |
| 055 187502700 | MILANO PROPERTIES LTD LLC               | 2475          | TELEGRAPH AVE |        |              | \$ 1,233.86    |
| 055 183800102 | MILANO ROGERIO & MAJIDI SHAHLA TRS      | 2500          | TELEGRAPH AVE |        |              | \$ 5,402.80    |
| 055 186801400 | MIN ROY & EDWARD ETAL                   | 2700          | CHANNING WAY  |        |              | \$ 567.90      |
| 055 187701601 | MIOTTEL W J JR TR                       | 2530          | BANCROFT WAY  |        |              | \$ 8,660.52    |
| 055 183802700 | MITINA SOFIA TR                         | 2501          | DANA ST       | 6      |              | \$ 196.82      |
| 055 183503000 | NAGEL GARY D                            | 2628          | TELEGRAPH AVE | 404    |              | \$ 132.94      |
| 055 186701400 | NATEGHIAN FARAMARZ TRUST                | 2431          | COLLEGE AVE   |        |              | \$ 928.40      |
| 055 184003700 | NAVARROCACERES LILIANA                  | 2615          | TELEGRAPH AVE | 203    |              | \$ 84.28       |
| 055 184200200 | NCR PROPERTIES LLC                      | 2524          | DWIGHT WAY    |        |              | \$ 1,226.30    |
| 055 183802100 | P G & E CO 135-1-12-2                   | 2540          | TELEGRAPH AVE |        |              | \$ 1,560.10    |
| 055 187802400 | ETAL                                    | 2415          | DURANT AVE    |        |              | \$ 246.04      |
| 055 187802300 | PAIGE ROGER & NORMA TRS ETAL            | 2415          | DURANT AVE    |        |              | \$ 248.68      |
| 055 187802500 | PAIGE ROGER & NORMA TRS ETAL            | 2417          | DURANT AVE    |        |              | \$ 165.28      |
| 055 187802600 | PAIGE ROGER & NORMA TRS ETAL            | 2417          | DURANT AVE    |        |              | \$ 165.28      |
| 055 188401300 | PAULOS CORALYN M TR                     | 2310          | DURANT AVE    |        |              | \$ 1,333.64    |
| 055 187502802 | PELLEGRINO PASQUALE TR                  | 2461          | TELEGRAPH AVE |        |              | \$ 2,228.64    |
| 055 187201100 | RAAJ BERKELEY OWNER LLC                 | 2613          | CHANNING WAY  |        |              | \$ 746.52      |
| 055 187201300 | RAAJ BERKELEY OWNER LLC                 | 2323          | BOWDITCH ST   |        |              | \$ 963.94      |
| 055 187201400 | RAAJ BERKELEY OWNER LLC                 | 2600          | DURANT AVE    |        |              | \$ 18,390.80   |
| 055 188500900 | RECTORS ETC OF ST MARKS                 | 2300          | BANCROFT WAY  |        |              | \$ 1,497.92    |
| 055 188501000 | RECTORS ETC OF ST MARKS                 | 2301          | DURANT AVE    |        |              | \$ 5,861.72    |
| 055 183902100 | REGENT TERRACE LLC                      | 2593          | TELEGRAPH AVE |        |              | \$ 5,002.46    |
| 055 186901301 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2333          | COLLEGE AVE   |        | \$ 2,692.82  |                |
| 055 187101901 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2630          | BANCROFT WAY  |        | \$ 6,882.96  |                |
| 055 187202101 | REGENTS OF THE UNIVERSITY OF CALIFORNIA |               | COLLEGE AVE   |        | \$ 17,709.50 |                |
| 055 187300101 | REGENTS OF THE UNIVERSITY OF CALIFORNIA |               | CHANNING WAY  |        | \$ 8,610.32  |                |
| 055 187301500 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2411          | BOWDITCH ST   |        | \$ 312.68    |                |
| 055 187301600 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2409          | BOWDITCH ST   |        | \$ 243.04    |                |
| 055 187301700 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2405          | BOWDITCH ST   |        | \$ 244.72    |                |
| 055 187301800 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2550          | CHANNING WAY  |        | \$ 155.92    |                |
| 055 187301900 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2612          | CHANNING WAY  |        | \$ 12,318.22 |                |
| 055 187402301 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2612          | HASTE ST      |        | \$ 17,811.50 |                |
| 055 187500901 | REGENTS OF THE UNIVERSITY OF CALIFORNIA | 2538          | CHANNING WAY  |        | \$ 12,979.64 |                |

## Exhibit B:

Telegraph Business Improvement District (TBID) FY2022 Assessments

| APN           | OWNER NAME                                            | STREET NUMBER | STREET NAME   | UNIT # | Tax Exempt   | Private Parcel |
|---------------|-------------------------------------------------------|---------------|---------------|--------|--------------|----------------|
| 055 187504001 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               | 2556          | HASTE ST      |        | \$ 4,862.48  |                |
| 055 187600901 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               | 2535          | CHANNING WAY  |        | \$ 6,830.26  |                |
| 055 187902203 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               | 2436          | DURANT AVE    |        | \$ 12,782.90 |                |
| 055 188002103 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               |               | HASTE ST      |        | \$ 2,813.48  |                |
| 055 188002104 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               | 2433          | HASTE ST      |        | \$ 383.00    |                |
| 055 188100700 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               | 2427          | DWIGHT WAY    |        | \$ 722.72    |                |
| 055 188101701 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               | 2400          | HASTE ST      |        | \$ 4,457.28  |                |
| 055 188601703 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               | 2200          | BANCROFT WAY  |        | \$ 1,348.28  |                |
| 055 188602501 | REGENTS OF THE UNIVERSITY OF CALIFORNIA               | 2214          | BANCROFT WAY  |        | \$ 4,096.14  |                |
| 055 187801602 | REGENTS OF THE UNIVERSITY OF CALIFORNIA (STILES HALL) | 2400          | BANCROFT WAY  |        | \$ 8,636.58  |                |
| 055 187801800 | REGENTS UNIVERSITY CALIFORNIA                         | 2436          | BANCROFT WAY  |        |              | \$ 9,658.30    |
| 055 186701200 | ROMAN CATHOLIC WELFARE CORPORATION OF OAKLAND         |               | DWIGHT WAY    |        |              | \$ 1,084.44    |
| 055 187201200 | ROYSTON APARTMENT LP                                  | 2601          | CHANNING WAY  |        |              | \$ 3,113.12    |
| 055 187301400 | RUBENSTEIN MICHAEL & POLLAK STEVEN TRS                | 2605          | HASTE ST      |        |              | \$ 2,768.06    |
| 055 187500600 | RUE ELL ENTERPRISES INC                               | 2411          | TELEGRAPH AVE |        |              | \$ 1,863.62    |
| 055 187601600 | RUE ELL ENTERPRISES INC                               | 2520          | DURANT AVE    |        |              | \$ 3,462.28    |
| 055 187700800 | RUE ELL ENTERPRISES INC                               | 2519          | DURANT AVE    |        |              | \$ 4,221.22    |
| 055 187800501 | RUE ELL ENTERPRISES INC                               | 2433          | DURANT AVE    |        |              | \$ 7,905.86    |
| 055 187900300 | RUE ELL ENTERPRISES INC                               | 2380          | TELEGRAPH AVE |        |              | \$ 963.94      |
| 055 183802000 | RUEELL ENTERPRISES INC                                | 2434          | DWIGHT WAY    |        |              | \$ 1,385.94    |
| 055 187601901 | RUEELL ENTERPRISES INC                                | 2534          | DURANT AVE    |        |              | \$ 4,150.32    |
| 055 187802100 | RUEELL ENTERPRISES INC                                | 2470          | BANCROFT WAY  |        |              | \$ 4,150.52    |
| 055 187601500 | RUEGG & ELLSWORTH                                     | 2516          | DURANT AVE    |        |              | \$ 7,965.40    |
| 055 187601700 | RUEGG & ELLSWORTH                                     | 2526          | DURANT AVE    |        |              | \$ 11,141.28   |
| 055 187602300 | RUEGG & ELLSWORTH                                     | 2510          | DURANT AVE    |        |              | \$ 3,588.02    |
| 055 187700100 | RUEGG & ELLSWORTH & LEWIS SANDRA TR                   | 2590          | BANCROFT WAY  |        |              | \$ 5,688.14    |
| 055 187502900 | RYDER WAYNE C & JOANN TRS ETAL                        | 2455          | TELEGRAPH AVE |        |              | \$ 3,251.72    |
| 055 187500700 | SARACHAN KENNETH                                      | 2409          | TELEGRAPH AVE |        |              | \$ 5,715.12    |
| 055 187900200 | SARACHAN KENNETH                                      | 2360          | TELEGRAPH AVE |        |              | \$ 3,410.22    |
| 055 188100100 | SARACHAN KENNETH & BROWN LAURIE                       | 2464          | TELEGRAPH AVE |        |              | \$ 3,860.28    |
| 055 184200600 | SATELLITE AFFORDABLE HOUSING ASSOCIATES               | 2500          | HILLEGASS AVE |        |              | \$ 1,699.26    |
| 055 183801400 | SCHLAFFER LANCE TR                                    | 2414          | DWIGHT WAY    |        |              | \$ 942.08      |
| 055 188401400 | SHI ZHOUZHENG & LI JIA TRS                            | 2312          | DURANT AVE    |        |              | \$ 861.56      |
| 055 183803000 | SHYR JURİYAN & HOU DANIEL                             | 2501          | DANA ST       | 9      |              | \$ 196.42      |
| 055 184004900 | SIRIVANSANTI VEERA & SUVANNEE TRS                     | 2615          | TELEGRAPH AVE | 401    |              | \$ 147.20      |
| 055 187700300 | ST JOSEPH ARIM FOUND                                  | 2316          | BOWDITCH ST   |        |              | \$ 1,471.00    |
| 055 187700400 | ST JOSEPH ARIM FOUND                                  | 2543          | DURANT AVE    |        |              | \$ 676.02      |
| 055 184005000 | SU VINCENT P & INGRID ETAL                            | 2615          | TELEGRAPH AVE | 402    |              | \$ 121.98      |
| 055 187502400 | SUM YUN C & NGAN C TRS                                | 2511          | DWIGHT WAY    |        |              | \$ 4,686.92    |
| 055 183502200 | SUN CHII YUN & KAREN K                                | 2628          | TELEGRAPH AVE | 301    |              | \$ 132.94      |
| 055 183501800 | TAM RICHARD W & ZHANG TAO T ETAL                      | 2628          | TELEGRAPH AVE | 1      |              | \$ 175.12      |
| 055 188002201 | TAYLOR SPRINGS MANAGEMENT LLC                         | 2414          | TELEGRAPH AVE |        |              | \$ 8,584.58    |
| 055 183700100 | TELEGRAPH BLAKE LLC                                   | 2556          | TELEGRAPH AVE |        |              | \$ 4,357.24    |
| 055 187502600 | TELEGRAPH PARTNERS LLC                                | 2499          | TELEGRAPH AVE |        |              | \$ 2,127.10    |
| 055 183900500 | TELEGRAPH REGENT LLC                                  | 2512          | REGENT ST     |        |              | \$ 3,202.66    |
| 055 187500800 | THELMA & LOUISE NO 2 LLC                              | 2508          | CHANNING WAY  |        |              | \$ 13,608.34   |
| 055 188101200 | TOWN & GOWN CLUB                                      | 2401          | DWIGHT WAY    |        |              | \$ 1,319.42    |
| 055 187600100 | TREVOR JAMES II                                       | 2328          | BOWDITCH ST   |        |              | \$ 1,585.16    |
| 055 188500102 | TRINITY UNITED METHODIST CHURCH OF BERKELEY           | 2362          | BANCROFT WAY  |        |              | \$ 1,253.12    |
| 055 188500104 | TRINITY UNITED METHODIST CHURCH OF BERKELEY           | 2362          | BANCROFT WAY  |        |              | \$ 4,768.74    |
| 055 187101200 | TRUST BENEFIT CHRISTIAN SCIENCE ORGANIZATION UC BE    | 2601          | DURANT AVE    |        |              | \$ 676.24      |
| 055 188401200 | TWENTY THREE HUNDRED DURANT PARTNERSHIP               | 2300          | DURANT AVE    |        |              | \$ 2,098.84    |
| 055 186801000 | UNIVERSITY LUTHERAN CHAPEL OF BERKELEY CALIF          | 2425          | COLLEGE AVE   |        |              | \$ 692.04      |
| 055 187101501 | UNIVERSITY Y W C A                                    | 2600          | BANCROFT WAY  |        |              | \$ 2,440.84    |
| 055 187801700 | VALHAUS LP                                            | 2430          | BANCROFT WAY  |        |              | \$ 3,476.64    |
| 055 183801500 | VALUES INC INVESTMENT CO                              | 2418          | DWIGHT WAY    |        |              | \$ 1,609.14    |
| 055 187401300 | VEDANTA SOCIETY BERKELEY                              | 2455          | BOWDITCH ST   |        |              | \$ 930.04      |
| 055 188600400 | VERO PROPERTIES LLC                                   | 2241          | DURANT AVE    |        |              | \$ 1,591.54    |

Exhibit B:

Telegraph Business Improvement District (TBID) FY2022 Assessments

| APN           | OWNER NAME                     | STREET NUMBER | STREET NAME   | UNIT # | Tax Exempt          | Private Parcel      |
|---------------|--------------------------------|---------------|---------------|--------|---------------------|---------------------|
| 055 188100400 | VIRGINIA COLLEGE ASSOCIATES LP | 2482          | TELEGRAPH AVE |        |                     | \$ 6,486.50         |
| 055 183502700 | WANG HAOLIN                    | 2628          | TELEGRAPH AVE | 401    |                     | \$ 132.94           |
| 055 188300400 | WEN WILLIAM K ETAL             | 2410          | DANA ST       |        |                     | \$ 852.28           |
| 055 188500103 | WESLEY HOUSE BERKELEY LLC      | 2398          | BANCROFT WAY  |        |                     | \$ 2,435.00         |
| 055 183600603 | WONG FRANKLIN C & HENRY F      | 2600          | TELEGRAPH AVE |        |                     | \$ 1,594.48         |
| 055 184600200 | WU SEN T & SU H & CHUANG MARI  | 2640          | DWIGHT WAY    |        |                     | \$ 1,979.10         |
| 055 183503100 | XIA JING                       | 2628          | TELEGRAPH AVE | 405    |                     | \$ 132.94           |
| 055 187101100 | YEE FAYE & DAVID               | 2605          | DURANT AVE    |        |                     | \$ 941.20           |
| 055 184004000 | YU JULIA & YU JEAN J TR        | 2615          | TELEGRAPH AVE | 206    |                     | \$ 118.70           |
| 055 187802000 | ZENG BERKELEY LLC              | 2462          | BANCROFT WAY  |        |                     | \$ 4,370.96         |
| 055 184004400 | ZHANG YINGQUN & WANG NAIRU     | 2615          | TELEGRAPH AVE | 303    |                     | \$ 84.28            |
| 055 183700200 | ZION PROPERTIES LLC            | 2566          | TELEGRAPH AVE | D      |                     | \$ 3,450.92         |
|               |                                | <b>Totals</b> | <b>244</b>    |        |                     |                     |
|               |                                |               |               |        | <b>\$178,467.26</b> | <b>\$550,004.72</b> |

23 221

|                                           | Tax Exempt | Private Parcels      |
|-------------------------------------------|------------|----------------------|
| Total Count of Parcels: <b>244</b>        | 23         | 221                  |
| County Fee @1.7% (on Private Parcels):    |            | \$ 9,350.08          |
| Net Assessment Revenue (Private Parcels): |            | \$ 540,654.64        |
| <b>Total Assessment Revenue:</b>          |            | <b>\$ 719,121.90</b> |

Note: Data for APN, Owner, and Land Use from the City's Land Management System is current as of April 9, 2021. Updated data from the County will be available in July 2021.





Office of the City Manager

CONSENT CALENDAR  
May 25, 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 May 25, 2021

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$250,000.

| <u>PROJECT</u>                                                   | <u>Fund</u> | <u>Source</u> | <u>Amount</u> |
|------------------------------------------------------------------|-------------|---------------|---------------|
| Project Management for African American Holistic Resource Center |             |               | \$250,000     |
| <b>Total:</b>                                                    |             |               | \$250,000     |

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager’s purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB (Invitation for Bid) or RFP (Request for Proposal) may be released to the public and notices sent to the potential bidder/respondent list.

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on May 25, 2021

CONSENT CALENDAR  
May 25, 2021

BACKGROUND

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

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Need for the services.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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

Attachments:

1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on May 25, 2021

- a) Project Management for African American Holistic Resource Center

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

DATE SUBMITTED: May 25, 2021

| SPECIFICATION NO.  | DESCRIPTION OF GOODS / SERVICES BEING PURCHASED                  | APPROX. RELEASE DATE | APPROX. BID OPENING DATE | INTENDED USE                                                                             | ESTIMATED COST   | BUDGET CODE TO BE CHARGED | DEPT. / DIVISION | CONTACT NAME & PHONE                         |
|--------------------|------------------------------------------------------------------|----------------------|--------------------------|------------------------------------------------------------------------------------------|------------------|---------------------------|------------------|----------------------------------------------|
| 21-11456           | Project Management for African American Holistic Resource Center | 5/26/2021            | 6/29/2021                | Project Management of all aspects of project including Planning, Design and Construction | \$250,000        |                           | Prw CIP          | Scott Ferris<br>542-3132<br>Paul Buddenhagen |
| <b>Dept TOTAL</b>  |                                                                  |                      |                          |                                                                                          | \$250,000        |                           |                  |                                              |
| <b>DEPT. TOTAL</b> |                                                                  |                      |                          |                                                                                          | <b>\$250,000</b> |                           |                  |                                              |







Office of the City Manager

09

CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Abraham Roman, Interim Fire Chief

Subject: Memorandum of Agreement with the City of Oakland for the National Urban Search and Rescue Response System

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a Memorandum of Agreement and any amendments with the City of Oakland, as the “Sponsoring Agency” for the National Urban Search and Rescue Response System, operated by the United States Department of Homeland Security, acting through the Federal Emergency Management Agency (FEMA), along with the State of California and local governments.

FISCAL IMPACTS OF RECOMMENDATION

There is no fiscal impact to this request.

CURRENT SITUATION AND ITS EFFECTS

The California Task Force 4 (CATF-4) of the National Urban Search and Rescue Response System supports the preparedness efforts of not only the Fire Department, but also those of the City for community partners. Fire staff’s participation in USAR teams is essential to the continued support of this effort.

The Berkeley Fire Department is an active member of the CATF-4, and FEMA requires all USAR teams have a MOA detailing the roles and responsibilities of all participants in order to receive federal cooperative agreement funding. FEMA also requires that existing or new participating agencies and affiliated personnel of CATF-4 sign updated agreements with the City of Oakland Fire Department that mirror this new MOA. The annual cooperative agreement funding is granted under the conditions specified in the MOA. The Agreement has no expiration date and will remain in effect unless terminated, and may be terminated by either party upon 30 days written notice.

BACKGROUND

Since the World Trade Center disaster on September 11, 2001, Congress has taken the National USAR program and funded it to a higher level. The 28 teams have broadened their mission capabilities from the handling of natural disasters (i.e. flood, earthquakes, etc.) to include weapons of mass destruction (WMD) and terrorist incidents. During the

early 1990's, the City of Oakland's Fire Department has sponsored one of these teams, California Task Force 4 (CATF-4).

In the past, CATF-4 has sent overhead personnel and/or responded with rescue teams to: Northridge California for its earthquake, Oklahoma City for the Federal Building bombing, New York City for the World Trade Center Bombing, West Texas for the Challenger Shuttle disaster, New Orleans and Biloxi for Hurricane Katrina, Houston for Hurricane Rita, Miami for Hurricane Wilma, North West Florida for Hurricane Ernesto, and Texas for Hurricanes Gustav and Ike. The Berkeley Fire Department deployed rescue team personnel to assist in many of the disasters.

Deployment and overtime backfill costs were reimbursed to the City of Berkeley through the City of Oakland by FEMA. FEMA has reimbursed the maximum allowable costs for each of these deployments, and they have been the funding source for 28 Urban Search and Rescue (USAR) teams nationally since the program's inception.

#### ENVIRONMENTAL SUSTAINABILITY

The Task Force's cache of equipment and supplies is purchased and maintained by the Sponsoring Agency. Their procurement will be responsibly sourced, and participants are to use Task Force cache equipment and supplies only for authorized purposes and exercise reasonable care to protect and preserve the property against loss or damage to ensure future use.

#### RATIONALE FOR RECOMMENDATION

The purpose of the FEMA USAR MOA is to allow each National USAR Task Force the opportunity to raise its standards and condition of operational readiness as an available FEMA, State, Regional and local resource.

As a participating agency of the CATF-4, Berkeley Fire Department is required to enter into the new, updated MOA with the City of Oakland Fire Department, the sponsoring agency of the National USAR Response System with the U.S. Department of Homeland Security acting through FEMA and the State of California. Unless USAR teams continue to equip and train per FEMA guidelines, they will not be a part of FEMA's national system and will lose federal government funding. As all USAR teams are first and foremost a local asset, it is imperative to have the ability to respond to WMD, natural disasters, or any other emergency incidents in Berkeley and other local jurisdictions.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Abraham Roman, Interim Fire Chief, (510) 981-5500

Attachments:  
1: Resolution

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

NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM MEMORANDUM  
OF AGREEMENT WITH THE CITY OF OAKLAND

WHEREAS, the Federal Emergency Management Agency (FEMA), a component of the Department of Homeland Security (DHS), is the federal management agency; and

WHEREAS, the FEMA has been the funding source for 28 Urban Search and Rescue (USAR) teams nationally since the program's inception in the early 1990's; and

WHEREAS, the City of Oakland, through its Fire Department, has sponsored one of these teams, California Task Force 4 (CATF-4); and

WHEREAS, the Berkeley Fire Department is an active member of the CATF-4; and

WHEREAS, the FEMA requires that all 28 USAR teams have a Memorandum of Agreement (MOA) outlining the roles and responsibilities of all participants in order to remain in the National USAR program; and

WHEREAS, the FEMA has updated the MOA and requires participants and participating agencies of CATF-4 to enter into new agreements to continue to receive federal cooperative agreement funding; and

WHEREAS, the FEMA USAR funding provides CATF-4 with specialized training and equipment to enhance operational readiness; and

WHEREAS, CATF-4 is a local asset and imperative in its ability to respond to WMD, natural disasters, or any other emergency incidents in Berkeley and other local jurisdictions.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a Memorandum of Agreement and any amendments with the City of Oakland, as the coordinating agency, regarding participation in the National Urban Search and Rescue Response System with the U.S. Department of Homeland Security acting through the Federal Emergency Management Agency and the State of California.



Office of the City Manager

10

CONSENT CALENDAR

May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Contract: Multicultural Institute for COVID -19 Outreach and Health Education Activities

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to execute an expenditure contract and any amendments or extensions thereto with Multicultural Institute in the amount not to exceed \$100,000 for the period June 1, 2021 through June 30, 2022 for COVID-19 outreach services to the Latinx community; particularly the day laborer and domestic worker community.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the Multicultural Institute contract includes funding from the Heluna Health ELC Cares Covid Grant ERMA GL Account 336-51-501-503-2075-000-451-612990.

CURRENT SITUATION AND ITS EFFECTS

Multicultural Institute has been working with the City of Berkeley on COVID-19 emergency response activities, including coordination of testing events with the Berkeley Latinx community and outreach assistance for COVID-19 testing services. This partnership has been critical to the City's COVID-19 response, as the Latinx community has been disproportionately impacted by the pandemic. This contract will allow for Multicultural Institute to invest in additional resources to focus culturally and linguistically appropriate outreach and health education efforts towards ongoing outreach, testing, vaccination, and support efforts for the Latinx community; particularly among the vulnerable populations of day laborers and domestic workers.

BACKGROUND

The City of Berkeley has a longstanding partnership with the Multicultural Institute in support of its mission of accompanying immigrants in their transition from poverty and isolation to workforce participation and prosperity. Multicultural Institute is a dynamic, learning-centered organization committed to improving the quality of life of the people they serve.

Multicultural Institute offers linguistically and culturally appropriate services to increase access to COVID-19 resources through education and outreach efforts. They have

implemented a number of COVID-19 response activities, including offering: (1) COVID-19 updates, preventive measures, and resources, (2) PPE distribution, (3) COVID testing and vaccination on-site and health support/referrals.

Multicultural Institute's target populations are day laborers, domestic workers, and other low-income families. Multicultural Institute makes it a priority to serve monolingual Spanish speakers, those that are uninsured, and those that do not benefit from a regular primary health care provider.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Multicultural Institute has built trust and relationships with monolingual Spanish speaking families, and other low-income individuals. Because of this work, Multicultural Institute has first-hand knowledge of the community's needs and is able to directly reach this population. Organizational leaders and staff have the cultural competence needed to serve the target community. Staff is composed of first and second-generation immigrants whose first language is Spanish, allowing them to colloquially and professionally communicate with the immigrant communities served. These qualities make Multicultural Institute an effective and necessary partner in community outreach and health education to primarily monolingual Spanish speaking community members encouraging the informed use of COVID-19 testing and vaccination services.

ALTERNATIVE ACTIONS CONSIDERED

Although there are other organizations that serve the Latinx communities in Berkeley, Multicultural Institute's focus and established relationships with the day laborer and domestic worker populations is critically to strengthen the City's equity approach to addressing COVID-19.

CONTACT PERSON

Janice Chin, Public Health Division Manager, HHCS, (510) 981-5212

Attachments:

1: Resolution

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

CONTRACT: MULTICULTURAL INSTITUTE COVID-19 OUTREACH AND HEALTH  
EDUCATION

WHEREAS, the City of Berkeley has a long standing partnership with Multicultural Institute in serving monolingual Spanish speakers, who are uninsured and those that do not benefit from a regular primary health care provider, particularly day laborers and domestic workers.

WHEREAS, Multicultural Institute provides linguistically and culturally appropriate services and has been actively engaged in COVID-19 response activities with the Latinx communities in Berkeley.

WHEREAS, funds are available to perform this work in the current year budget in the ERMA GL Account 336-51-501-503-2075-000-451-612990.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute an expenditure contract and any amendments or extensions thereto with Multicultural Institute in the amount of \$100,000 for the period of June 1, 2021 through June 30, 2022 for the providing outreach and health education and coordination efforts around COVID-19 testing and vaccination services. A record signature copy of said contract and amendments to be on file in the City Clerk Department.







Office of the City Manager

11

CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Revenue Grant Agreement: Funding Support from State of California Board of State and Community Corrections Proposition 64 Public Health and Safety Funding

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to submit a grant application to The State of California Board of State and Community Corrections, to accept the grant, execute any resultant revenue agreement and amendment, and implement the projects and appropriation of funding for related expenses to address public health and safety related to the implementation of the Control, Regulate, and Tax Adult Use of Marijuana Act, to conduct public health promotion, protection, and prevention services for the State of California Board of State and Community Corrections revenue agreement in the projected amount of \$1,000,000 for May 1, 2021 to April 30, 2024.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds in the projected amount of \$333,333 for Fiscal Year (FY) 2022 through the funding source listed above. The contract will have its contract number and the source will have a defined budget code.

**Board of State and Community Corrections:** The May 1, 2021 – April 30, 2022 \$333,333 allocation will be deposited and expensed from the One-Time Grant: No Capital Expenditures Fund.). There are no matching funds required by the funder.

Spending of the referenced grant funds is subject to Council approval of the budget and the Annual Appropriations Ordinances. Depending on the timing of when grants are officially awarded and the amounts are determined, the grant budgets will be adjusted as part of the First Amendment to the FY 2022 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

As a local health jurisdiction, City of Berkeley provides a broad range of public health programs and services to the community; with the goals of addressing health inequities, promoting healthy environments and behaviors, protecting residents from disease, and preventing illness, disability, and premature death. Grant funds will support youth

development activities to decrease the rates of substance use among youth under the age of 21 years old, and increase marijuana education and violence prevention activities.

The State of California Board of State and Community Corrections (SCBSCC) is the administrator of a portion of the Proposition 64 tax revenue that is generated from the cultivation and retail sale of cannabis or cannabis products. SCBSCC makes grants to local governments to address public health and safety associated with the implementation of the Control, Regulate, and Tax Adult Use of Marijuana Act. These funds are dispersed to local governments throughout the State through a competitive grant process.

### BACKGROUND

The legalization of marijuana use for adults through Proposition 64 increased exposure and accessibility of the substance, and the impact on youth has been a growing public health concern. Based on the 2016 California Healthy Kids Survey results, approximately 35% of Berkeley Unified School District (BUSD) 11<sup>th</sup> graders, 17% of 9<sup>th</sup> graders, and less than 5% of 7<sup>th</sup> graders reported having smoked marijuana. The California Healthy Kids Survey also indicated that alcohol and marijuana are the most commonly used substances among BUSD students. The initiation of substance use early in life contributes to higher levels of use and abuse later in life. Early onset of use is also associated with a number of negative health, social, and behavioral outcomes, including physical and mental health problems, violent and aggressive behavior and adjustment problems in the workplace and family.

In 2018, the Berkeley Public Health Division conducted a Community Health Assessment to supplement the population health data in its 2018 Berkeley Health Status Report and to help inform program planning. This Community Health Assessment included 398 community health surveys, 20 focus groups with 179 community participants, and a total of 28 key informant interviews, as well as input from over 30 community partners in a community health focused round table event. All these community engagement activities were focused on gathering information from vulnerable population groups that have historically experienced health disparities. These included youth aged 10-24 years, the African American community, the Latinx community, persons experiencing homelessness, LGBTQIA, and low-income families. The findings of this process showed that youth defined a healthy community as one that was “connected,” “safe,” and “friendly.” However, they also identified the “economy,” “food security,” and “safety” as their top three barriers to achieving a healthy community. Strategies youth suggested that the City and partners could address included more drug abuse counseling for youth; in addition to affordable housing, free and accessible community programs, and affordable/ accessible mental health services. Mental health and substance abuse/ tobacco use were identified as the top health concerns for youth and the African American community.

The (SCBSCC) grant proposal was based on the above available health indicators as well as the results of the Public Health Division Community Health Assessment. This grant will allow The City of Berkeley to partner with a community based organization (CBO) to focus on youth development activities, particularly at risk youth, to decrease the rates of substance use among youth under the age of 21 years old. Activities funded will include recruiting and training up to 20 at-risk youth participants to become paid, peer educators in a cannabis education awareness campaign, providing wrap around services and case management for at-risk youth and their families and conducting a media campaign focused on youth and cannabis use.

In addition to the youth-focused activities around cannabis use, the grant will also allow the City of Berkeley to partner with a CBO to address violence prevention through development of a community partner taskforce. The initial activities for this taskforce will include conducting a needs assessment, identifying performance measures and data communication tools, and developing of strategies and a workplan. Years Two and Three will focus on implementation of the workplan, which can include but is not limited to client case management, crisis intervention and counseling, and group counseling services.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

These funds would support youth focused activities and community based partnerships through an equity lens to address the negative effects of increased access to and use of marijuana in Berkeley. These competitive grants support the Department's mission and provide the City with funding to continue working to protect and improve the health of the community.

#### ALTERNATIVE ACTIONS CONSIDERED

The Public Health Division assesses each funding source to ensure that it supports the City's mission and goals. The alternative action of not seeking any of these funding sources would result in not providing these public health services to the community.

#### CONTACT PERSON

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

Attachments:  
1: Resolution

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

REVENUE GRANT: STATE OF CALIFORNIA BOARD OF STATE AND COMMUNITY CORRECTIONS PROPOSITION 64 PUBLIC HEALTH AND SAFETY FUNDING

WHEREAS, THE City of Berkeley's Public Health Division desires to participate in the Proposition 64 Public Health and Safety Grant program funded through the California State and Local Government Law Enforcement Account and administered by the Board of State and Community Corrections (Hereafter referred to as the BSCC)

WHEREAS, the City of Berkeley recognizes that there are negative health and safety impacts due to the legalization of the cultivation and adult sale of marijuana, particularly among youth under the age of 21 years old.

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health and educational inequities; and

WHEREAS, the projected amount of the grant is \$1,000,000 for May 1, 2021 through April 30, 2024;

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant application to the BSCC for May 1, 2021 – April 30, 2024 to conduct individual and community health education and health promotion activities to address the health and safety impacts due to the legalization of cultivation and adult sales of marijuana; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$1,000,000; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. Funds will be deposited and expensed from the One-Time Grant: No Capital Expenditures Fund. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the funds received hereunder shall not be used to supplant expenditures controlled by this body

BE IT FURTHER RESOLVED that the City of Berkeley agrees to abide by the terms and conditions of the Grant agreement as set forth by the BSCC



Office of the City Manager

CONSENT CALENDAR

May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Revenue Grant Agreements: Funding Support from the State of California to Conduct Public Health Services

RECOMMENDATION

Adopt five Resolutions authorizing the City Manager or her designee to submit grant agreements to the State of California, to accept the grants, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the following five revenue agreements:

1. **Child Health and Disability Prevention (CHDP) Program**, which includes Early Periodic Screening, Diagnosis, and Treatment (EPSDT) and Health Care Program for Children in Foster Care (HCPCFC), in the projected amount of \$353,395 for FY 2022.
2. **Maternal, Child and Adolescent Health (MCAH) Program**, in the projected amount of \$332,000 for FY 2022.
3. **Tobacco Trust Fund**: There is no match required and this contract is expected to be for \$300,000 in FY 2022.
4. **Immunization Program**: In the projected amount of \$42,204 for FY 2022.
5. **Public Health Emergency Preparedness/Pandemic Flu/Cities Readiness Initiative (CRI) Program** in the projected allocation of \$257,000 for FY 2022.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds in the estimated amount of \$1,284,599 from the State of California for FY 2022 through the funding sources listed above. Each contract will have its own identifying contract number and each source has a defined budget code:

1. **Child Health and Disability Prevention (CHDP) Program**: Revenue Budget Code 312-51-506-556-2046-000-000-432110-, 312-51-506-562-0000-000-000-432110-, and 312-51-506-562-0000-000-000-432110-. Included in this single

State contract, the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and the Health Care Program for Children in Foster Care (HCPCFC). The State establishes an annual cap on local revenue for this program and requires a local match. The precise amount of revenue the City earns is determined by the City's level of match funding, program staff time-studies, and level of eligible services. The City will provide \$31,000 in matching funding in Expenditure Budget Codes 312-51-506-562-0000-000-451- various and 011-51-506-555-0000-000-451- various. Revenue for FY 2022 is expected to be \$353,395.

2. **Maternal, Child and Adolescent Health (MCAH) Program:** Revenue Budget Code 312-51-506-562-0000-000-000-432110-. The state establishes an annual cap on local revenue for this program and requires a local match. The precise amount of revenue the City earns is determined by the City's level of match funding, program staff time-studies, and level of eligible services. The City provides \$150,000 in matching funding in Expenditure Budget Codes 011-51-506-562-0000-000-451- various, 011-51-506-559-2073-000-451- various, and 011-51-506-562-0000-000-451- various. Revenue for FY 2022 is expected to be \$332,000.
3. **Tobacco Trust Fund:** Revenue Budget Code 157-51-506-559-2053-000-000-432310-. There is no match required and this contract is expected to be for \$300,000 in FY 2022.
4. **Immunization Program:** Revenue Budget Code 312-51-506-562-0000-000-000-432110-. There is no match required and this contract is expected to be for \$42,204 in FY 2022.
5. **Public Health Emergency Preparedness/Pandemic Flu/CRI Program:** Revenue Budget Codes: 350-51-506-557-0000-000-000-431110-, 350-51-506-557-2047-000-000-431110-, 350-51-506-557-2048-000-000-431110-. There is no match required and this contract is expected to be for \$257,000 for FY 2022.

Spending of all referenced grant funds is subject to Council approval of the budget for each fiscal year and the Annual Appropriations Ordinances. Depending on the timing of when grants are officially awarded and the amounts are determined, the grant budgets will be adjusted as part of a future amendment to the FY 2022 Annual Appropriations Ordinance.

#### CURRENT SITUATION AND ITS EFFECTS

As a local health jurisdiction, the City of Berkeley provides a broad range of public health program services to the community, with the goals of addressing health inequities, promoting healthy environments and behaviors, protecting residents from disease, and preventing illness, disability, and premature death. In addition to the

funding referenced in this report, the City also has continuing multi-year public health grants with the State of California. The total additional anticipated revenue from these state grants is \$1,284,599 in FY 2022.

### BACKGROUND

The City of Berkeley receives funding from many sources annually to complete work related to improving the health of the community. As a local health jurisdiction, the City is entitled to specific state funding to meet core public health objectives. The division is committed to providing essential services to the community to prevent the spread of disease and to promote healthy environments.

The State establishes funding caps for the CHDP/EPSTD/HPCFC and MCAH programs, with actual revenue determined by city matching funds and service delivery. Revenue projections are based on recent year actual revenues in these programs, service-delivery staffing, eligible client populations, and available matching funds. These projections will enable the department to keep expenditures within actual revenues, by budgeting expenditures to realistic revenue projections.

Each grant serves a specific purpose in the department's work towards improving the health of our community:

1. Child Health and Disability Prevention (CHDP) Program, which includes the Early Periodic Screening, Diagnosis, and Treatment (EPSTD) Program and the Health Care Program for Children in Foster Care (HPCFC), ensures access to complete health assessments for the early detection and prevention of disease and disabilities for low-income children and youth including children in the foster care system.
2. Maternal, Child and Adolescent Health (MCAH) Program develops and implements systems that protect and improve the health of women of reproductive age, infants, children, adolescents and their families and works to reduce the morbidity and mortality of pregnant African American women and their infants. The MCAH program includes Berkeley's Black Infant Health program, which provides groups and other supports to pregnant and post-partum mothers and their infants.
3. Tobacco Trust Fund works to reduce death and disease caused by tobacco use and exposure to second hand smoke.
4. Immunization Program provides community immunization services.
5. Public Health Emergency Preparedness/Pandemic Flu/CRI Program works to promote and protect the health of community and the environment by developing up-to-date medical/health emergency plans, sustaining state and regional

disease control, and by coordinating emergency response efforts with hospitals and healthcare partners.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

These funds support vital services related to our mandates as a public health jurisdiction and local initiatives designed to address health inequities in Berkeley and improve the health of Berkeley residents. These non-competitive grants support the department's mission and provide the City with funding to continue working to protect and improve the health of the community.

ALTERNATIVE ACTIONS CONSIDERED

This funding is essential for the Public Health Division's mission and goals. The Public Health Division assesses each funding source to ensure that it supports the City's mission and goals. The alternative action of not seeking any of these funding sources would result in a significant reduction in public health services to the community.

CONTACT PERSON

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

Attachments:

1. Resolution: CHDP/EPSTDT/HPCFC Programs
2. Resolution: MCAH Program
3. Resolution: Tobacco Trust Fund
4. Resolution: Immunization
5. Resolution: Public Health Preparedness Program Pandemic Flu/CRI



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

GRANT AGREEMENT: STATE OF CALIFORNIA FOR CHDP, EPSDT, AND HCPCFC PROGRAMS FOR FY 2022

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to assuring access to complete health assessments for the early detection and prevention of disease and disabilities for low-income children and youth including children in the foster care system; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal year 2022 for the Child Health and Disability Prevention, Early Periodic Screening, Diagnosis and Treatment (EPSDT) and Health Care Program for Children in Foster Care (HCPCFC): to assure access to complete health assessments for the early detection and prevention of disease and disabilities for low-income children and youth including children in the foster care system; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$353,395; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

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

GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE MATERNAL, CHILD, AND ADOLESCENT HEALTH (MCAH) FOR FY 2022

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to developing systems that protect and improve the health of women of reproductive age, infants, children, adolescents and their families; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to reducing the morbidity and mortality of pregnant African American women and their infants; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal year 2022 for the Maternal, Child, and Adolescent Health (MCAH) program: to develop systems that protect and improve the health of women of reproductive age, infants, children, adolescents and their families and to reduce the morbidity and mortality of pregnant African American women and their infants; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$332,000; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

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

GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE TOBACCO TRUST FUND  
FOR FY 2022

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to reducing death and disease caused by tobacco use and exposure to second hand smoke; and

WHEREAS, second hand smoke is classified as a “known human carcinogen” (cancer causing agent) by the US Environmental Protection Agency, The US Toxicology Program, and the International Agency for Research on Cancer, a branch of the World health organization; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal year 2022 for the Tobacco Trust Fund; to reduce death and disease caused by tobacco use and exposure to second hand smoke; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$300,000; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

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

GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE IMMUNIZATION PROGRAM FOR FY 2022

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to providing immunization services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to providing medical providers technical assistance and support related to immunization best practices; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal year 2022 for the Immunization Program to provide immunization services to the community; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$42,204; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.

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

GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE PUBLIC HEALTH  
PREPAREDNESS PROGRAM PANDEMIC FLU/CRI FOR FY 2022

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to promoting and protecting the health of the public and the environment by developing up-to-date emergency plans, sustaining state and regional disease control, and coordinating emergency response efforts with hospitals and partner organizations; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is hereby authorized to submit a grant agreement to the State of California for funding for fiscal year 2022 for the Public Health Preparedness Program; to accept the grant funds; execute any resultant revenue agreements and amendments in line with the grant award, which may be larger or smaller than the projected award of \$257,000; and implement the projects and appropriation of funding for related expenses, subject to securing the grant. A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
May 25, 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: Accept a Donation from the California Office of Emergency Services

RECOMMENDATION

Adopt a Resolution accepting a donation of cash and gift cards totaling approximately \$9,000 from CalOES, the Governor's Office of Emergency Services.

FISCAL IMPACTS OF RECOMMENDATION

The funds will be contributed as a donation and divided between the Aging Services Division and the Mental Health Division in Fiscal Year (FY) 2022. The Aging Services Division donations code is HHADMO2101 (111-51-505-549-2044-000-000-481110-) and the Mental Health Division donation code is HHMDON2101 (111-51-503-525-2016-000-000-481110-). The gift cards will also be divided between Aging and Mental Health for use with the community members they serve.

CURRENT SITUATION AND ITS EFFECTS

CalOES will send the City of Berkeley a combination of cash and gift cards totaling approximately \$9,000 in recognition of the City's work supporting the vaccination site at the Ed Roberts Campus in February and March. HHCS can utilize the donated funds and gift cards to augment services in its Aging and Mental Health Divisions. Serving community members through Aging and Mental Health is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity.

BACKGROUND

The City worked with the Center for Independent Living, CalOES, Alameda County, the Federal Emergency Management Agency (FEMA) and AmeriCorps to offer vaccines at the Ed Roberts Campus as a vaccine equity strategy. CalOES typically provides these to vaccine site partners.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental sustainability impacts associated with the action in this report.

RATIONALE FOR RECOMMENDATION

The nonprofit partner in the vaccine site also received a donation from CalOES. The donation will supplement existing programs.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Amy Davidson, Deputy Director, HHCS, 510-981-5406

Attachments:

1: Resolution



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

ACCEPTING A DONATION OF APPROXIMATELY \$9,000 FROM THE STATE  
OFFICE OF EMERGENCY SERVICES (CALOES)

WHEREAS, the City of Berkeley help support a COVID19 vaccination site in partnership with the state Office of Emergency Services (CalOES) in February and March; and

WHEREAS, CalOES now wishes to make a donation to the City in appreciation of its efforts; and

WHEREAS, donated resources can help support services for community members provided by the Aging Services and Mental Health Divisions of HHCS.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City accepts a donation in the amount of approximately \$9,000 and in cash and gift cards from CalOES to be deposited in 111-51-503-525-2016-000-000-481110- and 111-51-505-549-2044-000-000-481110-.





Office of the City Manager

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CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: LaTanya Bellow, Director, Human Resources  
 Subject: Classification and Salary: Establish Director of Police Accountability

RECOMMENDATION

Adopt a Resolution amending Resolution No. 69,538-N.S. Classification and Salary Resolution, to establish the Unrepresented classification of Director of Police Accountability with a monthly salary range of \$11,862.93 - \$17,794.40 effective May 25, 2021.

FISCAL IMPACTS OF RECOMMENDATION

The total cost for the position is \$321,719 in FY 2022 and it will be funded by the General Fund.

CURRENT SITUATION AND ITS EFFECTS

The Personnel Board discussed the Director of Police Accountability class specification at its April 12, 2021 meeting and voted (Yes: Lacey, Dixon, Karpinski, Gilbert, Wenk; Noes: None; Abstains: None; Absent: Bartlow, Frankel, Wilson) to recommend the following to City Council:

1. Establish the classification of Director of Police Accountability. The Director of Police Accountability classification will be exempt from the overtime provisions of the Fair Labor Standards act (FLSA) and eligible for Administrative Leave. The Director of Police Accountability classification will be Unrepresented with a monthly salary range of \$11,862.93 - \$17,794.40.

Pursuant to Resolution 69,531–N.S. that was adopted by the City Council on July 28, 2020, the application to solicit community interest in the Police Accountability Board has been issued and it is anticipated that the Mayor and City Council will make appointments to the Board by June 30, 2021 so that the Police Accountability Board can commence its work July 1, 2021. In order to enable the Police Accountability to commence its work, the City Council is being asked to approve the attached class specification so that the Mayor and City Council can appoint an individual to serve as Interim Director of Police Accountability. The Interim will serve at the pleasure of City Council while city staff facilitate a recruitment process to identify candidates for the Director of Police Accountability for City Council consideration.

BACKGROUND

In 1973, a ballot measure was adopted to establish a Police Review Commission for the community to participate in setting Police Department policies, practices, and procedures and to provide a means for investigation of complaints against sworn employees of the Police Department. The existing Police Review Commission consists of nine (9) commissioners that are appointed by the Mayor and City Council, and is supported by three (3) full-time equivalent employees. The Police Review Commission's FY 21 adopted budget is approximately \$776,459. In 2020, the Police Review Commission received twelve (12) individual complaints and two (2) policy complaints.

On November 3, 2020, Berkeley voters adopted Measure II, a Charter Amendment that established the Office of the Director of Police Accountability that consists of a new position, Director of Police Accountability, and the Police Accountability Board. The Police Accountability Board replaces the existing Police Review Commission.

Pursuant to Measure II, the purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department. The Director of Police Accountability, amongst other responsibilities as outlined in Measure II, is responsible for investigating complaints filed against sworn employees of the Berkeley Police Department, carry out the work of the Police Accountability Board, and oversee the day-to-day operations of the Office of the Director of Police Accountability. Both the Police Accountability Board and Director of Police Accountability are independent of the City Manager, except for administrative purposes, and report to the Mayor and City Council.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

It has been the policy of the City to create the necessary classification and salary schedule to accommodate new duties and responsibilities, reflect programmatic changes, maintain competitive salaries and, when applicable, comply with regulatory requirements.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

David White, Deputy City Manager, (510) 981-7012

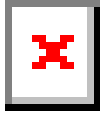
Attachments:

1: Class Specification – Director of Police Accountability

2: Resolution

    Exhibit A: Salary Schedule

Attachment 1



CITY OF BERKELEY  
Established Date: May 25, 2021

Class Code:  
XXXX

Director of Police Accountability  
Bargaining Unit: Unrepresented  
Classification

**SALARY RANGE**

\$68.44 - \$102.66 Hourly  
\$11,862.93 - \$17,794.40 Monthly  
\$142,355.20 - \$213,532.80 Annually

**DESCRIPTION:**

**DEFINITION**

Under direction of the City Council, plans, organizes, directs and reviews, the activities and operations of the Office of the Director of Police Accountability and Police Accountability Board, both of which are independent of the City Manager; coordinates activities and fosters cooperative working relationships with City departments, outside agencies, and civic groups; performs related work as assigned.

**CLASS CHARACTERISTICS:**

This is a single-position executive management classification. The Director of Police Accountability duties are administrative/managerial and highly complex in nature, involving highly technical functions. The incumbent has broad management authority for the day-to-day operations of the Office of the Director of Police Accountability and Police Accountability Board. The Director of Police Accountability is appointed by the City Council.

**EXAMPLES OF DUTIES:**

The following list of duties is intended only to describe the various types of work that may be performed and the level of technical complexity of the assignment(s) and is not intended to be an all-inclusive list of duties. The omission of a specific duty statement does not exclude it from the position if the work is consistent with the concept of the classification, or is similar or closely related to another duty statement.

1. Develop, plan and implement the activities; goals and objectives; recommend and administer policies and procedures of the Office of Director of Police Accountability and Police Accountability Board;
2. Manage, oversee, and participate in the initial processing of complaints received by the Police Accountability Board or the Police Accountability Board from citizens alleging misconduct or other concerns; document, review, and analyze complaints; communicate with citizens, police staff, and/or others as needed to identify complaint issues; determine level of follow-up required;
3. Within state and federal law, and the City and Berkeley Police Department, oversee and perform investigations on complaints received from citizens; make appropriate contacts with the Police Department and/or others to begin investigation; request and review documents, reports, and/or other items deemed pertinent to the matter under investigation;
4. Attend and/or conduct investigative interviews within legal parameters and the policies, practices, procedures, and personnel rules of the City and Berkeley Police Department; develop/prepare conclusions, recommendations, and reports;
5. Review and audit Police Department Internal Affairs documents, reports, and resolutions; develop independent conclusions and produce reports as appropriate for the Police Accountability Board and/or City Council;
6. Monitor, audit, and report on internal investigations conducted by the Police Department concerning allegations of excessive/unnecessary force or other misconduct issues as deemed appropriate; attend briefings and interviews; request information for further investigation if deemed necessary;
7. Develop and prepare recommendations regarding Department policies and procedures related to internal investigations of complaints filed against officers and Police Department operations;
8. Represent the Office of Director of Police Accountability to outside groups and organizations; participate in outside community and professional groups and committees; provide technical assistance as necessary;
9. Advise the Police Accountability Board and City Council regarding any pending or ongoing department matters that are of concern or could have significant impact on City operations;
10. Coordinate activities with other departments, outside agencies and organizations, and civic groups; provide staff assistance to the City Council; prepare and present staff reports and other necessary correspondence;
11. Direct, oversee and participate in the development of work plans; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods and procedures;

12. Supervise and participate in the budget development and administration; direct the forecast of additional funds needed for staffing, equipment, materials and supplies; monitor and approve expenditures; implement mid-year adjustments;
13. Select, train, motivate and evaluate personnel; provide or coordinate training for staff and the Police Accountability Board; conduct performance evaluations; implement discipline procedures; maintain discipline and high standards necessary for the efficient and professional operation of the Office of Director of Police Accountability;
14. Monitor the efficiency and effectiveness of the Office of the Director of Police Accountability work products through quality control and related activities;
15. Prepare and make presentations to City officials, community members and others as required;
16. Participate on committees, boards, task forces, and in community activities as assigned; attend meetings, conferences, and workshops as assigned;
17. May respond on-site to incidents if deemed necessary; and monitor on-site interviews of Police Department personnel, witnesses, and citizens as appropriate;
18. Monitor legislation and assure City compliance with related laws, regulations, statutes, and codes;
19. Build and maintain positive working relationships with co-workers, other employees and the public using principles of good customer service;
20. Perform related duties as assigned.

**KNOWLEDGE AND ABILITIES:**

Note: The level and scope of the knowledges and skills listed below are related to job duties as defined under Class Characteristics.

Knowledge of:

1. Principles and practices of modern public administration, particularly related to areas of law enforcement;
2. Principles and practices of civilian oversight of law enforcement;
3. Principles and practices of leadership, motivation, team building and conflict resolution;
4. Pertinent local, State and Federal laws, rules and regulations;
5. Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs;
6. Principles and practices of organization, administration and personnel management;
7. Principles and practices of budget preparation and administration;
8. Principles of supervision, training and performance evaluation;
9. Investigative principles, methods, and practices;



10. Procedures for conducting civil, criminal or factual investigations that involve gathering, analyzing and evaluating evidence;
11. General legal principles, practices, terminology, and documents;
12. Public relations practices and techniques; public speaking;
13. Current literature, laws, regulations, and developments, as well as various agencies, that impact municipal police internal investigations;
14. Research methods; report writing techniques; statistical concepts and methods; principles and techniques of project management.

Ability to:

1. Plan, direct and control the administration and operations of the Office of the Director of Police Accountability;
2. Maintain commitment to civilian oversight of law enforcement;
3. Implement investigative procedures and standards consistent with best practices for civilian oversight agencies to ensure that investigations are fair, prompt, and unbiased;
4. Develop and implement policies for the Office of the Director of Police Accountability;
5. Communicate clearly and concisely, both orally and in writing;
6. Gain cooperation through discussion and collaboration;
7. Successfully develop, control and administer departmental budget and expenditures;
8. Interpret and apply City policies, procedures, rules and regulations;
9. Supervise, train and evaluate assigned staff;
10. Direct and perform complex and difficult investigations involving sensitive and confidential legal matters;
11. Meet critical deadlines; make decisions under pressure;
12. Develop, recommend, and administer policies and procedures related to complaint investigations;
13. Read, interpret, and analyze complex laws and regulations, and recommend/implement effective and reasonable courses of action;
14. Prepare and give effective public presentations;
15. Prepare and present complex narrative and statistical reports, correspondence, and other documents;
16. Operate and use modern office equipment including computers and applicable software;
17. Establish and maintain effective working relationships with those contacted in the course of work.

**MINIMUM QUALIFICATIONS:**

**A TYPICAL WAY OF GAINING THE KNOWLEDGE AND SKILLS OUTLINED ABOVE IS:**

Equivalent to a Bachelor's degree from an accredited college or university with major course work in criminal justice, criminology, political science, public or business administration or a related field and five years of experience performing professional administrative/investigative or legal/investigative work including substantial involvement with law enforcement issues. An appropriate advanced degree is desirable.

**OTHER REQUIREMENTS:**

Must be able to travel to various locations within and outside the City of Berkeley to meet program needs and to fulfill the job responsibilities. When driving on City business, the incumbent is required to maintain a valid California driver's license as well as a satisfactory driving record.

**CLASSIFICATION HISTORY:**

|                                   |               |
|-----------------------------------|---------------|
| Director of Police Accountability |               |
| Classification Code               | XXXX          |
| Classification Established        | May 25, 2021  |
| FLSA Status                       | Exempt        |
| Admin Leave/Overtime              | Admin Leave   |
| Representation Unit               | Unrepresented |
| Probationary Period               | N/A           |
| Workers' Comp Code                | 8810          |

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

CLASSIFICATION: DIRECTOR OF POLICE ACCOUNTABILITY

WHEREAS, the Human Resources Department maintains the Classification and Compensation plan for the City of Berkeley; and

WHEREAS, the City Manager's Office had requested the Human Resources Department establish the Director of Police Accountability classification; and

WHEREAS, City Manager's Office and Human Resources Department have completed a classification review; and

WHEREAS, the Personnel Board recommended on April 12, 2021 to establish the classification of Director of Police Accountability, exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) and eligible for Administrative Leave, Unrepresented Unit, with a monthly salary range of \$11,862.93 - \$17,794.40 effective May 25, 2021.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution No. 69,538-N.S., Classification and Salary Resolution for Unrepresented is amended to establish the classification of Director of Police Accountability with a salary range as shown in Exhibit A, effective May 25, 2021.

Exhibits

A: Salary Schedule: Director of Police Accountability

May 25, 2021

EXHIBIT A

**SALARY SCHEDULE**

| Job Code | Classification Title              | Rep Unit | FLSA | Step A      | STEP B      | STEP C | STEP D | STEP 5 | Effective Date |
|----------|-----------------------------------|----------|------|-------------|-------------|--------|--------|--------|----------------|
| #####    | Director of Police Accountability | Z1       | E    | \$11,862.93 | \$17,794.40 |        |        |        | 25-May-2021    |



Office of the City Manager

CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Savita Chaudhary, Director, Information Technology  
Subject: Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders

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 \$137,000 through June 30, 2022.

FISCAL IMPACTS OF RECOMMENDATION

One-time funding for this project is available in the Department of Information Technology’s Fiscal Year (FY) 2021 and 2022 Cost Allocation Fund allocation as itemized below. Spending for this contract in future fiscal years will be subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

FY 2021: Professional Services  
\$115,000 Budget Code: 680-35-362-376-0000-000-472-612990-  
(IT Cost Allocation, IT Department, Professional Services)  
  
FY 2022: Professional Services  
\$22,000 Budget Code: 680-35-362-376-0000-000-472-612990-  
(IT Cost Allocation, IT Department, Professional Services)

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**\$137,000 Total FY 2021 and FY 2022 Professional Services**

CURRENT SITUATION AND ITS EFFECTS

The City’s Department of Information Technology (DoIT) is currently working on many enterprise projects that impact interactions with our current and new financial systems, as we transition from FUND\$ to Tyler Munis (ERMA). The demand for technology exceeds our current skillset and resource capacity. For successful implementation of these projects, we need expert level skills in multiple areas. Currently, Robert Half consultants are helping us bridge the gap, allowing us to complete these projects on-time and within budget.

Additionally, the City regularly participates in purchasing vehicles, or Master Award Schedules (MAS) negotiated by GSA. GSA negotiates long term contracts for prices on supplies, products, and services with suppliers on behalf of government agencies, including local government, that ensure volume discount pricing.

The City has several key projects that require additional expert knowledge in interfaces, reporting and data transfer between the City's financial systems. One critical project is the migration of Accounts Receivable / General Billing (AR/GB) from FUND\$ to Tyler Munis. Many of the interface requires deep knowledge of multiple systems and integrations, to fit the new requirements for the implementation.

Key efforts to date are as follows: 1) Updating of the finance cash receipts interface file to allow for accurate reporting of revenue when overpayments are received, 2) assistance with design and configuration management for Ad Hoc reports, and 3) on-going support of Business Licensing module for Rental of Real Property and other business licenses configured in Accela.

Ongoing projects are additional reporting for the HR/Payroll project, assistance with completion of refund bridge to send refund data from Accela directly to FUND\$, and working on additional enhancements to the existing online Business License renewals.

It is important for the City to have continuity in these projects and the existing consultant has gained much of the institutional knowledge in the past six months and replacing the consultant would cause delays to the ongoing projects.

#### BACKGROUND

In July 2020, the City engaged with a Robert Half consultant to assist with several of the DoIT enterprise projects. The consultant worked on the ERMA project, developed various interfaces and reports allowing the City to successfully launch the HR/Payroll module by the beginning of 2021. The consultant also completed some of the critical reporting needs for the Finance department like the Business License Delinquent report.

On March 30, 2021, Council approved funding for the project to expand online renewal and application for all the business license types. The projects mentioned require additional consultant expertise to be available throughout the project for successful completion.

#### ENVIRONMENTAL SUSTAINABILITY

Protiviti Government Services staff will conduct their work remotely thus reducing greenhouse gas emissions from travel to and from City facilities.

#### RATIONALE FOR RECOMMENDATION

The City is currently using Protiviti Government Services under multiple GSA vehicles across several departments for specific professional services engagements. Protiviti Government Services works with Robert Half International to immediately source an analyst with the skillset and experience required to work on these projects, and hence a purchase order was then cut to obtain this resource.

Additionally, staff determined that not using Protiviti Government Services for the remainder of FY puts some of the projects in jeopardy of not being completed on time and within budget.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered learning the skills and doing the projects on their own. The other options would be to try to hire new individual consultants with the required skill set. Furthermore, hiring individual consultants would involve additional time and expenses to become familiar with the City's technologies, departments, and controls.

CONTACT PERSON

Savita Chaudhary, Director, Information Technology, 510-981-6541

Attachments:

1: Resolution

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

PROTIVITI GOVERNMENT SERVICES: USING GENERAL SERVICES  
ADMINISTRATION (GSA) VEHICLE FOR PROFESSIONAL SERVICES PURCHASE  
ORDERS

WHEREAS, in July 2020, the City engaged a consultant to assist in various Accela and Tyler Munis projects, which the consultant has aptly done so far; and

WHEREAS, Protiviti Government Services has the expertise in operations and implementations of complex projects, and provides well qualified analysts; and

WHEREAS, the City regularly participates in purchasing vehicles, or Master Award Schedules (MAS) negotiated by GSA, who negotiates long term contracts for prices on supplies, products, and services with suppliers on behalf of government agencies, including local government, that ensure volume discount pricing; and

WHEREAS, one time funding for this project is available in the Department of Information Technology's Fiscal Year (FY) 2021 and 2022 Cost allocation Fund allocation, and spending for this contract in future fiscal years will be subject to Council approval of the proposed citywide budget and annual appropriation ordinances.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency's (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$137,000 through June 30, 2022.





Office of the City Manager

CONSENT CALENDAR  
May 25, 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: The Surrendered and Abandoned Vessel Exchange (SAVE) grant program of the California Division of Boating & Waterways

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 SAVE grant program for \$42,000; 2) accept any grants; 3) execute any resulting grant agreements and any amendments; and authorizing the implementation of the projects and appropriation of funding for related expenses, including \$4,200 in local match from the Marina Fund.

FISCAL IMPACTS OF RECOMMENDATION

The cost to remove and dispose of abandoned and derelict vessels at the Berkeley Marina through FY2022 is estimated at \$46,200. The Parks, Recreation, and Waterfront Department will submit a grant application to the Division of Boating and Waterways SAVE grant program in the amount of \$42,000 for this work, and will allocate a required minimum 10% local match, equivalent to \$4,200. The local match will be appropriated as part of the First Amendment to the FY 2022 Annual Appropriations Ordinance in the Marina Fund. If awarded, the grant will be deposited and expensed from the Boating and Waterways Fund (Fund 607).

CURRENT SITUATION AND ITS EFFECTS

Each year, approximately eight (8) vessels get abandoned by their owners at the Berkeley Marina because they lack funds to repair the vessels or they lack funds to pay for their dockage fees. Due to the age and neglect of the vessels, they have no value, are not sea-worthy, and are likely to sink. These vessels occupy slips in the Berkeley Marina that could otherwise be enjoyed by other users and they would generate dockage revenue for the City. Additionally, these abandoned and derelict vessels are a visual blight on our Marina and harm our reputation which jeopardizes future revenue. This new round of funding will enable us to keep our docks clear of derelict vessels in the coming year, and build upon the progress we have made in removing derelict vessels via previous SAVE Grants.

BACKGROUND

Responsibility for derelict and abandoned vessels, unfortunately, often falls on public agencies. In 2020, the Berkeley Marina was awarded a SAVE grant for \$130,000 and has contracted with Lind Marine to remove approximately 20 abandoned vessels. In late 2020 the Berkeley Marina was awarded another SAVE grant for \$42,000. For the past 20 years, the Division of Boating and Waterways has provided grant funding assistance to public agencies throughout California, including the City of Berkeley, to properly remove, store, and dispose of abandoned, wrecked, or dismantled vessels or any other partially submerged objects that pose a substantial hazard to navigation, in navigable waterways or adjacent public property, or private property with the landowner's consent.

ENVIRONMENTAL SUSTAINABILITY

Derelict, abandoned, and sunken vessels pose a navigational and environmental hazard to the waters of the Bay (e.g., they can leak oil fuel, oil coolant, paints and solvents, sanitary waste, etc.) Removal and proper disposal of these vessels contributes to the improvement to the health of the Bay waters.

RATIONALE FOR RECOMMENDATION

The Parks, Recreation, and Waterfront Department has the primary responsibility for removing derelict and abandoned vessels from local waters. By applying for SAVE grants, the City is able to substantially leverage our existing funding for these projects, and safely remove potential environmental and navigational hazards from our waters. The swift removal of derelict vessels from our Marina, and preventing the accumulation of such vessels on our docks will improve the attractiveness of the Berkeley Marina to existing and prospective slip holders.

CONTACT PERSON

Alexandra Endress, Waterfront Manager, 981-6737  
Sean Crothers, Waterfront Supervisor, 981-6744

Attachments:

1. Resolution

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

GRANT APPLICATION: SURRENDERED AND ABANDONED VESSEL EXCHANGE  
(SAVE) GRANT PROGRAM OF THE STATE DIVISION OF BOATING AND  
WATERWAYS

WHEREAS, each year, approximately eight (8) vessels get abandoned by their owners at the Berkeley Marina because they lack funds to repair the vessels or they lack funds to pay for their dockage fees. Due to the age and neglect of the vessels, they have no value, are not sea-worthy, and are likely to sink. These vessels occupy slips in the Berkeley Marina that could otherwise be used to generate dockage revenue for the City, and these vessels are a visual blight on our Marina and harm our reputation; and

WHEREAS, responsibility for abandoned vessels, unfortunately, often falls on public agencies. For the past 20 years, the Division of Boating and Waterways has provided grants to public agencies, including the City of Berkeley, to remove, store, and dispose of abandoned, wrecked, or dismantled water vessels or any other partially submerged objects that pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner's consent; and

WHEREAS, the Parks, Recreation and Waterfront Department has the primary responsibility for removing derelict and abandoned vessels from local waters. By applying for SAVE grants, the City is able to substantially leverage our existing funding for these projects, and safely remove potential environmental and navigational hazards from our waters; and

WHEREAS, the cost to remove and dispose of eight (8) abandoned and derelict vessels at the Berkeley Marina in FY2022 is estimated at \$46,200. The Parks, Recreation and Waterfront Department will apply for \$42,000 from the DBW SAVE grant program to remove these vessels, and must provide a minimum match of 10% (equal to \$4,200). The match funds will be included in the First Amendment to the FY2022 Annual Appropriations Ordinance from the Marina Fund. If awarded, the grant will be deposited in the Boating and Waterways Fund (Fund 607).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to 1) submit a grant application to the California Division of Boating and Waterways 2021 SAVE grant program for \$42,000; 2) accept any grants; 3) execute any resulting grant agreements and any amendments; and authorizes the implementation of the projects and appropriation of funding for related expenses, including \$4,200 in local match from the Marina Fund, subject to securing the grant. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

17

CONSENT CALENDAR

May 25, 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: Altec Industries, Inc. for One Aerial Bucket Truck

RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell contract bid procedures, and authorizing the City Manager to execute a purchase order for one (1) Aerial Bucket Truck with Altec Industries, Inc. in an amount not to exceed \$206,180.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of one Aerial Bucket Truck will not exceed \$206,180 and includes, DMV fees, CA tire fees, delivery to City of Berkeley, training and sales tax. Funding for this purchase is available in the FY 2021 budget in the Equipment Replacement Fund.

CURRENT SITUATION AND ITS EFFECTS

This purchase will replace Aerial Bucket Truck equipment number 3276 received in 2006 that has exceeded its useful life of ten years. The Parks Recreation & Waterfront Department's Forestry Division requires a vehicle to perform tree maintenance in parks, along public right of ways, ancillary city property, and emergency response. The replacement vehicles will be equipped with an advanced Jobsite Energy Management System (JEMS) system. JEMS is an integrated plug-in system that uses stored electrical energy to power the aerial device, tools and exportable power, and provides cab comfort with engine off, thus reducing idle time and fuel consumption.

This purchase supports the City's Strategic Plan Goal of providing state-of-the-art, well maintained infrastructure, amenities, and facilities.

BACKGROUND

Throughout the year, each City Department pays its proportionate share into the Equipment Replacement Fund, and those funds are utilized to replace equipment at the end of its useful life. If a vehicle purchase request exceeds \$25,000, the Department of Finance General Services Division solicits bids or "piggybacks" off competitively bid contracts to ensure the City receives the best pricing.

The City of Berkeley has been a no-cost member of Sourcewell<sup>1</sup> (formerly National Joint Powers Alliance), a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statute was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs. Sourcewell serves all educational, government, and non-profit agencies nationwide, and offers cooperatively contracted products, equipment and service opportunities to government entities throughout the U.S.

All Sourcewell contracts have been competitively solicited nationwide. On December 7, 2017 Sourcewell released Request for Proposal No. 012418 for Public Utility Equipment with Related Accessories and Supplies. The solicitation was released for approximately fifty days and fifteen proposals were submitted. Upon review Sourcewell selected Altec Industries, Inc. as the best most responsive proposer to meet the specifications thusly awarding Contract No. 012418-ALT.

#### ENVIRONMENTAL SUSTAINABILITY

The Aerial Bucket Truck features the Jobsite Energy Management System (JEMS SE) system. It is an integrated plug-in system that uses stored electrical energy to power the aerial device, tools and exportable power; and provide cab comfort to include heating and air conditioning without the engine running. This technologically advanced system will eliminate idle time at jobsites, reduce fuel consumption, decrease carbon footprint and tailpipe emissions, and reduce maintenance costs. The hybrid system will work in combination with an engine application powered by 100% renewable diesel that meets 2018 EPA and California Air Resources Board (CARB) requirements.

Fleet Maintenance staff conducted research to ascertain whether an electric drivetrain version of this product is available. The research concluded that there are no fully electric drivetrains for vehicles of this configuration available at this time. The Altec Aerial Bucket Truck with the JEMS ES System is the best selection for the needs of the department.

Usage of renewable diesel also complies with the City's Fossil Free Recommendations. This purchase aligns with the 2020 Municipal Fleet Electrification assessment that recognized the lack of commercially available and viable medium and heavy-duty vehicles. The Municipal Fleet Electrification 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 has 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 \$850,000, primarily for installations at the Corporation Yard. In

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<sup>1</sup> <https://www.sourcewell-mn.gov>

2020, the fleet included 46 hybrids and 15 plug in hybrid-electric vehicles. Since then, the fleet has added 6 EV sedans, 11 hybrid SUVs for the Police Department (PD), and 4 hybrid pickup trucks. In the next FY, the City will add another 11 EV sedans. 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 of last year's vehicle replacements were either hybrid or run on renewable diesel.

RATIONALE FOR RECOMMENDATION

Equipment must be replaced on a reasonable schedule to ensure the Parks Recreation & Waterfront Department's Forestry Staff can efficiently and effectively carry out their duties. This purchase will allow the Forestry Staff to be fully equipped to perform ongoing tree maintenance throughout the City.

ALTERNATIVE ACTIONS CONSIDERED

None. Keeping equipment longer than its useful life results in higher maintenance costs and excessive downtime in order to keep it operating in a safe and serviceable manner. Additionally, higher greenhouse gas emissions are attributed to older vehicles.

CONTACT PERSON

Greg Ellington, Superintendent, Department of Public Works (510) 981-6469

Attachment:  
Resolution

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

PURCHASE ORDER: ALTEC INDUSTRIES, INC. FOR ONE AERIAL BUCKET TRUCK

WHEREAS, one new Aerial Bucket Truck is needed by Parks Recreation & Waterfront Department Forestry Division to be utilized for tree maintenance, trimming and emergency response; and

WHEREAS, equipment unit number 3276 being replaced has exceeded its useful life of ten years; and

WHEREAS, equipment must be replaced on a reasonable schedule that 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 December 7, 2017 Sourcewell released Request for Proposal No. 012418 for Public Utility Equipment with Related Accessories and Supplies. The solicitation was released for approximately fifty days and fifteen proposals were submitted. Upon review Altec Industries, Inc. was selected as the best most responsive proposer to meet the specifications, thusly awarding Contract No. 012418-ALT; and

WHEREAS, Sourcewell contract bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funds in the amount of \$206,180 are available in the FY2021 Equipment Replacement Fund 671.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order for one Aerial Bucket Truck with Altec Industries, Inc. in an amount not to exceed \$206,180.





Office of the City Manager

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CONSENT CALENDAR  
May 25, 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: Braun Northwest for One (1) 2021 North Star 155-1 Type 1 Ambulance

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 one (1) 2021 North Star 155-1 Type 1 Ambulance with Braun Northwest, Inc. in an amount not to exceed \$245,000.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of one (1) North Star 155-1 Type 1 Ambulance will not exceed \$245,000 and includes CA tire fees and sales tax. Funding for this purchase will be provided initially through the Equipment Replacement Fund 671. Insurance will repay the fund the balance of the purchase price, less a deductible amount and actual cash value reimbursement. The deductible, approximately \$25,000, is available in the Equipment Replacement Fund through the Fire Department's vehicle replacement contributions. The actual cash value of approximately \$39,000 was reimbursed to the City through the insurer.

CURRENT SITUATION AND ITS EFFECTS

This purchase will replace ambulance unit number 1989 which sustained permanent damage due to an electrical fire on April 24, 2019. The ambulance is a critical emergency medical response vehicle utilized throughout the City to maintain the community's health and welfare. The new replacement will include a compact design and is custom-built for quality, durability, and maximum functionality. The aluminum construction is designed to reduce weight and provide superior crash protection. In addition, the Fire Department is piloting a "Safety Model" ambulance that is designed to provide enhanced employee and patient safety in the event of a vehicle collision, including roll overs. Vehicle design includes five-point safety restraints for caregivers and patients in the rear of the ambulance, rounded corners inside the vehicle, and equipment storage compartments with multiple points of access facilitating caregivers' ability to get needed supplies quickly without having to move around the patient compartment unrestrained.

This purchase supports the City's Strategic Plan Goal of creating a resilient, safe, connected, and prepared City.

### BACKGROUND

If a purchase request exceeds \$25,000, the Department of Finance, General Services Division solicits bids or "piggybacks" off competitively bid contracts to ensure the City's departments is receiving the best pricing.

The City of Berkeley has been a no-cost member of Houston-Galveston Area Council (HGACBuy), a Cooperative Purchasing Program that has offered inter-local purchasing since 2008. HGACBuy provides procurement services that make the government procurement process more efficient by establishing competitively priced contracts for good and services made available to local governments nationwide.

Products and services offered through HGACBuy have been subjected to a public competitive bid process. On April 3, 2020 HGACBuy released an Invitation to Submit a Competitive Bid, No. AM10-20 for Ambulances, EMS and Other Special Service Vehicles. The solicitation was nationally advertised for thirty-four days. On May 7, 2020, twenty-four proposals were submitted and reviewed by the Houston-Galveston Area Council who selected Braun Northwest, Inc. as one of the best responsive and responsible proposers to meet the specifications, thusly awarding Contract No. AM10-20.

HGACBuy charges an order processing fee for each sale successfully completed through their contract. For this purchase, a flat fee charge of \$1,000 will be paid directly to HGACBuy by Braun Northwest, Inc.

### ENVIRONMENTAL SUSTAINABILITY

For every fleet purchase, Public Works staff researches the feasibility and availability of fully electric vehicles and hybrid-electric powertrains to support the City's transition off fossil fuels. Staff research found that there are no viable electric or hybrid electric ambulances for consideration. There are several companies in early development stages internationally.

In addition to the lack of readily available and tested electric ambulances, there is no current infrastructure at the Fire Stations to support electric charging of vehicles. The new ambulance will be run on 100% renewable diesel. Usage of renewable diesel also complies with the City's Fossil Free Recommendations. This purchase aligns with the 2020 Municipal Fleet Electrification assessment that recognized the lack of commercially available and viable medium and heavy-duty vehicles. The Municipal Fleet Electrification 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 has 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 \$850,000, primarily for installations at the Corporation Yard. In 2020, the fleet included 46 hybrids and 15 plug in hybrid-electric vehicles. Since then, the fleet has added 6 EV sedans, 11 hybrid SUVs for the Police Department (PD), and 4 hybrid pickup trucks. In the next FY, the City will add another 11 EV sedans. 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 of last year's vehicle replacements were either hybrid or run on renewable diesel.

RATIONALE FOR RECOMMENDATION

The Ambulance replacement is an essential vehicle utilized to meet the goals required of the Fire Department. The City requires safe and reliable emergency medical response vehicles to maintain the community's health and welfare.

ALTERNATIVE ACTIONS CONSIDERED

None. Vehicle replaced identified as a physical loss due to permanent damage. City will be reimbursed through insurance claim.

CONTACT PERSON

Greg Ellington, Superintendent, Department of Public Works (510) 981-6469

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

PURCHASE ORDER: BRAUN NORTHWEST, INC. FOR ONE (1) NORTHWEST 155-1, TYPE 1 AMBULANCE

WHEREAS, one (1) replacement North Star 155-1 Type 1 ambulance is needed by the City of Berkeley Fire Department to replace unit 1989 permanently damaged per insurer; and replenish inventory of well-maintained safe and dependable emergency medical response vehicles; and

WHEREAS, Charter section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through a competitive bid process; and

WHEREAS, on April 3, 2020 HGACBuy released an invitation to submit a Competitive Bid, No. AM10-20 for Ambulances, EMS & Other Special Service Vehicles. The solicitation was released for approximately thirty-four days and twenty-four bids were submitted and reviewed. On May 7, 2020 Houston Galveston Area Council selected Braun Northwest, Inc. as the best most responsive bidder to meet the specifications, thusly awarding Contract No. AM10-20; and

WHEREAS, HGACBuy contact bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funds in the amount of \$245,000 are available in the FY21 Equipment Replacement Fund 671 to be reimbursed by insurance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order for one Northwest 155 Type 1 Ambulance with Braun Northwest, Inc. in an amount not to exceed \$245,000.



Office of the City Manager

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CONSENT CALENDAR  
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Graham, Director, Public Works

Subject: Purchase Order: Cal-Line Equipment Inc. for Three (3) Bandit 250XP Brush Chippers

RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (formerly NJPA) bid procedures, and authorizing the City Manager to execute a purchase order for three (3) Brush Chippers with Cal-Line Equipment Inc. in an amount not to exceed \$206,200.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of three (3) Brush Chippers Model 250XP will not exceed \$206,200 and includes, CA tire fees, sales tax, delivery and equipment preparation. Sufficient funding has been collected to replace these vehicles and is available in the FY 2021 Budget from the Equipment Replacement Fund 671.

CURRENT SITUATION AND ITS EFFECTS

The purchase of three Brush Chippers will replace units 3034, 3035 and 3036 which have been fully utilized since 2015 are due for replacement in FY21 as they have reached the end of their useful six year life. The Chippers will be utilized by the Parks Recreation & Waterfront Forestry Division for processing vegetation generated through removal, maintenance, and trimming throughout the City. They are also used to support fire fuel mitigation and during emergency response.

This purchase supports the City's Strategic Plan Goal of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Throughout the year, the Department of Public Works purchases vehicles and equipment for the City's operating departments that are paid through the Equipment Replacement fund. City departments that use fleet vehicles pay into the equipment replacement fund, which funds vehicle replacement as they reach the end of their life. If a purchase request exceeds \$25,000, the Department of Finance, General Services Division solicits bids or "piggybacks" off competitively bid contracts to ensure the City's departments receive the best pricing.

The City of Berkeley has been a no-cost member and participant of Sourcewell formerly National Joint Powers Alliance (NJPA), a municipal contracting agency operating under the legislative authority of Minnesota Statue 123A.21. The original statue was revised in 1995 to allow government clients to better meet their specific need through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs. Sourcewell serves all educational, government, and non-profit agencies nationwide, and offers cooperatively contracted products, equipment and service opportunities to government entities throughout the U.S.

All Sourcewell contracts have been competitively solicited nationwide. On May 11, 2017 NJPA released Request for Proposal No. 062117 for Grounds Maintenance Equipment Attachments, Accessories, and Related Services. The solicitation was released for approximately twenty-one days. On June 21, 2017 twenty-nine proposals were submitted. The following day, upon review, NJPA selected Bandit Industries, Inc. as the best most responsive proposer to meet the specifications thusly awarding Contract No. 062117-BAN.

The Bandit Industries, Inc. authorized dealer for the state of California is Cal-Line Equipment Inc.

#### ENVIRONMENTAL SUSTAINABILITY

The new chippers will be equipped with a Tier 4 Final engine application that meets the strictest EPA emissions standard for off-highway diesel engine applications. Additionally, equipment will be powered by renewable diesel and will reduce fuel consumption by an estimated 25% and reduce greenhouse gas emissions by as much as 50-80%. Usage of renewable diesel complies with the City's Fossil Free recommendations.

Public Works contacted industry representatives from Carlton, Bandit, and Vermeer regarding the availability of fully electric versions of this equipment. Representatives confirmed there are no fully electric versions available for 120 HP or greater portable brush chipper applications.

Usage of renewable diesel also complies with the City's Fossil Free Recommendations. This purchase aligns with the 2020 Municipal Fleet Electrification assessment that recognized the lack of commercially available and viable medium and heavy-duty vehicles. The Municipal Fleet Electrification 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 has 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 \$850,000, primarily for installations at the Corporation Yard. In 2020, the fleet included 46 hybrids and 15 plug in hybrid-electric vehicles. Since then, the fleet has added 6 EV sedans, 11 hybrid SUVs for the Police Department (PD), and 4

hybrid pickup trucks. In the next FY, the City will add another 11 EV sedans. 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 of last year's vehicle replacements were either hybrid or run on renewable diesel.

RATIONALE FOR RECOMMENDATION

Equipment must be replaced on a reasonable schedule to ensure the Forestry Equipment Operators can efficiently and effectively carry out their duties.

ALTERNATIVE ACTIONS CONSIDERED

None. Keeping equipment longer than its useful life results in higher maintenance costs and excessive downtime in order to keep it operating in a safe and serviceable manner.

CONTACT PERSON

Greg Ellington, Superintendent, Department of Public Works (510) 981-6469

Attachment:

1: Resolution

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

PURCHASE ORDER: CAL-LINE EQUIPMENT INC. FOR THREE (3) BRUSH  
CHIPPERS

WHEREAS, three (3) Brush Chippers are needed by the City of Berkeley Forestry Division for maintenance, trimming and removal of trees throughout the City. They are also used for the fire fuel mitigation project and emergency response; and

WHEREAS, equipment must be replaced upon a reasonable schedule that allows operators to efficiently and effectively carry out their duties; and

WHEREAS, City Charter XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through a competitive bid process; and

WHEREAS, On May 11, 2017 NJPA released Request for Proposal No. 062117 for Grounds Maintenance Equipment Attachments, Accessories, and Related Services. The solicitation was released for approximately twenty-one days. On June 21, 2017 twenty-nine proposals were submitted and upon review NJPA selected Bandit Industries, Inc. as the best most responsive proposer to meet the specifications thusly awarding Contract No. 062117-BAN; and

WHEREAS, the Bandit Industries, Inc. authorized dealer for the state of California is Cal-Line Equipment Inc.; and

WHEREAS, Sourcewell contract bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funds in the amount of \$206,200 are available in the FY2021 Equipment Replacement Fund (671).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley complies with the requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell (formerly NJPA) bid procedures, and authorizing the City Manager to execute a purchase order for three Brush Chippers with Cal-Line Equipment Inc. in an amount not to exceed \$206,200.





Office of the City Manager

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CONSENT CALENDAR  
May 25, 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: Golden State Fire Apparatus, Inc. for One Pierce Quantum 1500 GPM Pumper

RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in HGACBuy bid procedures, and authorizing the City Manager to execute a purchase order for one (1) Pierce Quantum 1500 GPM Pumper with Golden State Fire Apparatus, Inc. in an amount not to exceed \$866,000.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of one (1) Pierce Quantum 1500 GPM Pumper will not exceed \$866,000 and includes, CA tire fees, delivery to City of Berkeley, and sales tax. Funding for this purchase will be provided initially through the Equipment Replacement Fund 671. Insurance will repay the fund, providing 50% of purchase price prior to purchase, and refund the remaining 50% after purchase order is submitted, less a deductible amount. The deductible, approximately \$39,000, is available in the Equipment Replacement Fund through Fire Department's vehicle replacement contributions.

CURRENT SITUATION AND ITS EFFECTS

This purchase will replace Engine equipment number 1947 permanently damaged on December 17, 2020. The Fire Engine is critical for the operation of the City of Berkeley Fire Department. Though primarily used to address emergencies in Berkeley, it will also be utilized within the Statewide Mutual Aid system which supports other jurisdictions whenever their own resources prove to be inadequate to cope with given situations. Additionally, the fire engine is an emergency first responder vehicle that addresses all types of emergencies, including but not limited to fires, medical emergencies, rescues, hazardous situations, alarms, and anything that requires an emergency response 24/7 (excluding law enforcement emergencies).

The City will be reimbursed through insurance claim. Reimbursement will take place in two cycles. Partial payment to be received before purchase (50%) and remaining (50%) after P.O. is submitted.

This purchase supports the City's Strategic Plan Goal of creating a resilient, safe, connected, and prepared City.

### BACKGROUND

The City of Berkeley has been a no cost member of the Houston-Galveston Area Council (HGACBuy), a Cooperative Purchasing Program that has offered inter-local purchasing since 2008. HGACBuy provides procurement services that make the government procurement process more efficient by establishing competitively priced contracts for good and services made available to local governments nationwide.

Products and services offered through HGACBuy have been subjected to a public competitive bid process. On June 27, 2019 HGACBuy released an Invitation to Submit Competitive Bid, Invitation No. FS12-19 for Fire Service Apparatus (All Types). This solicitation was nationally advertised for twenty-eight days. Twenty-nine proposals were received and reviewed by the Houston-Galveston Area Council who selected Golden State Fire Apparatus, Inc. as one of the best responsive and responsible proposers to meet the specifications, thusly awarding Contract No. FS12-19.

HGACBuy charges an order processing charge for each sale successfully completed through their contract. For this purchase a flat fee of \$2,000 will be paid directly to HGACBuy by Golden State Fire Apparatus, Inc.

### ENVIRONMENTAL SUSTAINABILITY

Public Works Equipment Maintenance works to procure the most fuel-efficient vehicles and equipment that are suitable for the required tasks. Hybrid/Electric Heavy-Duty Emergency Fire Apparatuses are just starting to be developed and are not yet available for the Fire Services industry.

The replacement equipment is state of the art, and will be powered by renewable diesel fuel that meets 2018 EPA and California Air Resources Board (CARB) requirements. Usage of renewable diesel also complies with the City's Fossil Free Recommendations. This purchase aligns with the 2020 Municipal Fleet Electrification assessment that recognized the lack of commercially available and viable medium and heavy-duty vehicles.

The Municipal Fleet Electrification 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 has 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 \$850,000, primarily for installations at the Corporation Yard. In 2020, the fleet included 46 hybrids and 15 plug in hybrid-electric vehicles. Since then, the fleet has added 6 EV sedans, 11 hybrid SUVs for the Police Department (PD), and 4 hybrid pickup trucks. In the next FY, the City will add another 11 EV sedans. 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 of last year's vehicle replacements were either hybrid or run on renewable diesel.

RATIONALE FOR RECOMMENDATION

The Fire engine replacement is an essential vehicle utilized to meet the goals required of the Fire Department. The City requires safe and reliable fire vehicles to respond to all emergencies and functions in mutual response circumstances.

ALTERNATIVE ACTIONS CONSIDERED

None. Listed vehicle replacement is identified as physical loss due to permanent damage, and City will be reimbursed through insurance claim.

CONTACT PERSON

Greg Ellington, Superintendent, Department of Public Works (510) 981-6469

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

PURCHASE ORDER: GOLDEN STATE FIRE APPARATUS, INC. FOR ONE (1)  
PIERCE QUANTUM 1500 GPM PUMPER

WHEREAS, one (1) Pierce Quantum 1500 GPM Pumper is needed by the City of Berkeley Fire Department to replace unit 1947 damaged during vehicle collision; and replenish inventory of well-maintained safe and dependable emergency response vehicles; and

WHEREAS, Charter section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through a competitive bid process; and

WHEREAS, on June 27, 2019 HGACBuy released an Invitation to Submit Competitive Bid No. FS12-19 for Fire Service Apparatus (All Types). The solicitation was released for approximately twenty-eight days and twenty-nine proposals were received. Upon their review HGACBuy selected Golden State Fire Apparatus, Inc. as the best most responsible bidder to meet the specifications, thusly awarding Contract No. FS12-19; and

WHEREAS, HGACBuy contract bid procedures satisfy the procurement requirements of the City of Berkeley; and

WHEREAS, funds in the amount of \$ 866,000 are available in the FY21 Equipment Replacement Fund 671.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Manager is authorized to execute a purchase order for one (1) Pierce Quantum 1500 GPM Pumper with Golden State Fire Apparatus, Inc. in an amount not to exceed \$866,000.



Office of the City Manager

21

CONSENT CALENDAR  
May 25, 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. 108563-1 Amendment: Stanley Access Technologies for On-Call and Emergency Repair Services for Automatic Doors

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract 108563-1 with Stanley Access Technologies, to increase spending authority by \$50,000 for a total not to exceed amount of \$100,000 and to extend contract terms for one year, to June 30, 2023, for continued on-call and emergency repair services to maintain the commercial automatic doors in City-owned facilities.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the contract amendment is subject to appropriation in the FY 2022 budget in the Building Maintenance Fund.

CURRENT SITUATION AND ITS EFFECTS

The Public Works Department maintains multiple City-owned facilities equipped with commercial automated doors. In keeping with the City's goals of providing well-maintained facilities; creating a safe, prepared City; and in compliance with ANSI/BHMA A156.10-1985 requirements for Automatic and Power Assisted Pedestrian Doors, it is imperative to maintain these automated doors in proper operating condition. Amending the contract to extend the terms for an additional year and to increase the originally contracted not to exceed amount of \$50,000 secures continued contract authority to utilize Stanley Access Technologies for service and repair of the City's commercial automated doors, ensuring that these critical points of entry and exit function reliably at all times.

This contract amendment supports the City's Strategic Plan Goal of to providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

BACKGROUND

Pursuant to the 2015 issue of a Public Works Department Request for Proposal (RFP), Stanley Access Technologies responded with a Bid Proposal on September 29, 2015 and was selected as the most qualified responsive bidder; they employ fully trained and experienced service personnel with the necessary knowledge and expertise to perform

the specialized work required to service and repair the type of commercial automated doors in use within City buildings. The City entered into contract with Stanley Access Technologies on December 1, 2015 for an initial contract term of four years, six months at a contracted amount not to exceed \$50,000.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Stanley Access Technologies has provided timely, reliable, quality service for the City since 2015. The vendor is knowledgeable about and familiar with the City's equipment and maintains a staff of trained service technicians that reliably provide emergency on-call services within a four-hour response time window. This quick response time is crucial in ensuring that critical points of entry and exit at the City's Fire Stations and Public Safety Buildings are optimally functional. The City does not currently employ personnel with the specialized skills to maintain and repair commercial automated doors.

ALTERNATIVE ACTIONS CONSIDERED

None. Contractor was selected as the most qualified responsive bidder.

CONTACT PERSON

Aaron Baker, Superintendent, Public Works, 510-981-6452

Attachment:

1: Resolution

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

CONTRACT NO. 108563-1 AMENDMENT WITH STANLEY ACCESS TECHNOLOGIES, FOR CONTINUED ON-CALL AND EMERGENCY SERVICES FOR COMMERCIAL AUTOMATIC DOORS IN CITY-OWNED FACILITIES

WHEREAS, The City owns multiple facilities that utilize commercial automatic type doors to provide access to and exit from the facility; and

WHEREAS, The City and Stanley Access Technologies entered into Contract No. 108563-1 (FUND\$ Contract No. 10187) effective December 1, 2015, for On-Call and Emergency Service and Repair of the commercial automatic doors in City-owned facilities; and

WHEREAS, Stanley Access Technologies is a valued contractor who has provided consistently quality service for the City since 2015 and who retains a trained workforce with the knowledge, expertise and resources to reliably provide emergency on-call services within a critical four-hour response time window; and

WHEREAS, funding of \$50,000 for the contract amendment is subject to appropriation in the FY 2022 budget in the Building Maintenance Fund 673.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 108563-1 with Stanley Access Technologies, for continued on-call and emergency services to maintain the commercial automatic doors in City-owned facilities, increasing the contract by \$50,000.00 for a total not to exceed amount of \$100,000.00 and extending the contract term to June 30, 2023. A record copy of the contract and amendment to be on file with the City Clerk.







Office of the City Manager

CONSENT CALENDAR  
May 25, 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: Declaration of Intent – Fiscal Year 2022 Street Lighting Assessments

RECOMMENDATION

Adopt two Resolutions granting the City Manager the authority to approve the Engineer’s Reports; set a public hearing to be held before the Council of the City of Berkeley at its June 15, 2021 meeting; and authorize the City Clerk to publish Notice of the Public Hearing for Fiscal Year 2022 Levy of Assessments for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018.

FISCAL IMPACTS OF RECOMMENDATION

Resolutions would conditionally approve, pending public hearing and final City Council authorization thereafter, the continued levying of assessments in Fiscal Year (FY) 2022 for Berkeley Street Lighting Assessment District No. 1982-1 and Street Lighting Assessment District 2018, collectively referred to herein as the Districts.

The assessments are to be filed with the Alameda County Auditor and included on the County’s assessment roll. After collection by the County the total amount of the assessment minus a county collection fee is paid to the City of Berkeley. The revenue is posted in the Street Light Assessment District Fund (Fund 142).

The City’s Street Lighting Program in FY 2022 has projected expenditures in the amount of \$2,881,369. FY 2022 revenue from proposed street lighting assessment is estimated at \$2,008,042 resulting in a shortfall of approximately \$873,327. This deficit can be covered by the projected available fund balance in the Street Light Assessment District Fund. A summary of FY 2022 revenue, expenditures and fund balances for the assessment districts is shown in Table 1.

**Table 1: FY 2022 Street Light Assessment Fund Forecast**

|                                               |                                 |
|-----------------------------------------------|---------------------------------|
| <b>Estimated Beginning Balance (Fund 142)</b> | <b>\$ 2,031,342<sup>1</sup></b> |
| <b>Street Lighting Program Expenditures</b>   | <b>\$ 2,881,369</b>             |

<sup>1</sup> Deferred street lighting improvements and maintenance over the last two fiscal years have led to a buildup of fund reserves. Surplus funds will be allocated to the development of a Street Lighting Master Plan that will help direct capital spending in future fiscal years.

| <b>Projected Assessments</b>            |                     |
|-----------------------------------------|---------------------|
| Street Light Assessment District 1982-1 | \$ 1,398,111        |
| Street Light Assessment District 2018   | \$ 644,657          |
| County Collection Fee (1.7%)            | \$ (34,727)         |
| <b>Projected Net Assessments</b>        | <b>\$ 2,008,042</b> |
| <b>Deficit</b>                          | <b>\$ (873,327)</b> |
| <b>Estimated End Balance (Fund 142)</b> | <b>\$ 1,158,014</b> |

Allowable annual adjustments of the 2018 District assessment rates are expected to raise revenues over the coming years.

**CURRENT SITUATION AND ITS EFFECTS**

The proposed FY 2022 rates for Assessment District 1982-1 (1982 District) are incorporated into the Engineer’s Report (Attachment 3) and reflect no changes to assessment rates in FY 2022. Accordingly, this action is exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XIII D, Sec. 5). Any increase or change in formula for the assessments would make the annual assessment subject to procedures and approval process of Proposition 218 (Government Code Section 53750-53754). Table 2 details prior year and proposed FY 2022 assessment rates for this district.

**Table 2: Street Lighting Assessment District No. 1982-1 Rate Schedule**

| <b>Rate Category</b>          | <b>Assessment FY 2021</b> | <b>Proposed Assessment FY 2022</b> | <b>Unit</b>      |
|-------------------------------|---------------------------|------------------------------------|------------------|
| Residential and Institutional | \$ 0.0108                 | \$ 0.0108                          | BSF <sup>2</sup> |
| Industrial and Utility        | \$ 0.0216                 | \$ 0.0216                          | BSF              |
| Commercial                    | \$ 0.0432                 | \$ 0.0432                          | BSF              |

The assessment for Street Lighting Assessment District 2018 (2018 District) is subject to an annual adjustment tied to the Consumer Price Index-U for the San Francisco Bay Area as of December of each succeeding year (the “CPI”), with a maximum annual adjustment not to exceed 3%. For the period beginning in December 2019 and ending in December 2020, the CPI increased by 2.00%<sup>3</sup>; therefore the assessment CPI adjustment for Fiscal Year 2022 may not exceed 2.00%. As approved by voters, the total annual adjustment may be calculated by taking the sum of the 1982-1 District assessment and the 2018 District assessment, and multiplying the sum by the allowable CPI increase. Calculating the adjustment in this manner allows for the inclusion of a

<sup>2</sup> Building Square Footage (BSF)

<sup>3</sup> Bureau of Labor Statistics, Data Series CUUSS49BSA0

1982-1 District adjustment as part of the 2018 District adjustment. The cumulative total adjustment results in a 2018 District assessment rate increase of approximately 6.1%.

These rate increases and the methodology used in their calculation are in accordance with the voter approved measure; therefore the proposed adjustments are exempt from the notice, protest, and hearing requirements of State Proposition 218 as set forth in Government Code Section 53753.5 (Article XII D, Sec. 5). Table 3 details FY 2021 and proposed FY 2022 assessment rates for this district. A detailed calculation of the annual adjustment and the corresponding rate increases are included in the 2018 District Engineer's Report (Attachment 4).

**Table 3: Street Lighting Assessment District 2018 Rate Schedule**

| Rate Category                   | Assessment FY 2021  | Proposed Assessment FY 2022 | Unit   |
|---------------------------------|---------------------|-----------------------------|--------|
| <b>Residential</b>              |                     |                             |        |
| Single Family                   | \$ 13.32            | \$ 14.12                    | parcel |
| Multi-Family<5 units            | \$ 10.66            | \$ 11.30                    | unit   |
| Multi-Family 5 or more units    | \$ 7.98             | \$ 8.47                     | unit   |
| Condominium                     | \$ 10.66            | \$ 11.30                    | parcel |
| Mobile Home                     | \$ 6.66             | \$ 7.06                     | unit   |
| Multiple SFR on parcel          | \$ 13.32            | \$ 14.12                    | unit   |
| <b>Non-Residential</b>          |                     |                             |        |
| General Commercial              | \$ 199.78           | \$ 211.82                   | acre   |
| Industrial / Warehouse          | \$ 19.98            | \$ 21.18                    | acre   |
| Auto Repair                     | \$ 133.18           | \$ 141.22                   | acre   |
| Hotel / Motel / Boarding        | \$ 133.18           | \$ 141.22                   | acre   |
| Hospital                        | \$ 83.24            | \$ 88.26                    | acre   |
| Retirement Home                 | \$ 16.64            | \$ 17.65                    | acre   |
| School / Day Care               | \$ 29.96            | \$ 31.77                    | acre   |
| Medical / Dental / Vet          | \$ 166.48           | \$ 176.52                   | acre   |
| Church                          | \$ 9.98             | \$ 10.59                    | acre   |
| Mortuary                        | \$ 3.32             | \$ 3.53                     | acre   |
| Recreational                    | \$ 33.30            | \$ 35.30                    | acre   |
| Parking / Transportation        | \$ 66.60            | \$ 70.61                    | acre   |
| Mini Storage                    | \$ 9.98             | \$ 10.59                    | acre   |
| Office                          | \$ 49.94            | \$ 52.96                    | acre   |
| Bank                            | \$ 166.48           | \$ 176.52                   | acre   |
| Park / Open Space / Agriculture | \$ 0.66             | \$ 0.71                     | acre   |
| Vacant                          | <i>Not assessed</i> |                             |        |

Revenue from the assessments will provide needed funding for the installation, maintenance, and servicing of public lighting facilities, including but not limited to street lights, traffic signals, and related electrical facilities. The improvements and services provided support the Strategic Plan goals of creating a resilient, safe, connected, and prepared city and of providing state-of-the-art, well-maintained infrastructure, amenities, and facilities.

## BACKGROUND

The Berkeley Street Lighting Assessment District No. 1982-1 was established under the Landscaping and Lighting Act of 1972 (Streets and Highway Code Section 22620-22631) on July 27, 1982 (Resolution No. 51,449-N.S.)<sup>4</sup>. The Street Lighting Assessment District 2018 was established under the same Act on June 12, 2018 (Resolution No. 68,482-N.S.). The Landscaping and Lighting Act of 1972 requires City Council to hold a public hearing each year to consider adoption of an annual budget and approve changes to the Engineer's Report, even if assessments are not being increased.

In accordance with the Landscaping and Lighting Act of 1972, the City Council sets a date for a public hearing, and authorizes publication of a notice at least ten days prior to the date of that hearing to allow owners of assessed properties within each district to make an oral or written protest against the annual levy. During the course of, or upon conclusion of the public hearing, City Council may order changes in any of the matters provided in the respective Engineer's Report, including changes in improvements; zones within the assessment district; and the proposed district diagram, or the proposed assessment, as long as any proposed changes are less than the proposed annual levy.

Copies of the Engineer's Reports with FY 2022 assessments are on file with the City Clerk and at the reference desk of the main branch of the Berkeley Public Library as of May 13, 2021. These documents will be available to the public when the Library and City offices reopen for public business. Electronic copies of the reports and complete assessment rolls are available to the public upon request.

## ENVIRONMENTAL SUSTAINABILITY

The City exclusively uses LED (light emitting diode) street lighting. LED lights provide environmental benefits by reducing the level of greenhouse gases emitted; reducing level of toxic materials disposed; maximization of energy and energy cost savings; achieving the City's illumination standards; and minimizing administration costs and staff time for street light maintenance.

## RATIONALE FOR RECOMMENDATION

The Landscaping and Lighting Act of 1972, under which the Districts were formed, requires a public hearing to be held each year during the course of a regular City Council Meeting to consider adoption of an annual budget and changes to the Engineer's Report. Failing to meet these requirements would prevent the City from collecting assessments for the Districts in FY 2022.

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<sup>4</sup> State of California legislation (Streets & Highways §22500) allows local governmental agencies to form Landscape & Lighting Maintenance Districts. A 1972 Act Landscaping and Lighting District is a flexible tool used by local government agencies to pay for landscaping, lighting and other improvements and services in public areas. It is based on the concept of assessing only those properties that benefit from improvements financed, either directly, or indirectly through increased property values.  
<http://www.californiataxdata.com/pdf/1972LLact.pdf>

**CONTACT PERSON**

Liam Garland, Director, Department of Public Works, (510) 981-6303

Joe Enke, Acting Manager of Engineering/City Engineer, (510) 981-6411

**Attachments:**

- 1: Resolution – Declaration of Intent – Street Lighting Assessment District 1982-1
- 2: Resolution – Declaration of Intent – Street Lighting Assessment District 2018
- 3: Engineer’s Report - Street Lighting Assessment District 1982-1 Fiscal Year 2022
- 4: Engineer’s Report - Street Lighting Assessment District 2018 Fiscal Year 2022
- 5: Notice of Public Hearing

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

DECLARATION OF INTENT – ASSESSMENTS FOR FY 2021 STREET LIGHTING  
ASSESSMENT DISTRICT 1982-1

WHEREAS, on July 27, 1982, the Council of the City of Berkeley Adopted Resolution No. 51,449–N.S. that completed proceedings to form the Berkeley Street Lighting Assessment District No. 1982-1; and

WHEREAS, pursuant to Chapter III of the Landscaping and Lighting Act of 1972 Street and Highway Code Section 22620-22631, the Department of Public Works, Engineering Division, Engineer of Work for Berkeley Street Lighting Assessment District No. 1982-1, prepared and filed an annual report for levy of annual assessments for Fiscal Year (FY) 2022 with the City Clerk.

NOW THEREFORE, BE IT RESOLVED, the Council of the City of Berkeley approves the Engineer’s Report, dated May 2021, on levy of assessments for FY 2022 for Berkeley Street Lighting Assessment District 1982-1. The area of land to be assessed is located in the City of Berkeley, Alameda County.

BE IT FURTHER RESOLVED, the Council of the City of Berkeley declares its intention to levy and collect assessments within the Berkeley Street Lighting Assessment District 1982-1 for FY 2022.

BE IT FURTHER RESOLVED, the City Clerk shall publish a notice at least ten (10) days prior to the date of the public hearing listing the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

BE IT FURTHER RESOLVED, improvements to be made in this assessment district are generally described as maintenance or servicing of existing and future public lighting facilities, including, but not limited to street lights, traffic signals, and related electrical facilities; and the installation and construction of public lighting including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk, paving, irrigation, and drainage as needed for the installation of public lighting or related electrical facilities.

BE IT FURTHER RESOLVED, the annual report for Fiscal Year 2022 for which assessments are to be levied and collected to pay the costs of the improvements described in the report prepared by the Department of Public Works, Engineering Division, in accordance with the Landscaping and Lighting Act of 1972 is filed with the Office of City Clerk. All interested persons are referred to that report for a full and detailed description of improvements, boundaries of the assessment district, and proposed assessments upon assessable lots and parcels of land within the assessment district.

BE IT FURTHER RESOLVED, at 6:00 PM on Tuesday, June 15, 2021 the City Council will conduct a public hearing. The hearing may be held in the School District Board Room

located at 1231 Addison Street, Berkeley, CA 94702 or via videoconference pursuant to Governor's Executive Order N-29-20.

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

DECLARATION OF INTENT – ASSESSMENTS FOR FY 2022 STREET LIGHTING  
ASSESSMENT DISTRICT 2018

WHEREAS, on June 12, 2018, the Council of the City of Berkeley Adopted Resolution No. 68,432–N.S. that completed proceedings to form the Street Lighting Assessment District 2018; and

WHEREAS, pursuant to Chapter III of the Landscaping and Lighting Act of 1972 Street and Highway Code Section 22620-22631, the Department of Public Works, Engineering Division, Engineer of Work for Street Lighting Assessment District 2018, prepared and filed an annual report for levy of annual assessments for Fiscal Year (FY) 2022 with the City Clerk.

NOW THEREFORE, BE IT RESOLVED, the Council of the City of Berkeley approves the Engineer’s Report, dated May 2021, on levy of assessments for FY 2022 for Street Lighting Assessment District 2018. The area of land to be assessed is located in the City of Berkeley, Alameda County.

BE IT FURTHER RESOLVED, the proposed annual adjustments of assessments are in compliance with the provisions of Proposition 218 because adjustments are in accordance with adjustment formulas established when the assessment district was formed.

BE IT FURTHER RESOLVED, the Council of the City of Berkeley declares its intention to levy and collect assessments within the Street Lighting Assessment District 2018 for FY 2022.

BE IT FURTHER RESOLVED, the City Clerk shall publish a notice at least ten (10) days prior to the date of the public hearing listing the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

BE IT FURTHER RESOLVED, improvements to be made in this assessment district are generally described as maintenance or servicing of existing and future public lighting facilities, including, but not limited to street lights, traffic signals, and related electrical facilities; and the installation and construction of public lighting, including but not limited to grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalk, paving, irrigation, and drainage as needed for the installation of public lighting or related electrical facilities.

BE IT FURTHER RESOLVED, the annual report for Fiscal Year 2022 for which assessments are to be levied and collected to pay the costs of the improvements described in the report prepared by the Department of Public Works, Engineering Division, in accordance with the Landscaping and Lighting Act of 1972 is filed with the Office of City Clerk. All interested persons are referred to that report for a full and detailed



description of improvements, boundaries of the assessment district, and proposed assessments upon assessable lots and parcels of land within the assessment district.

BE IT FURTHER RESOLVED, at 6:00 PM on Tuesday, June 15, 2021 the City Council will conduct a public hearing. The hearing may be held in the School District Board Room located at 1231 Addison Street, Berkeley, CA, 94702 or via videoconference pursuant to Governor's Executive Order N-29-20. The Council will consider all objections or protests, if any, to the proposed assessment. At the public hearing any interested person may present written or oral testimony.

CITY OF BERKELEY

# **STREET LIGHTING ASSESSMENT DISTRICT No. 1982-1**

## **ENGINEER'S REPORT**

on the  
Levy of an Assessment  
for  
Fiscal Year 2022

May 2021

Prepared by

JOSEPH ENKE, PE  
CITY OF BERKELEY  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

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**BACKGROUND**

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By its Resolution 51,230 N.S., adopted April 6, 1982, the Berkeley City Council initiated proceedings under the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled "Landscaping and Lighting Act of 1972". The required public hearing was held on July 20, 1982, at which time the Council ordered the improvements and the formation of the assessment district, and confirmed the diagram and assessment. The district so formed was designated the "City of Berkeley Street Lighting Assessment District 1982-1". Assessments have been levied for the 1983 through 2021 fiscal years.

This report was prepared and filed pursuant to Division 15, Part 2, of the California Streets and Highway Code Section 2250, and is exempt from Government Code Section 53753 since the proposed assessment for FY 2022 will not be increased.

**PLANS AND SPECIFICATIONS**

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The plans and specifications for this assessment district were prepared and filed with the Engineer's Report for the 1983 fiscal year, which plans and specifications are incorporated herein by this reference thereto.

**METHODOLOGY**

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The benefit to individual parcels within the Assessment District was established in 1982 based on the median light intensity a parcel receives. Parcel's Land Use Code (LUC) is used to categorize the parcels. The assessment is calculated by multiplying the building square footage on the parcel times the rate of its category. The rate structure has three categories: 1) Residential and Institutional, 2) Industrial, 3) Commercial. An industrial area has twice the median light intensity of a residential area and a commercial area has four times the median light intensity; therefore, the rates are two and four times higher, respectively, than the residential rate. The rates are:

|                               |                                  |
|-------------------------------|----------------------------------|
| Residential and Institutional | \$0.0108/Building Square Footage |
| Industrial and Utility        | \$0.0216/Building Square Footage |
| Commercial                    | \$0.0432/Building Square Footage |

**ESTIMATE OF COSTS**

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The improvements to be made in this assessment district are generally described as the maintenance or servicing of existing and future public lighting facilities, including, but not limited to street lights, traffic signals, and related electrical facilities; and the installation and construction of public lighting including grading, clearing, removal of debris, installation and construction of curbs, gutters, walls, sidewalks, paving, irrigation, and drainage as needed for the installation of public lighting or related electrical facilities.

An estimate of costs for the maintenance of the improvements is provided in the fiscal year (FY) 2022 Street Light Assessment Fund (Fund 142) forecast provided below. A more detailed breakdown of costs is included as Appendix A.

**Table 1- FY 2022 Street Light Fund Forecast**

|                                                                   |                     |
|-------------------------------------------------------------------|---------------------|
| <b>Estimated Beginning Balance<br/>Street Lighting Fund (142)</b> | <b>\$ 2,031,342</b> |
| <b>Costs</b>                                                      |                     |
| <i>Personnel Costs</i>                                            | \$ 1,110,571        |
| <i>Non-Personnel Costs</i>                                        |                     |
| <i>Supplies, etc...</i>                                           | \$ 96,756           |
| <i>Debt Service</i>                                               | \$ 370,451          |
| <i>PG&amp;E Electric Costs</i>                                    | \$ 378,233          |
| <i>Infrastructure/Streets</i>                                     | \$ 214,715          |
| <i>Deferred Capital Maintenance</i>                               | \$ 443,026          |
| <i>Indirect Costs</i>                                             | \$ 62,577           |
| <i>Operating Transfer Out</i>                                     | \$ 12,120           |
| <i>Internal Services</i>                                          | \$ 192,920          |
| <b>Subtotal Non-Personnel Costs</b>                               | <b>\$ 1,770,798</b> |
| <b>Total Costs</b>                                                | <b>\$ 2,881,369</b> |
| <b>Assessments</b>                                                |                     |
| Street Light Assessment District 1982-1                           | \$ 1,398,111        |
| Street Light Assessment District 2018                             | \$ 644,657          |
| County Collection Fee (1.7%)                                      | \$ (34,727)         |
| <b>Net Assessment</b>                                             | <b>\$ 2,008,042</b> |
| <b>Deficit</b>                                                    | <b>\$ (873,327)</b> |
| <b>Estimated End Balance<br/>Street Lighting Fund (142)</b>       | <b>\$ 1,158,014</b> |

**DIAGRAM**

The diagram for this assessment district was prepared and filed with the Engineer's Report for the 1983 fiscal year.

**ASSESSMENT**

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Except as described below, the assessments to be made against the assessable lots and parcels of land within this assessment district are contained in the "2021 Assessment Roll" for this district, which roll is filed herewith and incorporated herein by this reference thereto.

Said assessment roll filed herewith is based on data contained in the City's 2021 Library Tax tape and the County Assessor's 2021 maps. In the event that data contained in the 2021 Library Tax tape and 2021 maps, when issued, conflict therewith, assessments to be made against the affected parcels for this 2022 Fiscal Year shall be based upon the revised data contained in said 2022 tape and 2022 maps.

Dated: \_\_\_\_\_, 2021

\_\_\_\_\_  
Joseph Enke, RCE 49027  
Engineer of Work

Filed in the office of the City Clerk of the City of Berkeley, Alameda County, California,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mark Numainville  
City Clerk

Filed in the office of the County Auditor-Controller of Alameda County, California,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Melissa Wilk  
County Auditor-Controller

**APPENDIX A: DETAIL OF STREET LIGHTING COSTS IN FY 2022**

|                                     | Personnel           | Supplies, etc    | Debt Service      | PGE Electric      | Infrastructure/<br>Streets | Deferred<br>Capital/<br>Maintenance | Indirect Costs   | Operating<br>Transfer Out | Internal<br>Services | TOTALS              |
|-------------------------------------|---------------------|------------------|-------------------|-------------------|----------------------------|-------------------------------------|------------------|---------------------------|----------------------|---------------------|
| Customer Service - 311              |                     |                  |                   |                   |                            |                                     |                  |                           | \$ 30,483            | \$ 30,483           |
| Revenue Collection                  | \$ 19,777           |                  |                   |                   |                            |                                     | \$ 1,541         |                           |                      | \$ 21,318           |
| Financial Admin<br>Services         |                     |                  |                   |                   |                            |                                     |                  | \$ 364                    |                      | \$ 364              |
| Corp Yard<br>Administration         |                     |                  |                   |                   |                            |                                     |                  | \$ 1,091                  |                      | \$ 1,091            |
| General Engineering                 |                     |                  |                   |                   |                            |                                     |                  | \$ 121                    |                      | \$ 121              |
| Communication System<br>Maintenance |                     | \$ 1,000         |                   |                   |                            |                                     |                  |                           |                      | \$ 1,000            |
| Street Lighting<br>Maintenance      | \$ 1,090,794        | \$ 83,756        | \$ 370,451        | \$ 369,169        | \$ 214,715                 | \$ 443,026                          | \$ 61,036        | \$ 10,544                 | \$ 146,301           | \$ 2,789,792        |
| Traffic Signal<br>Maintenance       |                     |                  |                   |                   |                            |                                     |                  |                           |                      | \$ -                |
| Corp Yard Maintenance               |                     | \$ 12,000        |                   | \$ 9,064          |                            |                                     |                  |                           | \$ 16,136            | \$ 37,200           |
| <b>TOTALS</b>                       | <b>\$ 1,110,571</b> | <b>\$ 96,756</b> | <b>\$ 370,451</b> | <b>\$ 378,233</b> | <b>\$ 214,715</b>          | <b>\$ 443,026</b>                   | <b>\$ 62,577</b> | <b>\$ 12,120</b>          | <b>\$ 192,920</b>    | <b>\$ 2,881,369</b> |

**APPENDIX B: FY 2022 ASSESSMENT ROLL (SORTED BY APN)**

CITY OF BERKELEY

**STREET LIGHTING  
ASSESSMENT DISTRICT 1982-1**

**FY 2022 Assessment Roll  
Listed by  
Assessor's Parcel Number**

May 2021

Engineer's Report with Full Listing of Assessments by Assessor's Parcel Number will be available at the following locations on or after May 13, 2021:

- City Clerk's Office, 2180 Milvia Street, Berkeley, CA 94704
- Main Berkeley Library, Reference Desk, 2090 Kittredge Avenue, Berkeley, CA 94704
- Public Works Engineering Division, 1947 Center Street, 4th Floor, Berkeley, CA 94704

These documents will be available to the public when the Library and City offices reopen for public business. Electronic copies of the reports and complete assessment rolls are available to the public upon request.

Prepared by

JOSEPH ENKE, PE  
CITY OF BERKELEY  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION



**APPENDIX C: FY 2022 ASSESSMENT ROLL (SORTED BY STREET ADDRESS)**

CITY OF BERKELEY

**STREET LIGHTING  
ASSESSMENT DISTRICT 1982-1**

**FY 2022 Assessment Roll  
Listed by  
Street Address**

May 2021

Engineer's Report with Full Assessments Roll by Street Address will be available at the following locations on or after May 13, 2021:

- City Clerk's Office, 2180 Milvia Street, Berkeley, CA 94704
  - Main Berkeley Library, Reference Desk, 2090 Kittredge Avenue, Berkeley, CA 94704
  - Public Works Engineering Division, 1947 Center Street, 4<sup>th</sup> Floor, Berkeley, CA 94704
- These documents will be available to the public when the Library and City offices reopen for public business. Electronic copies of the reports and complete assessment rolls are available to the public upon request.

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DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

CITY OF BERKELEY

**APPENDIX D: ASSESSMENT DISTRICT NO. 1982-1 SUMMARY**

| Type         | Rate   | Assessment            |
|--------------|--------|-----------------------|
| Residential  | 0.0108 | \$733,937.58          |
| Commercial   | 0.0432 | \$500,209.14          |
| Industrial   | 0.0216 | \$163,964.70          |
| <b>Total</b> |        | <b>\$1,398,111.42</b> |

CITY OF BERKELEY

# **STREET LIGHTING ASSESSMENT DISTRICT 2018**

## **ENGINEER'S REPORT**

on the  
Levy of an Assessment  
for  
Fiscal Year 2022

May 2021

Prepared by

JOSEPH ENKE, PE  
CITY OF BERKELEY  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

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## **INTRODUCTION**

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The City of Berkeley (“City”) provides maintenance and servicing of certain publicly-owned streetlights throughout the City. In order to fund the installation, maintenance and operation (the “Services”) of these improvements (“Improvements”), the City formed a city-wide streetlight assessment district in 1982. The district so formed was designated the “City of Berkeley Street Lighting Assessment District 1982-1” (SLAD 1982-1) and assessments have been levied for the 1983 through 2021 fiscal years.

The Street Lighting Assessment District 1982-1 rates have historically failed to generate sufficient revenue to sustain operations of the City’s Street Lighting Program (Program). For a period beginning in FY 2006 the General Fund (011) subsidized the City’s Street Light Assessment Fund (142), but the subsidy was discontinued as part of a City-wide budget balancing measure in FY 2018 when the General Fund faced a deficit. Subsequently, in FY 2018 the City used available Street Lighting Fund balance to cover the operating deficit of the Program.

To establish financial sustainability for the Streetlight Fund and avoid significant reductions in service levels, the City moved forward with the formation a new district, Street Lighting Assessment District 2018 (“SLAD 2018” or “District”). The District would be formed separately and leave the 1982 assessment’s structure in place. By Resolution 68,333 N.S., adopted February 13, 2018, the Berkeley City Council initiated proceedings for the formation of the District pursuant to the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled “Landscaping and Lighting Act of 1972” (Act). Balloting procedures in accordance with Proposition 218 (Articles XIII C and XIII D of the California Constitution) and pertinent statutes, were adopted by Resolution 68,376-N.S. Following tabulation of returned ballots and confirmation of voter approval, Council adopted Resolution 68,482-N.S., dated June 12, 2018, accepting the ballot tabulation results, formally establishing the District, and ordering that assessments be levied. SLAD 2018 assessment have been levied for the 2019 through 2021 fiscal years.

## **PLANS AND SPECIFICATIONS**

The work and Improvements proposed to be undertaken by the City and the cost paid from the levy of the annual assessment provide special benefit to assessor parcels within the District. Consistent with the Act, the Improvements are generally described as follows:

- The installation, maintenance, and servicing of local streetlights in close proximity to certain lots and parcels which provide a direct special benefit to such lots or parcels.
- The installation, maintenance, and servicing of peripheral streetlight structures which provide a special benefit to all the assessable parcels within the District whether or not such parcels are in close proximity to such lighting.
- The installation or construction of public lighting facilities, or the acquisition of any new improvements.

Plans and Specifications for the Improvements for the District are voluminous and are not bound in this Report but by this reference are incorporated and made a part of this Report. The Plans and Specifications are on file in the office of the Public Works Director where they are available for public inspection.

Article XIII D of the California Constitution defines "maintenance and servicing expenses" as, "the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care and supervision necessary to properly operate and maintain a permanent public improvement". The Improvement funding includes, but is not limited to, the removal, repair, replacement or relocation of light standards, poles, bulbs, fixtures and appurtenances, electrical energy, supplies, engineering and incidental costs relating to the maintenance and servicing of the local lighting improvements benefiting the parcels within the District.

The Improvements to be maintained and serviced within the District are to be part of the local streetlight system of the City of Berkeley that confers special benefit to the District's parcels. The specific location of local streetlight Improvements within the City can be found in the Streetlight Condition Assessment by Tanko Lighting, which is on file in the office of the Director of Public Works, where it is available for public inspection.

## **FISCAL YEAR 2022 – STREET LIGHT ASSESSMENT FUND FORECAST**

A summary FY 2022 forecast for the Street Light Assessment Fund is provided in the table below.

**Table 1- FY 2022 Street Light Assessment Fund Forecast**

|                                                                   |                     |
|-------------------------------------------------------------------|---------------------|
| <b>Estimated Beginning Balance<br/>Street Lighting Fund (142)</b> | <b>\$ 2,031,342</b> |
| <b>Costs</b>                                                      |                     |
| <b>Personnel Costs</b>                                            | <b>\$ 1,110,571</b> |
| <b>Non-Personnel Costs</b>                                        |                     |
| Supplies, etc.                                                    | \$ 96,756           |
| Debt Service                                                      | \$ 370,451          |
| PG&E Electric Costs                                               | \$ 378,233          |
| Infrastructure/Streets                                            | \$ 214,715          |
| Deferred Capital Maintenance                                      | \$ 443,026          |
| Indirect Costs                                                    | \$ 62,577           |
| Operating Transfer Out                                            | \$ 12,120           |
| Internal Services                                                 | \$ 192,920          |
| <b>Subtotal Non-Personnel Costs</b>                               | <b>\$ 1,770,798</b> |
| <b>Total Costs</b>                                                | <b>\$ 2,881,369</b> |
| <b>Assessments</b>                                                |                     |
| Street Light Assessment District 1982-1                           | \$ 1,398,111        |
| Street Light Assessment District 2018                             | \$ 644,657          |
| County Collection Fee (1.7%)                                      | \$ (34,727)         |
| <b>Net Assessment</b>                                             | <b>\$ 2,008,042</b> |
| <b>Deficit</b>                                                    | <b>\$ (873,327)</b> |
| <b>Estimated End Balance<br/>Street Lighting Fund (142)</b>       | <b>\$ 1,158,014</b> |

## **METHOD OF ASSESSMENT**

---

This section of the Engineer's Report includes an explanation of the benefits derived from the installation, maintenance and servicing of the Improvements throughout the District and the Assessment methodology used to apportion the total Assessment to properties within the District.

The District consists of all assessor parcels within the boundaries as defined by the Assessment Diagram and the parcels identified by the Assessor Parcel Numbers listed with the levy roll included with this Report. The parcel list includes all assessable privately and publicly owned parcels within the boundaries. The method used for apportioning the Assessment is based on the proportional special benefits to be derived by the properties in the District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the Improvements and the second step is to allocate the Assessments to property based on the estimated relative special benefit for each type of property.

## **DISCUSSION OF BENEFIT**

In summary, the Assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's use of the Improvements or a property owner's specific demographic status. With reference to the requirements for Assessments, Section 22573 of the Act states:

*The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.*

Proposition 218, as codified in Article XIII D of the California Constitution, has confirmed that Assessments must be based on the special benefit to property:

*No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.*

## **SPECIAL BENEFIT**

Street lighting is an optional improvement, not required by state or federal law that is an enhancement over and above requisite infrastructure, and thus is a special benefit. The majority of the benefits of the streetlights are received by the benefited property, with a small portion of the benefits received by the general public on major streets



only. This portion received by the general public is captured and quantified in the following section.

### **Improved Visibility and Safety**

Well maintained, effective street lighting provides special benefit to proximate parcels, within range of the light, because it allows for safer and improved use of the property in the evenings, early morning, and at night. Street lighting provides special benefit because it increases neighborhood safety and, at least indirectly, reduces the likelihood of crime on the proximate parcels. Over time, the Improvements continue to confer a particular and distinct special benefit upon parcels within the District because of the nature of the Improvements. The proper maintenance of the streetlights and appurtenant facilities increases visibility and local human presence and, in many situations, helps reduce property-related crimes, especially vandalism, against assessed properties in the District.

### **Improved Access, Navigation, and Traffic Safety**

Well maintained, effective street lighting enhances ingress, egress and accessibility of all forms to the assessed parcels in the evening, early morning, and at night by increasing visibility. Improved visibility also helps prevent local automobile, bicycle, and pedestrian traffic accidents related to the assessed parcels. This benefit includes a reduction in accidents during non-daylight hours.

### **Improved Community Character and Vitality**

Well maintained, effective street lighting promotes evening and nighttime social interaction of residents and customers of businesses and industry. This creates a positive atmosphere and enhanced community image in the evening and at night for the assessed parcels.

All of the above-mentioned items also contribute to a specific enhancement to each of the parcels within the District. The proximate street lights make each parcel safer, more visible, more accessible, more useful, more valuable and more desirable; and this further strengthens the basis of these Assessments.

## **GENERAL VERSUS SPECIAL BENEFIT**

The proceeds from the Assessments are used to fund the described Improvements and increased levels of maintenance to the other City facilities that serve and benefit the properties in the District. In absence of the Street Lighting Assessment District 2018, such Improvements would not be properly maintained. Therefore, the District's purpose is to ensure that the necessary and beneficial public facilities in the District are properly maintained, operated and repaired over time. The Assessments will ensure that street lighting and associated improvements within and adjacent to the District are functional, well maintained and effective. These public resources directly benefit the property in the District and will confer distinct and special benefits to the properties within the District.

The Improvements and Services are specifically designed, located and created to provide additional and improved resources for property inside the District and not the public at large although the Improvements maintained by the Services may be available to the general public. Other properties that are outside the District do not enjoy the unique proximity and other special benefit factors described previously. These Improvements and Services are of special benefit to properties located within the District because they provide a direct advantage to properties in the District that would not be provided in the absence of the Assessments. Any general benefits to surrounding properties outside of the Assessment District, if any, are collateral and conferred concomitantly.

### **QUANTIFICATION OF GENERAL BENEFIT**

Although the analysis used to support these assessments concludes that the benefits are solely special, as described above, consideration is made for the suggestion that a portion of the benefits are general. General benefits cannot be funded by these assessments. The funding for general benefits must come from other sources.

The maintenance and servicing of these Improvements is also partially funded, directly and indirectly, from other sources, including the City of Berkeley, Alameda County, and the State of California. This funding comes in the form of grants, development fees, special programs, and general funds, as well as direct maintenance and servicing of facilities (e.g. curbs, gutters, streets, drainage systems, etc.). This funding from other sources more than compensates for general benefits, if any, received by the public at large. A more detailed quantification of general benefits is included in the Engineer's Report for Fiscal Year 2018-19. That report is available for public inspection at the Public Works Engineering Division office.

### **METHOD OF ASSESSMENT**

The method used for apportioning the Assessment is based on the proportional special benefits to be received by the properties in the District over and above general benefits conferred on real property or to the public at large. The special benefit factors considered are as follows:

- Improved visibility and safety
- Improved access, navigation and traffic safety
- Improved community character and vitality

Traffic generated to and from a particular parcel is used as the basis to quantify the special benefits received by each parcel. This is used because the amount of traffic generated by a parcel is directly proportional to the relative quantity of benefits it receives. The calculations, described in detail in the Fiscal Year 2018-2019 Engineer's Report, arrive at single-family equivalent ("SFE") rates for each category of parcel. The SFE rate for each rate category is a relative measure of the special benefit received

by each parcel category. It is based on average daily trips<sup>1</sup> adjusted by a darkness factor which accounts for non-operational hours of non-residential parcels. Each rate category is assigned an SFE rate using the following formula.

$$\frac{ADT \times \text{Darkness Factor}}{ADT \text{ for SFR}} = \text{SFE Rate}$$

Where:

- ADT = Average Daily Trips for each parcel category
- ADT for SFR = ADT for single-family residential, which is used as a baseline figure for SFE rate
- SFE Rate = SFEs per unit shown (parcel, [living] units, or acre)

The results of these calculations are summarized in Table 2.

**Table 2 – Single-Family Equivalent Rates**

| Rate Category                   | ADT  | Darkness Factor | Adj ADT | SFE Rate            | Unit   |
|---------------------------------|------|-----------------|---------|---------------------|--------|
| <b>Residential</b>              |      |                 |         |                     |        |
| Single Family                   | 10   | 1               | 10      | 1.00                | parcel |
| Multi-Family<5 units            | 8    | 1               | 8       | 0.80                | unit   |
| Multi-Family 5 or more units    | 6    | 1               | 6       | 0.60                | unit   |
| Condominium                     | 8    | 1               | 8       | 0.80                | parcel |
| Mobile Home                     | 5    | 1               | 5       | 0.50                | unit   |
| Multiple SFR on parcel          | 10   | 1               | 10      | 1.00                | unit   |
| <b>Non-Residential</b>          |      |                 |         |                     |        |
| General Commercial              | 600  | 0.25            | 150     | 15.00               | acre   |
| Industrial / Warehouse          | 60   | 0.25            | 15      | 1.50                | acre   |
| Auto Repair                     | 400  | 0.25            | 100     | 10.00               | acre   |
| Hotel / Motel / Boarding        | 200  | 0.5             | 100     | 10.00               | acre   |
| Hospital                        | 250  | 0.25            | 62.5    | 6.25                | acre   |
| Retirement Home                 | 50   | 0.25            | 12.5    | 1.25                | acre   |
| School / Day Care               | 90   | 0.25            | 22.5    | 2.25                | acre   |
| Medical / Dental / Vet          | 500  | 0.25            | 125     | 12.50               | acre   |
| Church                          | 30   | 0.25            | 7.5     | 0.75                | acre   |
| Mortuary                        | 10   | 0.25            | 2.5     | 0.25                | acre   |
| Recreational                    | 100  | 0.25            | 25      | 2.50                | acre   |
| Parking / Transportation        | 200  | 0.25            | 50      | 5.00                | acre   |
| Mini Storage                    | 30   | 0.25            | 7.5     | 0.75                | acre   |
| Office                          | 300  | 0.125           | 37.5    | 3.75                | acre   |
| Bank                            | 1000 | 0.125           | 125     | 12.50               | acre   |
| Park / Open Space / Agriculture | 2    | 0.25            | 0.5     | 0.05                | acre   |
| Vacant                          |      |                 |         | <i>not assessed</i> |        |

<sup>1</sup> Average trip generation rates used for Assessment calculation are based on trip generation rates published by the San Diego Association of Governments.

The SFE rates derived in Table 2 are then applied to each individual parcel according to its rate category and the number of units or the lot acreage as applicable. For large, multi-family parcels with more than 100 units, the trip generation tends to increase less with additional units because of the density and number of residents who use public transportation or non-motorized modes of transportation. There, the units in excess of 100 are computed at one-tenth the rate. Similarly, with non-residential parcels in excess of five acres, the trip generation tends to increase less with size. There, acres (or portions thereof) are also computed at one-tenth the rate. A summary of these calculations is shown in Table 3.

**Table 3 – Summary of SFEs by Category**

| Rate Category                    | SFE Rate | No. of Parcels | Parcels or Units or Acres | SFEs              |
|----------------------------------|----------|----------------|---------------------------|-------------------|
| <b>Residential</b>               |          |                |                           |                   |
| Single Family                    | 1.00     | 17,379         | 17,379                    | 17,379.000        |
| Multi-Family<5 units             | 0.80     | 3,535          | 9,274                     | 7,419.200         |
| Multi-Family 5 or more units*    | 0.60     | 1,458          | 24,800                    | 12,567.120        |
| Condominium                      | 0.80     | 2,493          | 2,493                     | 1,994.000         |
| Mobile Home                      | 0.50     | 1              | -                         | 0.500             |
| Multiple SFR on parcel           | 1.00     | 677            | 1,413                     | 1,413.000         |
| <b>Non-Residential</b>           |          |                |                           |                   |
| General Commercial*              | 15.00    | 778            | 183.38                    | 2,750.000         |
| Industrial / Warehouse*          | 1.50     | 397            | 257.73                    | 346.311           |
| Auto Repair                      | 10.00    | 120            | 29.45                     | 294.500           |
| Hotel / Motel / Boarding         | 10.00    | 49             | 18.11                     | 181.100           |
| Hospital                         | 6.25     | 9              | 13.15                     | 82.188            |
| Retirement Home                  | 1.25     | 2              | 0.46                      | 0.575             |
| School / Day Care*               | 2.25     | 105            | 180.63                    | 331.452           |
| Medical / Dental / Vet           | 12.50    | 104            | 15.86                     | 198.250           |
| Church                           | 0.75     | 102            | 40.91                     | 30.683            |
| Mortuary                         | 0.25     | 1              | 0.11                      | 0.028             |
| Recreational*                    | 2.50     | 33             | 55.37                     | 82.580            |
| Parking / Transportation         | 5.00     | 121            | 42.85                     | 214.250           |
| Mini Storage                     | 0.75     | 8              | 7.51                      | 5.633             |
| Office*                          | 3.75     | 232            | 80.02                     | 293.764           |
| Bank                             | 12.50    | 16             | 4.68                      | 58.500            |
| Park / Open Space / Agriculture* | 0.05     | 93             | 206.08                    | 6.713             |
| Vacant                           |          |                | <i>not assessed</i>       |                   |
| <b>TOTALS</b>                    |          |                |                           | <b>45,650.445</b> |

\* Categories where some parcels are over the size threshold (100 units for MFR and 5 acres for non-residential) and excess units are charged at reduced rates.

To arrive at the Assessment amount for a single-family equivalent (SFE), the total Assessment to be collected must be divided by the total SFEs in the District. The calculation is represented by the following formula;

$$\frac{\text{Total Assessments to be Collected}}{\text{Total SFEs}} = \text{Assessment per SFE}$$

The formula above can be modified to incorporate the annual adjustment. Per the Annual Assessment Increase section of this report, the assessment is subject to annual increase based upon the sum of the 1982 and 2018 assessments. The formula can be rewritten as follows:

$$\frac{2018 \text{ Assmt in FY 21} + (1982 \text{ Assmt in FY 21} + 2018 \text{ Assmt in FY 21}) \times (\% \text{ Increase})}{\text{Total SFEs}} = \text{Assmt per SFE in FY 22}$$

Where:

- 2018 Assmt in FY 21 = \$604,603
- 1982 Assmt in FY 21 = \$1,398,111
- % Increase = 2.00 (See Annual Assessment Increase section on next page)
- Total SFEs = 45,604.897 (From Table 3)

Substituting numbers:

$$\frac{\$604,603 + (\$1,398,111 + \$604,603) \times (0.0200)}{45,604.897} = \$14.14 \text{ per SFE}$$

**Table 4 – Assessment Rate Schedule**

| Rate Category                   | SFE Rate | Assessment 2020-2021 | Proposed Assessment 2021-2022 | Unit   |
|---------------------------------|----------|----------------------|-------------------------------|--------|
| <b>Residential</b>              |          |                      |                               |        |
| Single Family                   | 1.00     | \$ 13.32             | \$ 14.12                      | parcel |
| Multi-Family<5 units            | 0.80     | \$ 10.66             | \$ 11.30                      | unit   |
| Multi-Family 5 or more units    | 0.60     | \$ 7.98              | \$ 8.47                       | unit   |
| Condominium                     | 0.80     | \$ 10.66             | \$ 11.30                      | parcel |
| Mobile Home                     | 0.50     | \$ 6.66              | \$ 7.06                       | unit   |
| Multiple SFR on parcel          | 1.00     | \$ 13.32             | \$ 14.12                      | unit   |
| <b>Non-Residential</b>          |          |                      |                               |        |
| General Commercial              | 15.00    | \$ 199.78            | \$ 211.82                     | acre   |
| Industrial / Warehouse          | 1.50     | \$ 19.98             | \$ 21.18                      | acre   |
| Auto Repair                     | 10.00    | \$ 133.18            | \$ 141.22                     | acre   |
| Hotel / Motel / Boarding        | 10.00    | \$ 133.18            | \$ 141.22                     | acre   |
| Hospital                        | 6.25     | \$ 83.24             | \$ 88.26                      | acre   |
| Retirement Home                 | 1.25     | \$ 16.64             | \$ 17.65                      | acre   |
| School / Day Care               | 2.25     | \$ 29.96             | \$ 31.77                      | acre   |
| Medical / Dental / Vet          | 12.50    | \$ 166.48            | \$ 176.52                     | acre   |
| Church                          | 0.75     | \$ 9.98              | \$ 10.59                      | acre   |
| Mortuary                        | 0.25     | \$ 3.32              | \$ 3.53                       | acre   |
| Recreational                    | 2.50     | \$ 33.30             | \$ 35.30                      | acre   |
| Parking / Transportation        | 5.00     | \$ 66.60             | \$ 70.61                      | acre   |
| Mini Storage                    | 0.75     | \$ 9.98              | \$ 10.59                      | acre   |
| Office                          | 3.75     | \$ 49.94             | \$ 52.96                      | acre   |
| Bank                            | 12.50    | \$ 166.48            | \$ 176.52                     | acre   |
| Park / Open Space / Agriculture | 0.05     | \$ 0.66              | \$ 0.71                       | acre   |
| Vacant                          |          | Not assessed         |                               |        |

## **ANNUAL ASSESSMENT INCREASE**

The District assessment is subject to an annual adjustment tied to the San Francisco-Oakland-Hayward Consumer Price Index-U as of December of each succeeding year ("CPI"), with a maximum annual adjustment not to exceed 3%. The maximum authorized rate is equal to the maximum rate in the first fiscal year the Assessment was approved adjusted annually by the lower of either 3% or the increase in the CPI. In order for the City's dedicated Streetlight Fund revenue sources to satisfy cost requirements into the future, the annual adjustment for each property may be calculated based upon the sum of the SLAD 1982-1 assessment and the SLAD 2018 assessment. This adjustment methodology was presented to property owners in the District and approved by the property owner balloting in 2018.

From the period beginning in December 2019 and ending in December 2020, the CPI increased by 2.00%; therefore the assessment adjustment for Fiscal Year 2022 may not exceed 2.00%.

## **DURATION OF ASSESSMENT**

The assessments may be continued every year after their formation, so long as the public Improvements need to be maintained and improved and the City requires funding from the assessments for these Improvements in the District. Assessments can continue to be levied annually after the City Council approves an annually updated Engineer's Report, budget for the Assessment, Improvements to be provided and other specifics of the Assessment. In addition, the City Council must hold an annual public hearing to continue the Assessment.

## **APPEALS AND INTERPRETATION**

Any property owner who feels that the Assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the City of Berkeley Public Works department. Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the City of Berkeley City Engineer or his or her designee will promptly review the appeal and any information provided by the property owner. If the City Engineer or his or her designee finds that the assessment should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the City Engineer or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the City Engineer or her or his designee shall be referred to the Public Works Director and the decision of the Public Works Director shall be final.

**ASSESSMENT STATEMENT**

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The amount to be paid for the Improvements and the expense incidental thereto to be paid by the City of Berkeley Street Lighting Assessment District 2018 for the fiscal year 2022 are generally as listed in Table 1.

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of the City of Berkeley Streetlight Assessment District 2018. The distinctive number of each parcel or lot of land in the City of Berkeley Streetlight Assessment District 2018 is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion the net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within the City of Berkeley Street Lighting Assessment District 2018, in accordance with the special benefits to be received by each parcel or lot, from the Improvements, and more particularly set forth in the cost estimate and method of assessment hereto attached and by reference made a part hereof.

The Assessments are made upon the parcels or lots of land within the City of Berkeley Street Lighting Assessment District 2018 in proportion to the special benefits to be received by the parcels or lots of land from the Improvements.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the fiscal year 2021. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2022 for each parcel or lot of land within the City of Berkeley Street Lighting Assessment District 2018.

Dated: \_\_\_\_\_, 2021

\_\_\_\_\_  
Joseph Enke, RCE 49027  
Engineer of Work

Filed in the office of the City Clerk of the City of Berkeley, Alameda County, California,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2021

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Mark Numainville  
City Clerk

Filed in the office of the County Auditor-Controller of Alameda County, California, this  
\_\_\_\_\_ day of \_\_\_\_\_, 2021.

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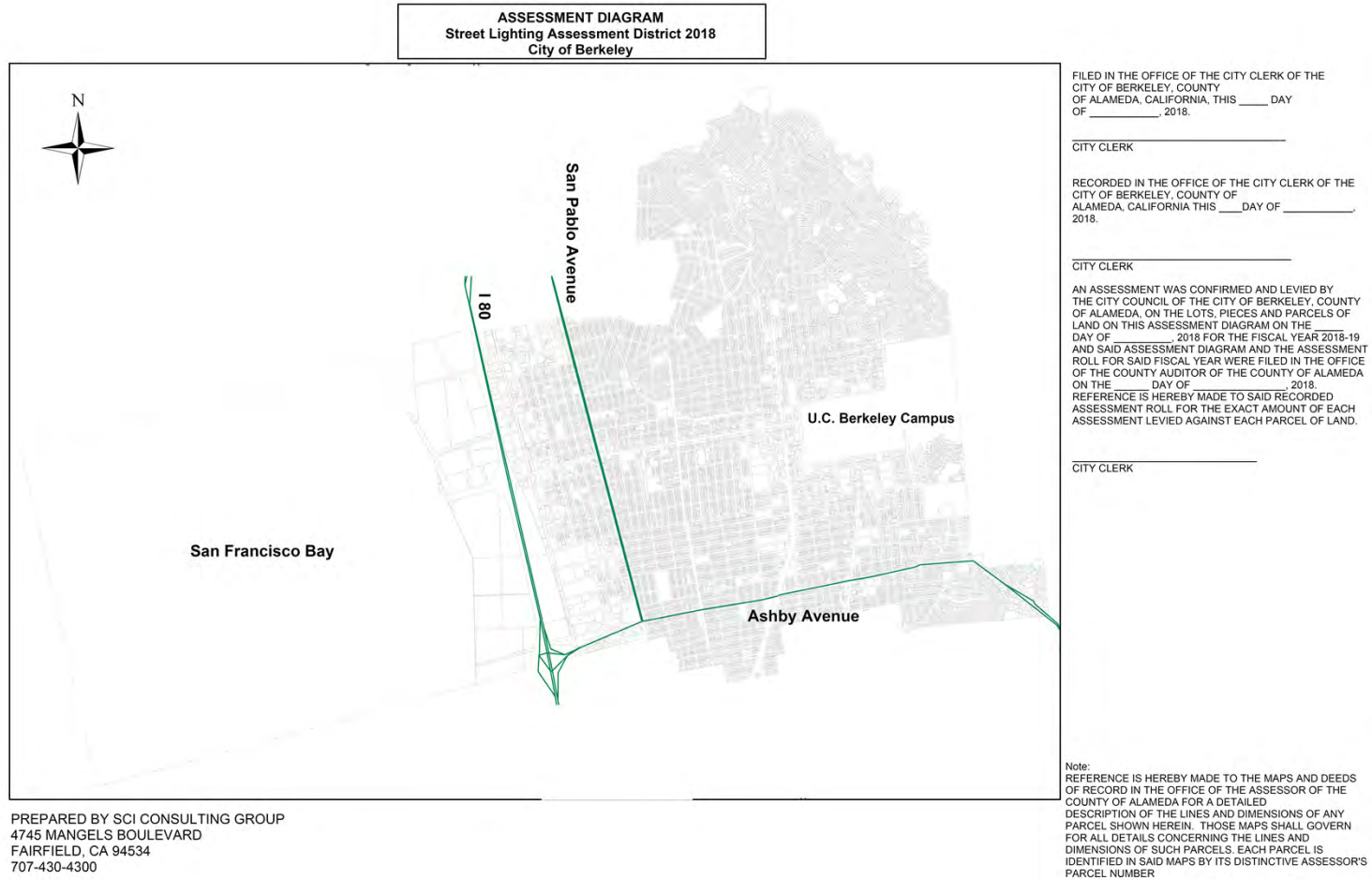
Melissa Wilk  
County Auditor-Controller



**DIAGRAM**

The boundaries of the City of Berkeley Streetlight Maintenance Assessment Districts and Annexations are displayed on the Assessment Diagram below.

**Figure 1 – Assessment Diagram**



CITY OF BERKELEY

**STREET LIGHTING  
ASSESSMENT DISTRICT 2018**

**FY 2022 Assessment Roll  
Listed by  
Assessor's Parcel Number**

May 2021

Engineer's Report with Full Listing of Assessments by Assessor's Parcel Number is available at the following locations on or after May 13, 2021:

- City Clerk's Office, 2180 Milvia Street, Berkeley, CA 94704
- Main Berkeley Library, Reference Desk, 2090 Kittredge Avenue, Berkeley, CA 94704
- Public Works Engineering Division, 1947 Center Street, 4th Floor, Berkeley, CA 94704

Prepared by

JOSEPH ENKE, PE  
CITY OF BERKELEY  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

CITY OF BERKELEY

**STREET LIGHTING  
ASSESSMENT DISTRICT 2018**

**FY 2022 Assessment Roll  
Listed by  
Street Address**

May 2021

Engineer's Report with Full Assessments Roll by Street Address is available at the following locations on or after May 13, 2021:

- City Clerk's Office, 2180 Milvia Street, Berkeley, CA 94704
  - Main Berkeley Library, Reference Desk, 2090 Kittredge Avenue, Berkeley, CA 94704
  - Public Works Engineering Division, 1947 Center Street, 4<sup>th</sup> Floor, Berkeley, CA 94704
- These documents will be available to the public when the Library and City offices reopen for public business. Electronic copies of the reports and complete assessment rolls are available to the public upon request.

Prepared by

JOSEPH ENKE, PE  
CITY OF BERKELEY  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

## NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL

### STREET LIGHTING ASSESSMENTS

#### Berkeley Street Lighting Assessment District 1982-1:

No increase is proposed for Street Lighting Assessment District 1982-1 rates in FY 2022. The assessment rates will remain as follows:

| Rate Category                 | Assessment Rate | Unit     |
|-------------------------------|-----------------|----------|
| Residential and Institutional | \$ 0.0108       | Bldg. Sf |
| Industrial                    | \$ 0.0216       | Bldg. Sf |
| Commercial                    | \$ 0.0432       | Bldg. Sf |

Assessments under this district are determined by building square footage and rates.

#### Street Lighting Assessment District 2018:

In accordance with the voter-approved measure, Street Lighting Assessment District 2018 is subject to an annual assessment adjustment equal to the annual change in the Bay Area Consumer Price Index (CPI), up to a maximum of 3%. For the period beginning in December 2019 and ending in December 2020, the CPI increased by 2.00%; therefore the CPI assessment adjustment for Fiscal Year 2022 is limited to 2.00%. As approved by voters, the total annual adjustment may be calculated by taking the sum of the 2018 District assessment and the Berkeley Street Lighting Assessment District 1982-1 assessment, and multiplying the sum by the allowable CPI increase. Calculating the adjustment in this manner allows for the inclusion of a 1982-1 District adjustment as part of the 2018 District adjustment. The cumulative total adjustment results in 2018 District assessment rate increases by approximately 6.1%. Detailed calculations of the annual adjustment and the corresponding rate increases are included in the Street Lighting Assessment District 2018 Engineer's Report for FY 2022<sup>1</sup>. The proposed assessment rates are summarized below.

| Rate Category                | Assessment 2020-2021 | Proposed Assessment 2021-2022 | Unit   |
|------------------------------|----------------------|-------------------------------|--------|
| <b>Residential</b>           |                      |                               |        |
| Single Family                | \$ 13.32             | \$ 14.12                      | parcel |
| Multi-Family<5 units         | \$ 10.66             | \$ 11.30                      | unit   |
| Multi-Family 5 or more units | \$ 7.98              | \$ 8.47                       | unit   |
| Condominium                  | \$ 10.66             | \$ 11.30                      | parcel |
| Mobile Home                  | \$ 6.66              | \$ 7.06                       | unit   |
| Multiple SFR on parcel       | \$ 13.32             | \$ 14.12                      | unit   |
| <b>Non-Residential</b>       |                      |                               |        |
| General Commercial           | \$ 199.78            | \$ 211.82                     | acre   |
| Industrial / Warehouse       | \$ 19.98             | \$ 21.18                      | acre   |
| Auto Repair                  | \$ 133.18            | \$ 141.22                     | acre   |
| Hotel / Motel / Boarding     | \$ 133.18            | \$ 141.22                     | acre   |
| Hospital                     | \$ 83.24             | \$ 88.26                      | acre   |

<sup>1</sup> Copies of the Engineer's Report are on file at the main branch of the Berkeley Public Library and at the City Clerk's Office.

|                                 |                     |        |    |        |      |
|---------------------------------|---------------------|--------|----|--------|------|
| Retirement Home                 | \$                  | 16.64  | \$ | 17.65  | acre |
| School / Day Care               | \$                  | 29.96  | \$ | 31.77  | acre |
| Medical / Dental / Vet          | \$                  | 166.48 | \$ | 176.52 | acre |
| Church                          | \$                  | 9.98   | \$ | 10.59  | acre |
| Mortuary                        | \$                  | 3.32   | \$ | 3.53   | acre |
| Recreational                    | \$                  | 33.30  | \$ | 35.30  | acre |
| Parking / Transportation        | \$                  | 66.60  | \$ | 70.61  | acre |
| Mini Storage                    | \$                  | 9.98   | \$ | 10.59  | acre |
| Office                          | \$                  | 49.94  | \$ | 52.96  | acre |
| Bank                            | \$                  | 166.48 | \$ | 176.52 | acre |
| Park / Open Space / Agriculture | \$                  | 0.66   | \$ | 0.71   | acre |
| Vacant                          | <i>Not assessed</i> |        |    |        |      |

Assessments under the 2018 District are generally determined by the number of parcels, units or acres, as applicable to each parcel category, and the associated rate category.

**Public Hearing Information**

The hearing will be held on, June 15, 2021 at 6:00 p.m. at a regular council meeting. This hearing will be held via videoconference pursuant to Governor’s Executive Order N-29-20. The Council will consider all objections or protests, if any, to the proposed assessment. At the public hearing any interested person may present written or oral testimony.

A copy of the agenda material for this hearing will be available on the City’s website at [www.cityofberkeley.info](http://www.cityofberkeley.info) as of June 3, 2021. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

FY 2022 Assessment Rolls for both street lighting districts will be available at the City Clerk’s Office at 2180 Milvia Street, 1<sup>st</sup> Floor, and at the main Public Library, 2090 Kittredge Street, Berkeley, CA, when the city offices reopen for public business.

Written comments should be mailed to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704 or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

For further information, please contact Joe Enke, Acting Manager of Engineering at (510) 981-6411 or Ricardo Salcedo, Associate Civil Engineer at (510) 981-6407.

**Published:** June 4, 2021 – The Berkeley Voice

City Clerk shall publish a notice at least 10 days prior to the date of the public hearing with the date, hour, and place of the public hearing for annual levy and collection of assessments in accordance with Streets and Highway Code Sections 22625, 22626, 22552, and 22553 and Section 6061 of the Government Code.

~~~~~  
 I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted on the display case located near the walkway in front of the Council Chambers at 2134 Martin Luther King Jr. Way, as well as on the City’s website, on June 3, 2021.

Mark Numainville, City Clerk



Office of the City Manager

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Public Works
 Subject: FY 2021/2022 Transportation Development Act Article 3 Fund Allocation

RECOMMENDATION

Adopt Resolutions:

1. Authorizing the City Manager to: submit an allocation request to the Metropolitan Transportation Commission (MTC) prior to the May 28, 2021 deadline for \$450,000 of FY 21/22 Transportation Development Act (TDA) Article 3 funds for the Berkeley Bicycle Plan Update and Vision Zero Quick Build Program; accept the funds; execute any resultant agreements and amendments; and authorize the implementation of the project, subject to securing the funds; and
2. Declaring that: the City of Berkeley is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code; there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project; the project has been reviewed by the Bicycle Advisory Committee (BAC) of the City of Berkeley; the City of Berkeley attests to the accuracy of and approves the statements in Attachment A to this resolution; and a certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of Alameda County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

FISCAL IMPACTS OF RECOMMENDATION

If approved, the City will receive an allocation of \$200,000 from MTC to be used in FY 2021 and FY 2022 for the Berkeley Bicycle Plan Update, and an allocation of \$250,000 from MTC to be used in FY 2021 and FY 2022 for the Vision Zero Quick-Build Program. Payment of reimbursement claims will be deposited in the Local Capital Grants Fund 307-54-622-668-0000-000-000-432210-. Expenditure of this funding allocation is subject to appropriation in the FY 2022 Budget in Local Capital Grants Fund. No matching funds are required for this funding allocation.

CURRENT SITUATION AND ITS EFFECTS

The City of Berkeley is submitting an FY2021-22 TDA Article 3 allocation request for a comprehensive update to the Berkeley Bicycle Plan. The Berkeley Bicycle Plan was last updated in 2017 (Resolution NO. 67,945-N.S.). MTC, Alameda CTC, and the State of California all require that cities update their bicycle, pedestrian, and active transportation plans every five years to maintain eligibility for County, regional, and State competitive transportation grant funding. Berkeley is apportioned approximately \$100,000 to \$120,000 annually under TDA Article 3 for qualified bicycle and pedestrian projects. The City's currently available TDA fund balance is between \$450,000 and \$500,000.

As an accompanying allocation request to the Bicycle Plan, the City also is submitting a FY2021-22 TDA Article 3 allocation request for a Vision Zero Quick-Build Program. This program falls under the adopted Berkeley Vision Zero Action Plan¹ (Resolution No. 69,324-N.S.) "Safer Streets for Everyone" goal to "Proactively build capital-intensive and quick-build safety projects." The Vision Zero Quick-Build Program is one of the Priority Actions in the Berkeley Vision Zero Action Plan. The program will proactively address traffic safety issues and strengthen the City's ability to respond more quickly to recent severe and fatal traffic crashes with traffic safety interventions. The locations for quick-build treatments will be on the High-Injury Streets within the Vision Zero Equity Priority Area identified in the Vision Zero Action Plan. The specific intersection locations and quick-build treatments are yet to be determined, but will be based on the adopted 2017 Bicycle Plan² and 2020 Pedestrian Plan³ (Resolution 69,711-N.S.).

BACKGROUND

The State Legislature passed the Transportation Development Act in 1971, implementing a statewide quarter-cent sales tax. TDA is one of the major funding sources for public transportation in California, and under Article 3, funds are to be used by local jurisdictions for qualified bicycle and pedestrian projects. Writing and updating bicycle, pedestrian, and active transportation plans are considered eligible TDA expenses.

Local jurisdictions obtain these funds in a three-step process: apportionment, allocation, and payment (through reimbursement). Apportionment in the San Francisco Bay Area follows the MTC formula based upon population. The City submits TDA allocation requests to MTC on an annual basis, and unused TDA funds allocated to any project are rolled over from one fiscal year to the next. No matching funds are required, but the project must meet the funding objectives and be developed in cooperation with the community. The basic funding objectives are to increase the safety, security, and efficiency of bicycle and pedestrian travel, and to provide for a coordinated system. The

¹ The Berkeley Vision Zero Action Plan can be found at <https://www.cityofberkeley.info/visionzero.aspx>.

² The Berkeley Bicycle Plan (2017) can be found at <https://www.cityofberkeley.info/berkeleybikeplan/>.

³ The Berkeley 2020 Pedestrian Plan can be found at <https://www.cityofberkeley.info/pedestrian/>.

City receives payment of allocated grant funds upon submission of claims for reimbursement.

MTC requires both a supporting resolution from the City Council and a review of TDA allocations by a pedestrian and/or bicycle advisory committee. The Berkeley Transportation Commission functions as the City's Bicycle and Pedestrian Advisory Committee. At the April 15, 2021 Transportation Commission meeting, it was motioned and seconded (Ghosh/Gosselin) and unanimously approved that the "Transportation Commission recommends that City Council authorize the City Manager to submit an allocation request to the Metropolitan Transportation Commission (MTC) for \$450,000 of FY2021-22 Transportation Development Act (TDA) Article 3 funds for the Berkeley Bicycle Plan Update (\$200,000) and Vision Zero Quick-Build Program (\$250,000); accept the funds; execute any resultant agreements; and authorize the implementation of the projects."

ENVIRONMENTAL SUSTAINABILITY

The Bicycle Plan will promote environmental sustainability by developing recommendations for projects and programs that increase the bicycling share of trips in Berkeley. The Vision Zero Quick-Build Program will promote environmental sustainability by improving pedestrian and bicycling safety in Berkeley, causing walking and biking to increase relative to use of motorized vehicles. These outcomes support the Berkeley Climate Action Plan, which has a target of reducing transportation emissions 33% below year 2000 levels by 2020, and 80% below year 2000 levels by 2050. Specifically, the Climate Action Plan states transportation modes, such as public transit, walking, and cycling, must become the primary means of fulfilling the City's mobility needs in order to meet this target.

RATIONALE FOR RECOMMENDATION

The City of Berkeley's most recent Bicycle Plan was adopted in 2017 (Resolution No. 67,945-N.S.). Currently the City lacks funding to update the Bicycle Plan as required by local, regional, and State transportation funding agencies for maintaining a coherent and fundable strategy for completing capital improvements. This grant would fully fund the development of the next Bicycle Plan.

The City's recently adopted Vision Zero Action Plan seeks to eliminate all traffic fatalities and severe injuries while increasing safe, healthy, and equitable mobility for all. As an engineering strategy first and foremost, Vision Zero aims to utilize design in order to build the City's streets in such a way as to eliminate all severe and fatal traffic injuries. "Quick-build" is an approach to project delivery which uses less expensive materials to more quickly and affordably deliver these traffic safety projects. Quick-builds have been implemented in Berkeley in the past, and the Vision Zero Quick Build Program seeks to fund and make implementation more efficient by addressing traffic safety improvements via a systemic approach utilizing the recommendations already adopted in the City's 2017 Bicycle Plan and 2020 Pedestrian Plan.

ALTERNATIVE ACTIONS CONSIDERED

The City of Berkeley could have allocated these funds to other qualified bicycle and pedestrian projects, or elected to roll over the funds until the next fiscal year.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, 981-7061

Beth Thomas, Principal Planner, Public Works, 981-7062

Ryan Murray, Associate Planner, Public Works, 981-7056

Attachments:

1: Resolution

Exhibit A: Findings

Exhibit B: TDA Article 3 Project Application Form

2: Resolution

Exhibit C: Findings

Exhibit D: TDA Article 3 Project Application Form

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

REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR THE ALLOCATION OF FISCAL YEAR 2021-2022 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING

WHEREAS, Article 3 of the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99200 et seq., authorizes the submission of claims to a regional transportation planning agency for the funding of projects exclusively for the benefit and/or use of pedestrians and bicyclists; and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No. 4108, Revised, entitled "Transportation Development Act, Article 3, Pedestrian/Bicycle Projects," which delineates procedures and criteria for submission of requests for the allocation of "TDA Article 3" funding; and

WHEREAS, MTC Resolution No. 4108, Revised requires that requests for the allocation of TDA Article 3 funding be submitted as part of a single, countywide coordinated claim from each county in the San Francisco Bay region; and

WHEREAS, the City of Berkeley desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Attachment B to this resolution, which are for the exclusive benefit and/or use of pedestrians and/or bicyclists; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Manager is authorized to submit a request to the Metropolitan Transportation Commission prior to the May 28, 2021 deadline for the allocation of FY 2021-22 Transportation Development Act Article 3 pedestrian/bicycle project funding in the amount of \$200,000 for the Berkeley Bicycle Plan Update; and that the City Manager is authorized to accept the allocation; execute any resultant agreements and amendments; and authorize the implementation of the project, subject to securing the allocation.

BE IT FURTHER RESOLVED that the City of Berkeley declares it is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code.

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project.

BE IT FUTHER RESOLVED that the City of Berkeley attests to the accuracy of and approves the statements in Attachment A to this resolution.

BE IT FURTHER RESOLVED that a certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of Alameda County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

Attachments:

A: Findings

B: TDA Article 3 Project Application Forms

Attachment A

Re: Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2021-2022 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding

Findings

Page 1 of 2

1. That the City of Berkeley is not legally impeded from submitting a request to the Metropolitan Transportation Commission for the allocation of Transportation Development Act (TDA) Article 3 funds, nor is the City of Berkeley legally impeded from undertaking the project(s) described in "Attachment B" of this resolution.
2. That the City of Berkeley has committed adequate staffing resources to complete the project(s) described in Attachment B.
3. A review of the project(s) described in Attachment B has resulted in the consideration of all pertinent matters, including those related to environmental and right-of-way permits and clearances, attendant to the successful completion of the project(s).
4. Issues attendant to securing environmental and right-of-way permits and clearances for the projects described in Attachment B have been reviewed and will be concluded in a manner and on a schedule that will not jeopardize the deadline for the use of the TDA funds being requested.
5. That the project(s) described in Attachment B comply with the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.).
6. That as portrayed in the budgetary description(s) of the project(s) in Attachment B, the sources of funding other than TDA are assured and adequate for completion of the project(s).
7. That the project(s) described in Attachment B are for capital construction and/or final design and engineering or quick build project; and/or for the maintenance of a Class I bikeway which is closed to motorized traffic and/or Class IV separated bikeway; and/or for the purposes of restriping Class II bicycle lanes; and/or for the development or support of a bicycle safety education program; and/or for the development of a comprehensive bicycle and/or pedestrian facilities plan, and an allocation of TDA Article 3 funding for such a plan has not been received by the City of Berkeley within the prior five fiscal years.

Findings

Page 2 of 2

8. That the project(s) described in Attachment B which are bicycle projects have been included in a detailed bicycle circulation element included in an adopted general plan, or included in an adopted comprehensive bikeway plan (such as outlined in Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.) or responds to an immediate community need, such as a quick-build project.
9. That any project described in Attachment B bicycle project meets the mandatory minimum safety design criteria published in the California Highway Design Manual or is in a National Association of City and Transportation Officials (NACTO) guidance or similar best practices document.
10. That the project(s) described in Attachment B will be completed in the allocated time (fiscal year of allocation plus two additional fiscal years).
11. That the City of Berkeley agrees to maintain, or provide for the maintenance of, the project(s) and facilities described in Attachment B, for the benefit of and use by the public.

Attachment B

Page 1 of 2

TDA Article 3 Project Application Form

Fiscal Year of this Claim: 2021-2022 Applicant: City of Berkeley

Contact person: Ryan P Murray

Mailing Address: 1947 Center St. 4th Floor Berkeley, CA 94704

E-Mail Address: RPMurray@cityofberkeley.info Telephone: 510-981-7056

Secondary Contact (in event primary not available) Beth Thomas

E-Mail Address: BATHomas@cityofberkeley.info Telephone: 510-981-7068

Project Title (Short Description): **Berkeley Bicycle Plan Update**

Amount of claim: \$200,000.00

Description of Overall Project:

The project is a comprehensive update to the City of Berkeley's Bicycle Plan, last updated in 2017. The project will fulfill the requirements of Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.

Project Scope Proposed for Funding: (Project level environmental, preliminary planning, and ROW are ineligible uses of TDA funds.)

Project scope will include outreach and engagement, analysis, drafting proposed updates to Bicycle Plan chapters and appendices, and adoption of the final comprehensive update to the Bicycle Plan.

Project Budget and Schedule

Project Budget is \$200,000. Schedule is: Consultant procurement and kickoff Summer 2021, Outreach and Engagement Fall/Winter 2021/22, Input from internal stakeholders and Commissions Spring 2021, Final Draft outreach and comment Summer/Fall 2022, Plan adoption December 15th 2022.

Project Phase	TDA 3	Other Funds	Total Cost	Estimated Completion (month/year)
Bike/Ped Plan	\$200,000			12/15/22
ENV				
PA&ED				
PS&E				
ROW				
CON				
Total Cost	\$200,000			12/15/22

Page 2 of 2

Project Eligibility:	YES?/NO?
A. Has the project been approved by the claimant's governing body? (If "NO," provide the approximate date approval is anticipated).	YES
B. Has this project previously received TDA Article 3 funding? If "YES," provide an explanation on a separate page.	NO
C. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? (Available on the internet via: http://www.dot.ca.gov).	N/A
D. Has the project been reviewed by the Bicycle and Pedestrian Advisory Committee? (If "NO," provide an explanation).	YES
E. Has the public availability of the environmental compliance documentation for the project (pursuant to CEQA) been evidenced by the dated stamping of the document by the county clerk or county recorder? (required only for projects that include construction).	N/A
F. Will the project be completed before the allocation expires? Enter the anticipated completion date of project (month and year) December 15, 2022	YES
G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility provide its name: _____)	N/A

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

REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR THE ALLOCATION OF FISCAL YEAR 2021-2022 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING

WHEREAS, Article 3 of the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99200 et seq., authorizes the submission of claims to a regional transportation planning agency for the funding of projects exclusively for the benefit and/or use of pedestrians and bicyclists; and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No. 4108, Revised, entitled "Transportation Development Act, Article 3, Pedestrian/Bicycle Projects," which delineates procedures and criteria for submission of requests for the allocation of "TDA Article 3" funding; and

WHEREAS, MTC Resolution No. 4108, Revised requires that requests for the allocation of TDA Article 3 funding be submitted as part of a single, countywide coordinated claim from each county in the San Francisco Bay region; and

WHEREAS, the City of Berkeley desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Attachment B to this resolution, which are for the exclusive benefit and/or use of pedestrians and/or bicyclists; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the City Manager is authorized to submit a request to the Metropolitan Transportation Commission prior to the May 28, 2021 deadline for the allocation of FY 2021-22 Transportation Development Act Article 3 pedestrian/bicycle project funding in the amount of \$250,000 for the Vision Zero Quick-Build Program; and that the City Manager is authorized to accept the allocation; execute any resultant agreements and amendments; and authorize the implementation of the project, subject to securing the allocation.

BE IT FURTHER RESOLVED that the City of Berkeley declares it is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code.

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might adversely affect the project or projects described in Attachment B to this resolution, or that might impair the ability of the City of Berkeley to carry out the project.

BE IT FUTHER RESOLVED that the City of Berkeley attests to the accuracy of and approves the statements in Attachment A to this resolution.

BE IT FURTHER RESOLVED that a certified copy of this resolution and its attachments, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of Alameda County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

Attachments:

A: Findings

B: TDA Article 3 Project Application Forms

Attachment A

Re: Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2021-2022 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding

Findings

Page 1 of 2

1. That the City of Berkeley is not legally impeded from submitting a request to the Metropolitan Transportation Commission for the allocation of Transportation Development Act (TDA) Article 3 funds, nor is the City of Berkeley legally impeded from undertaking the project(s) described in "Attachment B" of this resolution.
2. That the City of Berkeley has committed adequate staffing resources to complete the project(s) described in Attachment B.
3. A review of the project(s) described in Attachment B has resulted in the consideration of all pertinent matters, including those related to environmental and right-of-way permits and clearances, attendant to the successful completion of the project(s).
4. Issues attendant to securing environmental and right-of-way permits and clearances for the projects described in Attachment B have been reviewed and will be concluded in a manner and on a schedule that will not jeopardize the deadline for the use of the TDA funds being requested.
5. That the project(s) described in Attachment B comply with the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.).
6. That as portrayed in the budgetary description(s) of the project(s) in Attachment B, the sources of funding other than TDA are assured and adequate for completion of the project(s).
7. That the project(s) described in Attachment B are for capital construction and/or final design and engineering or quick build project; and/or for the maintenance of a Class I bikeway which is closed to motorized traffic and/or Class IV separated bikeway; and/or for the purposes of restriping Class II bicycle lanes; and/or for the development or support of a bicycle safety education program; and/or for the development of a comprehensive bicycle and/or pedestrian facilities plan, and an allocation of TDA Article 3 funding for such a plan has not been received by the City of Berkeley within the prior five fiscal years.

Findings

Page 2 of 2

8. That the project(s) described in Attachment B which are bicycle projects have been included in a detailed bicycle circulation element included in an adopted general plan, or included in an adopted comprehensive bikeway plan (such as outlined in Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.) or responds to an immediate community need, such as a quick-build project.
9. That any project described in Attachment B bicycle project meets the mandatory minimum safety design criteria published in the California Highway Design Manual or is in a National Association of City and Transportation Officials (NACTO) guidance or similar best practices document.
10. That the project(s) described in Attachment B will be completed in the allocated time (fiscal year of allocation plus two additional fiscal years).
11. That the City of Berkeley agrees to maintain, or provide for the maintenance of, the project(s) and facilities described in Attachment B, for the benefit of and use by the public.

Attachment B

Page 1 of 2

TDA Article 3 Project Application Form

Fiscal Year of this Claim: 2021-2022 Applicant: City of Berkeley

Contact person: Ryan P Murray

Mailing Address: 1947 Center St. 4th Floor Berkeley, CA 94704

E-Mail Address: RPMurray@cityofberkeley.info Telephone: 510-981-7056

Secondary Contact (in event primary not available) Beth Thomas

E-Mail Address: BATHomas@cityofberkeley.info Telephone: 510-981-7068

Project Title (Short Description): Vision Zero Quick-Build Program

Amount of claim: \$250,000.00

Description of Overall Project:

The project will install quick-build safety treatments at various locations on High-Injury Streets identified in the Berkeley Vision Zero Action Plan. The specific intersection locations and quick-build treatments will be based on the adopted 2017 Berkeley Bicycle Plan and 2020 Berkeley Pedestrian Plan. The project will fulfill the requirements of Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.

Project Scope Proposed for Funding: (Project level environmental, preliminary planning, and ROW are ineligible uses of TDA funds.)

Project scope will include Preliminary Engineering, Final Design, and Construction.

Project Budget and Schedule

Project Phase	TDA 3	Other Funds	Total Cost	Estimated Completion (month/year)
Bike/Ped Plan				
ENV				
PA&ED				
PS&E	\$60,000			06/30/22
ROW				
CON	\$190,000			06/30/23
Total Cost	\$250,000			06/30/23

Page 2 of 2

Project Eligibility:	YES?/NO?
A. Has the project been approved by the claimant's governing body? (If "NO," provide the approximate date approval is anticipated).	YES
B. Has this project previously received TDA Article 3 funding? If "YES," provide an explanation on a separate page.	NO
C. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? (Available on the internet via: http://www.dot.ca.gov).	YES
D. Has the project been reviewed by the Bicycle and Pedestrian Advisory Committee? (If "NO," provide an explanation).	YES
E. Has the public availability of the environmental compliance documentation for the project (pursuant to CEQA) been evidenced by the dated stamping of the document by the county clerk or county recorder? (required only for projects that include construction).	YES
F. Will the project be completed before the allocation expires? Enter the anticipated completion date of project (month and year) December 15, 2022	YES
G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility provide its name: _____)	YES



Office of the City Manager

24

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: Agreement with AC Transit for Operation and Maintenance of Transit Signal Priority Equipment

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to negotiate and approve a Cooperative Agreement to enable Alameda-Contra Costa County Transit District and its contractor(s) to perform all operation and maintenance activities to Transit Signal Priority equipment deployed by the Rapid Corridors Project within the City.

FISCAL IMPACTS OF RECOMMENDATION

Alameda-Contra Costa County Transit District (AC Transit) will be funding the design and implementation of the Rapid Corridors Project (Project), which includes the installation of traffic signal and transit signal priority (TSP) equipment within the project limits. Depending on the final elements approved, Berkeley could benefit from improvements valued at up to \$1.6 million.

The fiscal impact on the City's traffic operations and maintenance is expected to be minor. AC Transit will hire a contractor to operate and maintain all TSP equipment deployed by the project within the City. Maintenance of traffic signal equipment associated with the project, including video detection and pedestrian signals, will be absorbed within existing Public Works Traffic Maintenance operations.

CURRENT SITUATION AND ITS EFFECTS

Executing the Resolution authorizing negotiation and approval of the Cooperative Agreement will advance the City's Strategic Plan goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

The Project includes TSP equipment installation and signal retiming for the San Pablo and Telegraph Avenue corridors. In addition, AC Transit will implement TSP and signal improvements at gaps that exist within the I-80 Integrated Corridor Mobility (ICM) Project, which includes Ashby Avenue, Gilman Street, and University Avenue. AC Transit will also implement TSP and signal improvements along routes connecting Telegraph Avenue, including portions of Shattuck Avenue, Oxford Street, Durant Avenue, and Dana Street. Attachment 2 details the Rapid Corridors project limits.

The Project intends to enhance transit operations along the corridors as recommended in the AC Transit's Major Corridors Study. A major component of the Project, a TSP system, allows buses to request priority upon arrival and the signal can grant additional seconds of green light time to reduce time spent waiting at red lights.

The project along San Pablo Avenue is compatible with short-term and long-term improvements considered by the Alameda County Transportation Commission's San Pablo Avenue Multimodal Corridor Project.

BACKGROUND

San Pablo Avenue (served by Lines 72, 72M, and 72R) and Telegraph Avenue (served by Line 6 and 801) are two of the most heavily used public bus corridors in the East Bay. The San Pablo Avenue Corridor is approximately a 17-mile route, carrying 13,000 passengers per weekday (pre-COVID) and serving Albany, Berkeley, El Cerrito, Emeryville, Oakland, Richmond, and San Pablo. The Telegraph Avenue Corridor connects downtown Berkeley and downtown Oakland, carrying 6,000 passengers per weekday (pre-COVID). In addition, the TSP gap closure of the I-80 ICM will benefit AC Transit's local and Transbay lines (Lines 12, 51B, 802, H, J, FS, and Z) operating on Gilman Street, University Avenue, and Ashby Avenue.

The Project is intended to improve reliability and reduce transit travel time. AC Transit received approximately \$12 million in grant funds to implement Rapid Corridors Project improvements along Telegraph Avenue, West Grand/Grand Avenues, San Pablo Avenue, and arterials connecting I-80 and San Pablo Avenue in the cities of Albany, Berkeley, El Cerrito, Emeryville, Oakland, Richmond, and San Pablo.

ENVIRONMENTAL SUSTAINABILITY

The Project would result in more efficient transit operations overall. Thus, the project would reduce both the number of stop-start movements at bus stops and red lights, and idling while trying to pull back out into the travel lane, resulting in a slight decrease in emissions from transit vehicles and personal automobiles. The Project would also encourage more people to use public transportation and engage in active modes of transportation instead of driving.

RATIONALE FOR RECOMMENDATION

AC Transit, through various grants, is in a position to provide significant investments to Berkeley's road and transit network that will result in more efficient use of streets for all users at minimal direct cost to the City. Improved transit operations is supported by the City's Transit First policy, as well as the Transportation Element of the City's General Plan. The project elements proposed by the Project will result in improved service on the East Bay's busiest bus routes and will directly benefit at least thousands of riders per day, many of whom live, work, shop, or attend school in Berkeley.

The City does not have the resources or technical expertise to maintain TSP equipment. Executing a co-op agreement is the most cost effective, efficient, and reliable way to receive these transit benefits.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Farid Javandel, Transportation Division Manager, Public Works, 981-7061
Jesse Peoples, Assistant Traffic Engineer, Public Works, 981-6416

Attachments:

- 1: Resolution
- 2: Rapid Corridors Project Location Map

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

AGREEMENT WITH AC TRANSIT FOR OPERATION AND MAINTENANCE OF
TRANSIT SIGNAL PRIORITY EQUIPMENT

WHEREAS, Alameda-Contra Costa County Transit District (AC Transit) San Pablo Avenue and Telegraph Avenue are two of the most heavily used public bus corridors in the East Bay, with such operational problems as bus bunching, late vehicles and crowded buses; and

WHEREAS, AC Transit has received various federal, state and local funding for design and implementation of the Rapid Corridors Project which will include installing transit signal priority (TSP) equipment and signal coordination on the San Pablo and Telegraph Avenue Corridors; and

WHEREAS, improvements to transit service are supported by the City's Transit First policy and the Transportation Element of the City's General Plan, and improvements in efficiency and reliability of the San Pablo Avenue and Telegraph Avenue corridors should encourage more people to use public transportation instead of driving, with this mode shift resulting in overall decreases in pollutants and greenhouse gas emissions; and

WHEREAS, the City does not have the resources or technical expertise to maintain TSP equipment, requiring such maintenance and operation to be performed by AC Transit.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to negotiate and approve a Cooperative Agreement to enable AC Transit and its contractor(s) to perform all operation and maintenance activities to transit signal priority (TSP) equipment deployed by the Rapid Corridors Project within the City.

AC Transit Rapid Corridors Project

Project Location Map



Legend

- Project Limits

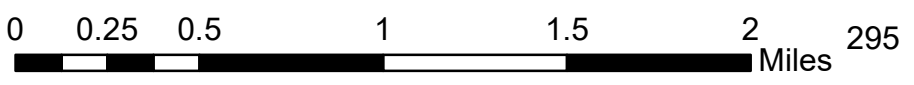
Signalized Intersections

- Berkeley
- Caltrans

Proposed Improvements

- ★ TSP

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community





Office of the City Manager

25

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Liam Garland, Director, Public Works
 Subject: Surplus Lands Act

RECOMMENDATION

Adopt a Resolution to comply with the terms of the Surplus Lands Act (California Government Code § 54220, Et Seq.), as exists now or may be amended in the future, including, but not limited to, AB 1255 (Rivas, 2019), which requires jurisdictions to compile and report annually an inventory of surplus lands to the California Department of Housing and Community Development.

FISCAL IMPACTS OF RECOMMENDATION

No immediate fiscal impact will result from this action. Adoption of the resolution could, however, result in regional grant funding being awarded to transportation capital projects that would be constructed in City right-of-way. Some staff time is required each year to compile and report an inventory of surplus lands. However, this staff time was already required by the Surplus Lands Act and therefore this action does not result in an additional investment of staff time.

CURRENT SITUATION AND ITS EFFECTS

Complying with the Surplus Lands Act and reporting annually an inventory of surplus lands to the California Department of Housing and Community Development would help to identify and increase the supply of land for affordable housing. Complying with the Surplus Lands Act would also maintain the City's eligibility for funding through regional transportation grant programs.

The San Francisco Bay Area region has the highest housing costs in the United States. The Bay Area produced less than 30% of the need for low- and moderate-income housing units from 2007 through 2014. Limited funding sources available to secure land for the construction of low- and moderate-income housing, gives public lands a critical role in increasing the supply of land for affordable housing. Given this, the Metropolitan Transportation Commission (MTC) requires that local jurisdictions adopt a resolution to comply with the terms of the Surplus Lands Act (California Government Code § 54220, Et Seq.)¹ in order to maintain eligibility to receive regional transportation grant funding.

¹ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=54220

This requirement includes compliance with AB 1255 (Rivas, 2019)², which requires jurisdictions to compile and report annually an inventory of surplus lands to the California Department of Housing and Community Development. These requirements were approved by MTC through the adoption of MTC Resolution No. 4202³, which outlines the programming, policy, and project selection criteria for the One Bay Area Grant Program (OBAG 2).

Complying with the Surplus Lands Act advances the Berkeley Strategic Plan goal to “create affordable housing and housing support services for our most vulnerable community members.” Receiving funding through regional grant programs to pursue transportation projects would also advance the City’s goal to “provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.”

BACKGROUND

The Metropolitan Transportation Commission (MTC) requires that jurisdictions pass a resolution to comply with the Surplus Lands Act in order to receive transportation grant funding. AC Transit has applied to the MTC Safe and Seamless Mobility Quick Strike Program for funding for public engagement, design, and installation of a quick-build transit lane project on Durant Avenue from Shattuck Avenue to College Avenue using excess roadway capacity. In order for this grant application to be eligible for funding, the City of Berkeley must approve a Surplus Lands resolution. The reason why this requirement falls on the City is that the project would be installed within City right-of-way. A future benefit of the City approving this resolution now is that it would support future grant applications that the City submits to MTC.

The AC Transit Durant Avenue quick-build transit lane project would work to fulfill the City of Berkeley General Plan Transit-First Policy, which calls for giving “priority to alternative transportation and transit over single-occupant vehicle on Transit Routes identified on the Transit Network map (Figure 7, page T-31).”⁴ Durant Avenue is identified as a Primary Route on this Transit Network Map. In addition, General Plan Policy T-5 calls for the City to consider bus priority lanes on transit corridors as an interim and low-cost treatment.

ENVIRONMENTAL SUSTAINABILITY

Complying with the Surplus Lands Act will promote sustainability by identifying potential surplus lands that could be developed for affordable housing. Increasing the supply of affordable housing will help prevent Berkeley residents from being displaced to outer areas of the region, thus preventing an increase in vehicle miles traveled and greenhouse gas emissions.

² https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1255

³ <https://mtc.ca.gov/tools-and-resources/digital-library/mtc-resolution-no-4202>

⁴ https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_-_Transportation_Element.aspx

RATIONALE FOR RECOMMENDATION

Adoption of the resolution will help ensure that the City is in compliance with State and regional requirements regarding Surplus Lands and will also maintain the eligibility of the City and partner agencies to receive regional grant funding for projects within City right-of-way.

ALTERNATIVE ACTIONS CONSIDERED

The City could choose not to comply with the Surplus Lands Act, which would cause the City to be ineligible to receive grant funding for transportation projects through regional funding programs.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, 981-7061
Beth Thomas, Principal Planner, Public Works, 981-7062
Dianne Yee, Associate Planner, Public Works, 981-7066

Attachment:
1: Resolution

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF BERKELEY TO COMPLY WITH
THE SURPLUS LANDS ACT

WHEREAS, the San Francisco region has the highest housing costs in the United States;
and

WHEREAS, the Bay Area produced less than 30% of the need for low- and moderate-
income housing units from 2007-2014; and

WHEREAS, there are limited funding sources available to secure land for the
construction of low- and moderate-income housing; and

WHEREAS, public lands can play a critical role in increasing the supply of land for
affordable housing; and

WHEREAS, the Metropolitan Transportation Commission adopted Resolution No. 4202,
outlining the programming policy and project selection criteria for the One Bay Area Grant
Program (OBAG 2), including certain requirements to access these funds.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the
City of Berkeley agrees to comply with the terms of Surplus Land Act (California
Government Code § 54220, et seq.), as exists now or may be amended in the future,
including, but not limited to, AB 1255 (Rivas, 2019), which requires jurisdictions to
compile and report annually an inventory of surplus lands to the California Department
of Housing and Community Development.



Office of the City Manager

26

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Liam Garland, Director, Public Works

Subject: Lease Agreement: 2010 Addison Street at Center Street Garage with Vito Loconte and Alexie LeCount d.b.a Lexie's Frozen Custard

RECOMMENDATION

Adopt first reading of an Ordinance authorizing the City Manager to execute a lease agreement for 2010 Addison Street at the Center Street Garage with Vito Loconte and Alexie LeCount d.b.a Lexie's Frozen Custard, a sole proprietorship, for an initial term of ten (10) years with one optional five-year lease extension AND approve payment of a commission of \$9,331.23 to Colliers International for commercial brokerage fees for locating a tenant for the premises.

FISCAL IMPACTS OF RECOMMENDATION

The lease agreement anticipates total revenue of \$205,909 for the initial ten (10) year term for the premises consisting of 480 square feet total. The initial monthly price per square foot is \$3.25 with an annual adjustment of 2.75% beginning the second year after the Commencement Date of the lease. The City agrees to a) pay for a water meter and oversee its installation; b) enable pouring of a concrete floor once tenant's contractor lays pipes and drains; and c) place conduit through which tenant may pull electrical lines to its premises.

The City also agrees to abate the base rent and all additional charges associated with the base rent for four months following the Lease Term Commencement Date established when the *Agreement Specifying Term of Lease* (Exhibit B to Lease) is executed. This abatement totals \$6,240 in savings for the proposed tenant in support of completing permanent improvements to the leased space. Revenue will be deposited into the Off-Street Parking Fund.

Per City Contract No. 32100136 with Colliers International, Public Works is also asking that City Council approve payment of \$9,331.23 to Colliers. This amount is calculated by adding 6% of the first five years to 3% of the second five years of rent. A payment of \$6,317.97 is due upon City Council approval of the lease and the remaining \$3,013.26 due once Lexie's commences operations at the premises. Payment for Colliers will be deducted from Expenditure Account No.: 673-54-624-697-0000-000-472-612990-.

CURRENT SITUATION AND ITS EFFECTS

Prospective tenant, Lexie’s Frozen Custard (Lexie’s) has applied to lease 2010 Addison Street as this location will be an ideal venue for the organization’s first retail space. Lexie’s currently produces its custard in Emeryville, CA and delivers and sells from a mobile food truck. The tenant has been informed and agrees to accept delivery of the space and commence the ten year Lease Term once a concrete floor and conduit are in place and a water meter is installed and operational. Staff has evaluated Lexie’s and considers it to be a good fit for the Center Street Garage space. The owners of Lexie’s are enthusiastic about having a location in Berkeley and look forward to the return of live music and theater productions and schools in neighboring venues.

BACKGROUND

The City of Berkeley completed construction of the new Center Street Garage (CSG) in late 2018. The retail space 2010 Addison Street was planned to be a commercial retail space that would cater to the customers attending classes, performances and other events in the theater district in which it is located. The ideal tenant was envisioned to be one operated by a local business owner and focused on serving dessert. 2010 Addison Street is located next to the Art Cube which regularly displays new installations of public and other art.

Due to the unfinished nature of the space (no water meter, no floor, no electricity and no plumbing) and no provision allowing the installation or use of equipment with ventilation hoods, the Director of Public Works approved hiring a commercial broker to assist with locating a suitable tenant.

ENVIRONMENTAL SUSTAINABILITY

The proposed lease requires the tenant to follow all environmental rules and regulations applicable to City agencies, specifically the City of Berkeley Municipal Electric Load Curtailment Policy and the City of Berkeley Indoor Heating Policy and their amendments. Further, the City adheres to procedures for energy conservation and load curtailment, and sets building thermostats at 68 degrees during occupied hours, and 55 degrees during unoccupied hours.

RATIONALE FOR RECOMMENDATION

As part of the lease application process, Lexie’s Frozen Custard provided the City acceptable business and financial plans, satisfactory supporting documentation for the business’s starting capital and demonstrated business experience in food service exceeding five years.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Liam Garland, Director, Department of Public Works, (510) 981-6303

Dionne E. Early, Community Development Project Coordinator, Public Works, (510)
981-6453

Attachments:

1: Ordinance

Exhibit A: Lease Agreement

ORDINANCE NO. -N.S.

LEASE AGREEMENT: LEXIE'S FROZEN CUSTARD AT THE CENTER STREET
GARAGE, 2010 ADDISON STREET

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

Section 1. FINDINGS:

The City owns the Center Street Garage, and Vito Loconte and Alexie LeCount d.b.a Lexie's Frozen Custard, a sole proprietorship, seeks to lease 2010 Addison Street at the premises for the purpose of operating a retail food service business.

Section 2. AUTHORIZATION FOR CITY MANAGER TO ENTER INTO LEASE AT 2010 Addison Street, Berkeley, CA:

The City Manager is hereby authorized to enter into a ten (10) year lease agreement with one optional five-year lease extension with Lexie's Frozen Custard for real property located at 2010 Addison Street, a ground floor retail space in the City of Berkeley Center Street Garage. Such lease shall be on substantially the terms set forth in Exhibit A.

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

Exhibit

A: Lease Agreement

CENTER STREET GARAGE LEASE

This lease is made on _____ 2021 ("Lease Approval Date"), between the CITY OF BERKELEY ("Landlord"), a Charter City organized and existing under the laws of the State of California and VITO LOCONTE III AND ALEXIS LECOUNT DBA LEXIE'S FROZEN CUSTARD ("Tenant"), a SOLE PROPRIETORSHIP, who agree as follows:

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

A. Landlord is the owner of the real property consisting of approximately 480 square feet of leasable space located at 2010 Addison Street, Berkeley, California, ("**Premises**") as further described in Exhibit A-1, attached to and made a part of this lease.

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

C. Tenant wishes to lease the Premises for the purpose of operating a retail dessert cafe.

D. Tenant has examined the Premises and is fully informed of the condition thereof.

1. **DESCRIPTION OF PREMISES**

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

2. **TERM**

- a. Lease Approval Date. The date City Council gives approval for the City Manager to execute the Lease.
- b. Lease Commencement Date. The date City Council specifies the Tenant may take possession of the space for the purpose of beginning tenant improvements in coordination with the Department of Public Works.
- c. Lease Term Commencement Date. The first day of the month following completion of the City's improvements to and for the Tenant's space as outlined in Section 11 (d) of this lease. This is the date that begins the initial ten (10) year term and the first of four months of free rent. The term shall be for a period of ten (10) years plus an option to extend for one (1) five- year term as outlined in Section 32 of this lease.
- d. Rent Commencement Date. The first day of the month following four months of free rent (or four months after the Lease Term Commencement Date). Following the completion of Landlord's work prerequisite to Tenant's improvements to the Premises, Landlord and Tenant agree to sign and date Exhibit B, *Agreement Specifying Term of Lease* attached hereto and acknowledge the Lease Commencement Date, Lease Term

Commencement Date, Rent Commencement Date, and Expiration Date of the initial term of the lease.

3. RENT

- a. Tenant shall pay to Landlord as monthly rent, without deduction, setoff, prior notice, or demand, the sum of \$1,560.00 per month in advance of the first day of each month, commencing on the date the term commences, and continuing during the term. Rent for the first four (4) months after the Lease Term Commence Date shall be abated. Monthly rent for the fifth month shall be paid on the Rent Commencement Date and continue until the Lease Expiration Date as agreed to in Exhibit B, *Agreement Specifying Term of Lease*. Monthly rent for any partial month shall be prorated at the rate of 1/30th of the monthly rent per day. All rent shall be paid to Landlord at the address to which notices to Landlord are given.
- b. In accordance with California Civil Code 1947.3, Tenant may pay the monthly rent by check or by electronic transfer of funds from their bank account into a bank account of the Landlord. If Tenant plans to pay by electronic transfer of funds then Tenant will request this in writing to Landlord and together the parties shall provide the necessary information for this to happen.

4. PERIODIC RENT INCREASES

The monthly rent shall be increased at the commencement of the second year, one year after the Lease Term Commencement and each year thereafter ("the adjustment date") to the monthly rent in effect immediately preceding the adjustment date plus two and seven fifth percent (2.75%).

5. SECURITY DEPOSIT

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

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

c. Landlord will not be required to keep the security deposit separate from its own funds and Tenant shall not be entitled to interest on the security deposit. The security deposit will not be a limitation on Landlord's damages or other rights under this lease, or a payment of liquidated damages, or an advance payment of the rent. If Tenant pays the rent and performs all of its other obligations under this lease, Landlord shall return the unused portion of the security deposit to Tenant within sixty (60) days after the end of the term; however, if Landlord has evidence that the security deposit has been assigned to an assignee of the Tenant, Landlord shall return the security deposit to the assignee. Landlord may deliver the security deposit to a purchaser of the Premises and be discharged from further liability with respect to it. Tenant waives the provisions of California Civil Code section 1950.7, and all laws in force or that become in force after the date of execution of this Lease, that provide that Landlord shall return the security deposit no later than thirty (30) days after the Landlord receives possession of the premises.

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

6. LATE CHARGES

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

7. USE OF PREMISES; OPERATION

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

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

seasonal schedule changes and/or closures (if any) have been approved of the Director of Public Works or his/her designee.

c. Tenant agrees to abide by all facility “Rules and Regulations.” The current version is attached hereto as Exhibit B, and may be amended by the City from time to time.

d. In addition to Tenant’s agreement to abide by all other restrictions on Tenant’s use. Tenant agrees that any violation of use restriction shall constitute a default by Tenant under the lease, and that Landlord’s notice to Lessee of this or any use restriction shall not be deemed a waiver by Landlord of any other use restriction imposed on the Tenant for the use of the demised premises.

8. TAXES AND ASSESSMENTS

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

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

9. UTILITIES

Tenant agrees to pay any and all charges for telephone, water, and other utilities used in the Premises. Tenant shall arrange for basic refuse collection services by the City of Berkeley. Landlord agrees to pay for electricity and basic refuse collection services. If Tenant’s business exceeds the basic refuse collection service, then Tenant shall be responsible and pay for any additional charges associated with its usage.

10. MAINTENANCE AND REPAIR

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

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

c. Tenant shall make all required repairs upon demand by Landlord. Failure to make such

repairs within thirty (30) days of the Landlord's demand shall constitute a default by Tenant.

11. IMPROVEMENTS

a. Tenant shall not erect additions or structures nor make nor cause to be made any alterations, improvements, additions, or fixtures that affect the exterior or interior of the Premises nor shall Tenant mark, paint, drill or in any way deface any floors, walls, ceilings, or partitions of the Premises, without first providing thirty (30) days' written notice to Landlord. If Landlord raises no objections within thirty (30) days after receipt of such notice, Tenant may proceed.

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

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

d. Tenant shall pay for any heat and air conditioning equipment to be installed in the Premises and shall be responsible for any repairs and maintenance of said equipment during the Term of this lease and during any extension periods and Landlord agrees to install a water meter for the leased Premises and install a finished concrete floor with conduit for a water drain, as provided by Tenant's design of the leased Premises.

e. Tenant shall have the right, but not the obligation, at any time during the term of this lease, to install a back door to the Premises, subject to the approval of Director of Public Works or his/her designee, and City's Planning Department and the Fire Marshall.

12. INDEMNIFICATION

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

Except, however, that Landlord shall hold Tenant harmless from all claims of liability for damage resulting from the acts or omissions of Landlord or its authorized representatives.

13. INSURANCE

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

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

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

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

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

14. COMPLIANCE WITH LAW AND SAFETY

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

codes, and regulations.

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

c. Tenant shall report all existing hazardous materials handled at the site and any hazardous wastes generated at the site to the Toxics Management Division (TMD) on an annual basis and abide by all requirements of the TMD and other state and local environmental agencies. Upon release of hazardous materials or hazardous waste at the property or adjacent to the property, Tenant shall immediately notify the City of Berkeley Toxics Management Division. If the release is significant, the Tenant must report it to the 911 and the Office of Emergency Services.

d. To Landlord's actual knowledge, neither the common area of the Building nor the Premises have undergone inspection by a Certified Access Specialist (CASp). The foregoing disclosure does not affect Landlord's or Tenant's respective responsibilities for compliance of construction-related accessibility standards as provided under this lease. A CASp can inspect the Premises and determine whether the Premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, Landlord may not prohibit Tenant from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of Tenant, if requested by Tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises.

e. Landlord represents to Tenant that, as of the Lease Approval Date, the restrooms in the building will be available to Tenant and its customers and invitees.

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

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

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

16. **CITY NON-DISCRIMINATION ORDINANCE**

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

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

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

17. **NUCLEAR FREE BERKELEY**

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

18. **OPPRESSIVE STATES**

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

- (1) The governing regime in any Oppressive State.
- (2) Any business or corporation organized under the authority of the governing regime of any Oppressive State.

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

b. For purposes of this lease, the Tibet Autonomous Region and the provinces of Amdo, Kham, and U-Tsang shall be deemed oppressive states.

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

19. BERKELEY LIVING WAGE ORDINANCE

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

b. Tenant shall be required to maintain all reasonable records and documents that would establish whether Tenant is subject to Berkeley's Living Wage Ordinance (LWO). If Tenant is subject to the LWO, as defined therein, Tenant shall be further required to maintain monthly records of those employees located on the leased Premises. These records shall include the total number of hours worked, the number of hours spent providing service on the leased property, the hourly rate paid, and the amount paid by Tenant for health benefits, if any, for each of its employees providing services under the lease. The records described in this Section shall be made available upon the City's request. The failure to produce these records upon demand shall be considered a default, subject to the provisions contained in sections 27 and 28 herein.

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

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

Tenant's failure to comply with this Section shall constitute default of the lease, upon which City may terminate this lease pursuant to Section 28.

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

20. BERKELEY EQUAL BENEFITS ORDINANCE

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

b. If Tenant is currently or becomes subject to the Berkeley Equal Benefits Ordinance, Tenant agrees to supply the City with any records the City deems necessary to determine compliance with this provision. Failure to do so shall be considered a default, subject to the provisions of Sections 27 and 28 of this lease.

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

Tenant's failure to comply with this Section shall constitute default of the lease, upon which City may terminate this lease pursuant to Section 28.

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

21. SANCTUARY CITY CONTRACTING ORDINANCE

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

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

22. CONFLICT OF INTEREST PROHIBITED

- a. In accordance with California Government Code Section 1090, Berkeley City Charter Section 36 and B.M.C. Chapter 3.64, neither Tenant nor any employee, officer, director, partner or member of Tenant, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a committee or commission member of Landlord, who has directly or indirectly influenced the making of this Lease.
- b. In accordance with California Government Code Section 1090 and the Political Reform Act, (Government Code Section 87100 et seq.,) no person who is a director, officer, partner, trustee, employee or consultant of Tenant, or immediate family member of any of the preceding, shall make or participate in a decision made by Landlord or any of its boards, commissions or committees, if it is reasonable foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Tenant, except to the extent permitted by 2 California Code of Regulations, Section 18700(c)(2).
- c. Interpretation of this paragraph shall be governed by the definitions and provisions use in the Political Reform Act, Government Code section 87100 et seq., its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Chapter 3.64, as amended from time to time.

23. PESTICIDES

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

24. SIGNS

Tenant shall not install or letter any signs on the Premises without the prior written consent of the Director of Public Works or his/her designee. All signs on the Premises shall conform to the provisions of Berkeley Municipal Code Chapter 20.04.

25. DAMAGE OR DESTRUCTION

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

26. EMINENT DOMAIN

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

27. DEFAULT BY TENANT

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

1. Failure to pay rent when due, if the failure continues for 10 days after notice has been given to Tenant.
2. Abandonment and vacation of the Premises (failure to occupy and operate the Premises for 14 consecutive days, without prior written notice from Tenant of a planned closure, shall be deemed an abandonment and vacation).
3. Failure to perform any other provision of this lease if the failure to perform is not cured within 30 days after notice has been given to Tenant. If the default cannot reasonably be cured within 30 days, Tenant shall not be in default of this lease if Tenant commences to cure the default within the 30-day period and diligently and in good faith continues to cure the default.

b. Notices given under this paragraph shall specify the alleged default and the applicable lease provisions, and shall demand that Tenant perform the provisions of this lease or pay the rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this lease unless Landlord so elects in the notice. The purpose of the notice requirements set forth in this section is to extend the notice requirements of the unlawful detainer statutes of California.

28. LANDLORD'S REMEDIES

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

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

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

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

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

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

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

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

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

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

Landlord to terminate this lease.

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

28. ASSIGNMENT AND SUBLETTING

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

29. ENTRY

Landlord and its authorized representatives shall have the right to enter the Premises at all reasonable times, provided Landlord gives a 24-hour prior notice to Tenant, for any of the following purposes: to determine whether the Premises are in good condition and whether Tenant is complying with its obligations under the lease; to do any acts that may be necessary to protect Landlord's interest in the Premises; or to perform Landlord's duties under this lease. Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the Premises as provided in this section, except damage resulting from the acts or omissions of Landlord or its authorized representatives.

30. NOTICES

A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this lease and either: i) deposits it with the U.S. Postal Service, registered mail, postage prepaid; or ii) emails it to the other party followed, no later than the next business day, by depositing it with the U.S. Postal Service for delivery by regular mail. For purposes of this lease, notices shall be addressed as follows, as appropriate:

To the Landlord: City of Berkeley

Department of Public Works,
2180 Milvia Street, Third Floor
Berkeley, CA 94704

With a copy to: City of Berkeley
Real Property Division
1947 Center Street, Fifth Floor
Berkeley, CA 94704
Email Address: real_property@cityofberkeley.info

To the Tenant: Vito LoConte III with a copy to: Lexie's Frozen Custard
Alexis LeCount 2010 Addison Street
834 Talbot Avenue Berkeley, CA 94704
Albany, CA 94706
Telephone: 415-846-6973
Email Address: lexiesfrozcustard@gmail.com

30. WAIVER

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

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

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

31. EXCUSABLE DELAYS

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

such act shall be extended for one hundred and eighty (180) days and if the performance of such act is further delayed, Landlord or Tenant may terminate this lease by giving a thirty (30) day written notice to the other party. Prior to the Rent Commencement Date, and during any delay in performance as described above, Tenant shall be excused from the payment of any rent due under this Lease.

32. OPTION TO RENEW

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

b. Option Period Monthly Rent. The Monthly Rent at the commencement of the first year of the Option Period and each year thereafter will be the monthly rent in effect at the end of the initial Term of this Lease plus two and three quarters percent (2.75%).

33. HOLDING OVER

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

34. SURRENDER OF PREMISES, REMOVAL OF PERSONAL PROPERTY

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

35. TERMS BINDING ON SUCCESSORS

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

36. **TIME OF ESSENCE**

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

37. **COVENANTS AND CONDITIONS**

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

38. **GOVERNING LAW**

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

39. **ENTIRE AGREEMENT, AMENDMENTS**

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

40. **CONSENT OF PARTIES**

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

41. **BUSINESS LICENSE**

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

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

LANDLORD
CITY OF BERKELEY

By:
City Manager

THIS LEASE HAS BEEN
APPROVED AS TO FORM
BY THE CITY ATTORNEY
OF THE CITY OF BERKELEY
Date: _____

REGISTERED BY:

City Auditor

ATTEST:

Deputy City Clerk

TENANT
VITO LOCONTE III AND ALEXIS LECOUNT
DBA LEXIE'S FROZEN CUSTARD,
A Sole Proprietorship

Signature _____
Title _____ 2/21/21

Signature _____
Title Alexis LeCount 2/21/21
owner

City of Berkeley Business License No. 000664

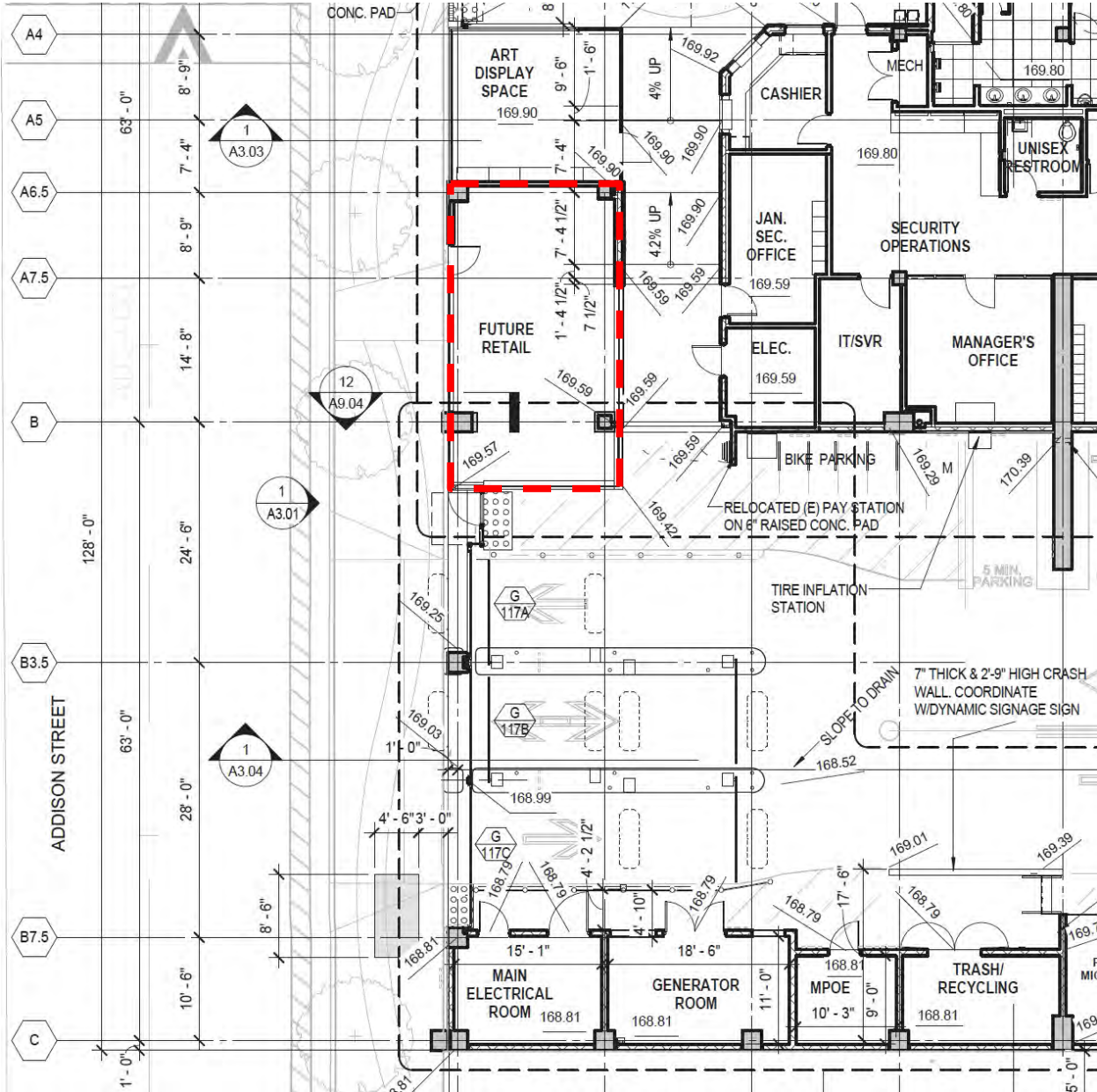
EXHIBIT A
TO
LEASE

Location of Garage



EXHIBIT A-1
TO LEASE

Site Plan of Premises (Lease Space outlined in bold dash marks)



- Occupation of 480 square feet retail space;
- Use of public restrooms at the Garage; and
- Use of the shared Trash/Recycling Room located on the west wall of the first floor of garage.

**EXHIBIT B
TO
LEASE**

Agreement Specifying Term of Lease

Attached to and made part of the Lease approved on the _____ day of _____, 20____, ("Lease Approval Date") by and between the CITY OF BERKELEY, a municipal corporation, as Landlord, and VITO LOCONTE III AND ALEXIS LECOUNT D.B.A., LEXIE'S FROZEN CUSTARD, a sole proprietorship, as Tenant ("**Lease**"). Landlord and Tenant do hereby confirm and acknowledge the following dates:

Lease Commencement Date is _____, 20____, the date City Council specifies the Tenant may take possession of the space for the purpose of beginning tenant improvements in coordination with the Department of Public Works.

Lease Term Commencement Date is _____, 20____, the first day of the month following completion of the City's improvements to and for the Tenant's space.

Rent Commencement Date is _____, 20____, the first day of fifth month after the Lease Term Commencement Date.

Expiration Date is _____, 20____, subject to extension as provided in the Lease.

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

This Agreement was entered into as of the _____ day of _____, 20____.

ATTEST/WITNESS:

LANDLORD:

CITY OF BERKELEY, a municipal corporation

By: _____
Its: City Manager

By: _____
Its: City Attorney

By: _____
Its: City Auditor

ATTEST/WITNESS:

TENANT:

LEXIE'S FROZEN CUSTARD
a Sole Proprietorship.

By: _____
Vito Loconte III

By: _____
Alexis LeCount

LEASE PAYMENT SCHEDULE FOR 2010 ADDISON											
	YEAR	1	2	3	4	5	6	7	8	9	10
MONTH	1	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	2	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	3	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	4	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	5	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	6	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	7	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	8	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	9	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	10	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	11	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
MONTH	12	\$ 1,560.00	\$ 1,602.90	\$ 1,646.98	\$ 1,692.27	\$ 1,738.81	\$ 1,786.63	\$ 1,835.76	\$ 1,886.24	\$ 1,938.11	\$ 1,991.41
		\$ 18,720.00									
		\$ (6,240.00)	(FOUR MONTH RENT FREE)								
ANNUAL TOTAL:		\$ 12,480.00	\$ 19,234.80	\$ 19,763.76	\$ 20,307.26	\$ 20,865.71	\$ 21,439.52	\$ 22,029.10	\$ 22,634.90	\$ 23,257.36	\$ 23,896.94
										TEN YEAR TOTAL:	\$ 205,909.36

ANNUAL INCREASE: 2.75%

MONTH 1 DATE: _____

LEASE TERMINATION DATE: _____

**EXHIBIT C
TO
LEASE**

Restrictions and Prohibited Uses

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

**EXHIBIT D
TO
LEASE**

Center Street Garage Rules and Regulations

Landlord has the right to change Center Street Garage Rules and Regulations at any time.

A. Tenant shall be obligated to do the following:

- i. Keep the Premises, including both sides of all glass clean, orderly and sanitary;
- ii. Keep the outside areas adjacent to the Premises clean, orderly and free of debris, rubbish, obstructions and merchandise;
- iii. Display the certificate of occupancy (if required by applicable law) for the Premises in the Premises and provide Landlord with a copy of the Certificate of Occupancy (or jurisdictional equivalent) for the Premises;
- iv. Keep the Premises free of garbage and trash and remove the same from the Premises to containers approved by Landlord;
- v. Maintain the Premises free of insects, rodents, vermin and other pests;
- vi. Keep all mechanical apparatus free of vibration and noise -- live music or any other use of amplifiers or speakers is prohibited;
- vii. Procure and maintain at its sole cost and expense any permits and licenses required in the transaction of Tenant's business;
- viii. Conduct its business in all respects in a manner in accordance with first-class store operations;
- ix. Load and unload goods at such times in the areas and through such entrances as may be designated by Landlord;
- x. Keep its show windows dressed, using only professionally prepared signage which must be submitted to Landlord for approval prior to installation;
- xi. Keep its show windows and exterior signs illuminated from dusk to 10:00 p.m. every day;
- xii. No office equipment of any kind (other than normal office equipment) shall be operated by Tenant without Landlord's prior written consent, nor shall Tenant use or keep in the Retail Space any flammable or explosive fluid or substance.

- xiii. Landlord will not be responsible for lost or stolen personal property, money or jewelry from the Premises or Common Areas.
- xiv. Restrooms, toilets, urinals and wash basins shall not be used for any purpose other than those for which they were constructed, and no rubbish, newspapers, food or other substance of any kind shall be thrown into them. Tenant shall not mark, drive nails, screw or drill into, paint or in any way deface the exterior walls, floor foundations, bearing walls or pillars without the prior written consent of Landlord. The expense of repairing any breakage, stoppage or damage resulting from a violation of this rule shall be borne by Tenant.
- xv. Tenant shall not sell merchandise from vending machines or allow any coin or token operated vending machine on the Premises, except those provided for the convenience of Tenant's employees and pay telephones provided for the convenience of its customers.
- xvi. Landlord has the right to require that Tenant provide a copy of the key to the Premises for access by Landlord, or as otherwise required by applicable Laws.
- xvii. Abide by all Rules and Regulations set forth in this **Exhibit D** as may be changed by Landlord from time to time provided that such change not materially impact Tenant's rights or responsibilities under the Lease.

B. Tenant agrees not to do the following:

- i. Display any sign visible outside the Premises without first having obtained Landlord's written permission;
- ii. Use the Premises or any other part of the Garage for any use other than allowed by the Lease;
- iii. Cause the accumulation of garbage, trash, rubbish or refuse in the Premises or the Garage;
- iv. Display or store merchandise outside the Premises;
- v. Distribute hand bills or other advertising matter or solicit business in the Common Area;
- vi. If parking is otherwise expressly permitted pursuant to the Lease, permit parking of any vehicle for more than 24 hours;
- vii. Attach any awning, antenna, or other projection to the roof or the outside walls of the Premises or the Garage;
and
- viii. Use or permit the use of objectionable advertising mediums such as loud speakers or other mediums that irritate or have the tendency to irritate other tenants within the Retail Space or their customers or invitees.



Mental Health Commission

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council
From: Mental Health Commission
Submitted by: Margaret Fine, Chairperson, Mental Health Commission
Subject: Appointment of Monica Renee Jones to Mental Health Commission

RECOMMENDATION

Adopt a Resolution appointing: Monica Renee Jones as a representative of the General Public Interest Category, to complete her first 3-year term beginning May 26, 2021 and ending May 25, 2024.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Mental Health Commission is authorized to be composed of thirteen members. There are presently six vacancies on the Commission. These vacancies impair the Commission's ability to adequately review and evaluate the community's mental health needs, resources, and programs. Approval of the recommended action will fill a vacant position and move the Commission closer to having a full and diverse complement of commissioners

BACKGROUND

California State law requires that appointments to the Mental Health Commission meet specific categories, who may serve up to nine years consecutively. The general public interest category may include anyone who has an interest in and some knowledge of mental health services. The special public interest category includes direct consumers of public mental health services and family members of consumers, which together must constitute at least fifty percent or nine of the commission seats. Direct consumers and family members shall each constitute at least 20% of the commission membership.

Monica Renee Jones is a resident of Berkeley and has a past experience in Corrections for 25 year. She has the compassion to help others and a passion to serve the mental health community. She would like to join the Mental Health Commission to be part of the solution and address issues around housing and medication evaluations for mental health consumers. This would be her first term participating on the Mental Health Commission.

The Mental Health Commission passed the following motions at the March 25, 2021 meeting:

Interview and vote on the nomination of Monica Jones on the Mental Health Commission.

M/S/C (cheema, Fine) Motion to move that we forward the application for Monica Renee Jones to the city council

PASSED

Ayes: Blanton, cheema, Fine, Opton, Prichett Noes: None; Abstentions: None; Absent: Moore, Taplin

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Approval of the recommended action will allow the Mental Health Commission to move closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager takes no position.

CONTACT PERSON

Jamie Works-Wright, Commission Secretary, HHCS, 510-981-7721

Attachments:

1: Resolution

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

APPOINTMENT OF MONICA RENEE JONES TO THE MENTAL HEALTH
COMMISSION

WHEREAS, membership of the Mental Health Commission is composed of thirteen appointments by the City Council as a whole, including one appointment by the Mayor (*or designee*), six special public interest appointments, and four general public interest appointments; and

WHEREAS, with the ongoing implementation of the Mental Health Services Act, the City of Berkeley will need to have a full complement of diverse appointees to the Commission to review and evaluate the community's mental health needs, resources, and programs and to fulfill its mandate; and

WHEREAS, Ms. Jones has an investment in the community, trained in post trauma and conflict management and is prepared to contribute to helping others.

WHEREAS, the Mental Health Commission at its March 25, 2021 meeting recommends appointment of Monica Renee Jones.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council appoints Monica Renee Jones as a representative of the General Public Interest category, to complete her first-term ending May 25, 2024.



Police Review Commission

28

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council
 From: Police Review Commission
 Submitted by: Ismail Ramsey, Chairperson, Police Review Commission
 Subject: Police Review Commission online poll

RECOMMENDATION

Authorize the Police Review Commission to conduct an online poll regarding awareness of the Commission and experience with its complaint process.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Police Review Commission (PRC) is interested in learning about what the public knows about the PRC and, in particular, about the ability to file complaints of alleged misconduct by Berkeley police officers or policy complaints questioning a particular departmental policy, practice, or procedure. The idea for a poll stemmed from the PRC's Outreach Subcommittee, which thought that the data gathered would help the coming Police Accountability Board target its outreach efforts. The PRC believes the survey results will be useful for the new oversight body as it plans its community engagement activities.

BACKGROUND

The PRC was created in 1973 to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department.

The number of individual and policy complaints filed with the PRC has fallen steadily over the past 20 years, averaging 20 per year from 2011 to 2020, compared to 42 from 2001 to 2010. The reason for the decline is unclear, but could be due to factors such as lack of knowledge about the PRC complaint process, or general satisfaction with the police.

Obtaining information about the public's awareness of the PRC, as well as understanding why they have not filed a complaint, even if they know about their ability to have an entity separate from the Police Department investigate it, will help shed

some light on what type of outreach efforts are needed. While the PRC will soon cease to exist, the Police Accountability Board, as a successor agency that will also accept complaints, could benefit from an understanding of what the public knows about civilian oversight in Berkeley and the public's views of its effectiveness.

The poll, a copy of which is attached, will be issued via SurveyMonkey. It is brief and focused, and will be circulated for three weeks. The link to the poll will be shared broadly as possible. It will be sent to individuals and to community, non-profit, political advocacy, and faith-based organizations, among others, who will be asked to respond to and share the poll. Respondents will remain anonymous.

The PRC voted unanimously to approve the idea of the poll and seek Council's approval at its April 14, 2021 meeting.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

According to the Commissioners' Manual, Council approval is needed for a commission to communicate in an official manner outside of commission meetings, including polling of the public.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Katherine J. Lee, Police Review Commission Officer, Police Review Commission, 510-981-4960.

Attachments:

1: Poll

BERKELEY'S POLICE REVIEW COMMISSION WANTS TO HEAR FROM YOU

The Berkeley Police Review Commission (PRC) is responsible for providing oversight to the Berkeley Police Department (BPD), reviewing personnel complaints filed by people against BPD officers, and reviewing policy complaints filed by people regarding a BPD policy, practice, or procedure.

The value of the PRC depends in large part on community feedback. We want to hear from you regarding any aspect of the complaint process and regardless of whether you personally have filed a complaint. Your feedback will be important as the PRC transitions to the new Police Accountability Board this summer.

We would really appreciate it if you could answer these brief questions (check the response that best fits your experience) and send us your general feedback and experiences. Your feedback will be anonymous.

1. How familiar are you with the Berkeley Police Review Commission?

- I'm very familiar with it.
- I'm somewhat familiar with it.
- I have heard of it, but don't know much about it.
- I do not know about it/never heard of it.

Next

BERKELEY'S POLICE REVIEW COMMISSION WANTS TO HEAR FROM YOU

2. Have you ever filed a complaint with the PRC?

- Yes (skip to Question #4)
- No (proceed to Question #3)

3. If you answered 'No' to Question #2, why not? (check all that apply, then skip to Question #7)

- I didn't know about the PRC.
- I don't have any complaints.
- It was a minor issue and not worth the effort.
- I couldn't take time off work.
- I missed the deadline for filing.
- I thought nothing would come of it.
- I felt intimidated by the PRC complaint process.
- I feared retaliation.

Other (please specify)

[Empty text box for other reasons]

4. If you answered "Yes" to Question #2, were you satisfied with the complaint process?

- Yes
- No

5. If you were satisfied with the complaint process, please tell us why.

[Empty text box for reasons of satisfaction]

6. If you were not satisfied with the complaint process, please tell us why. What would you change?

[Empty text box for reasons of dissatisfaction]

BERKELEY'S POLICE REVIEW COMMISSION WANTS TO HEAR FROM YOU

7. The PRC also issues commendations to officers for extraordinary service. Are you aware that you can ask the Commission to commend an officer?

Yes

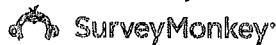
No

8. Any other feedback?
(Final question - you're done. Thank you!)

Prev

Done.

Powered by



See how easy it is to [create a survey](#).



Office of the Mayor

CONSENT CALENDAR

May 25, 2021

To: Honorable Members of the City Council

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

Subject: Support of AB 1177 – California Public Banking Options Act

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill 1177 and send a copy of the Resolution to Governor Newsom, Senator Skinner and Assemblymember Wicks.

BACKGROUND

A 2019 survey by the Federal Deposit Insurance Corp. found that 15% of Black households and 13% of Latino households in California lacked bank accounts, compared with less than 1.5% of white and Asian households. The survey showed similar disparities nationwide.¹ These households pay proportionately more to access the money that they earn, lack safe secure means to save, and have fewer opportunities to build credit. Moreover, unbanked and underbanked Californians lack access to basic financial services many take for granted, such as direct deposit of paychecks to automatic bill pay.

The California Banking Option Act, AB1177, - (Santiago, Carrillo, Chiu, Garcia, Kalra, Lee), or BankCal, provides all Californians access to zero-fee, zero-penalty financial services. BankCal creates a stable, affordable platform for basic banking that would eliminate the need for costly and exploitative alternatives, such as check cashing and pre-paid debit cards, in addition to expanding access to credit building tools for communities that have been historically shut out from basic financial services. All Californians would be eligible to opt-in to BankCal and participation is voluntary.

BankCal account holders could sign up for debit cards that would be accepted at designated banking partner ATMs. Account holders could authorize their employers to directly deposit their pay into their BankCal accounts or use the account to receive public benefits such as federal and state stimulus funds. A Board made up of experts in banking and financial inclusion oversees the administration of the BankCal platform, ensuring that the program and partner financial institutions are upholding BankCal's mission to provide tools for financial stability to California's most vulnerable residents.

¹https://economicinclusion.gov/surveys/2019household/documents/yoy-analysis.html?where=State_Unbanked_California_2019_YOY_Analysis#

Support of AB 1177 – California Public Banking Options Act
CONSENT CALENDAR – May 25, 2021

FINANCIAL IMPLICATIONS

None

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1. Resolution
2. Text of AB 1177

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

IN SUPPORT OF AB 1177

WHEREAS nearly one (1) in four (4) Californians are unbanked, meaning they lack a bank account altogether, or are underbanked, meaning they have a bank account but still largely rely on alternative financial services such as payday lenders, prepaid debit cards, and pawn shops; and

WHEREAS unbanked or underbanked households pay proportionally more for their financial services, lack savings accounts, have fewer opportunities to build credit, and face increased rates of loan rejection; and

WHEREAS limited access to financial services is a problem that disproportionately impacts low-income communities and communities of color, with nearly half of Black and Latino California households being unbanked; and

WHEREAS workers who make just under \$15 an hour make up 80.7 percent of the unbanked persons in our state; and

WHEREAS BankCal builds on the success of California's other financial programs, CalSavers and CalKids, and would allow all Californians, no matter how much money they make or where they live, to create a BankCal account, use a BankCal debit card, access a vast network of ATMs, deposit funds, automate bill pay, and set up direct deposit with no fees or penalties; and

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby supports AB 1177.

BE IT FURTHER RESOLVED that copies of the Resolution be sent to Assemblymembers David Chiu and Buffy Wicks, State Senator Nancy Skinner, and Governor Gavin Newsom.

AMENDED IN ASSEMBLY APRIL 21, 2021

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1177

**Introduced by Assembly Members Santiago, Carrillo, Chiu,
Eduardo Garcia, Gipson, Lorena Gonzalez, Kalra, Lee, Ting,
and Wicks**

**(Coauthors: Assembly Members Bonta, Friedman, Jones-Sawyer,
and Luz Rivas)**

(Coauthors: Senators Durazo, Gonzalez, Hueso, and Wiener)

February 18, 2021

An act to amend Section 1947.3 of the Civil Code, to add Title 21.1 (commencing with Section 100100) to the Government Code, to add Section 90.4 to the Labor Code, and to amend Section 12302.2 of the Welfare and Institutions Code, relating to financial institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1177, as amended, Santiago. California Public Banking Option Act.

(1) Existing law, the CalSavers Retirement Savings Trust Act, creates in state government the CalSavers Retirement Savings Board and requires the board to, among other things, design and implement the CalSavers Retirement Savings Program.

This bill, the California Public Banking Option Act, would, among other things, establish in state government the Public Banking Option Board consisting of nine members, including the Treasurer or the Treasurer's designee and would require the board to administer the BankCal Program, which the act would create for the purpose of

protecting consumers who lack access to traditional banking services from predatory, discriminatory, and costly alternatives, by offering access to voluntary, zero-fee, zero-penalty, federally insured transaction account and debit card services at no cost to ~~account holders~~: *accountholders*. The act would require the board to design and implement the BankCal Program by, among other things, selecting a program administrator, which may consist of one or more contractors or program staff or a combination thereof, and establishing the duties and functions of the program administrator, as prescribed, including a duty to administer the program as a fiduciary for ~~account holders~~: *accountholders*.

The act would also establish the BankCal Fund in the State Treasury. The act would make moneys in the fund available upon appropriation by the Legislature for the purposes of the act. The act would authorize the board to seek and accept voluntary contributions, in cash or in kind, from private donors solely for the purpose of paying for the costs of implementing the program under this title and would require those voluntary contributions to be deposited into the fund.

The act would require employers and hiring entities to have and maintain a payroll direct deposit arrangement ~~to allow~~ *that enables voluntary* worker participation in the BankCal program. The act would define “employer” to mean a person, including a state or local government or agency, engaged in a business, industry, profession, trade, or other enterprise in the state, whether or not for profit, excluding the federal government, that has at least five employees. By imposing the mandate to maintain a payroll direct deposit arrangement on a local government or agency, this bill would impose a state-mandated local program. The act would require the board to enforce the provisions of the act with respect to employers and hiring entities in coordination with the Labor Commissioner, as specified, and would make an employer or hiring entity that, without good cause, fails to allow its workers to participate in the BankCal Program liable for a civil penalty, as prescribed.

(2) Existing law authorizes a landlord or a landlord’s agent to demand or require cash as the exclusive form of payment of rent or deposit of security if the tenant has previously attempted to pay the landlord or landlord’s agent with a check drawn on insufficient funds or the tenant has instructed the drawee to stop payment on a check, draft, or order for the payment of money, as specified.

The act would, as an exception to that authorization, require a landlord or landlord's agent to allow a tenant to pay rent and deposit of security by an electronic funds transfer from a BankCal account.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Public Banking Option Act.

3 SEC. 2. The Legislature finds and declares all of the following:

4 (a) With unemployment rates soaring, homelessness rising, and
5 an unprecedented wave of evictions looming as a result of the
6 COVID-19 pandemic, the financial stability of the state's most
7 vulnerable residents has become a matter of particularly urgent
8 concern, not only to those individuals themselves but to the
9 economic health of the state as a whole.

10 (b) Access to basic financial services, including demand deposit
11 (checking) and savings accounts, is a critical component of
12 financial stability. Yet one in four California households, and
13 nearly one in two Black and Hispanic California households, is
14 currently unbanked or underbanked. These households either lack
15 a bank account altogether or have a bank account but still largely
16 rely on alternative financial services, including nonbank check
17 cashers, payday lenders, prepaid debit cards, and pawn shops,
18 which are services that are often predatory, discriminatory, and
19 costly, leading to compounding fees and debts.

20 (c) Unbanked and underbanked households pay proportionally
21 more for their financial services, lack secure means of saving, have
22 fewer opportunities to build credit, and are rejected for loans at
23 far higher rates. Basic financial transactions, including the payment
24 of rent, utilities, and other recurring bills or charitable
25 contributions, are a particularly formidable challenge for

1 households lacking access to important tools, including automated
2 bill pay, or whose monthly income fluctuates too much to make
3 automated processes viable. Because they have fewer options when
4 their money runs short, unbanked households face a far more
5 destructive cycle of punitive action when they default on their
6 recurring bills, which leads to compounding interest and further
7 debt. For all these reasons, exclusion from traditional financial
8 services significantly increases the risk of poverty and
9 homelessness and places an unnecessary burden on the entire
10 economy.

11 (d) Limited access to *affordable* financial services is a problem
12 that disproportionately impacts low-income communities and
13 communities of color. *In 2017*, Californians earning less than \$15
14 per hour ~~make~~ *made* up 80.7 percent of the unbanked in the state,
15 and Black and Hispanic Californians ~~make~~ *made* up ~~78.4~~ 78.3
16 percent. Nearly half, 45.9 percent, of all Black-identifying
17 households in California and 41.1 percent of all
18 Hispanic-identifying households ~~are~~ *were* unbanked or
19 underbanked *in 2017* compared to 15.5 percent of white-identifying
20 households. Forty-four percent of disabled Californians ~~are~~ *in 2017*
21 *were* also unbanked or underbanked.

22 (e) Providing Californians with a zero-fee, zero-penalty public
23 option for basic financial services would empower Californians
24 by providing a stable, affordable financial platform for all
25 Californians, especially this underserved population, and would
26 eliminate the need for exploitative alternatives to traditional
27 banking and reduce their risk of falling into catastrophic debt traps
28 and downward spirals.

29 SEC. 3. Section 1947.3 of the Civil Code is amended to read:

30 1947.3. (a) (1) Except as provided in paragraph (2), a landlord
31 or a landlord's agent shall allow a tenant to pay rent and deposit
32 of security by at least one form of payment that is neither cash nor
33 electronic funds transfer.

34 (2) Except as provided in paragraph (5), a landlord or a
35 landlord's agent may demand or require cash as the exclusive form
36 of payment of rent or deposit of security if the tenant has previously
37 attempted to pay the landlord or landlord's agent with a check
38 drawn on insufficient funds or the tenant has instructed the drawee
39 to stop payment on a check, draft, or order for the payment of
40 money. The landlord may demand or require cash as the exclusive

1 form of payment only for a period not exceeding three months
 2 following an attempt to pay with a check on insufficient funds or
 3 following a tenant’s instruction to stop payment. If the landlord
 4 chooses to demand or require cash payment under these
 5 circumstances, the landlord shall give the tenant a written notice
 6 stating that the payment instrument was dishonored and informing
 7 the tenant that the tenant shall pay in cash for a period determined
 8 by the landlord, not to exceed three months, and attach a copy of
 9 the dishonored instrument to the notice. The notice shall comply
 10 with Section 827 if demanding or requiring payment in cash
 11 constitutes a change in the terms of the lease.

12 (3) Subject to the limitations below, a landlord or a landlord’s
 13 agent shall allow a tenant to pay rent through a third party.

14 (A) A landlord or landlord’s agent is not required to accept the
 15 rent payment tendered by a third party unless the third party has
 16 provided to the landlord or landlord’s agent a signed
 17 acknowledgment stating that they are not currently a tenant of the
 18 premises for which the rent payment is being made and that
 19 acceptance of the rent payment does not create a new tenancy with
 20 the third party.

21 (B) Failure by a third party to provide the signed
 22 acknowledgment to the landlord or landlord’s agent shall void the
 23 obligation of a landlord or landlord’s agent to accept a tenant’s
 24 rent tendered by a third party.

25 (C) The landlord or landlord’s agent may, but is not required
 26 to, provide a form acknowledgment to be used by third parties, as
 27 provided for in subparagraph (A), provided however that a landlord
 28 shall accept as sufficient for compliance with subparagraph (A)
 29 an acknowledgment in substantially the following form:
 30

31 I, [insert name of third party], state as follows:
 32 I am not currently a tenant of the premises located at [insert
 33 address of premises].

34 I acknowledge that acceptance of the rent payment I am offering
 35 for the premises does not create a new tenancy.

36
 37
 38 _____ (signature of third party) _____ (date)
 39
 40

1 (D) A landlord or landlord's agent may require a signed
2 acknowledgment for each rent payment made by the third party.
3 A landlord or landlord's agent and the third party may agree that
4 one acknowledgment shall be sufficient for when the third party
5 makes more than one rent payment during a period of time.

6 (E) Nothing in this paragraph shall be construed to require a
7 landlord or landlord's agent to enter into a contract in connection
8 with a federal, state, or local housing assistance program, including,
9 but not limited to, the federal housing assistance voucher programs
10 under Section 8 of the United States Housing Act of 1937 (42
11 U.S.C. Sec. 1437f).

12 (4) Paragraphs (2) and (3) do not enlarge or diminish a
13 landlord's or landlord's agent's legal right to terminate a tenancy.
14 Nothing in paragraph (3) is intended to extend the due date for any
15 rent payment or require a landlord or landlord's agent to accept
16 tender of rent beyond the expiration of the period stated in
17 paragraph (2) of Section 1161 of the Code of Civil Procedure.

18 (5) A landlord or landlord's agent shall allow a tenant to pay
19 rent and deposit of security by an electronic funds transfer from a
20 BankCal account, as defined in Section 100100 of the Government
21 Code.

22 (b) For the purposes of this section, the issuance of a money
23 order or a cashier's check is direct evidence only that the instrument
24 was issued.

25 (c) For purposes of this section, "electronic funds transfer"
26 means any transfer of funds, other than a transaction originated
27 by check, draft, or similar paper instrument, that is initiated through
28 an electronic terminal, telephonic instrument, computer, or
29 magnetic tape so as to order, instruct, or authorize a financial
30 institution to debit or credit an account. "Electronic funds transfer"
31 includes, but is not limited to, point-of-sale transfers, direct deposits
32 or withdrawals of funds, transfers initiated by telephone, transfers
33 via an automated clearinghouse, transfers initiated electronically
34 that deliver a paper instrument, and transfers authorized in advance
35 to recur at substantially regular intervals.

36 (d) Nothing in this section shall be construed to prohibit the
37 tenant and landlord or agent to mutually agree that rent payments
38 may be made in cash or by electronic funds transfer, so long as
39 another form of payment is also authorized, subject to the
40 requirements of subdivision (a).

1 (e) A waiver of the provisions of this section is contrary to public
2 policy, and is void and unenforceable.

3 SEC. 4. Title 21.1 (commencing with Section 100100) is added
4 to the Government Code, to read:

5
6 TITLE 21.1. CALIFORNIA PUBLIC BANKING OPTION
7 ACT
8

9 100100. For purposes of this title:

10 (a) ~~“Account holder”~~—“*Accountholder*” means an individual
11 who has a BankCal account.

12 (b) “BankCal account” means a federally insured transaction
13 account held ~~within~~ *as part of* the program.

14 (c) “BankCal Program” or “program” means the program
15 established pursuant to this title through which an individual may
16 open a no-fee, no-penalty transaction account with an associated
17 debit card.

18 (d) “Board” means the California Public Banking Option Board
19 established pursuant to Section 100102.

20 (e) “Electronic fund transfer” has the same meaning as defined
21 in Section 1693a of Title 15 of the United States Code.

22 (f) (1) “Employee” means an individual who is employed by
23 an employer.

24 (2) “Employee” does not include an employee covered under
25 the federal Railway Labor Act (45 U.S.C. Sec. 151) or an employee
26 engaged in interstate commerce so as not to be subject to the
27 legislative powers of the state, except insofar as application of this
28 title is authorized under the United States Constitution or laws of
29 the United States.

30 (g) (1) “Employer” means a person engaged in a business,
31 industry, profession, trade, or other enterprise in the state, whether
32 or not for profit, excluding the federal government, that has at least
33 five employees.

34 (2) Upon a positive determination pursuant to paragraph (4) of
35 subdivision (b) of Section 100106, “employer” includes an
36 employer of a provider of in-home supportive services regulated
37 by Article 7 (commencing with Section 12300) of Chapter 3 of
38 Part 3 of Division 9 of the Welfare and Institutions Code.

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1 (h) “Federally insured” means insured by the Federal Deposit
 2 Insurance Corporation (FDIC) or the National Credit Union
 3 Administration (NCUA).

4 (i) “Hiring entity” means a person engaged in a business,
 5 industry, profession, trade, or other enterprise in the state, whether
 6 or not for profit, excluding the federal government, that has
 7 contracted with at least five independent contractors to perform
 8 the same or similar labor or service.

9 (j) “Independent contractor” means an individual who renders
 10 labor or service to a hiring entity for a specified recompense for a
 11 specified result who is not an employee of that hiring entity.

12 (k) *“In-network partner” means a participating retail or*
 13 *financial institution offering an ATM, bank, or credit union branch*
 14 *through which accountholders can load or withdraw funds from*
 15 *their BankCal account using a BankCal debit card for no fee.*

16 ~~(k)~~

17 (l) “Local financial institution” has the same meaning as defined
 18 in Section 57600.

19 ~~(l)~~

20 (m) “Participating *depository* financial institution” means a
 21 qualifying bank, credit union, or other financial institution, as
 22 determined by the board pursuant to paragraph (4) of subdivision
 23 (a) of Section 100106, participating in the BankCal program by
 24 providing BankCal accounts to ~~account holders~~ *accountholders*
 25 in concert with the financial services network administrator, as
 26 described in *subparagraph (A) of paragraph (3) of subdivision (a)*
 27 *of Section 100106.*

28 ~~(m)~~

29 (n) “Payroll direct deposit arrangement” means an arrangement
 30 by which a worker may authorize payment of wages or other money
 31 due the worker by an employer or hiring entity, or any portion
 32 thereof, to be directly deposited by electronic fund transfer into
 33 the worker’s ~~account at the financial institution of the worker’s~~
 34 ~~choosing.~~ *BankCal account.*

35 ~~(n)~~

36 (o) “Person” means an individual, sole proprietorship,
 37 partnership, joint venture, association, trust, estate, business trust,
 38 corporation, joint stock company, limited liability company,
 39 unincorporated association, state or local government or agency,

1 instrumentality, or political subdivision thereof, or any similar
2 entity or organization.

3 ~~(o)~~

4 (p) “Preauthorized electronic fund transfer” means an electronic
5 fund transfer authorized in advance to recur at substantially regular
6 intervals.

7 ~~(p)~~

8 (q) “Program fund” means the BankCal Fund established
9 pursuant to Section 100110.

10 ~~(q)~~

11 (r) “Public bank” has the same meaning as defined in Section
12 57600.

13 ~~(r)~~

14 (s) “Registered payee” means a person who has registered with
15 the program to accept receipt of preauthorized electronic fund
16 transfers from ~~account holders~~ *accontholders* by agreeing to
17 specific conditions to be established by the board.

18 ~~(s)~~

19 (t) “Transaction account” means a demand deposit account,
20 share draft account, or similar account.

21 ~~(t)~~

22 (u) “Worker” means an employee or an independent contractor.

23 ~~(u)~~

24 (v) “Worker participant” means a worker who is an account
25 holder.

26 100102. (a) The Public Banking Option Board is hereby
27 established in state government.

28 (b) The board shall consist of nine members pursuant to the
29 following:

30 (1) The Treasurer or the Treasurer’s designee.

31 (2) The Commissioner of the Department of Financial Protection
32 and Innovation or that person’s designee.

33 (3) An individual with banking expertise, particularly expertise
34 in transaction accounts and debit cards, appointed by the Senate
35 Committee on Rules.

36 (4) An individual with expertise in economic and racial justice
37 and cultural competence appointed by the Speaker of the Assembly.

38 (5) An employee representative appointed by the Governor.

39 (6) A small business representative appointed by the Governor.

1 (7) An advocate for, or representative of, a mission-aligned
2 banking institution, a community development financial institution,
3 or a community development credit union appointed by the
4 Governor.

5 (8) A public banking advocate appointed by the Senate
6 Committee on Rules.

7 (9) A consumer representative or advocate with expertise in
8 banking access and financial empowerment appointed by the
9 Speaker of the Assembly.

10 (c) Members of the board appointed by the Governor, the Senate
11 Committee on Rules, and the Speaker of the Assembly shall serve
12 at the pleasure of the appointing authority.

13 (d) The board shall elect a chairperson on an annual basis.

14 (e) In making appointments to the board, the appointing
15 authorities shall take into consideration the cultural, ethnic, and
16 geographical diversity of the state so that the board's composition
17 reflects the communities of California.

18 (f) (1) Except as provided in paragraph (2), members of the
19 board shall serve without compensation.

20 (2) Members of the board shall be reimbursed for necessary
21 travel expenses incurred in connection with their board duties.

22 (g) A board member, staff of the board, or publicly employed
23 program staff, while serving in those positions, shall not be
24 employed by, a consultant to, a member of the board of directors
25 of, affiliated with, or otherwise a representative of a private bank
26 or financial services institution unless that position is an unpaid
27 volunteer position.

28 (h) The board and program administrator shall have the
29 responsibility and duty to meet the requirements of this title and
30 all applicable state and federal laws and regulations, to serve the
31 interests of ~~program-account holders~~ *acccountholders* and those
32 seeking to access financial services and debt management tools
33 through the program, to serve the public interest and pursue
34 partnerships with credit unions and other local financial institutions
35 and public banks, and to ensure the operational well-being and
36 fiscal solvency of the program.

37 100104. There is hereby created the BankCal Program, to be
38 administered by the board for the purpose of protecting consumers
39 who lack access to traditional banking services from predatory,
40 discriminatory, and costly alternatives, by offering access to

1 voluntary, zero-fee, zero-penalty, federally insured transaction
 2 account and debit card services at no cost to ~~account holders.~~
 3 *acountholders.*

4 100106. (a) The board shall design and implement the BankCal
 5 Program. In designing and implementing the program, the board
 6 shall do all of the following:

7 (1) (A) Appoint an executive director, who shall not be a
 8 member of the board and who shall serve at the pleasure of the
 9 board. The board shall determine the duties of the executive
 10 director ~~and other staff, as appropriate, and, as appropriate, the~~
 11 *duties of other staff, who shall be employees of the Treasurer, and*
 12 set the executive director's compensation.

13 (B) The board may authorize the executive director to enter into
 14 contracts on behalf of the board or conduct business necessary for
 15 the efficient operation of the board.

16 (2) Select a program administrator, which may consist of one
 17 or more contractors or program staff or a combination thereof, and
 18 establish the duties and functions of the program administrator,
 19 which shall be in furtherance of the program and shall include all
 20 of the following:

21 (A) Administer the program as a fiduciary for ~~account holders~~
 22 *acountholders* in accordance with all applicable laws and
 23 regulations, including all regulations issued by the board.

24 (B) Create and manage an internet website that will serve as a
 25 primary source of information about the program, the financial
 26 services offered through the program, and the ~~program's financial~~
 27 ~~services network of participating ATMs, bank or credit union~~
 28 ~~branches, and other in-network partners~~ *program network* through
 29 which account holders can load or withdraw funds from their
 30 BankCal account using a BankCal debit card for no fee.

31 (C) Create and manage a secure web-based portal and mobile
 32 application through which individuals can enroll in the program
 33 and entities can become registered payees and through which
 34 ~~account holders~~ *acountholders* can access and manage their
 35 BankCal accounts, including their direct deposit, preauthorized
 36 electronic fund transfers to registered payees, and automatic
 37 disbursement rule elections.

38 (D) Create and manage an application programming interface
 39 (API) or web-based portal that enables employers and hiring
 40 entities to remit each worker participant's elected direct deposit

1 payroll contribution to the worker's BankCal account in accordance
2 with the worker's election.

3 (E) Facilitate and manage data exchange with the financial
4 services network administrator, pursuant to paragraph (3), ensuring
5 that account management elections, including direct deposit,
6 preauthorized electronic fund transfers to registered payees, and
7 automatic disbursement rule elections, made by ~~account holders~~
8 *accountholders* through the program administrator's online web
9 portal or mobile application are communicated to and executed
10 by the financial services network administrator.

11 (F) Ensure that ~~account holders'~~ *accountholders'* existing
12 accounts and account management elections, including direct
13 deposit, preauthorized electronic fund transfers to registered payees,
14 and automatic disbursement rule elections, are not disrupted by a
15 change in financial services network administrator or by a change
16 in participating *depository* financial institutions or other program
17 vendors.

18 (G) Facilitate enrollment of ~~account holders~~ *accountholders* in
19 the program through coordination with government and nonprofit
20 partners.

21 (H) Facilitate and manage connectivity with other state and
22 local government programs providing individuals with financial
23 accounts to enable program ~~account holders~~ *accountholders* to
24 transfer funds between their BankCal account and their other
25 state-managed or locally managed accounts, as authorized by the
26 board and in accordance with all applicable laws and regulations.

27 (I) Facilitate and manage connectivity with other state and local
28 government agencies and entities to enable and streamline
29 remittance of local, state, and federal benefit and public assistance
30 payments and other disbursements to ~~account holders~~
31 *accountholders* entitled to those payments and who authorize those
32 payments to be directly deposited by electronic fund transfer into
33 their BankCal account, as authorized by the board and in
34 accordance with all applicable laws and regulations.

35 (3) Select a financial services network administrator and
36 establish the duties and functions of the financial services network
37 administrator, which shall be in furtherance of the program and
38 shall include all of the following:

39 (A) Contract with, manage, and coordinate the financial services
40 vendors for the program, which shall provide ~~account holders~~

1 *accontholders* access to their BankCal account through a major
2 card network and services provided in concert with at least one
3 qualifying participating *depository* financial institution that meets
4 the requirements established by the board pursuant to paragraph
5 (4).

6 (B) Add additional participating *depository* financial institutions
7 meeting the requirements established by the board, including
8 especially qualifying credit unions and other local financial
9 institutions and public banks, as program scope and scale permits,
10 in accordance with the board's ~~contractual specifications~~
11 *specifications as set forth in the contract between the board and*
12 *the financial services network administrator*.

13 (C) Issue to each ~~account holder~~ *accontholder* a secure debit
14 card, which shall utilize current security and antifraud technology
15 consistent with industry standards, associated with the ~~account~~
16 ~~holder's~~ *accontholder's* BankCal account.

17 (D) Build a robust and geographically expansive financial
18 services network of participating ATMs, bank or credit union
19 branches, and other in-network partners through which account
20 holders can load or withdraw funds from their BankCal account
21 using a BankCal debit card for no fee, minimize or eliminate
22 out-of-network fees for ~~account holders~~, *accontholders*, and
23 ensure that ~~account holders~~ *accontholders* are not charged
24 out-of-network fees that are not reasonable and actually incurred
25 by the program vendor.

26 (E) Ensure that all no-fee, no-penalty requirements of the
27 program are met.

28 (F) Coordinate data exchange with the program administrator
29 and implement all account management elections, including receipt
30 of direct deposit payments, preauthorized electronic fund transfers
31 to registered payees, and automatic disbursement rule elections,
32 made by ~~account holders~~ *accontholders* through the program
33 administrator's online web portal or mobile application.

34 (G) Ensure that a change in participating *depository* financial
35 institution or other program vendor does not disrupt existing
36 ~~account holders'~~ *accontholders'* BankCal accounts or account
37 management elections.

38 (4) Establish the criteria and terms and conditions for becoming
39 a participating *depository* financial institution in the program,
40 which shall be designed to ensure program stability, reliability,

1 and integrity. The criteria and terms and conditions shall be
 2 designed to ensure that participating *depository* financial
 3 institutions satisfy all of the following criteria:

4 (A) Have an established record of ethical and responsible
 5 banking practices and adherence to all applicable local, state, and
 6 federal laws and regulations.

7 (B) Meet all technical requirements of the financial services
 8 network administrator.

9 (C) Agree to comply with all applicable laws and regulations,
 10 including all regulations issued by the board governing the
 11 program, and any contractual requirements established by the
 12 board.

13 (5) Ensure that the program administrator and financial services
 14 network administrator satisfactorily perform all duties and
 15 ~~functions.~~ *functions and do not market commercial products to*
 16 *BankCal accountholders absent the board's prior express, written*
 17 *authorization.*

18 (6) Ensure that ~~account holders'~~ *accountholders'* existing
 19 accounts and account management elections, including direct
 20 deposit, preauthorized electronic fund transfers to registered payees,
 21 and automatic disbursement rule elections, are not disrupted by a
 22 change in ~~network program~~ administrator, financial services
 23 network administrator, or participating *depository* financial
 24 institutions or other program vendors.

25 (7) Design and establish the process by which an individual
 26 may open a BankCal account pursuant to all of the following:

27 (A) The process shall be designed to maximize program
 28 participation and shall facilitate the opening of a BankCal account
 29 by individuals who may not have *federal or state*
 30 government-issued photo identification.

31 (B) The board shall facilitate the opening of a BankCal account
 32 by anyone who seeks to participate in the program by taking all
 33 appropriate steps to collaborate and cooperate with other state and
 34 local government agencies and programs, including to the extent
 35 necessary to verify the individual's identity consistent with the
 36 law.

37 (C) The board may design and establish rules governing the
 38 enrollment and participation in the program of individuals who
 39 are under ~~eighteen~~ *18 years of age*, *including rules governing*
 40 *the opening of a BankCal account by a person who is at least 14*

1 *years of age without a cosignor or guarantor on the account,*
2 *consistent with all applicable laws.*

3 *(D) The board shall design and establish rules governing the*
4 *enrollment and participation in the program of individuals who*
5 *do not have permanent housing.*

6 (8) Design and establish the process through which an individual
7 may access and manage their BankCal account, including, but not
8 limited to, through a convenient and easily accessible online web
9 portal and through a mobile application.

10 (9) Design and establish the mechanisms by which an account
11 holder may deposit funds into a BankCal account pursuant to all
12 of the following:

13 (A) The mechanisms shall include, but not be limited to,
14 electronic fund transfers arranged through an employer's or hiring
15 entity's payroll direct deposit arrangement and cash loading
16 through ~~participating ATMs and bank or credit union branches of~~
17 ~~designated financial institution~~ *in-network* partners to be
18 established by the financial services network administrator. The
19 board shall ensure that no fee is imposed on ~~account holders~~
20 *acountholders* for these services.

21 (B) ~~The board~~ *executive director, at the board's direction,* may
22 negotiate with the ~~network program~~ administrator, the financial
23 services network administrator, and other financial services partners
24 for additional financial capabilities of a BankCal ~~account,~~ *account*
25 *relating to deposit of funds,* including, but not limited to, mobile
26 check deposit, cash loading through ~~participating merchants,~~
27 *out-of-network partners,* and electronic fund transfers from linked
28 or nonlinked accounts. The board shall seek to minimize or
29 eliminate the fees imposed on ~~account holders~~ *acountholders* for
30 additional services and shall ensure that a fee is not imposed on
31 ~~account holders~~ *acountholders* for additional services that is not
32 reasonable and actually incurred by the financial services network
33 administrator or program vendor.

34 (10) Design and establish the process through which an account
35 holder may elect to have a portion, up to the entirety, of their
36 paycheck or earnings due for labor or services performed directly
37 deposited by electronic fund transfer into their BankCal account
38 utilizing an operational model that limits interaction between an
39 employer and an employee and between a hiring entity and an
40 independent contractor to the extent feasible.

1 (11) Design and establish the process through which employers
 2 and hiring entities shall be required to remit through a payroll
 3 direct deposit arrangement each worker's elected payroll
 4 contribution to the worker's BankCal account in accordance with
 5 the worker's election.

6 (12) Design and establish mechanisms by which ~~account holders~~
 7 *accountholders* can withdraw funds from their BankCal account
 8 using a BankCal debit card pursuant to all of the following:

9 (A) The mechanisms shall include, but not be limited to,
 10 withdrawals through point-of-sale purchases using a BankCal debit
 11 card and through cash withdrawals at a robust and geographically
 12 expansive network, the scope of which the board shall seek to
 13 maximize, of participating ~~ATMs and ATMs~~, bank or credit union
 14 ~~branches~~ *branches*, and other *in-network partners* of designated
 15 financial institution partners to be established by the financial
 16 services network administrator. The board shall ensure that a fee
 17 is not imposed on ~~account holders~~ *accountholders* for these
 18 services.

19 (B) The board shall design and implement the program in such
 20 a way that swipe fees imposed on merchants associated with
 21 point-of-sale purchases using a BankCal debit card are not passed
 22 on to the ~~account holder~~ *accountholder*.

23 (C) The ~~board~~ *executive director, at the board's direction*, may
 24 negotiate with the ~~network~~ *program* administrator, the financial
 25 services network administrator, and other financial services partners
 26 for additional financial capabilities of a BankCal ~~account~~, *account*
 27 *relating to withdrawal of funds*, including, but not limited to, cash
 28 withdrawal from out-of-network ATMs and bank or credit union
 29 branches. The board shall seek to minimize or eliminate the fees
 30 imposed on ~~account holders~~ *accountholders* for additional services
 31 and shall ensure that a fee is not imposed on ~~account holders~~
 32 *accountholders* for additional services that is not reasonable and
 33 actually incurred by the financial services network administrator
 34 or program vendor.

35 (13) Design and establish a process, available to all ~~account~~
 36 ~~holders~~ *accountholders* for no fee, through which an ~~account holder~~
 37 *accountholder* may arrange for payment to a registered payee using
 38 a preauthorized electronic fund transfer from a BankCal account.

39 (14) Design and establish the process and terms and conditions
 40 for becoming a registered payee pursuant to both of the following:

1 (A) Before becoming a registered payee, the payee shall be
 2 required to agree to specified terms and conditions to be established
 3 by the board in exchange for the benefits of transparency and
 4 accountability afforded by participation in an automated payment
 5 system.

6 (B) The board shall establish the terms and conditions to which
 7 registered payees shall agree, which may vary depending on the
 8 type of payee, and which shall be designed to incentivize account
 9 holders' preauthorized electronic fund transfers to registered payees
 10 and application of voluntary automatic disbursement rules by
 11 limiting the late payment fees and penalties that registered payees
 12 can impose on ~~account holders~~ *accountholders* who pay them using
 13 preauthorized electronic fund transfers from their BankCal account.

14 (15) Design and establish voluntary automatic disbursement
 15 rules to assist ~~account holders~~ *accountholders* in managing
 16 automated payments to registered payees based on the availability
 17 of funds in the ~~account holder's~~ *accountholder's* account, which
 18 ~~account holders~~ *accountholders* may voluntarily elect to apply or
 19 to stop applying to their BankCal account at any time. The
 20 voluntary automatic disbursement rules shall be designed to
 21 maximize consumer protection and may include, but not be limited
 22 to, rules governing the prioritization and timing of payments, rules
 23 limiting payments to a percentage of funds available in the BankCal
 24 account, and rules limiting disbursement to designated registered
 25 payees only upon satisfaction of specified conditions of the
 26 BankCal account.

27 (16) Study the feasibility of, and design and implement,
 28 additional services and benefits that the board deems beneficial to
 29 ~~account holders~~ *accountholders* that maximize the purposes of the
 30 program, including, but not limited to, all of the following:

31 (A) Financial literacy and debt management education,
 32 resources, and training.

33 (B) Credit reporting services.

34 (C) A rent payment portal.

35 (D) International remittances.

36 (E) A consumer lending certification program and referral
 37 service subject to ~~both~~ *all* of the following requirements:

38 (i) The board shall determine the criteria for certification of
 39 lenders of consumer credit so as to maximize consumer protection
 40 and to protect ~~account holders~~ *accountholders* from unfair and

1 deceptive practices by lenders, including, but not limited to,
2 practices that steer consumers into unnecessary, more costly, or
3 higher risk products that do not match their financial needs.

4 *(ii) The board shall determine the criteria for the certification*
5 *of lenders of consumer credit so as to provide consumers lending*
6 *options that include credit unions and other local financial*
7 *institutions.*

8 *(iii) The board's certification criteria shall also take into*
9 *account the lender's status as an in-network partner.*

10 ~~(ii)~~

11 *(iv) Referral fees paid by certified lenders shall be deposited in*
12 *the program fund as program revenue.*

13 (17) Develop and negotiate a fair and equitable program fee
14 and program revenue sharing structure with the program
15 administrator and financial services network administrator in
16 furtherance of attaining a financially self-sustaining program. The
17 board shall annually reevaluate and, if appropriate, renegotiate a
18 program fee and program revenue sharing agreement based on
19 program scope and scale.

20 (18) Take all appropriate steps to collaborate and cooperate with
21 the CalSavers Retirement Savings Board, the Scholarshare
22 Investment Board, the California ABLE Act Board, and the board
23 of any other state program establishing or administering a program
24 providing for financial accounts for individuals in the state, to the
25 extent necessary or desirable for the effective and efficient design,
26 implementation, and administration of these programs and to
27 maximize the purposes of these programs and the ability of
28 participants in these programs to benefit therefrom.

29 (19) Take all appropriate steps to collaborate and cooperate with
30 the State Department of Social Services, Office of Systems
31 Integration, Employment Development Department, and other
32 applicable government agencies, including, but not limited to,
33 agencies responsible for distribution of emergency relief payments,
34 to improve and streamline operations for the distribution of local,
35 state, and federal benefit and public assistance payments and other
36 disbursements by enabling ~~account holders~~ *acountholders* to
37 authorize payments to be directly deposited by electronic fund
38 transfer into their BankCal account, as applicable, to the extent
39 permitted by law.

1 (b) The board shall consider and utilize all of the following
2 parameters in designing the program:

3 (1) The board shall cause the BankCal program or arrangements
4 established under the program to be designed, established, and
5 operated in a manner that maximizes participation and ease of use
6 for ~~account holders~~ *accountholders*.

7 (2) The board shall structure and design the BankCal program
8 in a manner that encourages partnership rather than competition
9 with credit unions and other local financial institutions and public
10 banks to the extent financially and administratively feasible and
11 appropriate.

12 (3) (A) The board shall not contract for the performance of
13 program administrator or network administrator duties with an
14 entity that, during the preceding three years, has been found to be
15 in violation two or more times of any applicable law or regulation
16 governing financial institutions or consumer protection.

17 (B) *In selecting a financial services network administrator, the*
18 *board shall give due consideration to a bidder's proposal for*
19 *expanding program enrollment and sustaining the program at a*
20 *scope and scale sufficient to achieve a financially self-sustaining*
21 *program that is cost neutral for the state.*

22 (4) The board shall include in the program a provider of in-home
23 supportive services, as regulated by Article 7 (commencing with
24 Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare
25 and Institutions Code, if the board determines, and the Director of
26 Social Services and the Director of Finance certify, in writing, all
27 of the following:

28 (A) The inclusion meets all state and federal legal requirements.

29 (B) The appropriate employer of record has been identified for
30 the purpose of satisfying all the program's employer requirements.

31 (C) The payroll deduction described in Section 12302.2 of the
32 Welfare and Institutions Code can be implemented at reasonable
33 costs.

34 (D) The inclusion does not create a financial liability for the
35 state or employer of record.

36 (5) The board shall determine necessary costs associated with
37 outreach, customer service, enforcement, staffing and consultant
38 costs, and all other costs necessary to administer the program.

39 (6) The board shall consult with employer representatives and
40 employee representatives to create an administrative structure that

1 facilitates employee participation while addressing employer needs,
2 including, but not limited to, clearly defining employers' duties
3 pursuant to Section 100112.

4 (7) The board shall include comprehensive worker education
5 and outreach in the program, and the board may collaborate with
6 state and local government agencies, community-based and
7 nonprofit organizations, foundations, vendors, and other entities
8 deemed appropriate to develop and secure ongoing resources for
9 education and outreach that reflect the cultures and languages of
10 the state's diverse workforce population.

11 (8) The board shall include comprehensive employer education
12 and outreach in the program developed in consultation with
13 employer representatives and employee representatives.

14 (9) *The board shall structure the program so as to ensure the*
15 *state is prohibited from incurring liabilities associated with*
16 *administering the program and that the state has no liability for*
17 *the program or for the actions of any program contractor or*
18 *subcontractor.*

19 100108. In addition to the powers and authority granted
20 pursuant to Section 100106, the board shall have the powers and
21 authority to do all of the following:

22 (a) Sue and be sued.

23 (b) Make and enter into contracts necessary for the
24 administration of the BankCal Program and engage personnel,
25 including consultants, actuaries, managers, counsel, and auditors
26 as necessary for the purpose of rendering professional, managerial,
27 and technical assistance and advice.

28 (c) Adopt a corporate seal and change and amend it from time
29 to time.

30 (d) Accept, for deposit to the program fund, any grant, gift,
31 legislative appropriation, or other moneys from the state, a unit of
32 federal, state, or local government, or any other person, firm,
33 partnership, or corporation.

34 (e) Make provisions for the payment of costs of administration
35 and operation of the program.

36 (f) Employ staff.

37 (g) Retain and contract with other public agencies, local financial
38 institutions, public banks, private financial institutions, other
39 financial and service providers, consultants, actuaries, counsel,

1 auditors, third-party administrators, and other professionals as
2 necessary.

3 (h) Procure insurance indemnifying each member of the board
4 from personal loss or liability resulting from a member's action
5 or inaction as a member of the board.

6 (i) Collaborate and cooperate with local financial institutions,
7 public banks, private financial institutions, service providers, and
8 business, financial, trade, membership, and other organizations to
9 the extent necessary or desirable for the effective and efficient
10 design, implementation, and administration of the program and to
11 maximize outreach to potential account holders.

12 (j) Collaborate with, and evaluate the role of, licensed agents
13 and financial advisors in assisting and providing guidance for
14 eligible workers.

15 (k) Cause expenses incurred to initiate, implement, maintain,
16 and administer the program to be paid from the program fund or
17 arrangements established under the program.

18 (l) Facilitate compliance by the program or arrangements
19 established under the program with all applicable requirements
20 for the program under federal and state law.

21 (m) Exercise any and all other powers as appropriate for the
22 effectuation of the purposes, objectives, and provisions of this title.

23 100110. (a) The BankCal Fund is hereby created in the State
24 Treasury.

25 (b) The moneys in the BankCal Fund shall be available, upon
26 appropriation, for purposes of this title.

27 (c) Funding for startup and administrative costs may be
28 appropriated from the General Fund in the annual Budget Act for
29 the first six years of the program or until program revenue is
30 sufficient to sustain program administrative costs, whichever occurs
31 first. Necessary administrative costs in future years shall be paid
32 out of the program fund.

33 (d) The board may seek and may accept voluntary contributions,
34 in cash or in kind, from private donors solely for the purpose of
35 paying for the costs of implementing the program under this title.
36 Voluntary contributions shall be deposited into the BankCal Fund.

37 100112. (a) Employers and hiring entities shall have and
38 maintain a payroll direct deposit arrangement ~~to allow~~ *that enables*
39 *voluntary* worker participation in the program.

1 (b) All wages and other payments due a worker that the worker
2 has authorized to be directly deposited by electronic fund transfer
3 into the worker's BankCal account shall be deposited accordingly.

4 (c) Employers and hiring entities shall, consistent with all
5 applicable regulations issued by the board, do all of the following:

6 (1) Coordinate their payroll process with the program
7 administrator's application program interface to facilitate accurate
8 and seamless payment by direct deposit in accordance with the
9 authorization of each worker participant.

10 (2) Cooperate with the program administrator in providing all
11 requested information available to the employer or hiring entity
12 necessary for the opening and administration of a worker's
13 BankCal account.

14 (3) Upon request of the administrator, provide additional forms
15 or notifications to a worker.

16 ~~(d) Employers and hiring entities shall not require, endorse,
17 encourage, prohibit, restrict, or discourage worker participation in
18 the program.~~

19 (e)

20 (d) Employers and hiring entities shall not discharge, discipline,
21 threaten to discharge or discipline, or in any other manner retaliate
22 or take an adverse action against a worker or applicant because of
23 the individual's participation or manner of participation in the
24 BankCal program.

25 (f)

26 (e) A person that is not subject to the requirements of this title
27 may voluntarily maintain a payroll direct deposit arrangement to
28 allow worker participation in the program.

29 100114. (a) Employers and hiring entities shall not be held
30 liable for a worker's decision to participate in, or opt out of, the
31 program or for the financial activities of workers whose assets are
32 deposited in the program.

33 (b) Employers and hiring entities shall not have civil liability,
34 and a cause of action shall not arise against an employer or hiring
35 entity, for acting pursuant to the regulations prescribed by the
36 board defining the roles and responsibilities of employers and
37 hiring entities in providing a payroll direct deposit arrangement
38 to allow worker participation in the program.

39 100116. (a) The board shall enforce the provisions of this title
40 with respect to employers and hiring entities in coordination with

1 the Labor Commissioner pursuant to Section 90.4 of the Labor
2 Code.

3 (b) The board shall refer to the Labor Commissioner a complaint
4 it makes or receives that an employer or hiring entity has failed to
5 allow its workers to participate in the BankCal Program pursuant
6 to this title or otherwise violated its duties under Section 100112.

7 (c) The board shall reimburse the Labor Commissioner for the
8 costs incurred by the Labor Commissioner in enforcing this title.

9 100118. This title does not preclude or reduce a judgment
10 debtor's right to an exemption from enforcement of a money
11 judgment provided by state or federal law. Moneys exempt from
12 enforcement of a money judgment remain exempt if they have
13 been deposited into the individual's BankCal account.

14 100120. (a) Notwithstanding Section 10231.5, the board shall
15 submit an annual report by August 1 to the Governor, the
16 Controller, the California State Auditor, and the Legislature,
17 pursuant to Section 9795.

18 (b) The report required by this section ~~shall, in a deidentified~~
19 ~~and aggregated form,~~ shall include, but not be limited to, all of the
20 following ~~information:~~ *information in a deidentified and*
21 *aggregated form:*

22 (1) The number of accounts opened and closed in the program
23 during the reporting period, by city and county.

24 (2) The number of employers and hiring entities with workers
25 who received payment to their BankCal account through the
26 employer or hiring entity's payroll direct deposit arrangement
27 during the reporting period, by industry, city, and county.

28 (3) The number of registered payees who received payment
29 from a BankCal account during the reporting period, by payee
30 category, city, and county.

31 (4) ~~Aggregate account holder~~ *acountholder* demographics,
32 including, but not limited to, gender, age, race, ethnicity, primary
33 language, annual income, and job industry.

34 (5) Any other information the board determines to be relevant
35 to an assessment of the program.

36 100122. (a) The board shall ~~aggressively~~ market the program
37 to the residents of the state to the extent funds are available to do
38 so.

39 (b) The board shall include in its marketing efforts information
40 designed to include financial literacy education and resources and

1 to educate citizens about the benefits of financial management and
2 planning.

3 (c) The board shall also develop a mechanism to keep account
4 holders motivated about their current and future financial health.

5 100124. (a) The board shall adopt regulations as it deems
6 necessary to implement and effectuate the purposes of this title.

7 (b) The board may adopt regulations to implement this title as
8 emergency regulations in accordance with the rulemaking
9 provisions of the Administrative Procedure Act (Chapter 3.5
10 (commencing with Section 11340) of Part 1 of Division 3 of Title
11 2). The adoption of the regulations shall be deemed to be an
12 emergency and necessary for the immediate preservation of the
13 public peace, health and safety, or general welfare, notwithstanding
14 subdivision (e) of Section 11346.1 of the Government Code. Any
15 regulation adopted pursuant to this section shall not remain in
16 effect more than 180 days unless the board complies with
17 rulemaking provisions of the Administrative Procedure Act
18 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
19 Division 3 of Title 2 of the Government Code), as required by
20 subdivision (e) of Section 11346.1 of the Government Code.

21 100126. (a) A public bank may participate in the BankCal
22 program as a participating *depository* financial institution.

23 (b) Financial services provided by a public bank in its capacity
24 as a participating *depository* financial institution in the BankCal
25 program does not constitute retail activities within the meaning of
26 Section 57604.

27 (c) This section is declaratory of existing law and shall not be
28 construed or interpreted as creating new law or as modifying or
29 changing existing law.

30 100128. This title does not authorize the state to loan public
31 money.

32 100130. This title shall be construed liberally in order to
33 effectuate its legislative intent. The purposes of this title and all
34 of its provisions with respect to the powers granted shall be broadly
35 interpreted to effectuate that intent and purposes and not as to any
36 limitation of powers.

37 SEC. 5. Section 90.4 is added to the Labor Code, to read:

38 90.4. (a) For purposes of this section:

39 (1) "BankCal Program" has the same meaning as defined in
40 Section 100100 of the Government Code.

1 (2) “Employer” has the same meaning as defined in Section
2 100100 of the Government Code.

3 (3) “Hiring entity” has the same meaning as defined in Section
4 100100 of the Government Code.

5 (4) “Public Banking Option Board” means the California Public
6 Banking Option Board, as defined in Section 100100 of the
7 Government Code.

8 (5) “Worker” has the same meaning as defined in Section
9 100100 of the Government Code.

10 (b) The Labor Commissioner shall have the power and duties
11 necessary to administer the enforcement of employer and hiring
12 entity compliance with Title 21.1 (commencing with Section
13 100100) of the Government Code.

14 (c) (1) Upon receipt of a complaint or referral from the Public
15 Banking Option Board, the Labor Commissioner shall investigate
16 and determine whether there is reasonable cause to believe that an
17 employer or hiring entity has failed to allow its workers to
18 participate in the BankCal Program or otherwise violated Section
19 100112 of the Government Code.

20 (2) Upon a finding of reasonable cause pursuant to paragraph
21 (1), the Labor Commissioner shall serve a notice on the employer
22 or hiring entity of its noncompliance.

23 (3) (A) An employer or hiring entity that, without good cause,
24 fails to ~~allow, cure an alleged violation of Section 100112 of the~~
25 ~~Government Code~~ within 90 days of receiving the notice required
26 by paragraph (2), ~~its workers to participate in the BankCal Program~~
27 ~~pursuant to Section 100112 of the Government Code~~ (2) shall be
28 liable for a civil penalty of two hundred fifty dollars (\$250) per
29 worker.

30 (B) An employer or hiring entity found to be in noncompliance
31 on or after 180 days from receiving the notice required by
32 paragraph (2) shall be liable for an additional civil penalty of five
33 hundred dollars (\$500) per worker.

34 SEC. 6. Section 12302.2 of the Welfare and Institutions Code
35 is amended to read:

36 12302.2. (a) (1) If the state or a county makes or provides for
37 direct payment to a provider chosen by a recipient or to the
38 recipient for the purchase of in-home supportive services, the
39 department shall perform or ensure the performance of all rights,
40 duties, and obligations of the recipient relating to those services

1 as required for purposes of payroll direct deposit arrangements
2 offered pursuant to the BankCal Program (Title 21.1 (commencing
3 with Section 100100) of the Government Code), unemployment
4 compensation, unemployment compensation disability benefits,
5 workers' compensation, retirement savings accounts, including
6 payroll deduction IRA arrangements offered pursuant to the
7 CalSavers Retirement Savings Program (Title 21 (commencing
8 with Section 100000) of the Government Code), federal and state
9 income tax, and federal old-age, survivors, and disability insurance
10 benefits. Those rights, duties, and obligations include, but are not
11 limited to, registration and obtaining employer account numbers,
12 providing information, notices, and reports, making applications
13 and returns, and withholding in trust from the payments made to
14 or on behalf of a recipient amounts to be withheld from the wages
15 of the provider by the recipient as an employer, including the sales
16 tax extended to support services by Article 4 (commencing with
17 Section 6150) of Chapter 2 of Part 1 of Division 2 of the Revenue
18 and Taxation Code, and transmitting those amounts along with
19 amounts required for all contributions, premiums, and taxes payable
20 by the recipient as the employer to the appropriate person or state
21 or federal agency. The department may ensure the performance
22 of any or all of these rights, duties, and obligations by contract
23 with any person, or any public or private agency.

24 (2) Contributions, premiums, and taxes shall be paid or
25 transmitted on the recipient's behalf as the employer for any period
26 commencing on or after January 1, 1978, except that contributions,
27 premiums, and taxes for federal and state income taxes and federal
28 old-age, survivors, and disability insurance contributions shall be
29 paid or transmitted pursuant to this section commencing with the
30 first full month that begins 90 days after the effective date of this
31 section.

32 (3) Contributions, premiums, and taxes paid or transmitted on
33 the recipient's behalf for unemployment compensation, workers'
34 compensation, and the employer's share of federal old-age,
35 survivors, and disability insurance benefits shall be payable in
36 addition to the maximum monthly amount established pursuant to
37 Section 12303.5 or subdivision (a) of Section 12304 or other
38 amount payable to or on behalf of a recipient. Contributions,
39 premiums, or taxes resulting from liability incurred by the recipient
40 as employer for unemployment compensation, workers'

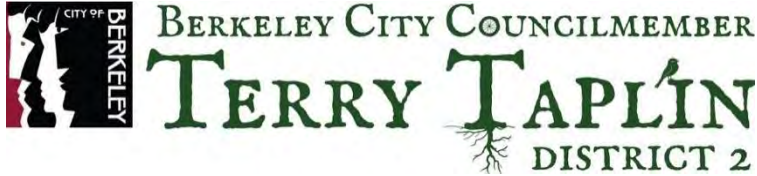
1 compensation, and federal old-age, survivors, and disability
 2 insurance benefits with respect to any period commencing on or
 3 after January 1, 1978, and ending on or before the effective date
 4 of this section shall also be payable in addition to the maximum
 5 monthly amount established pursuant to Section 12303.5 or
 6 subdivision (a) of Section 12304 or other amount payable to or on
 7 behalf of the recipient. Nothing in this section shall be construed
 8 to permit any interference with the recipient’s right to select the
 9 provider of services or to authorize a charge for administrative
 10 costs against any amount payable to or on behalf of a recipient.

11 (b) If the state makes or provides for direct payment to a
 12 provider chosen by a recipient, the Controller shall make any
 13 deductions from the wages of in-home supportive services
 14 personnel that are authorized by Sections 1152 and 1153 of the
 15 Government Code, as limited by Section 3515.6 of the Government
 16 Code, and for the sales tax extended to support services by Article
 17 4 (commencing with Section 6150) of Chapter 2 of Part 1 of
 18 Division 2 of the Revenue and Taxation Code.

19 (c) Funding for the costs of administering this section and for
 20 contributions, premiums, and taxes paid or transmitted on the
 21 recipient’s behalf as an employer pursuant to this section shall
 22 qualify, where possible, for the maximum federal reimbursement.
 23 To the extent that federal funds are inadequate, notwithstanding
 24 Section 12306, the state shall provide funding for the purposes of
 25 this section.

26 SEC. 7. If the Commission on State Mandates determines that
 27 this act contains costs mandated by the state, reimbursement to
 28 local agencies and school districts for those costs shall be made
 29 pursuant to Part 7 (commencing with Section 17500) of Division
 30 4 of Title 2 of the Government Code.

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CONSENT CALENDAR

May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin (Author)

Subject: Budget Referral: Sixth Street Traffic Calming Improvements for the Improvement of Pedestrian and Cyclist Safety

RECOMMENDATION

That the City Council refers to the budget process the funding of traffic calming improvements as follows:

- Rapid Rectangular Flashing Beacons (RRFB) and a median refuge island at Sixth and Channing Way
- A median refuge island at Sixth and Addison Street

CURRENT SITUATION AND ITS EFFECTS

At the March 9th, 2021 Regular Session of the Berkeley City Council, Councilmember Taplin's budget referral for the funding of Rectangular Rapid Flashing Beacons (RRFB) at the intersection of Sixth & Addison Street was approved and forwarded for funding consideration under the FY 21-22 budget process.¹ The funding and eventual construction of RRFB at this intersection would be an important improvement for pedestrian and cyclist safety along Sixth Street, but would fall short of creating a Sixth Street that is welcome to pedestrians and cyclists along this heavily trafficked street in West Berkeley. The traffic calming improvements proposed by this referral should be funded in tandem with Sixth & Addison's RRFB in order to support the City of Berkeley's vision for accessible, safe, and low-carbon transportation options.

Sixth Street should be prioritized in such pursuits in light of its status as a "High-Injury Street" as well as an "Equity Priority Area" under the City's Vision Zero Action Plan.² The fact that Sixth Street falls under both of these categories indicates that not only is Sixth among the most dangerous streets in Berkeley where traffic injuries are a regular occurrence, it is also in a historically undervalued and underfunded part of Berkeley, not least of all because of the discrimination against the historically African-American

¹https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_15_Budget_Referral_Funding_Rectangular.aspx

²https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley_Vision_Zero_Action_Plan_Approved_03102020.pdf

community that calls West Berkeley home. The two intersections highlighted by this referral were not chosen at random, as Sixth & Addison and Sixth & Channing have both seen severe pedestrian injuries in recent years.³ RRFB and medians at both Sixth & Addison and Sixth & Channing are also specifically called for under the City's Bicycle Plan due to the street having "one lane in each direction and high traffic volumes" which indicate a need for pedestrian warning improvements and physical pedestrian refuge infrastructure.⁴

FISCAL IMPACTS

Staff time, an estimated \$50,000 for installation of Rectangular Rapid Flashing Beacons and an estimated \$50,000 for 10 years of maintenance, and an estimated \$7,000-\$80,000 for two median refuge islands.⁵

ENVIRONMENTAL IMPACTS

Establishing a network of safe streets for pedestrians and bicycles, promoting bicycle literacy, and distributing bicycles to those in need incentivize nonautomobile travel, reducing greenhouse gas emissions. The City estimates that transportation-related emissions accounts for approximately 60% of our community's total annual greenhouse gas emissions.⁶ By encouraging alternatives to car transportation by making pedestrian and cyclist infrastructure safer and more accessible, these improvements stand to lower the emissions from our community's dominant source of carbon emissions.

CONTACT

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³https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley_Vision_Zero_Action_Plan_Approved_03102020.pdf

⁴https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_Ch5_ProposedBikewayNetwork.pdf

⁵[https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixF_Facility%20Design%20Toolbox\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Transportation/Berkeley-Bicycle-Plan-2017_AppendixF_Facility%20Design%20Toolbox(1).pdf)

⁶https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-06_WS_Item_01_Climate_Action_Plan_Update_pdf.aspx

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CONSENT CALENDAR

May 25, 2021

To: Honorable Members of the City Council
 From: Councilmember Sophie Hahn (Author) and Councilmember Ben Bartlett (Co-Sponsor)
 Subject: COVID Economic Recovery - Expanding Local Purchasing Preferences to Rebuild the City's Local Economy and Tax Base

RECOMMENDATION

1. To support urgently needed economic recovery in the wake of the COVID-19 crisis and direct more City of Berkeley dollars to Berkeley businesses, adopt a Resolution to expand Berkeley's existing local vendor preference program, effective September 1, 2021, by increasing the value of eligible contracts as follows:
 - a. Contracts for supplies, equipment, materials, and other goods, raise the eligible contract value to \$100,000.
 - b. Contracts for non-professional services, raise the eligible contract value to \$250,000. Direct the City Manager to develop and implement a local vendor preference program for contracts for professional services of up to \$250,000 in value (or up to a higher amount), to be effective January 1, 2022, to further support economic recovery in the City of Berkeley.
2. Refer to the City Manager to reach-out to Berkeley businesses to publicize, offer training and provide other meaningful access to the City's expanded local preferences programs including outreach to businesses owned by people of color, people with disabilities, women, immigrants, and other traditionally marginalized business communities to ensure equitable access to contracting opportunities with the City of Berkeley.
3. Refer to the City Manager to quickly incorporate, when available, any relevant or actionable results of the Mason Tillman Associates study reviewing and identifying disparities in the awarding of contracts affecting local, small, emerging enterprises and other enterprises with possible barriers to access in City construction, architecture, engineering, professional services, goods, and other services contracts.¹

¹ https://www.cityofberkeley.info/Clerk/City_Council/2019/05_May/Documents/2019-05-28_Item_28_Budget_Referral_Berkeley_Inclusion.aspx

4. Refer to the City Manager to track and issue periodic reports to Council (or include in existing reports such as the annual Economic Dashboard), and/or to track on an online dashboard, the City's success expanding contracting for goods, equipment, and services with local vendors.

SUMMARY

To support recovery from the COVID-related economic downturn and address the disadvantages Berkeley businesses face in the Bay Area's public contracting marketplace, Berkeley must take immediate action to expand its local preferences program for goods, equipment and non-professional services and implement a program of preferences for professional services.

Small local businesses are the heart and soul of Berkeley. They offer high quality goods and services that reflect our eclectic tastes and are infused with the care and expression of their owners. Berkeley's unique and distinctive small enterprises link neighbors in economic and social relationships and bind us together as a community.

Local enterprises are also key to Berkeley's economic health. Compared to national chains, local businesses invest a larger share of their revenues back into the local economy.² Locally owned businesses hire local workers and often provide better wages and benefits than national chains. Statewide, small businesses employ nearly half of the private workforce and account for nearly two-thirds of new jobs.³ Local businesses also give life to our community, impacting not only the reality but also our perception of economic well-being.

The economic downturn caused by the COVID-19 health emergency has profoundly impacted Berkeley's local business community.⁴ In the weeks and months following the initial outbreak, many small businesses experienced a severe drop in revenue, putting them at risk of shutting down. A year later, small businesses in some sectors have yet to recover, as necessary health and safety restrictions remain in place.⁵

Expanding local vendor preferences will increase local business participation in meeting the City's needs for goods, equipment, and services and serve as an important local stimulus as our economy recovers from the current economic downturn. Supporting Berkeley's small businesses has always been an important means to strengthen our local economy, employ local workers, and broaden Berkeley's tax base. Particularly

² <https://ilsr.org/why-support-locally-owned-businesses/>

³ <https://cdn.advocacy.sba.gov/wp-content/uploads/2020/06/04142955/2020-Small-Business-Economic-Profile-CA.pdf>; <https://www.dir.ca.gov/smallbusiness/index.htm>

⁴ https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx

⁵ https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx

now, as we seek to rebuild our local economy in the wake of the COVID-19 downturn, we must use every tool at our disposal, especially when we are spending public dollars.

A report by the consulting firm Civic Economics found that local businesses reinvest a higher percentage of their profits into the local economy, recirculating 45% of their revenue, compared to 17% recirculated locally by chain stores.⁶ This is because local businesses hire local graphic designers to design their signs and materials, local contractors to build-out their work or retail spaces, employ local accountants, attorneys and tax preparers, and more. Local vendors thus have a significant economic multiplier effect, re-circulating dollars that boost local economic activity, employ more local workers and professional services firms, and generate multiple layers of economic activity -- and tax revenue -- for the City.

Since 1983, the City of Berkeley has extended a local vendor preference program for certain goods and services. Today, the City provides a 5% preference on bids to local business enterprises for supplies, equipment, and nonprofessional services from \$100 to \$25,000.⁷

Neighboring jurisdictions including Oakland, San Francisco, San Jose, and Marin County also extend preferences to local businesses, including for professional services and higher value contracts. They recognize that when public dollars are spent, local businesses -- and their local economies -- will benefit. Berkeley's small businesses, particularly professional services such as engineering, architecture, environmental, legal, surveying, auditing, and other specialized and technical services, are thus at a competitive disadvantage seeking contracts in the region, while enjoying no equivalent preferences in their own City -- potentially resulting in a double-disadvantage.

Some Bay Area cities have enacted complex programs to advance opportunities for contracting with local businesses. Other jurisdictions, such as Marin County, have adopted simpler policies to promote similar goals. With respect to contracts for supplies, equipment, materials, and other goods and for non-professional services, which are already subject to a local preference program in Berkeley, this item raises the dollar amount of contracts eligible for this preference from \$25,000 to \$100,000 and \$250,000, respectively.

With respect to contracts for professional services, this item refers to the City Manager to develop and implement a similar local vendor preference based on models other cities and counties have implemented, adapting whatever approach they feel is most appropriate for Berkeley. In addition, the City Manager is encouraged to incorporate any actionable or relevant results of the forthcoming Mason Tillman Associates study

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<http://nebula.wsimg.com/31f003d5633c543438ef0a5ca8e8289f?AccessKeyId=8E410A17553441C49302&disposition=0&alloworigin=1>

⁷ A local business is defined as "a business firm with fixed offices or distribution points located within the City of Berkeley boundaries and listed in the Permits and License Tax paid file, with a Berkeley business street address."

reviewing and identifying disparities in the awarding of contracts affecting local, small, emerging enterprises and other enterprises with barriers to access in City construction, architecture, engineering, professional services, goods, and other services contracts.⁸ Based on the findings from that study, a further expansion of Berkeley's preferences policies beyond the actions required by this item may be warranted to account for disparities that may be found.

In the meantime, to support Berkeley's urgent need to stimulate economic recovery, this item immediately raises the value of contracts for goods eligible for the City's existing local preferences and requires the City to extend local preferences to contracts for non-professional services no later than September 2021.

BACKGROUND

Economic Emergency for Berkeley's Local Businesses

The COVID-19 health emergency has created unprecedented challenges for Berkeley's small, local enterprises.⁹ In the months following the initial outbreak, and subsequent Shelter in Place orders and other restrictions, many local businesses saw a dramatic drop in gross receipts as compared to the previous year.¹⁰ A survey found that more than two fifths of Berkeley businesses expected greater than 80% revenue loss over the three months from when the pandemic began impacting the community.¹¹ A number of small businesses, lacking the financial cushion to absorb such a steep loss of revenue, were forced to close, reduce services, or lay off workers. Among Berkeley's largest employers, more than 3,000 people have been laid off, and countless more from smaller companies have lost their jobs.¹² Some owners and organizations face the possibility that the enterprises into which they have poured their lives may never return.

In March 2020, the Berkeley City Council acted quickly to meet the crisis, creating a tax-exempt relief fund to provide gap resources to small businesses, arts organizations, and others significantly impacted by the COVID-19 emergency.¹³ Recently, resources have also been made available to support Berkeley's struggling childcare and early childhood education sectors.¹⁴ Thanks to the generosity of the community and \$3 million approved

⁸ https://www.cityofberkeley.info/Clerk/City_Council/2019/05_May/Documents/2019-05-28_Item_28_Budget_Referral_Berkeley_Inclusion.aspx

⁹ <https://www.cityofberkeley.info/covid19-business/>

¹⁰ https://www.cityofberkeley.info/Clerk/City_Council/2020/03_Mar/Documents/2020-03-17_Special_Item_03_Berkeley_COVID-19_Relief_Fund_pdf.aspx

¹¹ https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx

¹² https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-09_Item_26_Berkeley_Economic_Dashboards_Update.aspx

¹³ https://www.cityofberkeley.info/Clerk/City_Council/2020/03_Mar/Documents/2020-03-17_Special_Item_03_Berkeley_COVID-19_Relief_Fund_pdf.aspx

¹⁴

https://www.cityofberkeley.info/Clerk/City_Council/2021/01_Jan/Documents/2021-01-19_Item_20_Relief_for_Child_Care_Providers.aspx

by the Berkeley City Council, over \$4.5 million has been distributed to qualified organizations by the Office of Economic Development (OED).¹⁵

In April 2020, the City Council approved the creation of a special structured financial recovery loan fund -- the Save Our Small (SOS) Business Loan Fund -- to provide a supplemental source of capital for small businesses impacted by the COVID-19 emergency.¹⁶ The State of California later announced a statewide loan fund based on the SOS model Berkeley passed, making these kinds of loans available to small businesses in Berkeley and across the state.¹⁷

Despite these and other bold actions by the City of Berkeley, our small businesses, nonprofits, arts organizations, childcare providers, and other locally-based organizations continue to face extraordinary hardship. Small, local enterprises are key to Berkeley's economic health. Nothing signals economic distress to a community like empty storefronts and "for rent" signs on commercial buildings. It is therefore imperative that the City adopt additional policies to support recovery of a robust, locally-based economy and, by extension, the City of Berkeley's tax base.

Benefits of Local Preferences

At least 45 states and numerous counties and cities across the U.S. have procurement policies designed to give local preferences to businesses meeting certain criteria.¹⁸ These jurisdictions, which include Berkeley, extend preferences to local businesses in contracting for a variety of materials, services, and supplies and have established criteria to certify companies that qualify for preferences.

Preferences for local vendors have an economic multiplier effect on the local economy and tax base as local enterprises rely on the local supply chain, re-circulate dollars that boost local economic activity, employ local contractors, professional services, and employees, and thus generate multiple layers of tax revenue for the community. A 2009 study found that the State of California generated approximately \$4.2 billion in additional economic activity and 26,000 new jobs over a two-year period by contracting with disabled veteran-owned businesses and local small businesses instead of larger companies.¹⁹

According to the Institute for Local Self-Reliance, the most effective preference policies include active recruitment of local businesses for contracting, systems for setting and tracking goals, and strong definitions of what constitutes a "local" small business.²⁰

¹⁵ <https://berkeleyrelieffund.org/about/>

¹⁶ https://www.cityofberkeley.info/Clerk/City_Council/2020/04_Apr/City_Council_04-14-2020_-_Regular_Meeting_Agenda.aspx

¹⁷ <https://www.connect2capital.com/p/californiarebuildingfund/>; https://haas.berkeley.edu/wp-content/uploads/CA-Rebuilding-Fund_Local-Government-Forum.pdf

¹⁸ <https://ilsr.org/rule/local-purchasing-preferences/>

¹⁹ <https://ilsr.org/rule/local-purchasing-preferences/>

²⁰ <https://ilsr.org/rule/local-purchasing-preferences/>

Across the United States, preferences programs have been successful in New York City; Cleveland; Montgomery County, Maryland; San Diego; and Phoenix.²¹

In the Bay Area, San Francisco and Oakland, the two largest nearby jurisdictions, as well as San Jose, Marin County, and others, have adopted preferences policies to promote purchasing local goods and services. These neighboring communities recognize the benefits of local preferences, and have updated their policies in recent years to reflect a large and renewed interest in supporting local businesses, and all of the economic and equity goals that are served by directing a City's public dollars to local vendors.

REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, AND LAWS

Local Preferences in the City of Berkeley

The City of Berkeley purchases and contracts for a wide variety of supplies, services, equipment, and expert assistance to provide the City a full range of municipal services and programs. General Services – Procurement actively seeks socially responsible businesses, vendors, suppliers, and contractors to provide quality products and services to the City at competitive prices.²²

The City of Berkeley first adopted a local business preference program for contracting in 1983.²³ The objective was to increase local business participation in meeting the City's needs for goods and services and to stimulate the local economy.

At the time, the concept of a bid preference program for local businesses was relatively new. The Berkeley City Manager identified just two existing programs: the State of California Preference Program for Small Businesses, and the City of Oakland Preference Program for Local Businesses and Local Minority Businesses.

Berkeley's local business preference program was designed to stimulate the local economy, thus benefiting the City by facilitating the stabilization of existing businesses and encouraging the development of new businesses in the City, increasing employment opportunities for Berkeley residents, and generating more revenues from the business license fees and sales taxes.²⁴ Further, at the time the preference program was adopted, it was hoped that by extending the local preference program to local minority- and female-owned businesses, the City would make progress toward its goal of placing a fair proportion of purchasing dollars within reach of minority- and female-owned businesses. Preferences for minority-owned and female-owned businesses are

²¹ <https://ilsr.org/procurement-more-than-a-policy-change/>

²² https://www.cityofberkeley.info/Finance/Home/Doing_Business_with_the_City.aspx

²³ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Local%20Business%20Preference.pdf

²⁴ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Local%20Business%20Preference.pdf

no longer valid in California under Proposition 209, so those elements of Berkeley's original program are inoperative.²⁵

The City Council thus adopted a local businesses preference program for purchases of supplies and nonprofessional services and established the following general guidelines for the program's implementation:

- a. That the City Manager, in the awarding of purchases from \$100 to \$10,000, extend a monetary preference to a local business, and an additional 5% monetary preference to local minority/female/[disabled] businesses;
- b. That the proposed "local bid preference program" shall refer to a monetary preference to a local business or local minority/female/[disabled] business in an amount equal to 5% or an additional 5% respectively, of the lowest monetary bid, if that low bid has been submitted by a bidder who does not qualify as a local business or local minority/female business;²⁶
- c. That the local bid preference program be applied to supply and nonprofessional services, within the dollar ranges specified in (a) above;
- d. That for the purpose of implementing the local business preference program, location shall be a factor in determining the lowest responsible bidder; and
- e. That the City Manager shall prepare administrative directives and controls sufficient to carry out the intent of the preference program, to go into effect on or before July 1, 1983.

In the City Council's original request to the City Manager to examine the feasibility of establishing a preference policy, the Council did not specify the type of contract (construction, services, or supplies) to which a monetary bid preference should be extended. However, in analyzing the various types of City supplies, the City Manager recommended that a bid preference would be best suited for supplies and nonprofessional service purchases, and purchases that would not exceed \$10,000. The City of Berkeley currently extends a 5% preference on bids to local business enterprises for supplies, equipment, and nonprofessional services from \$100 to \$25,000 in value.²⁷

In practice, bids received from local vendors for contracts on goods are reduced by the applicable percentage before an evaluation is made to determine the lowest responsible bidder. After this determination is made, an award is recommended in the amount shown in the vendor's bid. For example, a local business bidding \$1,000 for a pencil contract to the City would be evaluated as if it had bid \$950. If the bid is awarded to the local business, it is paid the bid price of \$1,000.

²⁵ [https://ballotpedia.org/California_Proposition_209,_Affirmative_Action_Initiative_\(1996\)](https://ballotpedia.org/California_Proposition_209,_Affirmative_Action_Initiative_(1996))

²⁶ For example, if the bid of a local business, after deduction of the 5% for a local business is equal to or lower than the low bid, from a firm that is not local, the award shall be made to the local business.

²⁷ A local business is defined as "a business firm with fixed offices or distribution points located within the City of Berkeley boundaries and listed in the Permits and License Tax paid file, with a Berkeley business street address."

A Berkeley business can become a certified local vendor by completing a Vendor Information Application,²⁸ including Products & Services List and a federal Taxpayer ID & Certification Form W-9. In addition to submitting these required documents to General Services - Procurement, vendors who subscribe to the City's Current Bid & Proposal Opportunities page can receive notifications of upcoming bidding opportunities on a regular basis.²⁹

Though Berkeley's local vendor preferences program was once a groundbreaking policy initiative to boost small businesses, it has not been updated to track inflation or other changes to the economy. Meanwhile, Oakland, San Francisco, and other nearby markets where Berkeley businesses may seek contracts, have taken steps to adopt policies that provide more robust preferences on their own businesses. This means Berkeley businesses have fewer opportunities in their own City, where they compete with often larger firms from adjacent cities, and suffer disadvantages when seeking contracts in neighboring markets. This double-disadvantage has negative consequences all for Berkeley businesses and for the City's tax base.

To address the disadvantages Berkeley businesses face in the Bay Area's public contracting marketplace and support recovery from the COVID-related economic downturn, we must take immediate action to expand our local preferences program for goods and implement a program of preferences for professional services.

The following are examples of local vendor preference programs in the area that include preferences for professional services. Oakland is presented first, as it's the closest large jurisdiction where Berkeley professional services firms may compete - at a disadvantage - for public contracts. Oakland's program is more complex and nuanced than some other jurisdictions', but less involved than San Francisco's.

San Jose and Marin County, also presented below, offer much simpler professional services preference programs and likely provide the best models for quick implementation in Berkeley. The "perfect" should not be "the enemy of the possible" when we are facing an unprecedented economic downturn that is decimating our local business community. Should further refinements of Berkeley's program be warranted, they can be brought forward at a later date.

City of Oakland Local and Small Local Business Enterprise Program

In March 1979, the City of Oakland adopted a preference program for local businesses.³⁰ Among other things, the program granted the Oakland City Manager authority to extend a 3% preference for a local business in the award of all purchase

²⁸ [https://www.cityofberkeley.info/uploadedFiles/Online_Service_Center/Level_3_-_General/VendorInformationApplication\[1\].pdf](https://www.cityofberkeley.info/uploadedFiles/Online_Service_Center/Level_3_-_General/VendorInformationApplication[1].pdf)

²⁹ <https://www.cityofberkeley.info/RFP/>

³⁰ [https://www.cityofberkeley.info/uploadedFiles/Online_Service_Center/Level_3_-_General/VendorInformationApplication\[1\].pdf](https://www.cityofberkeley.info/uploadedFiles/Online_Service_Center/Level_3_-_General/VendorInformationApplication[1].pdf)

orders.³¹ In 1981, Oakland increased the preference point for local businesses to 5% preference for a local business. The basis for the increase was the fact that initially established point preferences only minimally benefited local businesses in the bidding process.

Oakland's Local and Small Local Business Enterprise (L/SLBE) Program was created to use the power of the public purse to stimulate economic development through the support and empowerment of the local community, especially those aspects of it that have been placed at a disadvantage in the past.³²

The intended impacts of Oakland's L/SLBE Program included:

- Increasing the number of Oakland certified businesses participating in City contracting and in development projects;
- Increasing the circulation of city dollars within the Oakland community and thus stimulating a stronger economic base; and
- Promoting the development of Oakland certified businesses through joint ventures, and mentor/protégé relationships.

The policy was aimed at providing economic opportunity to local residents and businesses by supporting local economic development while paying competitive prices for goods and services. At the same time, the program did not intend to obstruct efforts to attract outside investments that are critical to the City's economic growth.

In 2011, the City of Oakland adopted legislation to more narrowly tailor the mandates that govern participation of local and small local business enterprises in contracting.³³ Oakland currently requires a 50% minimum participation for all construction contracts at or over \$100,000, all professional services contracts over \$50,000, and all purchases of commodities, goods and associated services over \$50,000.³⁴ All construction contracts below \$100,000, all professional services contracts below \$50,000, and all procurements of commodities and associated services below \$50,000 must include outreach to certified local firms such that a minimum of three local firms are included in the solicitation.

Incentives are earned based on the level of participation proposed prior to the award of a contract. Bid discounts are applied at a rate of one percent (1%) or one (1) preference point for every 10% of contract dollars attributable to certified firms. No more than five

³¹ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/Local%20Business%20Preference.pdf

³² <https://cao-94612.s3.amazonaws.com/documents/oak029719.pdf>

³³ <https://cao-94612.s3.amazonaws.com/documents/oak029719.pdf>

³⁴ The 50% local business participation requirement must be met with a minimum participation of 25% for Local Business Enterprises (LBE)/Local Not for Profit Business Enterprise (L/NFPBE) and 25% for Small Local Business Enterprises (SLBE)/Small Local Not for Profit Business Enterprise (S/LNFPBE). SLBE and SLNFPBE may meet the full 50% requirement.

percent (5%) in bid discounts or five (5) preference points may be earned.

Level of L/SLBE Participation Achieved		Bid Discounts To Be Awarded to Contractors (Construction)	Preference Points to be Awarded to Consultants (Professional Services)
50%	25% LBE and 25% SLBE	2%	2 pts
60%	30% LBE and 30% SLBE	3%	3 pts
70%	35% LBE and 35% SLBE	4%	4 pts
80%	40% LBE and 40% SLBE	5%	5 pts

In those instances where VSLBE participation is evident, the value of preference points and bid discounts associated with VSLBE participation will be double-counted towards meeting the requirement.

Earning extra preference points for having an existing work force that includes Oakland residents is considered added value. The Request for Proposal “evaluation” process allows for additional preference points over and above the number of points earned for technical expertise. Typically 100 points may be earned for the technical elements of the RFP. Preference points are awarded over and above the potential 100 points. Staff recommends awarding preference points for an Oakland workforce according to the percentage of Oakland residents as follows:

Years in Oakland		Oakland Resident Workforce	
Years in Oakland	Additional Points	Workforce	Additional Points
5 yrs	.50 pt	Up to 24%	1.00 pt
10 yrs	1.00 pt	25%- 49%	2.00 pts
15 yrs	1.50 pts	50% -74%	3.00 pts
20 yrs	2.00 pts	75%-99%	4.00 pts
25 yrs	2.50 pts	100%	5.00 pts

Local and non-local businesses may earn up to a maximum of 2.5 additional 5 preference points for having a workforce that is made up of Oakland residents and committing to Oakland new hires.

To incentivize contracting with local business, the City Administrator awards a certificate of achievement each year to the city agency that reaches the highest level of support to small local businesses.

City of San Jose Local and Small Business Preferences

The City of San Jose extends preferences in contracting with local and small businesses through a relatively simple preferences regime.³⁵

For Local Business Enterprises (LBEs), suppliers must have a current San Jose Business Tax Certificate Number and have an office in Santa Clara County with at least one employee. If the basis of award is price determinative (awarded to the low bidder) then the amount of the preference shall be 2.5% of cost. If the basis of award is points determinative (“best value”) then the amount of the preference shall be 5% of total points.

For Small Business Enterprises (SBEs), in order to claim the additional SBE Preference suppliers must first qualify as an LBE and have a total number of employees of 35 or less (regardless of where they are located). If the basis of award is price determinative (awarded to the low bidder) then the amount of the preference shall be an additional 2.5% of cost. If the basis of award is points determinative (“best value”) then the amount of the preference shall be an additional 5% of total points.

Application of the preferences for LBEs and SBEs shall not be made in the procurements where legal constraints on the expenditure of funds prohibit the application of the preference or in grant programs.

Marin County Preference in Contracts and Purchases

Like others in the Bay Area, the Marin County Board of Supervisors has found that it promotes the public interest to encourage the development and maintenance of local businesses in Marin County to insure a viable and balanced economy, provide local jobs for residents of the county, reduce commuter traffic, promote the development of the county's tax base, stimulate sales tax receipts, and enhance the number of and type of services available in Marin County for the benefit of its residents.³⁶

Marin County thus concluded that these goals and objectives are promoted by the provision of appropriate preferences to local businesses which contract with, and sell services and supplies to the county. The county's program is another relatively simple model Berkeley may wish to adapt.

In Marin County, preferences apply to contracting with local businesses for goods and services, with “local business” defined as any business that has its principal place of business in Marin; has a business license issued in Marin County for a period of six months prior to any claim of preference; or maintains an office or other facility in Marin in which not less than five persons are employed substantially full time.

³⁵ [https://www.sanjoseca.gov/your-government/departments/finance/purchasing/local-and-small-business;](https://www.sanjoseca.gov/your-government/departments/finance/purchasing/local-and-small-business)
https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT4REFIBUTA_CH4.12PRGOSE_P4.12.320APPAWCO

³⁶ https://library.municode.com/ca/marin_county/codes/municipal_code?nodeId=TIT3REFI_CH3.10PRCOPU

When Marin County acquires services and/or supplies by purchase or contract, the director of purchasing, in evaluating the price or bid, must award a 5% preference on the price submitted by a local business.³⁷

San Francisco Local Business Enterprise Ordinance

San Francisco extends preferences to local businesses in contracting through its Local Business Enterprise (LBE) and Non-Discrimination in Contracting Ordinance.³⁸ The program is designed to assist qualified local small businesses in competing for the award of City contracts by adding points to proposals for contracts that are awarded based on the highest score, or applying discounts to proposals for contracts that are awarded based on the lowest costs. In addition, the ordinance provided contracting set asides, subcontracting goals, City payment provisions, and training programs to assist small local businesses to compete for City contracts.

In adopting its preferences ordinance, the San Francisco Board of Supervisors found that small businesses were a significant sector of the local economy, contributing hundreds of millions of dollars to the City's economy each year, and formed the backbone of the City's neighborhoods. The Board further found that the expansion of local small businesses would advance the public interest, contribute to the economic well-being of all San Franciscans, and tend to minimize the burden on the City's General Fund to provide for general welfare.

The Board of Supervisors found that the disadvantages suffered by very small and micro local businesses in competing as prime contractors on public contracts could be reduced by discounting their bids and ratings by 10%. Granting a 10% discount would not unduly burden businesses not eligible for such discounts, and is similar to the corrective adjustments given to small and very small micro businesses in other jurisdictions. The Board found that the additional disadvantages suffered by micro local businesses could be reduced by setting aside appropriate small contracts for competition only among micro businesses.

San Francisco has a long history of working to end discrimination in all aspects of public contracting. For example, the Board of Supervisors initially passed Ordinance No. 139-84 on April 2, 1984 to combat the San Francisco's own active and passive participation in discrimination against minority- and women-owned businesses, both in its own contracting for goods and services, and in the private market for such goods and services. At the time of passage, women- and minority-owned businesses were virtually excluded as contractors on prime City contracts.

³⁷ In addition, whenever the county acquires supplies by purchase or contract, the director of purchasing, in evaluating the price or bid of recycled products shall award a fifteen percent preference on the price submitted on recycled products. In no case shall the total of all preferences for which a bid is eligible exceed fifteen percent.

³⁸ <https://sfgov.org/cmd/sites/default/files/Administrative%20Code%20Chapter%2014B.pdf>;
https://sfgov.org/cmd/sites/default/files/Images/13050-CH14B_Rules_07012015_Final.pdf

Since that time, San Francisco has actively and extensively documented and studied discrimination against and disadvantages faced by groups to gauge the effectiveness of the prior Minority, Women and Local Business Enterprise Ordinances (the "M/W/LBE Ordinances") and to assess the need for further and continuing action.

In 2014, the San Francisco Board of Supervisors amended the Administrative Code to comprehensively revise the Local Business Enterprise (LBE) and Non-Discrimination in Contracting Ordinance (Chapter 14B).³⁹ Under the revised ordinance, Contract Awarding Authorities must apply discounts to each evaluation stage of the selection process, including qualifications, proposals, and interviews.

For contracts estimated to cost in excess of \$10,000 but less than \$10,000,000, the Contract Awarding Authority must apply a 10% discount to any bid from a Small or Micro-LBE. If after the application of this discount the apparent low bidder or highest ranking proposer is not a Small or Micro-LBE, Contract Awarding Authorities shall apply a 5% discount to any bid from an SBA-LBE. Contract Awarding Authorities shall apply this five percent (5%) discount to contracts, except that the five percent (5%) discount for SBA-LBEs shall not be applied at any stage if it would adversely affect a Small or Micro-LBE.

For Contracts estimated to cost in excess of \$10,000,000 but less than \$20,000,000, the Contract Awarding Authority must apply a 2% discount to any bid from a Small, Micro, or SBA-LBE for Public Works/Construction, Architect/Engineering, Professional Services, or General Services Contracts. Bids from Small, Micro, or SBA-LBEs for Commodities Contracts in excess of \$10,000,000 are not eligible for the Discount.

For contracts with Joint Ventures For Professional Services and Architect/Engineering estimated to cost in excess of \$10,000 but less than \$10,000,000, Contract Awarding Authorities are required to apply the following discount to bids from Joint Ventures with a Small and/or Micro-LBE Joint Venture partner participation on professional services and Architect/Engineering prime contracts:

1. Five percent (5%) to a Joint Venture with Small and/or Micro-LBE Prime Contractor participation that equals or exceeds thirty-five percent (35%) but is under forty percent (40%);
2. Seven and one-half percent (7.5%) to a Joint Venture with Small and/or Micro-LBE Prime Contractor participation that equals or exceeds forty percent (40%);
3. Ten percent (10%) to a Joint Venture exclusively among Small and/or Micro-LBE Prime Contractors.

San Francisco's Contract Monitoring Division (CMD) is required to issue quarterly written reports to the Mayor and the Board of Supervisors to document each Contract Awarding Authority's progress toward achieving the goals of this City's local preferences

³⁹ <https://sfgov.legistar.com/LegislationDetail.aspx?ID=1912573&GUID=E3DA17DA-4E88-4C43-BEBD-0FDAC03794B5>

program. In addition, each fiscal year, the City Administrator must submit an annual report on the progress of the City toward achieving the goals of the preferences program, together with an identification of problems and specific recommendations for improving participation by all categories of LBEs in City contracting.

Conclusion

Berkeley's local vendor preferences program has long played an important role in supporting local businesses in contracting, but the program needs to be updated for the 21st Century. Currently, the program omits preferences for professional services, such as engineers, surveyors, and architects, which are central to Berkeley's culture and economy. Moreover, the relatively low maximum contracts for goods and non-professional services eligible for local preferences are insufficient to substantially increase local business participation in meeting the City's needs and to stimulate the local economy.

Meanwhile, neighboring Bay Area cities have extended and enhanced their preferences programs, including for professional services extended in Oakland and San Francisco, as well as higher value contracting opportunities. These programs to preference local businesses place Berkeley firms at a disadvantage compared to their Bay Area peers.

For these reasons, this item increases the maximum value of contracts for goods and non-professional services eligible for preferences and directs the City Manager to expand the City's Local Vendor Preferences programs to include Berkeley businesses engaged in professional services by January of 2022. It requires the City Manager to provide outreach and training to Berkeley businesses about expanded Local Vendor Preferences and takes into account the potential to incorporate actionable and relevant results of the Mason Tillman Associates study currently underway, if any, when those results become available. Finally, this item refers to the City Manager to track and issue periodic reports to Council (or include in existing reports such as the annual Economic Dashboard), and/or to track on an online dashboard the City's success in contracting with local vendors.

ACTIONS/ALTERNATIVES CONSIDERED

Considered a higher increase in the value of contracts eligible for local preferences in the City of Berkeley. A review of local preferences programs in nearby jurisdictions revealed that the City of Oakland, one of Berkeley's closest neighbors, implemented its Preferred Small Local Business Program for all projects valued at an amount not to exceed \$250,000. This limit, established by Oakland before the COVID-19 crisis, was recommended for Berkeley, where possible, as a means to achieve consistency with contracting policies in neighboring jurisdictions.

A limit of \$250,000 for contracts for supplies, equipment, materials, and other goods was considered but would have required amending BMC Section 7.18.010 D to raise the limit on purchases the City Manager may approve without Council action. For this reason, the limit for eligible contracts of these types is being raised to only \$100,000,

paralleling the current limit in BMC Section 7.18.010 D. No such conflict exists for contracts for services (non-professional or professional) so the limit on eligible contracts for services is recommended at \$250,000, to increase the economic power of the preference program, level the playing field for Berkeley vendors, and parallel Oakland's program.

Council may wish to raise the contract dollar amount ceiling higher in light of the current economic crisis and the power of local contracting to support rebuilding of the local economy. The City Manager is also encouraged to return to Council any proposed adjustments to this limit in accordance with the needs of Berkeley businesses and any future changes in policy or economic circumstances in the Bay Area.

CONSULTATION/OUTREACH OVERVIEW AND RESULTS

The author consulted with city staff regarding an earlier version of this proposal. Staff raised potential nuances that may require additional consideration as the City Manager works to develop and implement a local vendor preference program for contracts for professional services. Given the urgency of supporting needed economic recovery in the wake of the COVID-19 crisis and directing more City dollars to Berkeley businesses, this item adopts an increase in the value of eligible contracts for goods, equipment and non-professional services (the program we already have in place) by September 1, 2021 while providing until January 1, 2022 for staff to establish a policy relating to local preferences for professional services.

Because of the urgent need to stimulate the local economy as we emerge from the COVID-19 crisis, additional outreach will be conducted simultaneous with submission of the item, including outreach to Berkeley Chamber and to locally-owned businesses and professional services providers, to offer opportunities for further input. It is expected that local businesses will appreciate the opportunity to improve access to contracting opportunities with the City of Berkeley, especially when they are disadvantaged in larger neighboring jurisdictions.

IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT

The City of Berkeley currently operates a local vendor preference program. Raising the limit on the value of contracts for goods, equipment, and nonprofessional services will not require any new programs to be implemented, while resulting in the award of more contracts to Berkeley vendors. Some procedures and/or forms will require adjustment, so the increases are effective approximately 4 months from the time of adoption of the resolution. Creating a program for preferences for professional services contracts will require adopting a new set of regulations or procedures, but turnkey models exist in the Bay Area that can be easily adapted and implemented.

This item refers to the City Manager to conduct outreach to Berkeley businesses to publicize, offer training, and provide other meaningful access to the City's expanded preferences programs. While this is an important component of any meaningful and

equitable preference program, it is not a precondition to putting the program in place. It is hoped that staff will do initial outreach through the expanded network of businesses and more active BIDs and business organizations that have been successful in communicating with the business community during COVID, and follow up with more targeted ongoing outreach and technical assistance over time.

Economic recovery is an urgent and important task for the City to undertake in addressing the impacts of the COVID-19 crisis, and the measures required by this item, while requiring some staff time to implement, have the potential to yield significant benefits for local businesses and for the City of Berkeley, helping to build a robust tax base over the long run.

ENVIRONMENTAL SUSTAINABILITY

Contracting with local businesses will reduce emissions of greenhouse gases and pollution associated with transporting goods and equipment, and related travel. Local businesses tend to purchase locally, requiring less transportation. Businesses based in and doing business in Berkeley contribute to less sprawl and traffic congestion, and more sustainable land use.

OUTCOME AND EVALUATION

This item refers to the City Manager to track and issue reports to Council on the City's success expanding contracting for goods, equipment, and services with local vendors. These reports will serve as the basis for evaluating and making any changes to the local preferences program that may be warranted.

FISCAL IMPACTS

Preferences for local vendors have an economic multiplier effect on the local economy and tax base as local enterprises rely on the local supply chain, re-circulate dollars that boost local economic activity, employ local contractors, professional services, and employees, and thus generate multiple layers of tax revenue for the community. Stimulating the expansion of small firms or development of new enterprises fosters economic growth and independence for the City of Berkeley and its taxpayers. The expansion of local small businesses advances the public interest, contributes to the economic well-being of all Berkeleyans, and tends to minimize the burden on the City's general fund to provide for general welfare. As the economic crisis recedes, public dollars need to be leveraged to the greatest extent possible to support Berkeley small businesses and boost the local economy through the multiplier effect preferences have on the circulation of each City dollar spent on locally-based vendors.

Regarding potential out-of-pocket costs for contracting with Berkeley vendors, it's important to note that the impact of the preferences is not to add a 5% cost to each contract awarded under the preference, but rather to pay "up to" 5% more for a contract with a qualified Berkeley vendor. For example, if the lowest bidder (pre-preference) for a

contract for goods was \$20,000, but the contract was awarded to a Berkeley business that bid a pre-preference amount of \$20,050, the City will only pay an extra \$50 for the contract, *not* $\$20,000 + 5\% = \$21,000$. In addition, not all contracts will be bid on by Berkeley vendors, and not all Berkeley vendors bidding, even with the preferences in place, will be awarded all contracts. In the contract for goods example provided above, if the Berkeley vendor had bid \$23,000 and an out-of-town vendor bid \$20,000, the preference of 5% would have converted the Berkeley vendor's bid into a bid at \$21,800 - and they would not have been awarded the contract.

For contracts that *are* awarded to Berkeley vendors through operation of the preference program, the extra dollars spent are a small and worthy investment in the long term viability of the City's businesses, and in rebuilding our own tax base.

CONTACT INFORMATION

Councilmember Sophie Hahn, 510-682-5905 (cell)

ATTACHMENTS

1. Resolution
2. City of Oakland Local and Small Local Business Enterprise Program

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

TO EXPAND EXISTING LOCAL VENDOR PREFERENCE PROGRAM
BY INCREASING THE VALUE OF ELIGIBLE CONTRACTS
FOR GOODS TO \$100,000 AND THE VALUE OF ELIGIBLE CONTRACTS
FOR NON-PROFESSIONAL SERVICES TO \$250,000

WHEREAS, small local businesses are the heart and soul of Berkeley, offering high quality goods that reflect our eclectic tastes and are infused with the care and expression of their owners; and

WHEREAS, small local businesses are key to Berkeley's economic health, investing a larger share of their revenues back into the local economy, hiring local workers, and often providing better wages and benefits than national chains; and

WHEREAS, the economic downturn caused by the COVID-19 health emergency has profoundly impacted Berkeley's local businesses, contributing to drops in revenue, layoffs of workers, and in some cases business closures; and

WHEREAS, expanding local vendor preferences by raising the value of eligible contracts will increase local business participation in meeting the City's needs and serve as an important local stimulus as our economy recovers from the current economic downturn; and

WHEREAS, neighboring jurisdictions including Oakland, San Francisco, San Jose, and Marin County extend preferences to local businesses, including for professional services and higher value contracts; and

WHEREAS, there exists an urgent need to support economic recovery in the wake of the COVID-19 crisis and to direct more City of Berkeley dollars to Berkeley businesses;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby expands Berkeley's existing local vendor preference program by increasing the value of eligible contracts for supplies, equipment, materials, and other goods to \$100,000, and the value of eligible contracts for non-professional services to \$250,000, effective September 1, 2021.

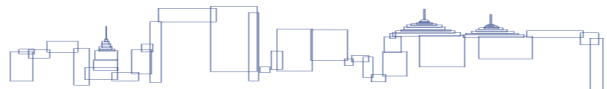
Office of the City Administrator, Contracts and Compliance
250 Frank Ogawa Plaza, Suite 3341
Oakland, California 94612
(510) 238-3970



City of
OAKLAND
California



**Local and Small Local
Business Enterprise
Program (L/SLBE)**



**CITY OF OAKLAND
LOCAL AND SMALL LOCAL
BUSINESS ENTERPRISE PROGRAM**

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OVERVIEW/EXECUTIVE SUMMARY

In order to provide economic opportunity for its residents and businesses, and stimulate economic development, the City of Oakland has developed and implemented various policies that directly impact how public funds are spent. These policies are aimed at using the power of the public purse to stimulate economic development through the support and empowerment of the local community, especially those aspects of it that have been placed at a disadvantage in the past. The City has demonstrated leadership through various cutting edge policies and is in the vanguard nationally in terms of harnessing local resources to achieve local benefits. The major programs that were created to serve these respective groups are the Local and Small Local Business Enterprise (L/SLBE) Program and the Local Employment Program (LEP). Supporting and/or complementing these programs are policies regarding living wage, local construction employment referral program, prevailing wage, disadvantaged business enterprises, certifications, apprenticeship, and equal benefits for domestic partners.

The intended impacts include:

- Increasing the number of Oakland certified businesses participating in City contracting and in development projects;
- Increasing the circulation of city dollars within the Oakland community and thus stimulating a stronger economic base; and
- Promoting the development of Oakland certified businesses through joint ventures, and mentor/protégé relationships.
- The new policies provide economic opportunity to local residents and businesses by supporting local economic development while paying competitive prices for goods and services. At the same time, the program does not obstruct efforts to attract outside investments that are critical to the City's economic growth.

To that end, In November of 2011, the City Council modified Ordinance No. 12389 C.M.S in order to more narrowly tailor the mandates that govern participation of local and small local business enterprises in city contracting. Changes to the Local and Small Local Business Enterprise Program are summarized as:

1. Increase the current level of local and small local business participation by 15% Small Local Business Enterprise (SLBE) and 15% Local Business Enterprise (LBE) participation, thereby increasing the current 20% L/SLBE Program (10% LBE and 10% SLBE) to the new 50% L/SLBE Program with 25% participation for LBE's and 25% participation for SLBEs; and
2. Add two new certification categories in order to afford emerging and start-up businesses the opportunity to fully participate in the City's contracting process; to include (1) a Very Small Business Enterprise (VSLBE) category and (2) a Local Business Enterprise of Locally Produced Goods (LBE-LPG) category;
3. Increase the value of preference points and bid discounts for the VSLBE and LBE-LPG certification categories by double-counting the value towards meeting the 25% SLBE participation; and

4. Define a Small Local Business Enterprise (SLBE) according to 30% of the most recently published Small Business Administration (SBA) size standards and to adjust those standards as SBA standards are updated; and
5. Allow firms the ability to earn up to a total of 5% bid discounts for L/SLBE participation on construction and commodities and associated services bids, or 5 preference points for L/SLBE participation on professional services in the following manner:
 - a. With 50% L/SLBE participation (25% local and 25% small local) a firm earns– a minimum 2% bid discounts or 2 preference points;
 - b. With 60% L/SLBE participation (30% local and 30% small local) a firm earns– 3% bid discounts or 3 preference points;
 - c. With 70% L/SLBE participation (35% local and 35% small local) a firm earns– 4% bid discounts or 4 preference points;
 - d. With 80% L/SLBE participation (40% local and 40% small local) a firm earns– a maximum 5% bid discounts or 5 preference points; and
6. To further support local Oakland businesses, Oakland firms may earn additional preference points during the evaluation phase of the Request for Proposal and Request for Qualifications (RFP/RFQ) process as follows: Up to 2.5 preference points for operating a business with a substantial business presence in Oakland and up to 5 points for employing Oakland residents and new hires; and
7. Implement a Mandatory “Preferred Small Local Business Program” for all projects valued at an amount not to exceed \$250,000 such that all change orders, extensions and amendments do not exceed the \$250,000 threshold. If responses from pre qualified firms are not accepted by the using agency and the decision is made to solicit (through bids or proposals) from the open market, those solicitations will be subject to the L/SLBE Program.
8. The City has waived small local business enterprise (SLBE) subcontracting requirements for Oakland certified local businesses that apply for professional services contracts as the prime contractor with the City.

PART I: PROGRAM GUIDELINES

Participation Requirements

There is a 50% minimum participation requirement for all construction contracts at or over \$100,000, all professional services contracts over \$50,000, and all purchases of commodities, goods and associated services over \$50,000. All construction contracts below \$100,000, all professional services contracts below \$50,000, and all procurements of commodities and associated services below \$50,000 must include outreach to certified local firms such that a minimum of three local firms are included in the solicitation.

The 50% local business participation requirement must be met with a minimum participation of 25% for Local Business Enterprises (LBE)/Local Not for Profit Business Enterprise (L/NFPBE) and 25% for Small Local Business Enterprises (SLBE)/Small Local Not for Profit Business Enterprise (S/LNFPBE). SLBE and SLNFPBE may meet the full 50% requirement.

The City of Oakland also has a 50% L/SLBE trucking participation requirement to demonstrate the importance of including locally based trucking firms in city funded public works projects. In the case of construction projects where trucking is warranted, 50% of the total trucking dollars must be allotted to certified (Oakland) Local Truckers. The City will identify in bid specifications when the 50% local trucking requirement is applicable. It is important to note that failure to comply with the 50% trucking requirement will result in a non-responsive bid.

As a new element of the 2012 L/SLBE Program, the City has waived small local business enterprise (SLBE) subcontracting requirements for Oakland certified local businesses that apply for professional services contracts as the prime contractor with the City.

Based on the “Rule of Three”, there must be at least three certified businesses listed in the industry, trade or profession that constitutes a major category of work. If at least three L/SLBEs are not certified, then the requirement is either waived, or the 50% requirement may be set from 50 % to 0%.

The awarding authority shall request an availability analysis if there is reason to believe that the availability of certified firms will not satisfy the 50% requirement. The request must be made in time for completion prior to issuing an invitation for bids (NIB), request for proposals (RFP) or any other solicitation.

Contractors are required to submit a completed Subcontractor Listing (Schedule R) for construction and Schedule E Project Consultant Listing for professional services projects contracts as found in the Appendix. The subcontractor listing provides the buyer with a formal list of subcontractors, the trade or service area to be provided, bid amounts and certification status for all profit and not-for profit businesses that will be used on the project.

Schedule R and/or Schedule E will be used to calculate the level of certified local business participation. Unless a requirement is waived due to limited availability, the determination of responsive and responsible will include meeting the 50% minimum requirement. Each prime or lead contractor is urged to obtain, from each certified subcontractor, a copy of either the

certification letter or certificate issued by the City of Oakland, Office of the City Administrator, Contracts and Compliance Division. The certification letter and certificate include the certification number and date of expiration.

Certifications must be current and valid prior to the submittal due date in order for the local participation to count toward meeting the 50% businesses participation requirement. Certification status is confirmed during the compliance evaluation process.

Maintaining Participation

Once a project begins, it is important to achieve and maintain the participation for which incentives were earned. Prime contractors and consultants must maintain the L/SLBE percentages indicated in the Schedule R or Schedule E at the time of a contract award and throughout the term of the contract.

If the City modifies the original scope of work, the contractor must make reasonable efforts to maintain the L/SLBE participation for which incentives were earned. If change orders affect only one discipline, staff may use their discretion to allow adjustments to L/SLBE percentages for the change order portion of the work. Upon request, City staff will help firms to determine methods of maintaining percentages.

Should the prime contractor fail to maintain the L/SLBE participation listed at the time the contract is awarded, the City may impose a penalty one and one half times the amount that should have been awarded to L/SLBE, and/or may stop the work upon approval by the full City Council or a designee approved by at least three Council Members of which one must include the Council Member representing the district in which the work is being performed.

Substitution of Listed Subcontractors

Prime consultants or contractors who have entered into a contract agreement with the City cannot substitute a listed subcontractor or sub-consultant without prior approval of the City.

The City will substitute a person as subcontractor in place of the subcontractor listed in the original bid, except that the awarding authority, or its duly authorized officer, may, except as otherwise provided in Section 4107.5, consent to the substitution of another person as a subcontractor in any of the following situations:

1. When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans, and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the prime contractor.
2. When the listed subcontractor becomes insolvent or the subject of an order for relief in bankruptcy.
3. When the listed subcontractor fails or refuses to perform his or her subcontract.

4. When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor as set forth in Section 4108.
5. When the prime contractor demonstrates to the awarding authority, or duly authorized officer, subject to the further provisions set forth in Section 4107.5, that the name of the subcontractor was listed as the result of an inadvertent clerical error.
6. When the listed subcontractor is not licensed pursuant to the Contractor's License Law.
7. When the awarding authority, or its duly authorized officer, determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.
8. When the listed subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.
9. When the awarding authority determines that a listed subcontractor is not a responsible contractor.

Prior to the approval of the prime contractor's request for substitution, the City shall give notice, in writing, to the listed subcontractor, of the prime contractor's request for substitution and/or the reason for such request. Such notice shall be served by certified or registered mail to the last known address of the subcontractor. The subcontractor who has been so notified shall have five (5) working days in which to submit to the City written objections to the substitution. Failure to file such written objection shall constitute the subcontractors consent to the substitution.

If written objections are filed, the City shall give written notice of a hearing date to the prime and sub-contractor within five (5) working days. At the hearing, the prime and subcontractor will present their cases and the Hearing Officer will make a determination. For construction contracts pursuant to Public Contracts Code Section 4107, et seq., no substitution of the listed L/SLBE subcontractors can be made without the approval of the City. Contractors are required to contact the Contract Compliance Office to request a substitution hearing.

Emergency Contracts

Local businesses will be given first priority in the performance of emergency work as defined in Ordinance No. 7937 C.M.S, which formulates and establishes procedures for bidding, contracting, and purchasing goods and services.

The City has established a goal wherein 75% of emergency contract dollars must be spent with local firms. Of that amount, at least two thirds must be spent with small local businesses. User agencies are required to solicit from certified local firms for all informally bid emergency work whenever feasible.

Compliance Monitoring and Penalties

To ensure compliance with the program, the contractor or consultant shall provide records upon request (within ten calendar days) and permit the City to review all pertinent records and documents of the contractor and subcontractors. The contractor or consultant shall provide a copy of all subcontractor agreements, purchase orders and/or other verification of the total amount to be paid to each subcontractor, supplier, etc., upon request prior to commencement of work. For public works projects valued over \$1,000.00, the State's Labor Code requires contractors to pay their employees in accordance with general prevailing wages. The prime contractor and all subcontractors including truckers and owner/operators are required to submit weekly certified payroll records five (5) days after each pay period in accordance with Labor Code section 1776. Failure to submit weekly certified payroll records could result in withholding of progress payment(s).

The subcontractor's progress payment report must be submitted with each progress payment in order for the progress payment to be processed. Also, prime contractors and/or prime consultants will provide the City with executed copies of its subcontractor/sub-consultant agreements to verify dollar amounts stated for all L/ SLBEs upon request. Contractors must also provide information with each progress payment indicating payments made to L/SLBEs in order to receive subsequent progress payments. An Exit Report and Affidavit form must be attached to the final progress payment application.

A penalty of one percent (1%) of the contract amount or one thousand dollars (\$1,000) per day (whichever is less) may be applied if records or documents are not provided within the specified time. The City shall deem such refusal a material breach of contract, in which case the City may terminate the contract and/or stop the work until compliance is met. In addition, the contractor or subcontractors may be debarred from participating in future City contracts for a period of six months to five years, and may lose certification.

Prevailing Wages

The payment of prevailing wages is taken very seriously by the City of Oakland. State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, and 1771. Workers employed on construction, alteration or demolition projects in California that use public funds are paid the prevailing wage, which is the basic hourly rate the majority of workers in a particular craft or classification earn. The California Department of Industrial Relations, (Divisions of Labor Statistics and Research) annually determines prevailing wages and may be reached at www.dir.ca.gov/DLSR/PWD.

The Contractor shall ensure that all workers performing construction work for the project are employed by the Contractor and shall include in its contracts with its contractors, requirements that its contractors' employees and their subcontractors' employees shall be compensated in an amount no less than the general prevailing wage rate of per diem wages pursuant to the California Labor Code Sections 1770, et seq.

All contractors, regardless of tier, shall pay prevailing wages. The contractor shall include, in its subcontractor agreements all reporting and record keeping requirements of the applicable prevailing wage statutes and regulations. The contractor is aware of and shall comply with the

provisions of the City of Oakland prevailing wage requirements contained in Resolution 57103 CMS, passed March 28, 1978.

The prevailing wage requirement will be monitored and enforced by the City of Oakland. In addition to any other rights provided by California law to recover compensation, a worker that has been paid less than the prevailing wage rates shall have a right to commence an action or proceeding against the employer of the worker for the difference between the prevailing wage rates and the amount paid to such worker for each calendar day or portion thereof for which the worker was paid less than the compensation required to be paid under the provisions of this agreement.

Prime contractors shall not impose any unreasonable additional criteria on subcontractors that are not required by the City. Any demand on the subcontractors that would change the way the subcontractor may do business will be deemed unreasonable. The prime contractor shall not selectively impose criteria upon local certified businesses that are not applied to other business in similar contractual relationships with the prime.

All bids submitted shall be made available to the public upon bid opening as required by the Sunshine Ordinance, including all bids prepared by subcontractors. A list of the individual forms and schedules is shown below and are provided in the Appendix under Forms and Schedules. It is important to note that certain forms and schedule must be submitted with the bid package in order for the bid to be considered responsive.

- Bid Bond Form
- Schedule A - Scope of Work/Outline of Services to be Performed
- Combined Schedules
 - Schedule B-1 - Arizona Resolution
 - Schedule C-1 - Compliance With The Americans With Disabilities Act
 - Schedule D - Ownership, Ethnicity and Gender Questionnaire
 - Schedule K – Pending Dispute Disclosure Form
 - Schedule M – Part A, Independent Contractor Questionnaire
 - Schedule N - Declaration Of Compliance With Living Wage Ordinance (Professional Services and Design Build Projects only)
 - Schedule N-1 - Equal Benefits Declaration Of Nondiscrimination
 - Schedule P - Nuclear Weapons Proliferation Ordinance
 - Schedule U - Compliance Commitment Agreement
 - Schedule V - Affidavit Of Non-Disciplinary Or Investigatory Action
- Schedule E - Project Consultant Team Form
- Schedule O - Disclosure of Campaign Contributions Form
- Schedule R - Subcontractor, Supplier, Trucking Listing
- Schedule Q – Construction Services Insurance Requirements
- Schedule Q – Professional & Specialized Services Insurance Requirements
- Jobsite Waste Reduction & Recycling Plan Form (Recycling & Waste Reduction)

PART II: PROGRAM INCENTIVES

Bid Discounts and Preference Points

Incentives are earned based on the level of participation proposed prior to the award of a contract. Bid discounts are applied at a rate of one percent (1%) or one (1) preference point for every 10% of contract dollars attributable to certified firms. No more than five percent (5%) in bid discounts or five (5) preference points may be earned.

Level of L/SLBE Participation Achieved		Bid Discounts To Be Awarded to Contractors (Construction)	Preference Points to be Awarded to Consultants (Professional Services)
50%	25% LBE and 25% SLBE	2%	2 pts
60%	30% LBE and 30% SLBE	3%	3 pts
70%	35% LBE and 35% SLBE	4%	4 pts
80%	40% LBE and 40% SLBE	5%	5 pts

In those instances where VSLBE participation is evident, the value of preference points and bid discounts associated with VSLBE participation will be double-counted towards meeting the requirement.

Request for Proposal (RFP) and Request for Qualifications (RFQ) Preference Points for Local Hire or Non-Construction Contracts

Earning extra preference points for having an existing work force that includes Oakland residents is considered added value. The Request for Proposal “evaluation” process allows for additional preference points over and above the number of points earned for technical expertise. Typically 100 points may be earned for the technical elements of the RFP. Preference points are awarded over and above the potential 100 points. Staff recommends awarding preference points for an Oakland workforce according to the percentage of Oakland residents as follows:

Years in Oakland		Oakland Resident Workforce	
Years in Oakland	Additional Points	Workforce	Additional Points
5 yrs	.50 pt	Up to 24%	1.00 pt
10 yrs	1.00 pt	25%- 49%	2.00 pts
15 yrs	1.50 pts	50% -74%	3.00 pts
20 yrs	2.00 pts	75%-99%	4.00 pts
25 yrs	2.50 pts	100%	5.00 pts

Given the above, local and non-local businesses may earn up to a maximum of 2.5 additional 5 preference points for having a workforce that is made up of Oakland residents and committing to Oakland new hires.

Preference Points for Local Certified Firms Regardless of Size and Participation

On Request for Proposals, Request for Qualifications or any negotiated agreement, local certified firms may earn a maximum of 2.5 additional preference points regardless of business size or level of L/SLBE participation for having a substantial presence in Oakland for 25 or more years. Given the above, businesses may earn additional preference points during the evaluation phase of the competitive process.

Mentor Protégé Agreements

The City of Oakland strongly supports “Mentor-Protégé” relationships because they help to build capacity in underutilized service areas. On a case-by-case basis, the City will allow a 5% preference for Mentor-Protégé teams on construction and professional services contracts.

If a prime contractor or prime consultant is able to develop a “Mentor-Protégé” relationship with a certified LBE or SLBE, the mentor will enjoy the benefit of credits against City goals particularly under circumstances where availability is zero. In order to earn credit for Mentor-Protégé relationships, the Mentor-Protégé Agreement must be submitted for approval to Contracts and Compliance prior to the project bid date for construction, and by proposal due date for professional services contracts.

A written mentor-protégé agreement must be completed by both parties and executed before a notary public. The agreement must delineate the rights and responsibilities of each mentor and protégé. The parties must agree to enter into the relationship for the life of the project.

During the duration of the contract both the mentor and protégé must each provide the Division of Contracts and Compliance with a monthly report of the kinds of mentor skills provided to the protégé, which shall include but not limited to:

- Number of hours expended in the fulfillment of the project by each partner;
- Managerial assistance provided (*e.g. bookkeeping services, personnel, payroll, etc*);
- Technological assistance provided (*e.g. computer hardware/software, training, etc.*);
- Bonding assistance provided;
- Number of private sector projects bid on by the mentor-protégé team;
- Number of private sector contracts awarded to the mentor-protégé team; and
- Financial assistance provided.

No officer, director, employee or member of the mentor-protégé team shall be allowed to bid or otherwise participate independently on a city contract where the mentor-protégé team is bidding or otherwise participating. Each party is prohibited from submitting multiple bids on city contracts.

The protégé must be able to demonstrate that it is an independent business operation prior to submittal of a mentor-protégé agreement and throughout the term of the agreement. Unless specifically defined as one of the benefits to the protégé and spelled out in the agreement, the mentor and protégé must maintain separate office spaces while the mentor-protégé agreement is in effect.

Joint Venture Agreements

A business that is bidding or competing for City contracts may associate with a certified LBE or SLBE business to compete for contracts as a joint venture. A joint venture should be between two entities with the same discipline or license as required by the awarding department. Joint ventures receive bid discounts depending upon the LBE or SLBE percentage of participation as set forth in the Ordinance. The parties must agree to enter into the relationship for at least the life of the project.

Basic Elements of the Joint Venture Agreement

A Joint Venture must submit a Joint Venture Management Plan and/or a Joint Venture Agreement two weeks prior to the bid due date. Copies of the JV applications are available upon request to the Contract compliance & Employment Services Division (510) 238-3970. Each agreement or management plan must include, but not limited to the following:

- Detailed explanation of the financial contribution of each partner;
- List of the personnel and equipment used by each partner;
- Detailed breakdown of the responsibilities of each partner;
- Explanation of how the profits and losses will be distributed;
- Description of the bonding capacity of each partner; and
- Management or incentive fees available for any one of the partners (if any).

Commercially Useful Functions Performed by Joint Venture Partners

Each JV partner must perform a “commercially use function” as that term is defined herein. A LBE or SLBE that relies on the resources and personnel of a non-LBE or SLBE firm will not be deemed to perform a "commercially useful function

Joint Venture License Requirements

Each joint venture partner must possess licenses appropriate for the discipline for which a proposal is being submitted. If a joint venture is bidding on a single trade project, at the time of bid submittal, each of the joint venture partners must hold a Joint Venture License and possess the requisite specialty license for that trade bid.

Delineation of Joint Venture Work

The LBE or SLBE partner must clearly define the portion of the work to be performed during the project. This work must be of the similar type of work the LBE or SLBE partner performs in the normal course of its business. The Joint Venture Participation Form must specify the project bid items to be performed by each individual joint venture partner. Lump sum joint venture participation is not acceptable.

Responsibilities of the LBE or SLBE Joint Venture Partners

The LBE or SLBE partner must share in the ownership, control, management responsibilities, risks, and profits of the joint venture in proportion with level of participation in the project; The LBE/SLBE partner must perform work that is commensurate with its experience. The LBE/SLBE partner must use its own employees and equipment to perform its portion of the project. For construction contracts only, the joint venture as a whole must perform bid item work

that equals or exceeds twenty-five percent (25%) of the total value of the contract, excluding the cost of manufactured items, in order to be eligible for a joint venture discount.

Application of Bid Discounts for Joint Venture Agreements

To be eligible for a bid discount, at the time of bid submittal, each joint venture partner must hold a Joint Venture License and each must have the license that is appropriate for the project as required in the contract document of the contract award authority. Unless permission is granted by the City Manager or his designee for good cause shown, based on sudden and unexpected necessity, the following actions are not permitted: i) the non-LBE/SLBE partner performing work for the LBE/SLBE partner; ii) leasing of equipment or property by the LBE/SLBE partner from the non-LBE/SLBE partner; and iii) the hiring of the non-LBE/SLBE partner's employees by the LBE/SLBE partner.

Other Joint Venture Conditions

The City Administrator or a designee must first approve the LBE/SLBE Joint Venture Agreement/Management Plan before the joint venture is eligible for bid discounts. Any changes must also receive the prior approval of the City Administrator or designee. In addition to any other information required by conditions specified herein, each LBE/SLBE joint venture must provide upon request, cancelled checks and any other financial records to the City.

City –Assisted Private Developments

For City-assisted private developments (e.g. Disposition and Development Agreements, affordable housing projects, and loans for construction projects) prime contractors are required to seek competitive bids from subcontractors and comply with the program goals and objectives as set forth in this document. Prime contractors must give SLBE contractors a 5% bid discount and LBE contractors a 2% bid discount. Prime contractors are required to award to the lowest responsible bidder.

Incentives for Supporting Local Business Participation on City Contracts

Each year, the City Administrator will award a certificate of achievement to the city agency that reaches the highest level of support to small local businesses.

Mandatory Preferred Small Local Business ("MPSLB") Programs for Professional Pre-Construction and Construction Services

For all projects valued at an amount not to exceed \$250,000 such that all change orders, extensions and amendments do not exceed the \$250,000 threshold. If responses from pre-qualified firms are not accepted by the using agency and the decision is made to solicit (through bids or proposals) from the open market, those solicitations will be subject to the L/SLBE Program

The City will be required to establish pre-qualified lists for Oakland certified small businesses for professional pre-construction services, such as architectural and engineering services, and construction services for contracts costing less than \$250,000.00, as follows:

- a. Mandatory Preferred Small Local Business (MPSLB) - The City will issue a request for qualifications for pre-construction and construction services for the design and/or

construction of projects costing less than \$250,000 solely from Oakland certified Small Local Business Enterprises.

- i. Qualified professional and construction firms will be included on the MPSLB pre-qualified list.
 - ii. The City will solicit proposals or bids for these contracts from at least three businesses on the MPSLB pre-qualified lists.
- b. MPSLB contracts under \$250,000 will be exempt from Oakland's Local and Small Local Business Enterprise participation requirements because the contractors will meet the requirements by virtue of their Oakland certified small local business status
- c. For pre-construction and other professional services, the selection and award of contracts shall be based on demonstrated competence and qualifications for the types of services to be performed, at fair and reasonable prices to the city, in addition to preference points awarded under Oakland's social equity policies and compliance with Oakland's purchasing programs such as Living Wage and Equal Benefits.
- d. For construction services, contracts shall be awarded to the lowest, responsible, responsive bidder, taking into account current bid discounts and/or preference points awarded under Oakland's social equity programs.
- e. For professional services, the City Administrator may solicit proposals on the open market without advertising if at least three proposals are not submitted by firms on the pre-qualified list.
- f. For Construction services, the City Administrator may solicit bids on the open market, without advertising if all responsive bids exceed the engineer's estimate.

PART III: CERTIFICATION

CERTIFICATION CATEGORIES	CERTIFICATION CRITERIA
Local Business Enterprise (LBE)	<ul style="list-style-type: none"> • substantial presence in Oakland • operational for at least twelve (12) consecutive months • valid business tax license • fixed office space • employees in fixed office • permits and fines and fees are current • documents certifying the existence of the business (contracts, leases bills, etc) • registration in the City's iSupplier system
Small Local Business Enterprise (SLBE)	All of the above plus: <ul style="list-style-type: none"> • Documentation of 3 years average annual gross receipts that are less than 30% of the SBA's size standard for the firm's industry sector.
Very Small Local Business Enterprise (VSLBE)	All of the above except: <ul style="list-style-type: none"> • Fully operational for six consecutive months • Average annual gross receipts at or below \$375,000
Local Business Enterprise –Locally Produced Goods (LBE-LPG)	Same as LBE except: <ul style="list-style-type: none"> • Business must manufacture goods within the Oakland geographic boundaries
Not for Profit Local Business Enterprise (NPLBE)	Same as LBE plus: <ul style="list-style-type: none"> • Business must produce documentation of nonprofit status
Not for Profit Small Local Business Enterprise (NPSLBE)	Same as SLBE plus: <ul style="list-style-type: none"> • Business must produce documentation of nonprofit status

Certification Categories

The City of Oakland has added two new certification categories. In addition to Local Business Enterprise (LBE) Small Local Business Enterprises (SLBE), Very Small Local Business Enterprise (VSLBE) and Local Produced Goods Local Business Enterprise (LPG-LBE) were added in order to enhance opportunities for small emerging firms and firms that produce goods locally.

Certification Criteria

Certification criteria apply to both for profit and not-for-profit organizations as follows:

1. An established operation with a substantial presence located and doing business or operating within the geographical boundaries of the City of Oakland.
2. Fully operational for at least twelve (12) consecutive months prior to applying for certification. (or six (6) consecutive months for VSLBE)
3. A valid City of Oakland Business Tax certificate issued no less than twelve (12) consecutive months prior to applying for certification. All payments must be current and the certificate must reflect the address of the local business.
4. A fixed office that reflects a substantial presence in the geographical boundaries of the City of Oakland. Post Office boxes, temporary locations, and moveable work sites will not establish status as a local business. In the case of trucking firms, the truck inventory must be located within the city limits. A fixed office is a dedicated office space, owned or leased by the local business, in an established, non-portable building where regular work pertinent to the contract is conducted. For all levels of SLBE certification, the fixed office shall be the primary business location of the business. A residence may qualify as a fixed office provided the following conditions are met: (a) the business conducted in the residence complies with Oakland Zoning Regulations relating to Home Occupations; and (b) the residence is the primary business location of the business and contributes not less than 51% of the gross receipts of business. A fixed distribution point is a non-portable warehouse or an outside shipping yard owned or leased by the local business, where shipping, receiving and the owner and employees regularly and exclusively conduct distribution of goods and commodities on behalf of the business.
5. The owner or employees (person hired and paid directly by the local business to conduct work solely on behalf of the business at its fixed office or distribution point) shall be available during normal operating hours.
6. The business must comply with all applicable Federal, State and local regulations, including, but not limited to the City of Oakland Zoning Regulations.
7. All taxes, fees, permit fees, and fines shall be current.
8. Upon request by the City's certifying officer, the business must possess and make available for inspection the following documentation citing the Oakland business street address:
 - Executed (i.e. signed by all parties) copies of past/current contracts;
 - Oakland Business Tax Certificate and federal tax identification number;
 - Executed lease or other written agreement for occupancy of the Oakland office;
 - Business cards and Utility bills (including but not limited to telephone, gas, electric, or water bills)
9. A business requesting certification shall supply the City with all such additional information, as the City may deem relevant to make a determination on its eligibility for

certification. The City may wish to review additional documents that may include, but may not be limited to:

- Commercial advertising
- On-site signage
- Letterhead
- Previous Lease Agreements
- Marketing materials
- Listing in the telephone book.

Small local businesses must present or make available copies of federal tax returns showing gross revenues for the three most recent fiscal years in order for the City to determine compliance with established business size standards.

Certification Eligibility Standards

Ownership and Control for Small Local Business Enterprise

The following standards shall be used by the City to determine if a firm is owned and controlled by one or more owners or businesses and eligible for certification as a Small Local Business Enterprise:

An eligible small local business shall be an independent business. The ownership and control of the SLBE shall be real, substantial and continuing and shall go beyond the pro forma ownership of the firm as reflected in its ownership documents. The small local business owner shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance rather than form of arrangements. Recognition of the business as a separate entity for tax, corporate or local status purposes is not necessarily sufficient for recognition as an SLBE. In determining whether a potential SLBE is an independent business, the City shall consider all relevant factors, including the date the business started, the adequacy of its resources for the work of the contract, and the degree to which financial, equipment leasing and other relationships with non-local firms.

The owner(s) of the small local business must also possess the power to direct or cause the direction of the management and policies of the firm. Also, the owner shall make the day-to-day, as well as major decisions on matters of management, policy and operations. The firm shall not be subject to any formal or informal restrictions, which limit the customary discretion of the owners. There shall be no restrictions that would prevent the local business owners, without the cooperation or vote of any non-local owners, from making a business decision of the firm. (i.e. bylaws provisions, partnership agreements or charter requirements for cumulative voting rights)

Where the actual management of the firm is contracted out to individuals other than the owners, those persons who have the ultimate power to hire and fire the managers are, for the purposes of this part, considered controlling the business. The contribution of capital or expertise by the local owner(s) to acquire their interests in the firm shall be real and substantial. Newly formed firms and firms whose ownership and/or control have changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation of or change in the firm.

A previous and/or continuing employer-employee relationship between or among present owners are carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities. Any relationship between a SLBE and non- SLBE, which has an interest in the SLBE, is carefully reviewed to determine if the interest of the non-SLBE conflicts with the ownership and control requirements.

SLBEs will be considered bona fide if the ownership interests are real and continuing, and not created solely to meet the City goals for SLBEs participation. The SLBEs included in the contract must perform commercially useful services and/or supplies and not merely act as a passive conduit. In the event the City has reason to question the ownership of SLBEs, the burden of proof is on the claimant and/or contractor to provide documentation to substantiate the SLBE business enterprise status.

Size Standards for Small Businesses

The City defines a small business as thirty percent (30%) of the most recently published United States Small Business Administration's Small Business Size standards (U.S. SBA). Size is based on the average gross revenues for the three most recent years in doing business. The City of Oakland will adjust its small business size standards according to the most recently published U. S. SBA size standards.

LBE/SLBE Certification Process

Step 1 – The Application:

Down load Applications from the website maintained by Contracts and Compliance through the City's website. Go to <http://www.oaklandnet.com>, and select Contracting Opportunities under the "Jobs and Contracts" link. Then click on Certification and select the form and the appropriate supporting documents. Requests for certification applications can be made by phone, facsimile, electronic mail, in writing or in person. When submitting the application, remember to attach a copy of the most recent Business Tax Certificate and have the application notarized. If you are applying as a small business, attach the last three most recent business tax returns.

Step 2 – The Review Process:

All new certification applicants must undergo a desk audit and site visit. The desk audit and site visit will be conducted within 15 working days or upon submission of complete documentation. All parties are asked to cooperate fully with the investigation. Failure or refusal to furnish requested information or failure to cooperate voids the application. If the audit and review results in a satisfactory determination, analysis, recommendation and notification as to the status of the application to certify or deny certification will be conducted within 10 working days after the site visit.

During the process of certification, the City may review any documentation or information it deems necessary to determine whether the applicant meets the definition of a local business as found in the glossary in the Appendix of this document..

To ensure complete and accurate determination in a timely fashion, it is requested that all potential applicants submit an application for certification a minimum of three (3) weeks prior to a bid opening or submittal of a proposal. In order to receive credit for listed subcontractors and suppliers certifications must be complete and existing at the date and time of bid opening or submittal due dates.

Certification with another agency does not constitute certification with the City of Oakland. The City reserves the right to approve LBE/SLBE status from other government or City agencies. Firms or individuals who knowingly submit false information concerning their certification status are subject to action or actions for fraud under the State and Federal False Claims Act and will be debarred from bidding on future City work for a period of three (3) years.

Other Considerations

In addition to the above the City shall give special consideration to the following circumstances in determining eligibility:

Newly formed firms and firms whose ownership and/or control have changed since the date of the advertisement of the contract are closely scrutinized to determine the reasons for the timing of the formation of or change in the firm.

Previous and/or continuing employer-employee relationships between or among present owners are carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities.

Any relationship between an LBE/SLBE and a business that is not an LBE/SLBE, which has an interest in the LBE, is carefully reviewed to determine if the interest of the non-LBE conflicts with the ownership and control requirements.

A joint venture is eligible for certification if the LBE/SLBE partner of the joint venture meets the standards for an eligible LBE. The LBE partner is responsible for a clearly defined portion of the work to be performed and shares in the ownership, control, management responsibilities, risks and profits of the joint venture. The City Attorney's office must approve joint venture agreements.

The mentor and protégé must be certified prior to the submittal of a mentor-protégé agreement for approval.

Re-Certification

A City of Oakland certification is valid for a period of two years, unless otherwise specified. At the end of the certification period the business must apply for re-certification. Notwithstanding

the above, the City may require re-submittal of current documentation and information in the event a LBE/SLBE certification is challenged.

Appeal

Any firm that believes that it has been wrongfully denied certification as an LBE/SLBE or joint venture may file an appeal in writing. The written appeal must be signed and dated.

The appeal shall be filed no later than 30 days after the date of denial. The City may extend the time for filing, or waive the time limit in the interest of justice. The City may specify in writing the reason for so doing.

Third parties, who have reason to believe that another firm has been wrongfully denied or granted certification as an LBE/SLBE or joint venture, may advise the City in writing. This information is not considered an appeal.

The City ensures a prompt investigation, and may at its discretion; decertify the LBE/SLBE or joint venture pending the outcome of the investigation.

PART IV: LOCAL EMPLOYMENT PROGRAM

Program Objective

The objective of the Local Employment Program for public works and subsidized construction projects is to cause the hiring of Oakland residents on as many Prevailing Wage jobs as possible, and to encourage businesses to hire local residents for non-City-funded work.

Program Goals

For any construction contract or development agreement with the City this policy establishes a goal for Oakland-resident employment on public works projects (as such projects are defined in this policy). Specifically, for work performed at the construction site, this policy establishes a goal of 50% of the work hours, which must be performed by Oakland residents on a craft-by-craft basis. In addition, a minimum of 50% of all new hires on the project (on a craft-by-craft basis) must be Oakland residents, and the first new hire must be an Oakland resident. A contractor or developer must achieve the goals or secure an exemption from the City.

Apprenticeship is an essential pathway to a productive career in the construction trades. Therefore this policy recognizes that implementation of the 15% Oakland Apprenticeship Utilization policy on public works projects is important to achieve the goals of this policy. This policy will include additional incentives to both highlight and further encourage the use of Oakland apprentices. Utilization of Oakland Apprentices will count toward the 50% new hire goals and the 50% workforce hour goals.

General Provisions

The City shall require its developers and contractors to abide by the Local Employment Program. The City shall also require that the developers and contractors enforce the provisions of the Program on any and all parties with whom the developers and contractors intend to enter into a contract to perform any portion of said work.

The Local Employment Program required by the City will be incorporated in all contract specifications as well as Dispositions and Development Agreements (DDA) for subsidized projects and contract specifications. The developer or contractor shall cause this Program to be a part of all subcontracts, regardless of Tier or phase under the contract. The goals set forth must be maintained for the duration of the project.

The LEP applies when the project includes the purchase of construction services either by the City as buyer or by a City Financial Assistance Recipient (CFAR); and either the City is the buyer and the dollar amount of the project exceeds \$50,000.00 dollars; or the project exceeds 30 days; or new hires are needed to perform the work on the project.

The LEP does not apply when the contract or subcontract is performed by an owner/operator; or the project requires less than 140 hours of work; or the project is performed as emergency work; or a job requires no more than two craft-persons to perform the duties of the entire project; or a contractor's core workforce includes 50% Oakland residents, and no additional employees will be hired.

Prior to receipt of the Notice to Proceed (NTP), the developer or contractor and Contract Compliance & Employment Services staff together will create a project-specific plan to comply with the LEP goals on a craft-by-craft basis for all work forces and for planned new hires. The project-specific plan will recognize the lawful hiring hall rules of the union hiring halls where applicable. The Anticipated Project Workforce Form may be used in the development of a project specific compliance plan.

Winning Compliance

The Developer or Contractor must meet or exceed the 50% work force and new hire requirements in order for the following program criteria to apply:

Exemptions

Hours of work performed by employees of a subcontractor on a LEP-covered project may not be assessed against the Contractor's LEP goals, if the subcontract will be:

1. Performed by an Owner Operator;
2. Performed in less than 40 hours;
3. The Subcontractor's core work force includes 50% Oakland employees, and no additional employees will be hired; or
4. No more than two craft persons are required to perform the work of the subcontract, the Subcontractor hires no new employee to perform the work and the Subcontractor is a Small Business within the meaning of City policies.

When the Contractor has taken the steps and an Oakland resident is not available the City shall issue an exemption.

Conditional Exemptions

The Developer or Contractor's project manager must submit a request for conditional exemption to the Contract Compliance & Employment Service staff. They must determine whether to grant the exemption prior to issuance of the contract. The request is reviewed based on conditions (cited by Developer or project manager) that make compliance unfeasible. Examples of such conditions include but are not limited to:

1. Permanent core workforce performs short-term (five days) work.
2. Intermittent service by one trade throughout the life of the project
3. Overall project time is under three months.
4. Owner Operator performs the work.

If circumstances arise subsequent to the issuance of a contract, the results of which the Contractor believes will prevent attaining the local-hire goals, the contractor will immediately notify the Local Employment Services staff by requesting a conditional exemption. Staff shall meet with the applicant as necessary and issue a decision within five days, including a determination as to any retroactive liability for failure to achieve the goals for work undertaken prior to the application for such a conditional exemption.

PART IV –A: LOCAL CONSTRUCTION EMPLOYMENT REFERRAL PROGRAM (LCERP)

The Local Construction Employment Referral Program is a one-stop employment service for Oakland residents. The onsite Job Developer evaluates the skill levels of Oakland residents seeking work as skilled or un-skilled workers on construction projects. Names, contact information and skill levels are maintained in a LCERP Data Bank. In order to satisfy the fifty percent (50%) new hire goal when employment vacancies occur on a job site, each contractor must follow the steps outlined below.

Referrals and Dispatching Oakland Residents

For Open Shop – in the absence of a collective bargaining agreement the Contractor shall:

- a. Contact the City to request a referral from the Local Construction Employment Referral database; and
- b. Submit a completed “Job Request & Referral Form” by fax or e-mail.
- c. City staff will refer an Oakland resident (matching the qualifications identified by the contractor on the Job Request & Referral form) to the Contractor within three business days.

For Union Shop – contractors working under a collective bargaining agreement shall:

- a. Contact local union hall to request an Oakland resident; and
- b. If an Oakland resident is not available for dispatch, contact CC&ES to request a referral from the Local Construction Employment Referral data bank; and
- c. Submit a completed “Job Request & Referral Form” by fax or e-mail to CC&ES.
- d. The CC&ES will refer an Oakland resident (matching the qualifications defined by the contractor) to the local union hall and that resident will be dispatched within three business days in accordance with the lawful hiring hall rules of the Union.

Unavailability Exemption (applicable to both union shop and open shop requests)

When the Contractor has taken the steps above and an Oakland resident is not available, the City shall issue a limited exemption. Unavailability exemptions will be issued in maximum increments of 160 hours per worker request.

Incentives and Penalties

Incentives (credit or banking of hours)

To encourage long-term retention and early hiring of Oakland residents as employees of contractors doing business in Oakland, the City will give a contractor credit towards the LEP goals when the contractor employs craft persons, superintendents, and foremen that are Oakland residents. Banked or credited hours may only be applied toward meeting 50% of the LEP requirement. Contractors may receive credit for hours performed by these Oakland-resident employees in the following circumstances:

1. When a contractor exceeds the LEP workforce hour goal on an existing project, those surplus hours will be banked for application on a subsequent City project.

2. When a contractor employs Oakland residents on non-City projects during the year prior to issuance of a notice to proceed on the City contract, those hours will apply toward the 50% workforce hour requirement.
3. When a Contractor employs Oakland residents on non-City projects during the six months following completion of a City Contract or Subcontract, those hours will be banked for application on a subsequent City project.
4. The general contractor may utilize the hours performed by its Oakland-resident employees that exceed LEP goals to meet the LEP goals of a Subcontractor that fails to achieve its own LEP goals. However, the City may designate a contractor as ineligible to receive excess-hours credit under this section for demonstrated prior non-compliance.

Contractors may fully avail themselves of other credits for local hire that may be available in other City programs and policies (such as tax credits) without regard to the credits that they may receive under the LEP policy for their use of Oakland-resident employees. The LEP is in no way designed to reduce or otherwise compromise those available incentives.

Penalties

Any penalty imposed under this policy for a Contractor's failure to achieve the LEP goals will be implemented under a system of progressive implementation. The City will assess factors such as the degree of failure; the efforts undertaken to achieve the goals and the presence or absence of repeated failure to achieve the goals in determining what level of penalty would be appropriate within the penalty range available in Article VI.

When a Contractor finishes its contract without meeting the LEP requirements, and a penalty is warranted, the City will withhold from final payment up to 150% of the wages for the deficient hours of the non-complying Contractor's contract. The Contractor will have one year to work off the hours owed by working Oakland residents on non-City projects. If at the end of this period all the deficient hours have not been eliminated, the Contractor will forfeit 150% of the wages for any remaining deficient hours to the City as a fine.

Repeated failure to comply with the LEP could lead to debarment under City contracting policies.

Outreach

The City may hold a post-award meeting to familiarize the contractors with the LEP requirements as well as with the requirements of the 15% Apprenticeship Program. If requested by the contractor the City shall hold such a meeting within 10 business days. Post award meetings are most advantageous to contractors that wish to become more familiar with these programs and may also be held upon request of the contractor throughout the life of the project. Attendance at a post-award meeting will contribute to the contractor's ability to comply with the LEP and apprentice utilization policies. To the extent allowable by law, the meeting will be open to stakeholders.

A post-award meeting will include instructions on when and how to prepare and submit the following forms:

- Certified payroll reports
- Anticipated Project Workforce
- Job Request and Referral
- Apprentice Utilization Plan
- Certified Trucking Roster
- Quarterly Wage & Withholding Reports (DE-6)
- Progress Payment

A post-award meeting should also provide, when possible, information to support the contractors' success, and may include:

- California Labor Code relating to Apprentices on public works projects
- Certification Application
- Work Opportunity and Welfare-to-Work Tax Credit
- Construction & Demolition (C&D) Debris Recycling
- Prevailing Wages
- Apprenticeship Program

The City Manager's Office, Contract Compliance & Employment Services Division will conduct at least three "Winning Compliance" Workshops per year. Contractors are encouraged to attend at least one such workshop. Forms and information listed above under post award meeting will be the major topics of discussion. Attendance at these workshops will assist the contractor in complying with the LEP and apprentice utilization policies.

Reporting

The developer or contractor must submit reports for compliance with the LEP as required by the City. These reports may include weekly certified payroll records for all crafts covered under these Program provisions within fifteen working days of the end of each payroll period. In addition to the weekly-certified payroll records, the City may require a weekly or monthly summary of the information that would be obtainable from the certified payroll regarding local-hire by craft. These reports must show the person-hours on a craft-by-craft basis and, in the case of certified payroll records, identify the address, Social Security number, new hire, ethnicity, gender and trade and status (journeyman or apprentice) of all employees on the project. All reports must have an original signature and be signed by an authorized officer of the company under penalty of perjury. The City will make a copy of required forms available to Contractors. These forms will be available in hard copy or digitally.

Nothing in this Policy is intended to eliminate the requirement of a contractor to maintain certified payrolls or of the subcontractors to provide certified payrolls to the prime Contractor, or for any contractor to provide certified payrolls to any party that requests them, as required in State law.

Monitoring

The City will monitor LEP and Apprentice-Utilization compliance, via means such as desk reviews or on-site monitoring. City employees conducting on-site monitoring are authorized to

visit City-subsidized projects and are covered under the City of Oakland's insurance policy. Full-scale investigations of non-compliances or violations will be on an as-needed basis.

The City shall provide a general contractor with an audit of a subcontractor's LEP compliance within 45 days of the request, so long as the General Contractor provides the City with the information required by the City to make such an audit.

Audits of compliance may require the review of documents such as certified payrolls, Apprenticeship Utilization Form, Request & Referral Form, Certification of Compliance Hours Form, cancelled checks, progress payments, or Quarterly Wage and Withholding Reports (DE-6), among others.

A Developer or Contractor that fails to provide requested documents or misrepresents material facts in such documents shall be deemed to be non-compliant with the LEP.

Other Conditions

Developers or contractor will comply with the appropriate provisions of the California State Labor Code regarding the required ratio of apprentices to journeypersons to be employed on the job site.

Program Amendments

The City Manager may make changes as necessary to implement and achieve the goals of the Local Employment Program.

Conflicts

The provisions of this program may not be enforced to the extent that such enforcement results in a Developer or Contractor violating a consent decree or other judicial or administrative order or a statutory or regulatory provision.

Severability

In the event any provision of this Program is deemed illegal or invalid for any reason, said illegality or invalidity will not affect the remaining parts of the Program but the same shall be construed and enforced as if said illegal or invalid provision had never been inserted herein, and the Ordinance will be interpreted in a manner that best gives effect to its initial understanding.

PART V: APPENDIX

GLOSSARY

Apprentice – An individual who is registered with an apprenticeship program approved by the Division of Apprenticeship Standards (DAS).

Apprenticeship Coordinator – An individual who supervises apprenticeship-training activities

Apprentice Work Hours – The work hour's apprentices are required to work on public works projects

Availability - The number of certified L/SLBE firms, by trade, ready and willing to compete for work with the City of Oakland.

Bay Area Construction Sector Intervention Collaborative (BACSIC) – A coalition of community based organizations, union representatives and apprenticeship coordinators partnering to provide necessary support services to assist job seekers in obtaining employment in the construction industry

Bid Discounts - the application of a percentage discount to the total amount of a bid submitted by a Bidder for a Contract solely for the purpose of bid comparisons when determining the lowest and best bid, or lowest responsible bid. The use of a bid discount for bid comparison does not alter the total amount of the bid submitted by a bidder or the contract executed based on a bid.

Business Suppliers/Prefabricators - An individual or business entity that makes available a certain commodity for meeting demand or for purchase at a given price.

City- Reference to the City or City Council, and reference to the City Administrator includes the Agency Administrator.

City Financial Assistance Recipient (CFAR) - A business or individual that receives a city subsidy for a public works project.

Commercially useful function - The business is directly responsible for providing the materials, equipment, supplies or services to the City as required by the solicitation or request for quotes, bids or proposals. LBEs and SLBEs that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a "commercially useful function" unless the brokerage, referral or temporary employment services are those required and sought by the City.

Community Based Organization (CBO) – A non-government agency created to provide training or employment assistance to job seekers.

Contractor/Consultant/Vendor - The individual, partnership, corporation, joint venture or other legal entity entering into a contractual agreement with the City.

Core Employee – An apprentice or journey level employee who: possesses any license required by state or federal law for the project work to be performed; has worked a total of at least 1000 hours in the construction craft during the prior three years; was on the Contractor’s active payroll for at least 60 out of the 180 calendar days prior to the contract award; and has the ability to perform safely the basic functions of the applicable trade.

Craft-by-Craft – Measuring the hours worked by an apprentice or journey person with regard to each craft, as defined in the Federal and State Wage Determination.

Dealer - A firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers.

Developer - A person, entity, or business that prepares or develops real property for new development or redevelopment and receives a city subsidy.

Division of Apprenticeship Standards (DAS) – The agency responsible for apprenticeship in the state of California

Emergency Work - A public works contract awarded because of imminent danger (e.g. fires, floods, earthquakes) or immediate threat to health safety and welfare of Oakland residents and meeting the City’s requirements for waiving normal bidding procedures

Fixed office – A fixed office is dedicated office space, owned or leased by the local business, in an established, non-portable building where regular work pertinent to the contract is conducted. For small local business certifications, the fixed office shall be the primary business location of the business. A residence may qualify as a fixed office provided that all the following conditions are met: (a) the business conducted in the residence complies with Oakland Zoning Regulations relating to Home Occupations; and (b) the residence is the primary business location of the business and contributes not less than 51% of the gross receipts of business. A fixed distribution point is a non-portable warehouse or an outside shipping yard owned or leased by the local business, where shipping, receiving and the owner and employees regularly and exclusively conduct distribution of goods and commodities on behalf of the business.

Informal construction contracts – With the exception of the \$250,000 dollar limit established by the “Preferred Small Local Business Program”, for purposes of establishing a threshold for determining the application of the L/SLBE Program only, informal construction contracts are valued under \$100,000. For informally bid construction contracts, 75% of the work must be awarded to local firms.

Informal professional services contracts – With the exception of the \$250,000 dollar limit established by the “Preferred Small Local Business Program”, for purposes of establishing a threshold for determining the application of the L/SLBE Program only, informal professional service contracts are valued under \$50,000. For informal professional services contracts, 75% of the work must be awarded to local firms.

Local Business Enterprise (LBE) – An Oakland business (a) with a substantial presence in the city of Oakland’s geographic boundaries (b) fully operational for 12 consecutive months and(c) a valid business tax certificate.

Local Business Enterprise – Locally Produced Goods (LBE-LPG) - A manufacturing business located within the geographic boundaries of Oakland. The LBE-LPG will have the same rights and privileges as a small local business enterprise.

Local Certified Trucker – A locally owned and operated business engaged in transporting goods on trucks to or from a specified location and holds a valid certification as a trucking contractor.

Local Construction Employment Referral Program (LCERP) – The Employment Services Unit of the Office of the City Manager created to identify Oakland residents for employment on City of Oakland and Oakland Redevelopment Agency construction projects.

Manufacturer - A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies purchased.

Monitoring – The system established to measure compliance with the Local Employment Program Policy and the 15% Apprenticeship Utilization Policy. This system includes tracking the employment status (as reported by certified payrolls) on all public works projects. Monitoring occurs for:

- Payment of prevailing wages
- Apprenticeship Hours
- Resident workforce hours
- New Hires

New Hire – Any employee of a contractor who is not listed on the contractor’s quarterly tax statements for the tax period been hired prior to the commencement of work, unless the employee qualifies as a Core Employee.

Non-profit/Not for Profit Corporation - A nonprofit corporation is a corporation formed for purposes other than generating a profit and in which no part of the organization's income is distributed to its directors or officers. Nonprofit corporations are formed pursuant to state law, often under the Revised Model Non-Profit Corporation Act (1986). A nonprofit corporation can be a church or church association, school, charity, medical provider, legal aid society, volunteer services organization, professional association, research institute, museum, or in some cases a sports association. Nonprofit corporations must apply for tax-exempt status at both the federal and state level.

Owner Operator – a contractor, who operates their own, leased or rented equipment and uses that equipment on the public works project, and hires no other employees

Post Award – The meeting held between the City and contractors after the award of a public works project and before the issuance of a notice to proceed. Post award meetings occur at the request of either the using agency or contractor/consultant.

Preferred Small Local Business Program – a program designed to enhance small local business participation by soliciting proposals and/or bids from a pre-qualified group of Oakland certified firms. The Preferred Small Local Business Program will be limited to contracts of up to \$250,000 of which total amount includes the cost of include change orders, amendments and extensions.

Preference Points: a predetermined number of points awarded during the Request for Proposal and Request for Qualification evaluation phase of a competitive process.

Public works contract - Any construction, alteration, demolition, or repair work done under contract and paid for in whole or in part with public funds, or by a developer who receives any type of governmental subsidy.

Resident - Any person whose primary residence is in Oakland. An individual designated as a journey-level worker must have established residency at least two (2) weeks prior to commencement of work; and an individual designated as an apprentice must have established residency at least six (6) months prior to commencement of work.

Size Standard - One factor used to determine a small business. For the City of Oakland, a small business is one with three-year average gross receipts at or below thirty percent (30%) of the United States Small Business Administration's size standard.

Small Local Business Enterprise (SLBE) –A business with (a) a substantial presence in the city of Oakland's geographic boundaries (b) a full operation conducting business for 12 consecutive months and (c) a valid business tax certificate, and (d) is an independent business headquartered in Oakland.

Subcontractor/Sub-consultant - The individual, partnership, corporation or other legal entity that contracts to perform part of or all of the obligations of another's contract

Subsidiary/Affiliate - Part of a larger company with national offices located in other cities outside Oakland, and controlled by a home office or headquarters outside Oakland.

Subsidy - A grant, loan, credit, tax rebate, or any other way that provides a measure of value to the developer from the City.

Substantial Presence – A fixed and established place where work is carried on of a clerical, administrative, and professional or production nature directly pertinent to the business being certified a temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify. Businesses with offices both within and outside of the City that seek certification as a local business must demonstrate the existence of a bona fide local office in accordance with the following criteria:

Independent Office Site - The local office can and does function as an independent office site. Criteria for consideration include:

- The local office is not merely a sham operation set up by a non-local business for the purpose of gaining L/SLBE certification;
- The local office contains all fixtures and/or equipment, including but not limited to, as appropriate, computer(s) software, copy machine(s), furniture, vehicle(s), tools, appliances and/or machinery necessary to operate the business for which the certification is sought;
- The local office contains all space necessary to operate the business for which certification is sought, including but not limited to, as appropriate, office space, warehouse space, parking, yard area and/or shop area;
- The local office must be the main office for assigned personnel who conduct a full range of the business' activities out of the local office including but not limited to, as appropriate, professional, clerical and/or administrative staff assigned and dedicated to the local office as necessary to operate the business for which certification is sought;
- The local office functions on a daily basis, or a regular basis as otherwise appropriate, providing all services to operate the business for which certification is sought.

Tier - The level of the relationship between the prime contractor and subcontractors, or between subcontractors.

Trucking – The transport of any bulk material such as steel, lumber, rebar, sheetrock, equipment, spoils, gravel, base course, excess, excavated materials, asphalt, imported fill and any other type of manufactured or fabricated bulk material that is imported and/or exported to and from the job site.

Very Small Local Business Enterprise - A business with (a) a substantial presence in the city of Oakland's geographic boundaries (b) a full operation conducting business for six (6) consecutive months and (c) a valid business tax certificate, and (d) is an independent business headquartered in Oakland. (e) gross receipts that do not exceed \$375,000

Waiver - An intentional action by City Council, excusing a contractor or a department from (1) adhering to and/or complying with a City policy.

FORMS AND SCHEDULES

Forms and Schedules can be found on the City Of Oakland's Contracts and Compliance Division website. There you will find all the forms and schedules needed to contract with the City of Oakland. To go to our website click or copy and paste the web address to your web browser <http://www2.oaklandnet.com/government/o/CityAdministration/d/CP/s/FormsSchedules/index.htm>



Susan Wengraf
Councilmember District 6

32

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf (Author) and Mayor Arreguín (Co-Sponsor),
Councilmember Hahn (Co-Sponsor) and Councilmember Taplin (Co-Sponsor)

Subject: Budget Referral: City of Berkeley Annual Holocaust Remembrance Day

RECOMMENDATION

Refer to the Fiscal Year 2022/2023 budget process a request for \$6,000 annually to fund the City of Berkeley's Annual Holocaust Remembrance Day Program.

FINANCIAL IMPLICATIONS

\$6,000

BACKGROUND

For the past 18 years, The City of Berkeley has sponsored a Holocaust Remembrance Day Program. Participation in this important annual program has exceeded expectation, with attendance at in-person events in excess of 200 people (room capacity) for the past several years. The event has historically been funded through private donations, volunteer labor and the generosity of council members who have given from their discretionary accounts. The total contributions have varied from year to year with no predictable certainty about the outcome. This year, the program was viewed virtually through YouTube because the pandemic prevented in person assembly. The popularity of the program was clearly demonstrated by the more than 550 viewers.

This budget recommendation is for annual support of the City of Berkeley's Holocaust Remembrance Day Program. Rather than a one-time budget allocation, a recurring budget item of a modest six thousand dollars annually for the Holocaust Remembrance Day, leveraged by volunteer labor and donations, is needed to safeguard the continuance of the City's program. It is critical that this program continue, as the memory of the systematic genocide of Jews, political prisoners, homosexuals, and the disabled fades from our collective memory. [President Biden's statement](#) honoring International Holocaust Remembrance Day this year articulated the importance, "We must pass the history of the Holocaust on to our grandchildren and their grandchildren in order to keep real the promise of "never again." That is how we prevent future genocides. Remembering the victims, heroes, and lessons of the Holocaust is particularly important today as Holocaust deniers and minimizers are growing louder in our public discourse." The history of the Holocaust needs to be remembered in order to inform the present and future.

ENVIRONMENTAL SUSTAINABILITY

In compliance with City's environmental sustainability goals

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160



Susan Wengraf
Councilmember District 6

33

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council

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

Subject: Budget Referral: Increased Funding for Neighborhood Traffic Calming

RECOMMENDATION

Refer to the Fiscal Year 2022/2023 Budget Process an annual increase in allocation for neighborhood traffic calming from the current 100 thousand dollars to 200 thousand dollars.

FINANCIAL IMPLICATIONS

\$100,000 increase in funding

BACKGROUND

The recurring annual allocation from the Capital Improvement Fund for traffic calming, data collection, studies and implementation was increased from \$50,000 to \$100,000 in Fiscal Year 2019/2020 in response to a [request from the City Council](#). The need for increased funds continues, as we return to normal after the pandemic. I am requesting an additional \$100,000 allocation for Traffic Calming in the 2022/2023 budget.

Funding for Traffic Calming was diverted into Healthy Streets during the global pandemic to provide residents opportunity to walk with physical distancing on designated streets. It is likely Healthy Streets will continue through the fall of 2021. The traffic calming program could then start again in January 2022 after having been diminished in capacity for two calendar years (2020 and 2021).

Navigation apps and the use of Uber and Lyft have exacerbated speeding through our neighborhood streets. The requests from neighborhoods throughout the city for traffic calming measures, far exceeds the current allocation.

ENVIRONMENTAL SUSTAINABILITY

Reducing the impact of motor vehicles on roadways, residents, bicyclists and pedestrians is consistent with the goals of our Vision Zero and Climate Action Plan.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council
From: Councilmember Wengraf (Author)
Subject: Amend BMC 14.72.105

RECOMMENDATION

Adopt first reading of an Ordinance amending BMC 14.72.105 Neighborhood-Serving Community Facility Permits, to allow a broader range of community facilities to be eligible for parking permits.

FISCAL IMPACTS OF RECOMMENDATION

No significant fiscal impact

CURRENT SITUATION AND ITS EFFECTS

BMC 14.72.105 currently allows the City to issue a limited number of neighborhood-serving community facility parking permits to the following community facilities situated in residential parking permit (RPP) areas: churches, schools, and senior centers. This item proposes to add Alcohol and Drug Rehabilitation Facilities to the list of neighborhood-serving community facilities eligible to purchase parking permits for their staff.

Currently, a neighborhood-serving community facility is only eligible for parking permits under BMC 14.72.105 if there is inadequate off-street parking and no financially feasible way of creating adequate off-street parking on location, and no off-street parking is available nearby for lease. The number of eligible permits cannot exceed 60% of the enterprise's employees. The only change proposed to this ordinance would be to add the additional category of Alcohol and Drug Rehabilitation Facilities to neighborhood-serving community facilities for parking permit eligibility.

ENVIRONMENTAL SUSTAINABILITY

No direct impact on environmental sustainability

CONTACT PERSON

Councilmember Wengraf Council District 6 (510) 981-7160

Attachments:

- 1: Ordinance to Amend BMC 14.72.105

ORDINANCE NO. -N.S.

AMEND BMC 14.72.105
NEIGHBORHOOD-SERVING COMMUNITY FACILITY PERMITS

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

Section 1. That Berkeley Municipal Code BMC 14.72.105 is amended to read as follows:

14.72.105 Neighborhood-serving community facility permits

- A. The Department of Finance may issue neighborhood-serving community facility enterprise permits with a term not to exceed one year subject to the requirements set forth in this section and in administrative rules and regulations issued pursuant to this chapter.
- B. A neighborhood-serving community facility parking permit may be issued to representatives of the following neighborhood- serving community facilities: churches, schools, senior centers and alcohol and drug rehabilitation facilities. The issuance of permit can occur no sooner than 30 days after implementation of a residential permit parking area and the following criteria shall be used in establishing eligibility of an enterprise and the number of permits to be issued any enterprise:
1. An enterprise for which there is inadequate off-street parking and no financially feasible way of creating adequate off-street parking on the site of the enterprise;
 2. An enterprise for which there is no off-street parking available nearby for lease or rental;
 3. The total number of permits issued does not exceed the number representing 60% of the enterprise's employees;
 4. The total number of permits issued to a Berkeley Unified School District (BUSD) school that is not within 1/2 mile of a Bay Area Rapid Transit (BART) Station, and not within 1/4 mile from a rapid transit bus stop, and not within 1/4 mile from two bus routes that run at a frequency of 20 minutes or less does not exceed 70% of the enterprise's employees;

5. Distribution of permits shall be through a designated representative of the enterprise who will be responsible for allocation of the permits to employees, or in the case of the senior centers, to users of the enterprise; and

Compile Chapter

1. Degree of impact on parking conditions for residents and merchants in the area. (Ord. 7580-NS § 1, 2017: Ord. 6762-NS § 4 (part), 2003: Ord. 5972-NS § 1, 1990: Ord. 5803-NS § 2 (part), 1987)



Lori Droste
Vice Mayor District 8

Consent Calendar
May 25, 2021

To: Honorable Mayor and Members of the City Council
From: Vice Mayor Lori Droste (Author), Mayor Arreguin (Co-Sponsor), Councilmember Robinson (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)
Subject: Budget Referral: Willard Park Ambassador

Recommendation: Refer to the Budget and Finance Committee a request for \$100,000 in funding for a Park Ambassador at Willard Park for 1 year.

Background:

The City of Berkeley strives to be compassionate with all residents, including those in our unhoused community. The City is also committed to ensuring all residents can safely utilize our open spaces and recreation areas. Unfortunately, over the past months Willard Park has experienced an increase in problematic and sometimes dangerous behavior and an increase in unsanitary conditions endangering the health of all those utilizing the park.

With the increasingly unsafe conditions in close proximity to children’s recreational areas and outdoor spaces, numerous parents have expressed deep concern for their children’s health and wellbeing, or have stopped using the park altogether. Porta potties are currently located in the park, for example, yet campers continue to relieve themselves in public areas. Residents have reported open fires at the park and harassment of park visitors, including children. Neighbors to the park have reported an increase in rat populations drawn to the area because of the ongoing trash accumulation at the park. Because of these ongoing issues, the City of Berkeley will not be hosting summer programming at Willard Park.

Rationale for Recommendation

To address these issues, the City has increased HOTT team presence, patrols in the park and enforcement of the existing park rules, but the concerns about safety persist. A Park Ambassador’s presence would amplify these services around the clock, ensuring that the park felt safe and open throughout the day. With the planned closure of People’s Park in the future, Willard Park will likely see an increase in campers given its proximity to People’s Park. The City’s Park’s Department has utilized similar staffing at the waterfront and has seen great success with this model.

Fiscal Impacts

Estimated pricing for 2 park ambassadors would be \$22/hour. We would like to have staff at the park, seven days a week, for 12 hours a day. \$100,000 would cover 2-3 part time positions for one year.

Contact info

Councilmember Lori Droste ldroste@cityofberkeley.info



Office of the City Manager

PUBLIC HEARING
May 25, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Lisa Warhuus, Director, Health, Housing and Community Services
 Subject: Rescinding and Adopting the Environmental Health Division Fee Schedule

RECOMMENDATION

Conduct a Public Hearing and, upon conclusion, adopt a Resolution to rescind Resolution 67,495-N.S. which established the current Environmental Health fee schedule and adopt a new fee schedule. The new fee schedule keeps all existing fees at the same level and adds a new permit fee category for Microenterprise Home Kitchen Operations (MEHKOs) with a proposed fee of \$510 annually to cover permit and inspection fees. The new fees will be effective June 1, 2021 until subsequently modified.

FISCAL IMPACTS OF RECOMMENDATION

The attached fee schedule is the same as that adopted in 2015 with the addition of a new category for MEHKOs. The proposed annual fee is \$510, plus a one-time application fee of \$182 in the first year, for a total of \$692. The additional revenue that would be generated from this new fee is currently unknown. Current projections suggest that at least three (3) new MEHKOs could be permitted before the end of the 2021 calendar year. This could result in additional General Fund revenue of \$2,076 in the FY22 and \$1,530 in subsequent years.

For additional reference, a revenue projection based on ten (10) new MEHKOs is included for comparison.

Environmental Health Fees	Revenue Projections based on 3 MEHKOs	Revenue Projections based on 10 MEHKOs
One-time application fee: \$182	\$546	\$1,820
Annual fee: \$510	\$1,530	\$5,100
Total fee revenue – FY22	\$2,076	\$6,920

The fee schedule also adds a fee of \$170 per hour for Confirmed Complaint Investigations and For-Cause Re-inspections of MEHKOs, based on the division's hourly rate for inspections.

CURRENT SITUATION AND ITS EFFECT

MEHKO's are a new type of home-based, retail food business, which became legal in the State of California in 2019, and require that a County (and/or State-recognized city jurisdiction) "opt-in" by ordinance or resolution. Prior to the passage of the enabling legislation, producing and selling these types of foods from a private home would have been considered an illegal activity.

MEHKO's allow operators to produce and sell the same type of "potentially hazardous" foods sold at permitted restaurants and markets. (Note: *potentially hazardous* foods are foods that require strict temperature controls during the food preparation and cooking processes to inhibit the growth of disease-causing organisms). State law limits MEHKO's to selling no more than 30 meals per day and/or 60 meals per week from a residential home kitchen. Furthermore, the state places a cap at \$50,000 on annual gross sales.

Currently, there are only four (4) jurisdictions in California (and in the United States) that have opted-in, including the City of Berkeley, which opted-in by passage of Ordinance 7,739-N.S. on December 1, 2020. The following shows County jurisdictions that have opted-in, (or are currently proposing to opt-in), along with their associated fees:

Jurisdiction	Application Fee	Annual Fee	Total Fee – Year 1
<i>Berkeley – proposed</i>	\$182	\$510	\$692
Lake County*	\$128	\$256	\$384
Riverside County	-	\$651	\$651
Santa Barbara County **	\$255	\$391	\$646
Solano County***	\$162/hour plan check fee	\$447	\$609

* Pilot program limited to 10 MEKHO's 1/1/21 to 6/30/21.

** Proposed for 5/11/21 adoption.

*** Implementation on hold due to COVID19.

The proposed application fee is the same application fee as required for each brick and mortar retail food facility, and the annual permit fee is slightly less than the fee currently assessed for temporary food booth vendors who prepare "potentially hazardous foods" to sell at various events around the City. While MEHKO's are likely to be smaller businesses than brick and mortar retail food facilities, the initial reviews, inspection, and permit set up tasks required from Environmental Health staff are the same, and the fees are based on the level of staffing required to permit the activity.

The current EHD fee schedule, adopted on May 22, 2016 and made effective on July 1, 2016 (FY 2017) pursuant to Resolution No. 67,495-N.S., will remain unchanged with the

exception of the newly added fees to cover the cost of administering the MEHKO program. The fees for permitting and inspecting MEHKOs will recover costs for staff time to review and evaluate a new MEHKO application, (including a review of all proposed menu items to ensure that they meet all applicable food safety standards), provide comments back to the applicant if it does not, respond to questions from applicants, enter data into the Envision database system, and conduct at least one annual mandatory inspection (not including the initial permit inspection required at start-up) over the course of a year.

In addition to the EHD annual permit fee, MEHKOs will also be required to obtain a City-issued business license, whose fee has not yet been determined. However, this fee will likely be similar to a Cottage Food business, which is currently \$55 per year.

BACKGROUND

The Environmental Health Division administers several local, state-mandated public health programs such as the Retail Food Safety Inspection Program, the Public Pool and Spa Inspection Program, the Tattoo and Body Piercing Registration program; all State mandated programs that depend primarily upon fees for their operation. In addition, EHD administers or participates in several local programs required by the Berkeley Municipal Code such as the Vector Control Program, the Community Noise Ordinance, Styrofoam Ban, Abandoned Vehicle Abatement Program, Restaurant Stormwater Protection Inspection Program, Sewer Emergency Response Program, and Tobacco Licensing Program (services funded by grants, assessment district proceeds, or City special revenue funds). The Division also provides other inspection services to protect public health, such as the water quality monitoring program for the Aquatic Park. Adjusted from time to time as needed, the permit and inspection fees are collected from each regulated facility in the City of Berkeley each calendar year and support Environmental Health Division staffing costs.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Adopting a fee schedule that includes Microenterprise Home Kitchen Operations will allow the City to begin permitting these home businesses. Approval of the recommended action will keep the Fee Schedule for the Environmental Health Division consistent with anticipated revenues in balance with projected program expenses. The previously approved fee is broadly aligned with the range of fees charged by other Bay Area Environmental Health jurisdictions.

CONTACT PERSON

Ron Torres, Manager of Environmental Health, HHCS (510) 981-5310

Attachments:

1: Resolution

Exhibit A: Fee Schedule for Environmental Health Services

2: Public Hearing Notice

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

FEE SCHEDULE FOR ENVIRONMENTAL HEALTH REGULATIONS AND INSPECTIONS EFFECTIVE JUNE 1, 2021 UNTIL SUBSEQUENTLY MODIFIED, AS REQUIRED BY THE BERKELEY MUNICIPAL CODE AND THE CALIFORNIA RETAIL FOOD CODE, HEALTH AND SAFETY CODE §113700 ET SEQ.; AND RESCINDING RESOLUTION NO. 67,495-N.S

WHEREAS, Environmental Health program fees cover cost of permit and inspection services; and

WHEREAS, the present fees for certain specified services, including retail food facilities services, remained unchanged since the adoption of Resolution 67,495-N.S, effective July 1, 2016; and

WHEREAS, California Assembly Bill 626 (AB626) chaptered on September 18, 2018 and amended by Assembly Bill 377 (AB377) chaptered on October 7, 2019 established a new category of food operation called Microenterprise Home Kitchen Operations (MHKO), codified in the California Health & Safety Code §§114367, et seq., which allows for the preparation and sale of certain foods from within a private home; and

WHEREAS, the City of Berkeley adopted the provisions of AB626 and AB377 on December 1, 2020 pursuant to Ordinance No. 7,739-N.S; and

WHEREAS, Health and Safety Code § 114367.2 provides that the City, as enforcement agency, may collect a fee for the issuance of a permit for Microenterprise Home Kitchen Operations chapter in an amount that does not exceed the reasonable administrative costs by the enforcement agency in issuing the permit; and

WHEREAS, regulated facilities should bear the cost of permitting and inspection services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution 67,495-N.S. from May 26, 2015 is hereby rescinded.

BE IT FURTHER RESOLVED that the Fee Schedule for Environmental Health Services is hereby adopted, until subsequently modified, to cover the costs of regulations and inspections required by the Berkeley Municipal Code and the California Retail Food Code, Health and Safety Code §113700 et seq. (Exhibit A).

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect on and after June 1, 2021.

Environmental Health Division Fee Schedule
HEALTH AND SANITATION PERMIT AND FEE SCHEDULE

ESTABLISHMENT	ANNUAL FEES
Bed and Breakfast	\$432
Boarding House	\$432
Confectionary	\$245
Food Market-Commissary	\$355
In Plant or Employee Food Establishment	\$407
Licensed Health Care	\$704
MFF (Mobile Food Facility) – Full or Limited Food Prep	\$704
MFF – Prepackaged Food (TTCS/PHF)	\$406
MFF – Prepackaged Food (non-TTCS/PHF)	\$131
Restaurants – Commissary	\$704
Schools - Public	\$0
Schools - Private	\$432
Temporary Food Facility (TFF) – Full or Limited Food Prep at Certified Farmer’s or Flea Markets (annual)	\$546
TFF - Prepackaged Food (TTCS/PHF) at Certified Farmer’s or Flea Markets (annual)	\$406
TFF - Prepackaged Food (non-TTCS/PHF) at Certified Farmer’s or Flea Markets (annual)	\$182
Certified Farmer’s Market (CFM) Permit	\$182
Flea Market Event Coordinator for TFF & MFF	\$182
Vending Machines	\$52
Pool – Public Spa	\$182
Pool – Public Swimming Pool	\$704
Retail Tobacco License	\$498
Cottage Food Class A	\$170
Cottage Food Class B	\$425
Body Art – Facility (Tattoo, Body Piercing, & Perm. Cosmetic)	\$366
Body Art – Practitioner (Tattoo, Body Piercing, & Perm. Cosmetic)	\$85
Microenterprise Home Kitchen Operation (MEHKO)	\$510

ESTABLISHMENT ANNUAL FEES	0-1000 sq. ft.	1001-2500 sq. ft.	2501-5000 sq.ft	5001-7500 sq.ft	Over 7500 sq. ft.
Bakery	\$704	\$870	\$1171	\$1461	\$1738
Cocktail Lounge	\$463	\$649	\$914	\$1127	\$1516
Food Market	\$355	\$519	\$813	\$1109	\$1409
Food Processing/Catering	\$519	\$704	\$980	\$1319	\$1571

ESTABLISHMENT ANNUAL FEES	0-1000 sq. ft.	1001-2500 sq. ft.	2501-5000 sq.ft	5001-7500 sq.ft	Over 7500 sq. ft.
Meat Market	\$406	\$594	\$870	\$1171	\$1461
Meat and Food Market	\$519	\$704	\$980	\$1280	\$1571
Restaurants	\$704	\$870	\$1171	\$1461	\$1738

DEMAND SERVICES (HOURLY FEES)	Fees	Multiple Day²
Amplified Sound Permit/Application and Processing ³	\$44	\$75
Amplified Sound Permit Variance Application and Processing ³	\$182	\$182
Enforcing Noise Ordinance Permits	\$182	\$182
Enforcing Noise Ordinance at Open Air/Special Events where Permits Were Issued (Hourly Rate)	\$170	\$170
Sound Survey (Two Hour Minimum)	\$340+	
Accelerated Plan Check of Food Facilities (2-Hour Minimum). Plan review w/in 10 working days at 100% over standard costs. ³	\$340+	
Plan Check, Remodel (hourly rate of \$170 w/2-hour minimum)	\$340+	
Plan Check New Construction (hourly rate with 4-hour minimum)	\$680	
Investigation of Food Facility ⁴ (Work or Operation w/out a Permit)	\$182	
Food Facility Consultation/Pre-permit Inspection	\$182	
New/Change of Ownership	\$182	
Re-issue of an Annual Permit (Copy) ⁴	\$44	
Re-opening of a Food Facility Following Non-Compliance Closure ⁴	\$182	
Hourly Rate	\$170	\$170
Inspection of Food Service at Fundraisers	\$182	\$182
Inspection/Processing of Temporary Special Event Food Booth Operation (TTCS/PHF)	\$182	\$250
Inspection/Processing of Temporary Special Event Food Booth, Pre-packaged Foods (non-TTCS/PHF)	\$44	\$75
Temporary Special Event Coordinator Permit for two or more vendors	\$182	\$250
Sales and Promotional Sampling of non-TTCS/PHF Foods at a Temporary Special Event	\$44	\$75
Sales/Food Demonstration/Promotional Sampling of Pre-Packaged TTCS/PHF Foods and Beverage Sampling at a Temporary Special Event (per event)	\$98	\$150
Investigation of a Food Facility (Hourly)	\$182+	
Food Handler Training (Non-certificate, 2-hour minimum)	\$340+	
Food Handler Training Certificate Program	\$180	

DEMAND SERVICES (HOURLY FEES)	Fees	Multiple Day²
Mechanical Ear Piercing Notification	\$44	
Valid Smoking, Noise, and Styrofoam Complaints	\$182	
Property Inspection Fee	\$182	
Administrative Hearing (2-hour minimum)	\$340+	
Compost Sanitary Requirements	\$182	
Demolition Site Inspection	\$182	
Interdepartmental Service Charges	\$182	
Stormwater Follow-up Inspection	\$182	
Potable Water Sampling	\$182	
Virginia Graeme Baker (VGB) Pool Plan Check (2-Hour minimum)	\$340+	
Greywater or Rain Catch Basin (4-hour minimum)	\$680+	
Cannabis Facilities Plan Check, Complaints, Billable Service, Follow-up Inspections (two-hour minimum)	\$340+	
Cannabis Consumption Lounge Plan Review (2-Hour Minimum)	\$340+	
Confirmed Complaint Investigations and For-Cause Re-inspections of Microenterprise Home Kitchen Operations (Hourly)	\$170	
Cannabis Facility Health Operating Permit Application and Processing Fee	\$182	
Microenterprise Home Kitchen Operation Plan Check and Application Fee	\$182	

¹City-sponsored Special Event

²Non refundable

³Applicable to MHKO

**NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

ENVIRONMENTAL HEALTH PERMIT AND FEE SCHEDULE ADJUSTMENTS

The City of Berkeley Department of Health, Housing and Community Services, Environmental Health Division, is proposing that current fees pursuant to Resolution No. 67,043-N.S will remain unchanged with the exception of adding a new fee category for Microenterprise Home Kitchen Operations, with an associated annual permit fee of \$546 dollars.

These fees will be in effect until subsequently modified. Fees in the Environmental Health Division were last adjusted effective July 2016.

The hearing will be held on, May 25, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor's Executive Order N-29-20.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **May 13, 2021**. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.

For further information please see the attached fee schedule for Fiscal Year 2021 or call Ron Torres, Manager of Environmental Health at (510) 981-5310.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

Published: May 14 and May 21, 2021 – The Berkeley Voice Per Government Code 6062A
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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 13, 2021.

\_\_\_\_\_  
Mark Numainville, City Clerk







Office of the City Manager

37

PUBLIC HEARING  
May 25, 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: Selected Recreation and Camps Program Fee Increases

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution approving new fees and increasing current fees for select Recreation Division programs and rescinding Resolution No. 68,898-N.S. and all amendatory resolutions.

FISCAL IMPACTS OF RECOMMENDATION**Tennis**

A \$1 fee discrepancy exists between the Day and Night tennis court rental fees for youth, senior, and disabled participants. This fee correction is projected to reduce General Fund revenue by \$168 annually.

**Camps Fund**

The proposed new fees and fee increases will provide additional revenue to the Camps Fund which will offset the cost of delivering these programs. These new fees and increases to existing fees would cumulatively raise an estimated \$56,418.50 in annual revenue for the Camps Fund, of which an estimated \$15,957.50 would come from Echo Lake Camp fee changes; and \$40,461 would come from Berkeley Day Camp fees. These fee increases help the City recover a greater share of the camps' operating costs (see Table 1).

Table 1 - Impact of Fee Increases on the Camps Fund

| <b>FY 2021</b>      | <b>Without fee increase</b> | <b>With fee increase</b> | <b>Change</b> |
|---------------------|-----------------------------|--------------------------|---------------|
| Total Revenues*     | \$735,298.50                | \$791,717                | \$56,418.50   |
| Total Expenditures* | \$955,842                   | \$955,842                | -             |
| <b>Deficit</b>      | <b>(\$220,543.50)</b>       | <b>(\$164,125)</b>       |               |

\*Excludes Berkeley Tuolumne Camp and Cazadero capital projects.

CURRENT SITUATION AND ITS EFFECTS

On May 14, 2019, Council adopted an updated Fee Schedule for the Recreation Division programs (Resolution No. 68,898-N.S.). The City periodically reviews all recreation fees in an

effort to keep programs and facilities accessible to residents while accounting for increased costs to deliver those services.

The impacts of COVID-19 have resulted in higher Recreation Division expenses and changes to program models to comply with public health guidelines. New Camps Fees are proposed to comply with COVID-19 public health guidelines. In some instances, projected expenses of Recreation Division and Echo Lake Camp Summer 2021 programs developed in compliance with COVID-19 health guidelines exceeded the projected revenue received by program fees. Even in the absence of COVID-19, our fee revenue covers less than 80% of our costs to deliver these programs. The proposed fee increases will help to offset these costs, and recover a greater percentage of expenses, as shown in Table 1.

Fee changes are proposed to go into effect May 25, 2021.

### **Scholarships**

The City awards scholarships to every applicant who meets the eligibility requirements, which include Berkeley residency. Income eligibility is based on the Federal Low-Income guidelines. Qualifying recipients receive either a 50% fee reduction or a 100% fee waiver. In summer 2019, the last summer the Recreation Division operated regular programs, the City provided \$81,678 in fee waivers to Berkeley residents for Echo Lake Camp and Berkeley Day Camp programs, and \$84,800 in fee waivers for other Recreation Division programs.

### **Recreation Programs**

*Director's Authority* – This fee is to allow the Parks, Recreation and Waterfront Department Director, or his/her designee, the flexibility to create fees for various new programs, activities and events that are created throughout the year. This fee has been included in the Parks and Recreation Policies and Procedures Resolution, giving the Director of Parks Recreation and Waterfront, or his/her designee, the authority to establish fees for new Recreation programs up to \$250 based on comparison with other municipalities. The Director's Authority to create fees has not been increased since 2008.

The proposed increase would give the Director of Parks, Recreation and Waterfront, or his/her designee, the authority to establish fees for new Recreation programs up to \$350 for residents and up to \$420 for non-residents based on comparison with other municipalities.

*Tennis Court Rental Fees* – A \$1 fee discrepancy exists between the Day and Night tennis court rental fees for Youth, Senior, Disabled participants. This new fee corrects that discrepancy.

### **Camp Programs**

Fee increases and new fee schedules are proposed to the following programs. The proposed changes are detailed in Attachment 1, with fee comparisons in Attachment 2.

*Berkeley Echo Lake Family Camp Session Based Fees* – Current Echo Lake Family Camp fees are scheduled per-person based upon age, residency, and length of stay. Participants can select as little as a quarter day and stay as long as they wish during the program period. The proposed fees are scheduled per tent, per group, per session. The new proposed fees allow for more stable grouping during each session, allow for online registration, and reduce administrative management. See Attachment 2, Table 1 for fee comparisons.

- Proposed fees are per-tent and are all-inclusive for each session for up to 3 total guests and include meals, lodging, and all programs.

- Additional Campers (more than 3) may be added to Standard Occupancy Tent Cabin registrations for a per-person fee (Not applicable for infants under age 3).
- A limited number of Low-Occupancy Tents will be available to groups comprised of one adult and two children under the age of 14 only. These tents are available on a first come first served basis. Guests with different group sizes or age ranges must register for one of our Standard Occupancy Tent Cabins.

Proposed Family Camp fees are shown in Table 2, below:

**Table 2 – Proposed Family Camp Fees**

| <b><i>Echo Lake Family Camp Fees (Proposed)</i></b> | <b><i>Low-Occupancy Tent Cabin</i></b> | <b><i>Standard Occupancy Tent Cabin</i></b> |
|-----------------------------------------------------|----------------------------------------|---------------------------------------------|
| <b>Fee Category</b>                                 | <b>Fee (res/non)</b>                   | <b>Fee (res/non)</b>                        |
| 7-day Session                                       | \$1,450 / \$1,600                      | \$1,675 / \$1,850                           |
| 5-Day Session                                       | \$1,000 / \$1,100                      | \$1,100 / \$1,200                           |
| <b>Additional Camper (7-Day Session)</b>            | N/A                                    | \$375 / \$415 per additional camper         |
| <b>Additional Camper (5-Day Session)</b>            | N/A                                    | \$250 / \$275 per additional camper         |

- *Berkeley Echo Lake Adult Camp Programs (50 & Better Camp) – per session* - An increase of 26.63% is proposed which would increase the resident rate by \$61 per session per person. Historically, 50 & Better Camp has not covered operating expenses. The last fee increase was a 5% increase in 2019. Since that time, Echo Lake Camp program delivery and facility operation expenses have increased, due in large part to increases in the cost of part-time, seasonal labor, food, utilities, and overall camp operations. See Attachment 2, Table 2 for fee comparisons.
- *Berkeley Echo Lake Group Rental Fees* – A 25% fee increase is proposed which would increase the adult resident rate by \$15 per day. The last fee increase was a 5% increase in 2019. Since that time, Echo Lake Camp program delivery and facility operation expenses have increased, due in large part to increases in the cost of part-time seasonal labor, food, utilities, and overall camp operations. See Attachment 2, Table 3 for fee comparisons.
- *Berkeley Day Camp Fee*- An increase of 20% is proposed which would increase the resident rate from \$200 to \$240 per week. To comply with COVID-19 public health guidelines, this program would be offered as a 3-week session. All program costs have increased, including employee wages and benefits, supplies, and snacks. Even with this proposed fee increase, Berkeley Day Camp will continue to be one of the most affordable summer day camps in the region. See Attachment 2, Table 4 for fee comparisons.

#### BACKGROUND

All camp programs are run out of the Camp Fund which requires all expenditures be recovered by program revenue. An increase in fees is required to cover program expenditures. The

Camps Fund is required to be self-supporting and does not receive any revenue from the General Fund.

ENVIRONMENTAL SUSTAINABILITY

The proposed fee increases will support sustainability in these camp programs which provide direct and indirect environmental benefits. Camp programs connect the community with the environment, emphasize the importance of environmental stewardship, and often teach youth and community members about our local environmental resources and how to preserve them.

CONTACT PERSON

Christina Erickson, Deputy Director, 510-981-6703

Denise Brown, Youth and Recreation Services Manager, 510-981-6707

Attachments:

1. Recreation Fees: Current vs. Proposed
2. Fee Comparisons
3. Resolution  
    Exhibit A: Fee Schedule
4. Notice of Public Hearing

## Recreation Fee Schedule: Current vs. Proposed

| Program Area                                                                                                                                                                             | Unit of Measure | Resident (current fee) | Resident (proposed fee) | Non-Resident (current fee) | Non-Resident (proposed fee) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|------------------------|-------------------------|----------------------------|-----------------------------|
| <b>I. DIRECTOR'S AUTHORITY TO IMPLEMENT NEW FEES</b>                                                                                                                                     |                 |                        |                         |                            |                             |
| A. The Director of Parks Recreation and Waterfront, or his/her designee, reserves the right to establish fees for new Recreation programs based on comparison with other municipalities. |                 |                        |                         |                            |                             |
| Various                                                                                                                                                                                  | Various         | Up to \$250            | Up to \$350             | Up to \$250                | Up to \$420                 |
| <b>II. FACILITY RENTAL CHARGES</b>                                                                                                                                                       |                 |                        |                         |                            |                             |
| <b>1. Room Rentals - Regular Hours (1 hour minimum); Non-Regular Hours (2 hour minimum)</b><br>James Kenney (JK) Live Oak (LO) Frances Albrier (FA), Martin Luther King (MLK)            |                 |                        |                         |                            |                             |
| <b>A. Youth, Senior, Disabled</b>                                                                                                                                                        |                 |                        |                         |                            |                             |
| Regular Hours                                                                                                                                                                            | Hour            | \$41                   |                         | \$49                       |                             |
| Non-Regular Hours                                                                                                                                                                        | Hour            | \$61                   |                         | \$73                       |                             |
| <b>B. All Other</b>                                                                                                                                                                      |                 |                        |                         |                            |                             |
| <b>Auditorium (FA) &amp; Social Hall (LO)</b>                                                                                                                                            |                 |                        |                         |                            |                             |
| Regular Hours                                                                                                                                                                            | Hour            | \$67                   |                         | \$80                       |                             |
| Non-Regular Hours                                                                                                                                                                        | Hour            | \$82                   |                         | \$98                       |                             |
| <b>Fireside Room (LO) &amp; Community Room (JK)</b>                                                                                                                                      |                 |                        |                         |                            |                             |
| Regular Hours                                                                                                                                                                            | Hour            | \$52                   |                         | \$62                       |                             |
| Non-Regular Hours                                                                                                                                                                        | Hour            | \$67                   |                         | \$80                       |                             |
| <b>Game Room (FA, MLK)<br/>Arts &amp; Crafts Room (FA, JK, LO)<br/>Meeting Room (JK, LO, MLK)</b>                                                                                        |                 |                        |                         |                            |                             |
| Regular Hours                                                                                                                                                                            | Hour            | \$46                   |                         | \$55                       |                             |
| Non-Regular Hours                                                                                                                                                                        | Hour            | \$62                   |                         | \$74                       |                             |
| <b>C. Multi Room Discount</b>                                                                                                                                                            |                 |                        |                         |                            |                             |
| 2nd room                                                                                                                                                                                 | Rental          | -25%                   |                         | -25%                       |                             |
| 3rd room, each additional room                                                                                                                                                           | Rental          | -50%                   |                         | -50%                       |                             |
| <b>D. Gym Rentals (JK, MLK)</b>                                                                                                                                                          |                 |                        |                         |                            |                             |

| Program Area                                                                                                                  | Unit of Measure | Resident (current fee) | Resident (proposed fee) | Non-Resident (current fee) | Non-Resident (proposed fee) |
|-------------------------------------------------------------------------------------------------------------------------------|-----------------|------------------------|-------------------------|----------------------------|-----------------------------|
| Regular Hours                                                                                                                 | Hour            | \$64                   |                         | \$77                       |                             |
| Non-Regular Hours                                                                                                             |                 | \$75                   |                         | \$90                       |                             |
| <b>E. Filming Fee</b>                                                                                                         |                 |                        |                         |                            |                             |
| Parks and Facilities                                                                                                          | ½ Day           | \$400                  |                         | \$400                      |                             |
|                                                                                                                               | Full Day        | \$800                  |                         | \$800                      |                             |
| <b>F. Surcharges</b>                                                                                                          |                 |                        |                         |                            |                             |
| Table & Chair Set-Up                                                                                                          | Rental          | \$63                   |                         | \$76                       |                             |
| Kitchen Use                                                                                                                   | Rental          | \$86                   |                         | \$103                      |                             |
| Small Storage Room                                                                                                            | Month           | \$21                   |                         | \$25                       |                             |
| Large Storage Room                                                                                                            | Month           | \$31                   |                         | \$37                       |                             |
| Stage Use w/Room Rental                                                                                                       | Hour            | \$26                   |                         | \$31                       |                             |
| P/A system & staff operation                                                                                                  | Hour            | \$42                   |                         | \$50                       |                             |
| Cleaning/Damage Deposit All Rentals (Refundable)                                                                              | Rental          | \$200                  |                         | \$200                      |                             |
| <b>3. City Athletic Fields</b>                                                                                                |                 |                        |                         |                            |                             |
| <b>A. Cedar Rose, Codornices, Glendale-LaLoma, Grove, James Kenney, Ohlone, San Pablo, Willard, Rosa Parks, Thousand Oaks</b> |                 |                        |                         |                            |                             |
| Youth non-profit leagues                                                                                                      | 2-Hours         | \$36                   |                         | \$43                       |                             |
| Adults, for-profits, private schools                                                                                          | 2-Hours         | \$72                   |                         | \$86                       |                             |
| Maintenance Deposit                                                                                                           |                 | 40% of fee             |                         |                            |                             |
| <b>B. Gabe's Fields at Harrison Park, Natural Turf</b>                                                                        |                 |                        |                         |                            |                             |
| Youth non-profit leagues                                                                                                      | 2-Hours         | \$29                   |                         | \$35                       |                             |
| Adults, for-profits, private schools                                                                                          | 2-Hours         | \$72                   |                         | \$86                       |                             |
| <b>C. Gilman Fields, Natural Turf</b>                                                                                         |                 |                        |                         |                            |                             |
| Youth non-profit leagues                                                                                                      | 2-Hours         | \$29                   |                         | \$35                       |                             |
| Adults, for-profits, private schools                                                                                          | 2-Hours         | \$72                   |                         | \$86                       |                             |
| <b>D. Gilman Fields, Synthetic Turf</b>                                                                                       |                 |                        |                         |                            |                             |

| Program Area                                                                                                                 | Unit of Measure                      | Resident (current fee) | Resident (proposed fee) | Non-Resident (current fee) | Non-Resident (proposed fee) |
|------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|------------------------|-------------------------|----------------------------|-----------------------------|
| Youth non-profit leagues                                                                                                     | 2-Hours                              | \$40                   |                         | \$48                       |                             |
| Adults, for-profits, private schools                                                                                         | 2-Hours                              | \$91                   |                         | \$109                      |                             |
| <b>E. Sports Field User Fines</b> (Policy Violations: Applicable to All Athletic Fields)                                     |                                      |                        |                         |                            |                             |
| Playing on Closed Grass Fields                                                                                               | 1 <sup>st</sup> Offense              | \$250                  |                         | \$250                      |                             |
|                                                                                                                              | 2 <sup>nd</sup> Offense              | \$500                  |                         | \$500                      |                             |
| Running practices in main goal areas                                                                                         | 1 <sup>st</sup> Offense within 12 mo | \$50                   |                         | \$50                       |                             |
|                                                                                                                              | 2 <sup>nd</sup> Offense within 12 mo | \$100                  |                         | \$100                      |                             |
|                                                                                                                              | 3 <sup>rd</sup> Offense within 12 mo | \$200                  |                         | \$200                      |                             |
| Dogs, Alcohol, Trash, Wheeled vehicles                                                                                       | Incident                             |                        |                         |                            |                             |
| Field Monitor                                                                                                                | Hourly                               | \$25                   |                         | \$25                       |                             |
| <b>F. Additional Rules</b> (Applicable to all athletic fields)                                                               |                                      |                        |                         |                            |                             |
| Weekday slots used before 3:30pm throughout the year are discounted 50%                                                      |                                      |                        |                         |                            |                             |
| Weekday slots 5:30pm-7:00pm are charged as full two-hour slot                                                                |                                      |                        |                         |                            |                             |
| All other slots are pro-rated in 30 minute increments                                                                        |                                      |                        |                         |                            |                             |
| <b>4. Skate Park Rental</b> (only available AM hours)                                                                        |                                      |                        |                         |                            |                             |
| <b>A. Morning Hours</b> (includes 2 staff members)                                                                           | Hour                                 | \$250                  |                         | \$300                      |                             |
| <b>B. Birthday Party</b> (includes 2 staff members & lesson)                                                                 | Hour                                 | \$350                  |                         | \$420                      |                             |
| Cleaning/Damage Deposit (refundable)                                                                                         | Rental                               | \$200                  |                         | \$200                      |                             |
| <b>5. Tennis Courts</b>                                                                                                      |                                      |                        |                         |                            |                             |
| <b>A. Day Use</b> (All Courts): Cedar Rose, Grove, James Kenney, Live Oak, Rose Garden, San Pablo, Strawberry Creek, Willard |                                      |                        |                         |                            |                             |
| Adult                                                                                                                        | Hour                                 | \$7                    |                         | \$8                        |                             |
| Youth, Senior, Disabled                                                                                                      | Hour                                 | \$5                    |                         | \$6                        |                             |
| <b>B. Night Use/Lighted Courts:</b> Grove, James Kenney, Live Oak, San Pablo, Strawberry Creek, Willard                      |                                      |                        |                         |                            |                             |

| Program Area                                              | Unit of Measure | Resident (current fee) | Resident (proposed fee) | Non-Resident (current fee) | Non-Resident (proposed fee) |
|-----------------------------------------------------------|-----------------|------------------------|-------------------------|----------------------------|-----------------------------|
| Adult                                                     | Hour            | \$10                   |                         | \$12                       |                             |
| Youth, Senior, Disabled                                   | Hour            | \$9                    | \$8                     | \$11                       | \$10                        |
| <b>6. Swim Centers (1-hour minimum) King, West Campus</b> |                 |                        |                         |                            |                             |
| 1-35 people                                               | Hour            | \$100                  |                         | \$120                      |                             |
| 36-70 people                                              | Hour            | \$145                  |                         | \$174                      |                             |
| 71-100 people                                             | Hour            | \$177                  |                         | \$212                      |                             |
| 101-150 people                                            | Hour            | \$217                  |                         | \$260                      |                             |
| Cleaning/Damage Deposit (refundable)                      | Rental          | \$200                  |                         | \$200                      |                             |
| <b>7. Picnic Areas (4-hour minimum)</b>                   |                 |                        |                         |                            |                             |
| <b>A. Aquatic Park</b>                                    | 4-hours         | \$45                   |                         | \$54                       |                             |
| <b>B. Cedar Rose</b>                                      | 4-hours         | \$30                   |                         | \$36                       |                             |
| <b>C. Codornices Park Area 1</b>                          | 4-hours         | \$75                   |                         | \$90                       |                             |
| <b>D. Codornices Park Area 2</b>                          | 4-hours         | \$60                   |                         | \$72                       |                             |
| <b>E. Cragmont</b>                                        | 4-hours         | \$45                   |                         | \$54                       |                             |
| <b>F. Grove</b>                                           | 4-hours         | \$30                   |                         | \$36                       |                             |
| <b>G. James Kenney</b>                                    | 4-hours         | \$45                   |                         | \$54                       |                             |
| <b>H. King School</b>                                     | 4-hours         | \$30                   |                         | \$36                       |                             |
| <b>I. Live Oak Park (Areas 1 &amp; 2)</b>                 | 4-hours         | \$60                   |                         | \$72                       |                             |
| <b>J. Ohlone Park @ McGee</b>                             | 4-hours         | \$45                   |                         | \$54                       |                             |
| <b>K. San Pablo Park</b>                                  | 4-hours         | \$30                   |                         | \$36                       |                             |



| <b>Program Area</b>                                    | <b>Unit of Measure</b> | <b>Resident<br/>(current<br/>fee)</b> | <b>Resident<br/>(proposed<br/>fee)</b> | <b>Non-Resident<br/>(current<br/>fee)</b> | <b>Non-Resident<br/>(proposed<br/>fee)</b> |
|--------------------------------------------------------|------------------------|---------------------------------------|----------------------------------------|-------------------------------------------|--------------------------------------------|
| <b>L. Strawberry Creek</b>                             | 4-hours                | \$30                                  |                                        | \$36                                      |                                            |
| <b>M. Shorebird Park:<br/>Areas 1, 2</b>               | 4-hours                | \$60                                  |                                        | \$60                                      |                                            |
| <b>N. Shorebird Park:<br/>Area 3</b>                   | 4-hours                | \$45                                  |                                        | \$45                                      |                                            |
| <b>O. Cesar Chavez: Area<br/>1</b>                     | 4-hours                | \$45                                  |                                        | \$45                                      |                                            |
| <b>P. Cesar Chavez: Area<br/>2 (large picnic area)</b> | 4-hours                | \$200                                 |                                        | \$200                                     |                                            |
| <b>Q. Bounce House<br/>Permit</b>                      | Per Use                | \$20                                  |                                        | \$25                                      |                                            |

|                                                                                                                                                                   |         |       |  |        |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-------|--|--------|--|
| <b>8. Parks &amp; Open Space</b> (not athletic fields)                                                                                                            |         |       |  |        |  |
| <b>A. Special Events</b>                                                                                                                                          |         |       |  |        |  |
| 1-99 Participants                                                                                                                                                 | Day     | \$180 |  | \$350  |  |
| 100-249 Participants                                                                                                                                              | Day     | \$270 |  | \$500  |  |
| 250-499 Participants                                                                                                                                              | Day     | \$350 |  | \$700  |  |
| 500+ Participants                                                                                                                                                 | Day     | \$550 |  | \$1000 |  |
| Cleaning/Damage Deposit (refundable)                                                                                                                              | Day     | \$700 |  | \$700  |  |
| <b>Special Events – Additional Days</b>                                                                                                                           |         |       |  |        |  |
| 1-99 Participants                                                                                                                                                 | Day     | \$170 |  | \$340  |  |
| 100-249 Participants                                                                                                                                              | Day     | \$230 |  | \$460  |  |
| 250-499 Participants                                                                                                                                              | Day     | \$250 |  | \$600  |  |
| 500+ Participants                                                                                                                                                 | Day     | \$450 |  | \$900  |  |
| <b>B. John Hinkel Amphitheater</b>                                                                                                                                |         |       |  |        |  |
|                                                                                                                                                                   | Day     | \$120 |  | \$144  |  |
| Cleaning/Damage Deposit (refundable)                                                                                                                              |         | \$350 |  | \$350  |  |
| <b>C. Camp Day Use Fee</b>                                                                                                                                        |         |       |  |        |  |
| 1-50 Participants                                                                                                                                                 | Day     | \$50  |  | \$50   |  |
| 51-100 Participants                                                                                                                                               | Day     | \$100 |  | \$100  |  |
| 101-150 Participants                                                                                                                                              | Day     | \$150 |  | \$150  |  |
| <b>D. Small Turf Areas in Parks</b> (Ages 8 years and under; Mon - Fri only; Max 3 days per week):<br>Ohlone Park, Aquatic Park, James Kenney Park, Live Oak Park |         |       |  |        |  |
|                                                                                                                                                                   | 2-Hours | \$25  |  | \$30   |  |

|                                                                      |          |         |  |         |  |
|----------------------------------------------------------------------|----------|---------|--|---------|--|
| <b>. Weddings (4-hour minimum)</b>                                   |          |         |  |         |  |
| <b>A. Rose Garden</b>                                                | 4-Hours  | \$1,000 |  | \$1,200 |  |
| Each Additional Hour (after 4 hours)                                 | Hour     | \$170   |  | \$204   |  |
| <b>B. Cragmont, Live Oak Park, &amp; John Hinkel (outside areas)</b> | 4-Hours  | \$450   |  | \$540   |  |
| Each Additional Hour (after 4 hours)                                 | Hour     | \$75    |  | \$90    |  |
| <b>C. Spinnaker Way Vista</b>                                        | 4-Hours  | \$750   |  | \$750   |  |
| Each Additional Hour (after 4 hours)                                 | Hour     | \$170   |  | \$170   |  |
| <b>D. Yacht Club Point</b>                                           | 4-Hours  | \$750   |  | \$750   |  |
| Each Additional Hour (after 4 hours)                                 | Hour     | \$170   |  | \$170   |  |
| Cleaning/Damage Deposit (refundable)                                 | Rental   | \$700   |  | \$700   |  |
| <b>III. SWIM CENTER FEES</b>                                         |          |         |  |         |  |
| <b>1. Admissions (Public &amp; Family Swim, Laps)</b>                |          |         |  |         |  |
| Adult (Drop-in)                                                      | Swim     | \$6     |  | \$6     |  |
| Adult (10-Swim Card)                                                 | 10-Swims | \$51    |  | \$51    |  |
| Adult (Monthly)                                                      | Month    | \$73    |  | \$73    |  |
| Youth, Senior, Disabled (Drop-In)                                    | Swim     | \$3     |  | \$3     |  |
| Youth Senior Disabled (10-Swim Card)                                 | 10-Swims | \$22    |  | \$22    |  |
| Youth Senior Disabled (Monthly Card)                                 | Month    | \$37    |  | \$37    |  |
| <b>2. Red Cross Swim Sessions</b>                                    |          |         |  |         |  |

|                                                                                          |          |      |  |      |  |
|------------------------------------------------------------------------------------------|----------|------|--|------|--|
| Adult                                                                                    | Session  | \$75 |  | \$90 |  |
| Youth, Senior, Disabled                                                                  | Session  | \$72 |  | \$84 |  |
| Organized Youth Groups<br>(Residents only)                                               |          |      |  |      |  |
| 10-15 participants                                                                       | Session  | \$65 |  | -    |  |
| 16-21 participants                                                                       | Session  | \$62 |  | -    |  |
| 22-32 participants                                                                       | Session  | \$54 |  | -    |  |
| 33-43 participants                                                                       | Session  | \$48 |  | -    |  |
| 44-54 participants                                                                       | Session  | \$39 |  | -    |  |
| 55+ participants                                                                         | Session  | \$37 |  | -    |  |
| <b>3. Premium Classes</b>                                                                |          |      |  |      |  |
| Continuous & Coached Workouts: water aerobics, parent/tot, stroke technique, Master Swim |          |      |  |      |  |
| Adult (Drop-in)                                                                          | Swim     | \$7  |  | \$7  |  |
| Adult (10-Swim Card)                                                                     | 10-Swims | \$66 |  | \$66 |  |
| Adult (Monthly)                                                                          | Month    | \$82 |  | \$82 |  |
| Youth, Senior, Disabled (Drop-In)                                                        | Swim     | \$5  |  | \$5  |  |
| Youth Senior Disabled (10-Swim Card)                                                     | 10-Swims | \$40 |  | \$40 |  |
| Youth Senior Disabled (Monthly Card)                                                     | Session  | \$57 |  | \$57 |  |
| <b>4. Private Swim Lessons (1/2 hour session)</b>                                        |          |      |  |      |  |
| Individual (One-on-One)                                                                  | Lesson   | \$30 |  | \$36 |  |
| Semi-Private Lesson (2 or more Participants)                                             | Lesson   | \$50 |  | \$60 |  |
| <b>IV. RECREATION PROGRAMS</b>                                                           |          |      |  |      |  |

|                                      |         |       |  |       |  |
|--------------------------------------|---------|-------|--|-------|--|
| <b>1. Sports</b>                     |         |       |  |       |  |
| <b>A. Adult Softball League</b>      |         |       |  |       |  |
| 4 Game Season                        | Team    | \$320 |  | \$384 |  |
| 8 Game Season                        | Team    | \$640 |  | \$715 |  |
| 10 Game Season                       | Team    | \$800 |  | \$875 |  |
| <b>B. Adult Basketball League</b>    |         |       |  |       |  |
| 8 Game Season                        | Team    | \$560 |  | \$635 |  |
| 10 Game Season                       | Team    | \$700 |  | \$775 |  |
| <b>C. Adult Volleyball League</b>    |         |       |  |       |  |
| 8 Game Season                        | Team    | \$320 |  | \$384 |  |
| 10 Game Season                       | Team    | \$400 |  | \$475 |  |
| 12 Game Season                       | Team    | \$480 |  | \$555 |  |
| 15 Game Season                       | Team    | \$600 |  | \$675 |  |
| <b>D. Open Gym Volleyball</b>        | Drop-In | \$5   |  | \$5   |  |
| <b>E. Youth Baseball</b>             |         |       |  |       |  |
| Individual                           | Session | \$51  |  | \$61  |  |
| <b>F. Youth Hoops League</b>         |         |       |  |       |  |
| Individual                           | Session | \$30  |  | \$36  |  |
| <b>G. Youth Twilight Basketball</b>  |         |       |  |       |  |
| Individual                           | Session | \$27  |  | \$32  |  |
| <b>H. Youth Flag Football League</b> |         |       |  |       |  |

|                                                                                 |          |       |       |       |       |
|---------------------------------------------------------------------------------|----------|-------|-------|-------|-------|
| Individual                                                                      | Session  | \$30  |       | \$36  |       |
| <b>I. Tennis Lessons</b>                                                        |          |       |       |       |       |
| Youth                                                                           | Session  | \$73  |       | \$88  |       |
| Adult                                                                           | Session  | \$107 |       | \$128 |       |
| <b>J. Skate Park Lessons &amp; Classes</b>                                      |          |       |       |       |       |
| Full Day                                                                        | Session  | \$258 |       | \$310 |       |
| 1/2 Day Camp                                                                    | Session  | \$195 |       | \$234 |       |
| Park Introduction                                                               | Session  | \$11  |       | \$13  |       |
| Trick Clinic                                                                    | Session  | \$11  |       | \$13  |       |
| Private Lessons                                                                 | Hour     | \$43  |       | \$52  |       |
| Group Lessons                                                                   | Session  | \$108 |       | \$130 |       |
| <b>2. Programs at Centers</b>                                                   |          |       |       |       |       |
| <b>A. After School Program Registration Fee</b> (Frances Albrier, James Kenney) |          |       |       |       |       |
| Individual                                                                      | Week     | \$25  |       | \$30  |       |
| <b>B. Community Center Camp Programs</b> (Winter, Spring, Summer)               |          |       |       |       |       |
| Core                                                                            | 30 hours | \$101 |       | \$121 |       |
| AM Extended Care                                                                | 5 hours  | \$10  |       | \$12  |       |
| PM Extended Care                                                                | 15 hours | \$30  |       | \$36  |       |
| <b>3. Camp Programs</b>                                                         |          |       |       |       |       |
| <b>A. Berkeley Day Camp</b>                                                     |          |       |       |       |       |
| Youth Core Program                                                              | 5-Days   | \$200 | \$240 | \$240 | \$288 |
| AM Extended Care                                                                | 5-Days   | \$51  |       | \$61  |       |

|                                       |               |       |         |       |         |
|---------------------------------------|---------------|-------|---------|-------|---------|
| PM Extended Care                      | 5-Days        | \$79  |         | \$95  |         |
| Counselor-In-Training                 | 10-days       | \$194 |         | \$232 |         |
| <b>Surcharges</b>                     |               |       |         |       |         |
| Changed Reservation                   | Per Change    | \$0   |         | \$0   |         |
| Cancelled Reservation                 | Session       | 25%   |         | 25%   |         |
| <b>B. Echo Lake Camp</b>              |               |       |         |       |         |
| <b>Berkeley Echo Lake Family Camp</b> |               |       |         |       |         |
| Low Occupancy Tent                    | 7-Day Session | --    | \$1,000 | --    | \$1,100 |
| Low Occupancy Tent                    | 5-Day Session | --    | \$1,100 | --    | \$1,200 |
| Standard Occupancy tent               | 7-Day Session | --    | \$1,675 | --    | \$1,850 |
| Standard Occupancy tent               | 5-Day Session | --    | \$1,450 | --    | \$1,600 |
| Additional Camper                     | 7-Day Session | --    | \$250   | --    | \$275   |
| Additional Camper                     | 5-Day Session | --    | \$375   | --    | \$415   |
| Adult (15+)                           | Day           | \$108 |         | \$120 |         |
| Youth (7-14)                          | Day           | \$72  |         | \$80  |         |
| Child (3-6)                           | Day           | \$54  |         | \$60  |         |
| Counselor-In-Training                 | 1-week        | \$275 |         | \$300 |         |
| Counselor-In-Training                 | 2-week        | \$400 |         | \$440 |         |
| <b>Echo Lake Youth Camp</b>           |               |       |         |       |         |
| 5-Day Program                         | 5-Days        | \$600 |         | \$660 |         |
| 7-Day Program                         | 7-Days        | \$840 |         | \$924 |         |

|                                                                          |                       |                                                           |       |       |       |
|--------------------------------------------------------------------------|-----------------------|-----------------------------------------------------------|-------|-------|-------|
| Counselor-In-Training                                                    | 1-Week                | \$275                                                     |       | \$300 |       |
| Counselor-In-Training                                                    | 2-Week                | \$400                                                     |       | \$440 |       |
| <b>50+ Camp (50 &amp; Better Camp)</b>                                   | Weekend               | \$183                                                     | \$230 | \$201 | \$254 |
| <b>50+ Camp (50 &amp; Better Camp)</b>                                   | 4-days                | \$229                                                     | \$290 | \$252 | \$320 |
| <b>Work Weekend</b>                                                      | Weekend               | \$0                                                       |       | \$0   |       |
| <b>Group Rental Rates</b>                                                |                       |                                                           |       |       |       |
| Adult (15+)                                                              | Day                   | \$61                                                      | \$76  | \$67  | \$84  |
| Youth (7-14)                                                             | Day                   | \$52                                                      | \$65  | \$57  | \$71  |
| Child (3-6)                                                              | Day                   | \$38                                                      | \$48  | \$42  | \$53  |
| <b>Surcharges</b>                                                        |                       |                                                           |       |       |       |
| Cleaning/Damage Deposit<br>(Refundable)                                  | Rental                | \$300                                                     |       | \$300 |       |
| Tent Single Occupancy                                                    | Per person<br>per day | \$200                                                     |       | \$220 |       |
| Tent Double Occupancy                                                    | Per person<br>per day | \$63                                                      |       | \$70  |       |
| Change Reservation<br>(30 days or more before arrival)                   | Reservation           | \$100                                                     |       | \$100 |       |
| Cancel Reservation<br>(30 days or more before arrival)                   | Reservation           | 25% of<br>reservation<br>fee not to<br>exceed \$150       |       |       |       |
| Cancel Reservation<br>(due to emergency or illness, with<br>Dr's excuse) | Reservation           | No charge                                                 |       |       |       |
| Late Fee                                                                 |                       | \$75 if<br>balance is<br>not paid by<br>date<br>specified |       |       |       |
| <b>4. Waterfront Programs</b>                                            |                       |                                                           |       |       |       |
| <b>A. Adventure<br/>Playground</b>                                       |                       |                                                           |       |       |       |



|                                               |         |       |  |       |  |
|-----------------------------------------------|---------|-------|--|-------|--|
| Individual Admission (anyone over 1 year old) | Day     | \$1   |  | \$1   |  |
| Group size 5-10                               | 2-hours | \$75  |  | \$75  |  |
| Group size 11-20                              | 2-hours | \$105 |  | \$105 |  |
| Group size 21-30                              | 2-hours | \$150 |  | \$150 |  |
| Group size 31-40                              | 2-hours | \$180 |  | \$180 |  |
| <b>B. Education Programs</b>                  |         |       |  |       |  |
| Animal                                        | Session | \$200 |  | \$200 |  |
| Low Tide                                      | Session | \$200 |  | \$200 |  |
| Research Boat Trip                            | Session | \$225 |  | \$225 |  |
| Sail Boat Trip                                | Session | \$255 |  | \$255 |  |
| Docent Training                               | Session | \$65  |  | \$65  |  |
| Special Program Request                       | Hour    | \$65  |  | \$65  |  |
| Marine Biology                                | 4-Days  | \$75  |  | \$75  |  |
| Marine Biology                                | 8-Days  | \$150 |  | \$150 |  |
| Boating                                       | 4-Days  | \$150 |  | \$150 |  |
| Canoeing                                      | 3-Days  | \$55  |  | \$55  |  |

## ATTACHMENT 2

**Table 1: Berkeley Echo Lake Family Camp Fees – Per Session Fee Comparison**

Note: This analysis compares the total combined fee for a Family Camp stay during primary program periods for a 7-day stay for a family of four Berkeley Residents. Other Camp programs have fee models that differ from the City of Berkeley's, which may include separate meal plans, capital improvement recovery surcharges, and fees for electricity or other special accommodations. This analysis assumes base program accommodations with meal plan for length of stay. Session fees are pro-rated or extended where applicable.

| <b>Agency</b>                                    | <b>Fee</b>     |
|--------------------------------------------------|----------------|
| Camp Mather (2020 fees)                          | \$1,710        |
| <b>Berkeley Echo Lake Family Camp (proposed)</b> | <b>\$2,050</b> |
| San Jose Family Camp at Yosemite (2020 fees)     | \$2,100        |
| Oakland Feather River Camp                       | \$2,555        |
| Lair of the Bear (UC Berkeley)                   | \$2,900        |
| Camp Concord (30-person minimum group rate)      | \$3,444        |

**Table 2: Berkeley Echo Lake 50+ Camp Fees – Per Session Fee Comparison**

Note: This analysis compares the per person fee for a 4-day stay for one adult Resident at an adult (50+) Camp program. Other Camps have various fee models which may include separate meal plans, capital improvement recovery surcharges, and fees for electricity or other special accommodations. This analysis assumes base program accommodations with meal plan for length of stay.

| <b>Agency</b>                                    | <b>Fee</b>   |
|--------------------------------------------------|--------------|
| <b>Berkeley Echo Lake Family Camp (proposed)</b> | <b>\$290</b> |
| Camp Concord                                     | \$291        |
| Camp Sacramento (2020 fees)                      | \$350        |

**Table 3: Berkeley Echo Lake Group Rental Fees**

Note: This analysis compares the per person fee for a 1-day stay for a private group rental program. Other Camps have various fee models which may include separate meal plans, capital improvement recovery surcharges, and fees for electricity or other special accommodations. This analysis assumes base program accommodations with meal plan for length of stay.

| <b>Agency</b>                      | <b>Adult (15+)</b> | <b>Youth</b> | <b>Child (6-8)</b> | <b>Child (3-5)</b> | <b>Infant (0-2)</b> |
|------------------------------------|--------------------|--------------|--------------------|--------------------|---------------------|
| <b>City of Berkeley (proposed)</b> | <b>\$76</b>        | <b>\$65</b>  | <b>\$48</b>        | <b>\$48</b>        | <b>\$0</b>          |
| Camp Sacramento (2019 fees)        | \$89               | \$69         | \$59               | \$49               | \$0                 |
| <b>Camp Concord</b>                | <b>\$123</b>       | <b>\$123</b> | <b>\$123</b>       | <b>\$123</b>       | <b>\$0</b>          |

Table 4: Berkeley Day Camp Fee Comparisons

| Day Camp Program Name                  | Location                                            | Program Hours (Core) | Fee Per Week (Core)           | Fee Per Hour of Program |
|----------------------------------------|-----------------------------------------------------|----------------------|-------------------------------|-------------------------|
| City of Berkeley Day Camp              | City Parks / Berkeley Marina                        | 9:00am-3:30pm        | Resident (proposed) \$240     | \$7.38                  |
|                                        |                                                     |                      | Non-Resident (proposed) \$288 | \$8.86                  |
| City of Berkeley Community Center Camp | Berkeley Community Centers                          | 9:00am-3:00pm        | Resident \$150                | \$5.00                  |
|                                        |                                                     |                      | Non-Resident \$240            | \$8.00                  |
| YMCA (2019 fees)                       | Berkeley                                            | 9:00am-4:00pm        | \$325 non-member              | \$9.29                  |
|                                        |                                                     |                      | \$295 member                  | \$8.43                  |
| Blue & Gold Camp (2019 fees)           | Golden Bear Rec Center / Strawberry Canyon Rec Area | 7:30am-4:00pm        | \$407                         | \$9.58                  |
| Kids for the Bay (2019 fees)           | Bay shore/ Marina                                   | 8:30am-4:00pm        | \$390                         | \$10.40                 |
| Trackers                               | Marina                                              | 8:30am-4:00pm        | \$535                         | \$14.27                 |
| Sarah Science (2020 fees)              | Tilden Park                                         | 9:00am-3:00pm        | \$525                         | \$17.50                 |

**ATTACHMENT 3**

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

ESTABLISHING FEES FOR PARKS AND RECREATION PROGRAMS AND FACILITIES AND  
RESCINDING RESOLUTION NO. 68,898-N.S.

WHEREAS, on May 14, 2019 Council adopted the new Fee Schedule for Recreation Division programs (Resolution No. 68,898-N.S.); and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the rates and charges set forth in Exhibit A are hereby fixed and established for the parks and recreation programs and facilities and shall be effective May 25, 2021, unless otherwise noted in Exhibit A.

BE IT FURTHER RESOLVED that Resolution No. 68,898-N.S. and all amendatory resolutions are hereby rescinded effective May 25, 2021.

Exhibit A: Fee Schedule

**Exhibit A:****Recreation Fee Schedule***Effective May 12, 2021 (unless otherwise noted below)*

| <b>Program Area</b>                                                                                                                                                                   | <b>Unit of Measure</b> | <b>Resident</b> | <b>Non-Resident</b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-----------------|---------------------|
| <b>I. DIRECTOR'S AUTHORITY TO IMPLEMENT NEW FEES</b>                                                                                                                                  |                        |                 |                     |
| The Director of Parks Recreation and Waterfront, or his/her designee, reserves the right to establish fees for new Recreation programs based on comparison with other municipalities. |                        |                 |                     |
| Various                                                                                                                                                                               | Various                | Up to \$350     | Up To \$420         |
| <b>II. FACILITY RENTAL CHARGES</b>                                                                                                                                                    |                        |                 |                     |
| <b>1. Room Rentals - Regular Hours (1 hour minimum); Non-Regular Hours (2 hour minimum)</b>                                                                                           |                        |                 |                     |
| James Kenney (JK) Live Oak (LO) Frances Albrier (FA), Martin Luther King (MLK)                                                                                                        |                        |                 |                     |
| <b>A. Youth, Senior, Disabled</b>                                                                                                                                                     |                        |                 |                     |
| Regular Hours                                                                                                                                                                         | Hour                   | \$41            | \$49                |
| Non-Regular Hours                                                                                                                                                                     | Hour                   | \$61            | \$73                |
| <b>B. All Other</b>                                                                                                                                                                   |                        |                 |                     |
| <b>Auditorium (FA) &amp; Social Hall (LO)</b>                                                                                                                                         |                        |                 |                     |
| Regular Hours                                                                                                                                                                         | Hour                   | \$67            | \$80                |
| Non-Regular Hours                                                                                                                                                                     | Hour                   | \$82            | \$98                |
| <b>Fireside Room (LO), Community Room (JK)</b>                                                                                                                                        |                        |                 |                     |
| Regular Hours                                                                                                                                                                         | Hour                   | \$52            | \$62                |
| Non-Regular Hours                                                                                                                                                                     | Hour                   | \$67            | \$80                |
| <b>Game Room (FA, MLK) Arts &amp; Crafts Room (FA, JK, LO) Meeting Room (JK, LO, MLK)</b>                                                                                             |                        |                 |                     |
| Regular Hours                                                                                                                                                                         | Hour                   | \$46            | \$55                |
| Non-Regular Hours                                                                                                                                                                     | Hour                   | \$62            | \$74                |
| <b>C. Multi Room Discount</b>                                                                                                                                                         |                        |                 |                     |
| 2nd room                                                                                                                                                                              | Rental                 | -25%            | -25%                |
| 3rd room, each additional room                                                                                                                                                        | Rental                 | -50%            | -50%                |
| <b>D. Gym Rentals (JK, MLK)</b>                                                                                                                                                       |                        |                 |                     |
| Regular Hours                                                                                                                                                                         | Hour                   | \$64            | \$77                |
| Non-Regular Hours                                                                                                                                                                     |                        | \$75            | \$90                |
| <b>E. Filming Fee</b>                                                                                                                                                                 |                        |                 |                     |
| Parks and Facilities                                                                                                                                                                  | ½ Day                  | \$400           | \$400               |
|                                                                                                                                                                                       | Full Day               | \$800           | \$800               |
| <b>F. Surcharges</b>                                                                                                                                                                  |                        |                 |                     |
| Table & Chair Set-Up                                                                                                                                                                  | Rental                 | \$63            | \$76                |

| Program Area                                                                                                                  | Unit of Measure                      | Resident   | Non-Resident |
|-------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|------------|--------------|
| Kitchen Use                                                                                                                   | Rental                               | \$86       | \$103        |
| Small Storage Room                                                                                                            | Month                                | \$21       | \$25         |
| Large Storage Room                                                                                                            | Month                                | \$31       | \$37         |
| Stage Use w/Room Rental                                                                                                       | Hour                                 | \$26       | \$31         |
| P/A system & staff operation                                                                                                  | Hour                                 | \$42       | \$50         |
| Cleaning/Damage Deposit All Rentals<br>(Refundable)                                                                           | Rental                               | \$200      | \$200        |
| <b>2. City Athletic Fields</b>                                                                                                |                                      |            |              |
| <b>A. Cedar Rose, Codornices, Glendale-LaLoma, Grove, James Kenney, Ohlone, San Pablo, Willard, Rosa Parks, Thousand Oaks</b> |                                      |            |              |
| Youth non-profit leagues                                                                                                      | 2-Hours                              | \$36       | \$43         |
| Adults, for-profits, private schools                                                                                          | 2-Hours                              | \$72       | \$86         |
| Maintenance Deposit                                                                                                           |                                      | 40% of fee |              |
| <b>B. Gabe's Fields at Harrison Park, Natural Turf</b>                                                                        |                                      |            |              |
| Youth non-profit leagues                                                                                                      | 2-Hours                              | \$29       | \$35         |
| Adults, for-profits, private schools                                                                                          | 2-Hours                              | \$72       | \$86         |
| <b>C. Gilman Fields, Natural Turf</b>                                                                                         |                                      |            |              |
| Youth non-profit leagues                                                                                                      | 2-Hours                              | \$29       | \$35         |
| Adults, for-profits, private schools                                                                                          | 2-Hours                              | \$72       | \$86         |
| <b>D. Gilman Fields, Synthetic Turf</b>                                                                                       |                                      |            |              |
| Youth non-profit leagues                                                                                                      | 2-Hours                              | \$40       | \$48         |
| Adults, for-profits, private schools                                                                                          | 2-Hours                              | \$91       | \$109        |
| <b>E. Sports Field User Fines (Policy Violations: Applicable to All Athletic Fields)</b>                                      |                                      |            |              |
| Playing on Closed Grass Fields                                                                                                | 1 <sup>st</sup> Offense              | \$250      | \$250        |
|                                                                                                                               | 2 <sup>nd</sup> Offense              | \$500      | \$500        |
| Running practices in main goal areas                                                                                          | 1 <sup>st</sup> Offense within 12 mo | \$50       | \$50         |
|                                                                                                                               | 2 <sup>nd</sup> Offense within 12 mo | \$100      | \$100        |
|                                                                                                                               | 3 <sup>rd</sup> Offense within 12 mo | \$200      | \$200        |
| Dogs, Alcohol, Trash, Wheeled vehicles                                                                                        | Incident                             | \$100      | \$100        |
| Field Monitor                                                                                                                 | Hourly                               | \$25       | \$25         |
| <b>F. Additional Rules (Applicable to all athletic fields)</b>                                                                |                                      |            |              |
| Weekday slots used before 3:30pm throughout the year are discounted 50%                                                       |                                      |            |              |
| Weekday slots 5:30pm-7:00pm are charged as full two-hour slot                                                                 |                                      |            |              |
| All other slots are pro-rated in 30 minute increments                                                                         |                                      |            |              |
| <b>3. Skate Park Rental (only available AM hours)</b>                                                                         |                                      |            |              |

| Program Area                                                                                                                            | Unit of Measure | Resident | Non-Resident |
|-----------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------|--------------|
| <b>A. Morning Hours</b> (includes 2 staff members)                                                                                      | Hour            | \$250    | \$300        |
| <b>B. Birthday Party</b> (includes 2 staff members & lesson)                                                                            | Hour            | \$350    | \$420        |
| Cleaning/Damage Deposit (refundable)                                                                                                    | Rental          | \$200    | \$200        |
| <b>4. Tennis Courts</b>                                                                                                                 |                 |          |              |
| <b>A. Day Use</b> (All Courts): Cedar Rose, Grove, James Kenney, Live Oak, Rose Garden, Roy Oakes, San Pablo, Strawberry Creek, Willard |                 |          |              |
| Adult                                                                                                                                   | Hour            | \$7      | \$8          |
| Youth, Senior, Disabled                                                                                                                 | Hour            | \$5      | \$6          |
| <b>B. Night Use/Lighted Courts:</b> Cedar Rose, Grove, James Kenney, Live Oak, San Pablo, Strawberry Creek, Willard                     |                 |          |              |
| Adult                                                                                                                                   | Hour            | \$10     | \$12         |
| Youth, Senior, Disabled                                                                                                                 | Hour            | \$8      | \$10         |
| <b>5. Swim Centers</b> (1-hour minimum) King, West Campus                                                                               |                 |          |              |
| 1-35 people                                                                                                                             | Hour            | \$100    | \$120        |
| 36-70 people                                                                                                                            | Hour            | \$145    | \$174        |
| 71-100 people                                                                                                                           | Hour            | \$177    | \$212        |
| 101-150 people                                                                                                                          | Hour            | \$217    | \$260        |
| Cleaning/Damage Deposit (refundable)                                                                                                    | Rental          | \$200    | \$200        |
| <b>6. Picnic Areas</b> (4-hour minimum)                                                                                                 |                 |          |              |
| <b>A. Aquatic Park</b>                                                                                                                  | 4-hours         | \$45     | \$54         |
| <b>B. Cedar Rose</b>                                                                                                                    | 4-hours         | \$30     | \$36         |
| <b>C. Codornices Park Area 1</b>                                                                                                        | 4-hours         | \$75     | \$90         |
| <b>D. Codornices Park Area 2</b>                                                                                                        | 4-hours         | \$60     | \$72         |
| <b>E. Cragmont</b>                                                                                                                      | 4-hours         | \$45     | \$54         |
| <b>F. Grove</b>                                                                                                                         | 4-hours         | \$30     | \$36         |
| <b>G. James Kenney</b>                                                                                                                  | 4-hours         | \$45     | \$54         |
| <b>H. King School</b>                                                                                                                   | 4-hours         | \$30     | \$36         |
| <b>I. Live Oak Park (Areas 1 &amp; 2)</b>                                                                                               | 4-hours         | \$60     | \$72         |
| <b>J. Ohlone Park @ McGee</b>                                                                                                           | 4-hours         | \$45     | \$54         |
| <b>K. San Pablo Park</b>                                                                                                                | 4-hours         | \$30     | \$36         |
| <b>L. Strawberry Creek</b>                                                                                                              | 4-hours         | \$30     | \$36         |
| <b>M. Shorebird Park: Areas 1, 2</b>                                                                                                    | 4-hours         | \$60     | \$60         |
| <b>N. Shorebird Park: Area 3</b>                                                                                                        | 4-hours         | \$45     | \$45         |
| <b>O. Cesar Chavez: Area 1</b>                                                                                                          | 4-hours         | \$45     | \$45         |
| <b>P. Cesar Chavez: Area 2</b> (large picnic area)                                                                                      | 4-hours         | \$200    | \$200        |

| Program Area                                                                                                                                                | Unit of Measure | Resident | Non-Resident |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------|--------------|
| <b>Q. Bounce House Permit</b>                                                                                                                               | Per Use         | \$20     | \$25         |
| <b>7. Parks &amp; Open Space</b> (not athletic fields)                                                                                                      |                 |          |              |
| <b>A. Special Events</b>                                                                                                                                    |                 |          |              |
| 1-99 Participants                                                                                                                                           | Day             | \$180    | \$350        |
| 100-249 Participants                                                                                                                                        | Day             | \$270    | \$500        |
| 250-499 Participants                                                                                                                                        | Day             | \$350    | \$700        |
| 500+ Participants                                                                                                                                           | Day             | \$550    | \$1,000      |
| Cleaning/Damage Deposit (refundable)                                                                                                                        | Day             | \$700    | \$700        |
| <b>Special Events – Additional Days</b>                                                                                                                     |                 |          |              |
| 1-99 Participants                                                                                                                                           | Day             | \$170    | \$340        |
| 100-249 Participants                                                                                                                                        | Day             | \$230    | \$460        |
| 250-499 Participants                                                                                                                                        | Day             | \$250    | \$600        |
| 500+ Participants                                                                                                                                           | Day             | \$450    | \$900        |
| <b>B. John Hinkel Amphitheater</b>                                                                                                                          |                 |          |              |
| Cleaning/Damage Deposit (refundable)                                                                                                                        | Day             | \$120    | \$144        |
| <b>C. Camp Day Use Fee</b>                                                                                                                                  |                 |          |              |
| 1-50 Participants                                                                                                                                           | Day             | \$50     | \$50         |
| 51-100 Participants                                                                                                                                         | Day             | \$100    | \$100        |
| 101-150 Participants                                                                                                                                        | Day             | \$150    | \$150        |
| <b>D. Small Turf Areas in Parks</b> (Ages 8 yrs & under; Mon-Fri only; Max 3 days per week:<br>Ohlone Park, Aquatic Park, James Kenney Park, Live Oak Park) |                 |          |              |
|                                                                                                                                                             | 2-Hours         | \$25     | \$30         |
| <b>8. Weddings</b> (4-hour minimum)                                                                                                                         |                 |          |              |
| <b>A. Rose Garden</b>                                                                                                                                       |                 |          |              |
|                                                                                                                                                             | 4-Hours         | \$1,000  | \$1,200      |
| Each Additional Hour (after 4 hours)                                                                                                                        | Hour            | \$170    | \$204        |
| <b>B. Cragmont, Live Oak Park, &amp; John Hinkel</b> (outside areas)                                                                                        |                 |          |              |
|                                                                                                                                                             | 4-Hours         | \$450    | \$540        |
| Each Additional Hour (after 4 hours)                                                                                                                        | Hour            | \$75     | \$90         |
| <b>C. Spinnaker Way Vista</b>                                                                                                                               |                 |          |              |
|                                                                                                                                                             | 4-Hours         | \$750    | \$750        |
| Each Additional Hour (after 4 hours)                                                                                                                        | Hour            | \$170    | \$170        |
| <b>D. Yacht Club Point</b>                                                                                                                                  |                 |          |              |
|                                                                                                                                                             | 4-Hours         | \$750    | \$750        |
| Each Additional Hour (after 4 hours)                                                                                                                        | Hour            | \$170    | \$170        |
| Cleaning/Damage Deposit (refundable)                                                                                                                        | Rental          | \$700    | \$700        |
| <b>III. SWIM CENTER FEES</b>                                                                                                                                |                 |          |              |
| <b>1. Admissions (Public &amp; Family Swim, Laps)</b>                                                                                                       |                 |          |              |
| Adult (Drop-in)                                                                                                                                             | Swim            | \$6      | \$6          |
| Adult (10-Swim Card)                                                                                                                                        | 10-Swims        | \$51     | \$51         |



| Program Area                                                                             | Unit of Measure | Resident | Non-Resident |
|------------------------------------------------------------------------------------------|-----------------|----------|--------------|
| Adult (Monthly)                                                                          | Month           | \$73     | \$73         |
| Youth, Senior, Disabled (Drop-In)                                                        | Swim            | \$3      | \$3          |
| Youth Senior Disabled (10-Swim Card)                                                     | 10-Swims        | \$22     | \$22         |
| Youth Senior Disabled (Monthly Card)                                                     | Month           | \$37     | \$37         |
| <b>2. Red Cross Swim Sessions</b>                                                        |                 |          |              |
| Adult                                                                                    | Session         | \$75     | \$90         |
| Youth, Senior, Disabled                                                                  | Session         | \$72     | \$84         |
| Organized Youth Groups (Residents only)                                                  |                 |          |              |
| 10-15 participants                                                                       | Session         | \$65     | -            |
| 16-21 participants                                                                       | Session         | \$62     | -            |
| 22-32 participants                                                                       | Session         | \$54     | -            |
| 33-43 participants                                                                       | Session         | \$48     | -            |
| 44-54 participants                                                                       | Session         | \$39     | -            |
| 55+ participants                                                                         | Session         | \$37     | -            |
| <b>3. Premium Classes</b>                                                                |                 |          |              |
| Continuous & Coached Workouts: water aerobics, parent/tot, stroke technique, Master Swim |                 |          |              |
| Adult (Drop-in)                                                                          | Swim            | \$7      | \$7          |
| Adult (10-Swim Card)                                                                     | 10-Swims        | \$66     | \$66         |
| Adult (Monthly)                                                                          | Month           | \$82     | \$82         |
| Youth, Senior, Disabled (Drop-In)                                                        | Swim            | \$5      | \$5          |
| Youth Senior Disabled (10-Swim Card)                                                     | 10-Swims        | \$40     | \$40         |
| Youth Senior Disabled (Monthly Card)                                                     | Session         | \$57     | \$57         |
| <b>4. Private Swim Lessons (1/2 hour session)</b>                                        |                 |          |              |
| Individual (One-on-One)                                                                  | Lesson          | \$30     | \$36         |
| Semi-Private Lesson (2 or more Participants)                                             | Lesson          | \$50     | \$60         |
| <b>IV. RECREATION PROGRAMS</b>                                                           |                 |          |              |
| <b>1. Sports</b>                                                                         |                 |          |              |
| <b>A. Adult Softball League</b>                                                          |                 |          |              |
| 4 Game Season                                                                            | Team            | \$320    | \$384        |
| 8 Game Season                                                                            | Team            | \$640    | \$715        |
| 10 Game Season                                                                           | Team            | \$800    | \$875        |
| <b>B. Adult Basketball League</b>                                                        |                 |          |              |
| 8 Game Season                                                                            | Team            | \$560    | \$635        |
| 10 Game Season                                                                           | Team            | \$700    | \$775        |
| <b>C. Adult Volleyball League</b>                                                        |                 |          |              |
| 8 Game Season                                                                            | Team            | \$320    | \$384        |

| Program Area                                                                    | Unit of Measure | Resident | Non-Resident |
|---------------------------------------------------------------------------------|-----------------|----------|--------------|
| 10 Game Season                                                                  | Team            | \$400    | \$475        |
| 12 Game Season                                                                  | Team            | \$480    | \$555        |
| 15 Game Season                                                                  | Team            | \$600    | \$675        |
| <b>D. Open Gym Volleyball</b>                                                   | Drop-In         | \$5      | \$5          |
| <b>E. Youth Baseball</b>                                                        |                 |          |              |
| Individual                                                                      | Session         | \$51     | \$61         |
| <b>F. Youth Hoops League</b>                                                    |                 |          |              |
| Individual                                                                      | Session         | \$30     | \$36         |
| <b>G. Youth Twilight Basketball</b>                                             |                 |          |              |
| Individual                                                                      | Session         | \$27     | \$32         |
| <b>H. Youth Flag Football League</b>                                            |                 |          |              |
| Individual                                                                      | Session         | \$30     | \$36         |
| <b>I. Tennis Lessons</b>                                                        |                 |          |              |
| Youth                                                                           | Session         | \$73     | \$88         |
| Adult                                                                           | Session         | \$107    | \$128        |
| <b>J. Skate Park Lessons &amp; Classes</b>                                      |                 |          |              |
| Full Day                                                                        | Session         | \$258    | \$310        |
| 1/2 Day Camp                                                                    | Session         | \$195    | \$234        |
| Park Introduction                                                               | Session         | \$11     | \$13         |
| Trick Clinic                                                                    | Session         | \$11     | \$13         |
| Private Lessons                                                                 | Hour            | \$43     | \$52         |
| Group Lessons                                                                   | Session         | \$108    | \$130        |
| <b>2. Programs at Centers</b>                                                   |                 |          |              |
| <b>A. After School Program Registration Fee (Frances Albrier, James Kenney)</b> |                 |          |              |
| Individual                                                                      | Week            | \$25     | \$30         |
| <b>B. Community Center Camp Programs (Winter, Spring, Summer)</b>               |                 |          |              |
| Core                                                                            | 30 hours        | \$101    | \$121        |
| AM Extended Care                                                                | 5 hours         | \$10     | \$12         |
| PM Extended Care                                                                | 15 hours        | \$30     | \$36         |
| <b>3. Camp Programs</b>                                                         |                 |          |              |
| <b>A. Berkeley Day Camp</b>                                                     |                 |          |              |
| Youth Core Program                                                              | 5-Days          | \$240    | \$288        |
| AM Extended Care                                                                | 5-Days          | \$51     | \$61         |
| PM Extended Care                                                                | 5-Days          | \$79     | \$95         |
| Counselor-In-Training                                                           | 10-days         | \$194    | \$232        |
| <b>Surcharges</b>                                                               |                 |          |              |
| Changed Reservation                                                             | Per Change      | \$0      | \$0          |

| Program Area                                | Unit of Measure    | Resident | Non-Resident |
|---------------------------------------------|--------------------|----------|--------------|
| Cancelled Reservation                       | Session            | 25%      | 25%          |
| <b>B. Echo Lake Camp</b>                    |                    |          |              |
| <b>Berkeley Echo Lake Family Camp</b>       |                    |          |              |
| <b>Family Camp Session Fees</b>             |                    |          |              |
| Low Occupancy tent                          | 7-Days             | \$1,450  | \$1,600      |
| Low Occupancy tent                          | 5-Days             | \$1,000  | \$1,100      |
| Standard Occupancy tent                     | 7-Days             | \$1,675  | \$1,850      |
| Standard Occupancy tent                     | 5-Days             | \$1,100  | \$1,200      |
| Additional Camper fee                       | 7-Days             | \$375    | \$415        |
| Additional Camper fee                       | 5-Days             | \$250    | \$275        |
| <b>Family Camp Daily Fees</b>               |                    |          |              |
| Adult (15+)                                 | Day                | \$108    | \$120        |
| Youth (7-14)                                | Day                | \$72     | \$80         |
| Child (3-6)                                 | Day                | \$54     | \$60         |
| <b>Echo Lake Camp Counselor-In-Training</b> |                    |          |              |
| Counselor-In-Training (CIT)                 | 1-week             | \$275    | \$300        |
| Counselor-In-Training (CIT)                 | 2-week             | \$400    | \$440        |
| <b>Echo Lake Youth Camp</b>                 |                    |          |              |
| 5-Day Program                               | 5-Days             | \$600    | \$660        |
| 7-Day Program                               | 7-Days             | \$840    | \$924        |
| <b>50+ Camp</b>                             |                    |          |              |
|                                             | Weekend            | \$230    | \$254        |
| <b>50+ Camp</b>                             | 4-days             | \$290    | \$320        |
| <b>Work Weekend</b>                         |                    |          |              |
|                                             | Weekend            | \$0      | \$0          |
| <b>Group Rental Rates</b>                   |                    |          |              |
| Adult (15+)                                 | Day                | \$76     | \$84         |
| Youth (7-14)                                | Day                | \$65     | \$71         |
| Child (3-6)                                 | Day                | \$48     | \$53         |
| <b>Surcharges</b>                           |                    |          |              |
| Cleaning/Damage Deposit (Refundable)        | Rental             | \$300    | \$300        |
| Tent Single Occupancy                       | Per person per day | \$200    | \$220        |

| Program Area                                                          | Unit of Measure    | Resident                                            | Non-Resident |
|-----------------------------------------------------------------------|--------------------|-----------------------------------------------------|--------------|
| Tent Double Occupancy                                                 | Per person per day | \$63                                                | \$70         |
| Change Reservation<br>(30 days or more before arrival)                | Reservation        | \$100                                               | \$100        |
| Cancel Reservation (30 days or more<br>before arrival)                | Reservation        | 25% of reservation fee<br>not to exceed \$150       |              |
| Cancel Reservation (due to emergency or<br>illness, with Dr's excuse) | Reservation        | No charge                                           |              |
| Late Fee                                                              |                    | \$75 if balance is not<br>paid by date<br>specified |              |
| <b>4. Waterfront Programs</b>                                         |                    |                                                     |              |
| <b>A. Adventure Playground</b>                                        |                    |                                                     |              |
| Individual Admission (anyone over 1 year<br>old)                      | Day                | \$1                                                 | \$1          |
| Group size 5-10                                                       | 2-hours            | \$75                                                | \$75         |
| Group size 11-20                                                      | 2-hours            | \$105                                               | \$105        |
| Group size 21-30                                                      | 2-hours            | \$150                                               | \$150        |
| Group size 31-40                                                      | 2-hours            | \$180                                               | \$180        |
| <b>B. Education Programs</b>                                          |                    |                                                     |              |
| Animal                                                                | Session            | \$200                                               | \$200        |
| Low Tide                                                              | Session            | \$200                                               | \$200        |
| Research Boat Trip                                                    | Session            | \$225                                               | \$225        |
| Sail Boat Trip                                                        | Session            | \$255                                               | \$255        |
| Docent Training                                                       | Session            | \$65                                                | \$65         |
| Special Program Request                                               | Hour               | \$65                                                | \$65         |
| Marine Biology                                                        | 4-Days             | \$75                                                | \$75         |
| Marine Biology                                                        | 8-Days             | \$150                                               | \$150        |
| Boating                                                               | 4-Days             | \$150                                               | \$150        |
| Canoeing                                                              | 3-Days             | \$55                                                | \$55         |



## ATTACHMENT 4

**NOTICE OF PUBLIC HEARING - BERKELEY CITY COUNCIL  
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**Recreation Division Fee Increases**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Parks, Recreation & Waterfront is proposing to increase selected fees, as contained in the attached Recreation Fee Schedule and excerpted below:

| <b>Program Area</b>                                                                                                                                                                      | <b>Unit of Measure</b> | <b>Resident (current fee)</b> | <b>Resident (proposed fee)</b> | <b>Non-Resident (current fee)</b> | <b>Non-Resident (proposed fee)</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-------------------------------|--------------------------------|-----------------------------------|------------------------------------|
| <b>I. DIRECTOR'S AUTHORITY TO IMPLEMENT NEW FEES</b>                                                                                                                                     |                        |                               |                                |                                   |                                    |
| A. The Director of Parks Recreation and Waterfront, or his/her designee, reserves the right to establish fees for new Recreation programs based on comparison with other municipalities. |                        |                               |                                |                                   |                                    |
| Various                                                                                                                                                                                  | Various                | Up to \$250                   | Up to \$350                    | Up to \$250                       | Up to \$420                        |
| <b>II. FACILITY RENTAL CHARGES</b>                                                                                                                                                       |                        |                               |                                |                                   |                                    |
| <b>5. Tennis Courts</b>                                                                                                                                                                  |                        |                               |                                |                                   |                                    |
| <b>B. Night Use/Lighted Courts:</b> Grove, James Kenney, Live Oak, San Pablo, Strawberry Creek, Willard                                                                                  |                        |                               |                                |                                   |                                    |
| Youth, Senior, Disabled                                                                                                                                                                  | Hour                   | \$9                           | \$8                            | \$11                              | \$10                               |
| <b>IV. RECREATION PROGRAMS</b>                                                                                                                                                           |                        |                               |                                |                                   |                                    |
| <b>3. Camp Programs</b>                                                                                                                                                                  |                        |                               |                                |                                   |                                    |
| <b>A. Berkeley Day Camp</b>                                                                                                                                                              |                        |                               |                                |                                   |                                    |
| Youth Core Program                                                                                                                                                                       | 5-Days                 | \$200                         | \$240                          | \$240                             | \$288                              |
| <b>B. Echo Lake Camp</b>                                                                                                                                                                 |                        |                               |                                |                                   |                                    |

| Program Area                   | Unit of Measure | Resident (current fee) | Resident (proposed fee) | Non-Resident (current fee) | Non-Resident (proposed fee) |
|--------------------------------|-----------------|------------------------|-------------------------|----------------------------|-----------------------------|
| <b>Echo Lake Family Camp</b>   |                 |                        |                         |                            |                             |
| Low Occupancy Tent             | 7-Day           | --                     | \$1,000                 | --                         | \$1,100                     |
| Low Occupancy Tent             | 5-Day           | --                     | \$1,100                 | --                         | \$1,200                     |
| Standard Occupancy tent        | 7-Day           | --                     | \$1,675                 | --                         | \$1,850                     |
| Standard Occupancy tent        | 5-Day           | --                     | \$1,450                 | --                         | \$1,600                     |
| Additional Camper              | 7-Day           | --                     | \$250                   | --                         | \$275                       |
| Additional Camper              | 5-Day           | --                     | \$375                   | --                         | \$415                       |
| 50+ Camp (50 & Better Camp)    | Weekend         | \$183                  | \$230                   | \$201                      | \$254                       |
| 50+ Camp (50 & Better Camp)    | 4-days          | \$229                  | \$290                   | \$252                      | \$320                       |
| <b>Echo Lake Group Rentals</b> |                 |                        |                         |                            |                             |
| Adult (15+)                    | Day             | \$61                   | \$76                    | \$67                       | \$84                        |
| Youth (7-14)                   | Day             | \$52                   | \$65                    | \$57                       | \$71                        |
| Child (3-6)                    | Day             | \$38                   | \$48                    | \$42                       | \$53                        |

The hearing will be held on May 25, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor's Executive Order N-29-20.

For further information, please contact **Denise Brown at 510-981-6707**.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **May 13, 2021**. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to [council@cityofberkeley.info](mailto:council@cityofberkeley.info) in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

**Published:** May 14 and May 21, 2021 – The Berkeley Voice  
Published pursuant to Government Code 6062a

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 13, 2021.

Mark Numainville, City Clerk



Office of the City Manager

38

ACTION CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Rama Murty, Acting Budget Manager
 Subject: FY 2022 Proposed Budget and Proposed Budget Public Hearing #1

RECOMMENDATION

Accept the FY 2022 Proposed Budget for review and consideration by the City Council and final adoption on June 29, 2021 and conduct Public Hearing #1 on the FY 2022 Proposed Budget.

CURRENT SITUATION AND ITS EFFECTS

This report provides the Council with the FY 2022 Proposed Budget for review and consideration and for final adoption on June 29, 2021. Following the staff presentation on the FY 2022 Proposed Budget, staff is asking the Council to conduct Public Hearing #1 on the budget.

The FY 2022 Proposed Budget process began in December 2020, almost 9 months after the COVID-19 pandemic began and the shelter-in-place orders were implemented. At that time, staff decided to shift from a regular 2 Year budget process to a 1 Year budget process for FY 2022. This decision was made to provide time to evaluate the impacts of COVID-19 on the local economy and finances and to develop an understanding of the impacts of vaccines.

Through the use of American Rescue Plan Funds to cover General Fund revenue losses suffered in FY 2020 and FY 2021, the City has been able to balance the FY 2022 General Fund budget. Staff has also balanced the FY 2022 General Fund budget by continuing certain one-time deferrals and is reviewing revenue projections as more data becomes available. The FY 2022 General Fund budget funds critical needs in both operations and infrastructure.

The FY 2022 Proposed Budget also uses American Rescue Plan Funds to address significant revenue losses to the Marina Fund, both the On-Street and Off-Street Parking Funds, Camps Fund, and the Gilman Sports Field Fund.

The FY 2022 Proposed Budget Book (Attachment 1) is organized into the following sections:

1. Budget Message
2. Financial Summaries
3. General Fund
4. Other Fund Forecasts
5. Staffing
6. Strategic Plan
7. Department Narratives
8. Performance Measures
9. Capital Improvement Program
10. Community Agencies

The document contains an overview in the beginning describing each section and has hyperlinks so that each section can be accessed easily.

Over the next month, staff will be working closely with the Budget & Finance Policy Committee and the Council on the FY 2022 Proposed Budget. A schedule of the meetings and dates is as follows:

FY 2022 Budget Calendar	
Date	Action/Topic
May 25, 2021	<ul style="list-style-type: none"> • FY 2022 Proposed Budget Presentation • Public Hearing #1: Budget • FY 2022 Proposed Fee Increases
May 27, 2021	<ul style="list-style-type: none"> • Budget & Finance Policy Committee Meeting
June 1, 2021	<ul style="list-style-type: none"> • Public Hearing #2: Budget • Last date for formal budget referrals to the FY 2022 Budget Process • Council recommendations on budget due to the City Manager
June 10, 2021	<ul style="list-style-type: none"> • Budget & Finance Policy Committee Meeting
June 15, 2021	<ul style="list-style-type: none"> • Council discussion on budget recommendations
June 24, 2021	<ul style="list-style-type: none"> • Budget & Finance Policy Committee Meeting
June 29, 2021	<ul style="list-style-type: none"> • Adopt FY 2022 Proposed Budget & FY 2022 Annual Appropriations Ordinance

Achieving a sustainable balance of both personnel and non-personnel expenditures against reasonable revenue projections will continue to require close attention, especially as we move through new economic cycles. As labor contracts expire at the end of FY 2021, the City has an opportunity to work with its bargaining units to establish an approach to managing costs that will enable stability into the future.

As the economy begins to improve so does the City's budgetary outlook. It is important that we continue making fiscally prudent decisions with the future in mind. By staying focused on priority services and long-term responsibilities, we can sustain the City's fiscal health well into the future and be better able to meet community needs. The proposed budget reflects our continued commitment to stewarding the public's resources for their benefit and that of future generations.

The FY 2022 Proposed Budget is a Strategic Plan Priority Project, advancing our goal to provide an efficient and financially-health City government.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

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

David White, Deputy City Manager, City Manager's Office, 981-7000

Henry Oyekanmi, Finance Director, Department of Finance 981-7300

**NOTICE OF PUBLIC HEARING
BERKELEY CITY COUNCIL**

FY 2022 PROPOSED BUDGET PUBLIC HEARING #1

The City Manager’s Office is proposing a public hearing for the FY 2022 Proposed Budget which is being presented to the City Council.

The hearing will be held on May 25, 2021 at 6:00 p.m. The hearing will be held via videoconference pursuant to Governor’s Executive Order N-29-20.

A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of May 13, 2021. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact **Rama Murty** at (510) 981-7044.

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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Mark Numainville, City Clerk



Sugar-Sweetened Beverage  
Product Panel of Experts  
(SSBPPE) Commission

39a

ACTION CALENDAR  
May 25, 2021

To: Honorable Mayor Jesse Arreguin and Members of the City Council

From: Advisory Sub-Committee of the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission

Submitted by: Bobbie Rose, Chairperson, Advisory Sub-Committee of the Sugar-Sweetened Beverage Product Panel of Experts (SSBPPE) Commission

Subject: Grant Allocation: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)

RECOMMENDATIONS

Approve the SSBPPE Commission's recommendations and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the Berkeley Unified School District and the Community Based Organizations (CBOs) listed below to distribute a total of \$2,662,506 for FY 2022 and FY 2023 according to the schedule below and to also provide \$239,626 to the City of Berkeley Public Health Division (BPHD) during the same period to support administering and enhancing this program as approved by the Berkeley City Council as follows:

1. \$951,452 total grant to **Berkeley Unified School District** to implement the *Gardening and Cooking Program* for FY 2022 and FY 2023 to be disbursed as follows: \$475,726 for FY 2022 and \$475,726 for FY 2023.
2. \$242,250 total grant to the **Ecology Center** to implement *For Thirst, Water First!* program for FY 2022 and FY 2023 to be disbursed as follows: \$121,125 in FY 2022 and \$121,125 in FY 2023.
3. \$445,330 grant to **Healthy Black Families** to implement *Thirsty for Change!* (T4C) program for FY 2022 and FY 2023 to be disbursed as follows: \$222,665 in FY 2022 and \$222,665 in FY 2023.
4. \$30,000 grant to the **Multicultural Institute** to implement the *Life Skills/Day Laborer Program: Health Activity* program for FY 2022 and FY 2023 to be disbursed as follows: \$15,000 in FY 2022 and \$15,000 in FY 2023.
5. \$80,000 grant to the **YMCA of the East Bay** to implement the *YMCA Diabetes Prevention* (YDPP) program for FY 2022 and FY 2023 to be disbursed as follows: \$40,000 in FY 2022 and \$40,000 in FY 2023.

6. \$90,550 grant to the **YMCA of the East Bay** to implement the *YMCA Healthy Me!* program for FY 2022 and FY 2023 to be disbursed as follows: \$45,275 in FY 2022 and \$45,275 in FY 2023.
7. \$237,150 grant to **Lifelong Medical Care** to implement the *Chronic Disease and Oral Health Prevention Project* for FY 2022 and FY 2023 to be disbursed as follows: \$118,575 in FY 2022, and \$118,575 in FY 2023
8. \$37,600 grant to **Fresh Approach** to implement the *Veggie Rx Program for Healthy Foods and Beverages* program for FY 2022 and FY 2023 to be disbursed as follows: \$18,800 in FY 2022, and \$18,800 in FY 2023.
9. \$116,000 grant to **Bay Area Community Resources** to implement the *Healthy Options at Point of Sale* program for FY 2022 and FY 2023 to be disbursed as follows: \$58,000 in FY 2022, and \$58,000 in FY 2023.
10. \$55,448 grant to **Community Health Education Institute** to implement the *Artists Against Soda* program for FY 2022 and FY 2023 to be disbursed as follows: \$27,724 in FY 2022, and \$27,724 in FY 2023.
11. \$77,600 grant to **Berkeley Youth Alternatives** to implement the *Urban Agriculture and Team Nutrition Program* for FY 2022 and FY 2023 to be disbursed as follows: \$38,800 in FY 2022 and \$38,800 in FY2023.
12. \$59,500 grant to **18 Reasons** to implement the *Cooking Matters* program for FY2022 and FY2023 to be disbursed as follows: \$29,750 in FY2022 and \$29,750 in FY2023.
13. \$239,626 to the **City of Berkeley Public Health Division (BPHD)** to support the SSBPPE Commission and assist with outside evaluations to be disbursed as follows: \$119,813 in FY 2022 and \$119,813 in FY 2023.
14. The Commission recommends that indirect or administrative expenses not exceed 10% of the program budget for any entity and that the funds awarded not be used to supplant any other source of funding.
15. The Commission recommends that City Council authorize the City Manager to authorize advances for BUSD and the selected community agencies receiving funds in FY 2022 and FY2023. The advances are to be equivalent to 25% of the agency's allocation.

### SUMMARY

The SSBPPE Commission asks the City Council to approve and authorize distribution of \$2,662,506 for FY 2022 and FY 2023 allocated for community-based agencies under Project Code HHHSSB as follows:

1. \$951,452 total grant to **Berkeley Unified School District** to implement the *Gardening and Cooking Program* for FY 2022 and FY 2023 to be disbursed as follows: \$475,726 for FY 2022 and \$475,726 for FY 2023 that will:

- a. Increase awareness and knowledge about the health impacts of consuming SSBs through the cooking and gardening program;
  - b. Improve access to water and support family engagement;
  - c. Work to support, update and disseminate information on school SSB and water policies. Even small policy efforts can positively influence sustainability of efforts; and
  - d. Work to support schoolwide evaluation of district efforts to reduce SSB consumption. For example, use of BUSD YRBS data could inform programming within BUSD and the larger community, as well.
2. \$242,250 total grant to the **Ecology Center** to implement *For Thirst, Water First!* Program to be disbursed in FY 2022 (\$121,125) and FY 2023 (\$121,125) that will:
- a. Hire and train paid interns to work on *Water First* campaign including water access and marketing, as well as food systems including operating food stands and collaborating with BANPAC;
  - b. Plan and conduct 9<sup>th</sup> grade assembly focusing on marketing and inequity as well as BHS pop-ups and events with produce and water, food drives and farm box with cooking demonstrations, and a student poster contest; and
  - c. Co-create a Health Justice Youth Group who will conduct needs assessment for school water fountains, and who will be trained in program implementation and evaluation and advocacy.
3. \$445,330 total grant to **Healthy Black Families** to continue the *Thirsty for Change!* Program to be disbursed in FY 2022 (\$222,665) and FY 2023 (\$222,665) that will:
- a. Continue to partner with Center for Food, Faith and Justice (CFFJ) who will engage students at B-Tech Academy to do presentations on predatory marketing and other topics and help implement 6-10 new food/beverage policy changes to address health equity and 3-5 faith-based communities who will create food and beverage policies for events;
  - b. Continue to educate through classes, workshops and events, and grocery store and farmers market tours focusing on healthy living, health equity and industry marketing. New this year is an outreach effort to engage more men in these efforts;
  - c. Work with BHS student leaders and athletes to support and advocate for SSB policies at school sponsored events and student led events; and
  - d. Create a campaign to identify targets for media advocacy, encourage healthy retail efforts using 8 quarterly trainings. Work with at least 5 churches and

early childhood care providers who will develop a SSB and water policy. This will be part of Voices for Change which is helping others to engage in policy, systems, and environmental changes that will lead to improved health equity.

4. \$30,000 total grant to the **Multicultural Institute** to implement the *Life Skills/Day Laborer: Health Activity Program* to be disbursed in FY 2022 (\$15,000) and FY 2023 (\$15,000) that will:
  - a. Offer cultural and language appropriate classes and workshops on the serious health risks of consuming SSBs to uninsured or underinsured immigrants, day laborers, and other low-income families in West Berkeley;
  - b. Develop and distribute 4 quarterly newsletters with SSB/water resources and information about health conditions related to SSBs and post this information on social media;
  - c. Offer health screening and referrals and connect families to services for these conditions when needed; and
  - d. Work to provide healthier food and beverages in meal and snack offerings.
  
5. \$237,150 total grant to **Lifelong Medical Care** to implement the *Chronic Disease and Oral Health Prevention Project* to be disbursed in FY 2022 (\$118,575) and FY 2023 (\$118,575) that will:
  - a. Conduct 24 outreach educational events/year on medical and oral health impacts of SSBs;
  - b. Screen 1000 Berkeley residents for hypertension providing primary care for 200 to mitigate the impact of SSBs; and
  - c. Conduct 6 oral health outreach events where 300 dental patients will be provided with SSB education, 200 will have a dental visit.
  
6. \$80,000 total grant to the **YMCA of the East Bay** to implement a *Diabetes Prevention Program* to be disbursed in FY 2022 (\$40,000) and FY 2023 (\$40,000) that will:
  - a. Utilize a Centers for Disease Control (CDC)-recognized curriculum to prevent type 2 diabetes through providing 24 one hour sessions/year to 50 high risk adult patients with coaching in healthy eating, physical activity, and behavior changes; and
  - b. Develop and disseminate a newsletter on diabetes prevention.



7. \$90,550 total grant to the **YMCA of the East Bay** to implement the *Healthy Me! Program* to be disbursed in FY 2022 (\$45,275) and FY 2023 (\$45,275) that will:
  - a. Provide early education classes on healthy foods and water to 1000 children;
  - b. Provide reusable water bottles to over 1100 staff, parents and children to support improved access to water;
  - c. Provide workshops to 100 parents on the importance of healthy foods and water and enlist 5-10 parents as Water Champions who will lead 1-2 activities at the child care center;
  - d. Distribute 600 newsletters to parents on the importance of SSB reduction to health;
  - e. Distribute food to 250 high risk families; and
  - f. Strengthen current water policies by extending the policies at meetings in the virtual setting.
  
8. \$55,448 total grant to the **Community Health Education Institute** to implement the *Artists against Soda* program to be disbursed in FY 2022 (\$27,724) and FY 2023 (\$27,724) that will:
  - a. Visit markets, gas stations, and small eateries to gather information and to educate;
  - b. Work to remove SSB advertising from commercial venues;
  - c. Give classes to students on SSBs and on Healthy Checkout Ordinance;
  - d. Hold a downtown Berkeley art contest to promote and disseminate educational messages in local venues, as well as through social media; and
  - e. Draft, educate and promote a new ordinance based on a student led effort to restrict SSBs in eateries surrounding the high school.
  
9. \$116,000 total grant to **Bay Area Community Resources** to implement the *Healthy Options at Point of Sale* program to be disbursed in FY 2022 (\$58,000) and FY 2023 (\$58,000) that will:
  - a. Continue with recruitment and training of youth advocates to form a Berkeley Advocacy Team to increase knowledge of food justice and the role of retail food environment to reduce disparities. Advocates will be able to disseminate Healthy Checkout data to key stakeholders;
  - b. Provide outreach to and support of stores > 2500 sq ft participating in Healthy Checkout Program. Feedback and compliance tools and training materials

- will be developed and distributed. Feedback to stores and the community at large will be provided by a variety of methods including social media; and
- c. Provision of results from surveys and interviews and other evaluation data will be used to garner support for future program expansion. Letters from businesses will be gathered to support future expansion efforts.
10. \$77,600 total grant to **Berkeley Youth Alternatives** to implement the *Urban Agriculture and Team Nutrition Program* to be disbursed in FY 2022 (\$38,800) and FY 2023 (\$38,800) that will:
- a. Recruit, hire, and train 6 garden and nutrition educators to facilitate sessions for programs where participants will sign water pledges; and
  - b. Host an annual youth forum to share experiences and cover SSB and water policies and advocacy.
11. \$37,600 total grant to **Fresh Approach** to implement *VeggieRx Program for Healthy Food and Beverages* to be disbursed in FY 2022 (\$18,800) and FY 2023 (\$18,800) that will:
- a. Partner with Lifelong to provide high risk patients with standardized nutrition education and access to health food boxes utilizing a video training approach with AmeriCorps volunteers to maximize the resources; and
  - b. Develop and institutionalize an evaluation plan using health metrics such as BMI, dental caries and diabetic A1C levels that will over time provide outcome data on the value of combining education with improved access to healthy foods to improve health.
12. \$59,500 total grant to **18 Reasons** to implement the *Cooking Matters* program to be disbursed in FY 2022 (\$29,750) and FY 2023 (\$29,750) that will:
- a. Partner with BUSD and Berkeley Public Library to educate children and their families. Young children are a critically important, yet often overlooked group which would benefit from the program;
  - b. Expand this year to include an important retail component, i.e. Cooking Matters in-store tours; and
  - c. Identification of sustainable components of these programs is key as are evaluation of all efforts.
13. \$239,626 total grant to the **City of Berkeley Public Health Division (BPHD)** to support the SSBPPE Commission; assist with evaluations beyond the Results Based Accountability effort; coordinate and monitor the grant process; evaluate and

enhance the *Healthy Berkeley Program*; and produce an annual report that informs the public and disseminates outcome data; to be disbursed as follows \$119,813 in FY 2022 and \$119,813 in FY 2023. The BPHD shall use the funds on policy, system, and/or environmental (PSE) strategies to support and enhance the *Healthy Berkeley Program* and collaborate with the community-based organizations. The BPHD will work in partnership with the SSBPPE Commission in a transparent and open manner to plan and strategize for the best use of these new funds.

#### FISCAL IMPACTS OF RECOMMENDATION

There are no additional financial impacts to the City. The Council allocated \$2,662,506 from the General Fund on December 15, 2020 (Resolution No. 69,669-N.S.) for grants to BUSD cooking and gardening program and community agencies in FY 2022 and FY 2023.

#### CURRENT SITUATION AND ITS EFFECTS

On April 1, 2021, the Allocation Advisory Sub-Committee of the SSBPPE Commission selected and unanimously approved 11 programs from community-based organizations and the Berkeley Unified School District (BUSD) for funding recommendations. All proposals were scored using a standard set of questions for each of the five criteria articulated in the Request for Proposals (RFP). All proposals were reviewed and scored by the Advisory Subcommittee consisting of three SSBPPE commissioners as five of eight SSBPPE commissioners were deemed to have potential conflicts of interest by the City Attorney. All proposals were also reviewed and scored by a panel of three city staff from the Public Health Division (PHD). The rankings of the Advisory Subcommittee and the PHD panel were either identical or within +/-2 rankings for 73% of the proposals.

For the FY 2022-FY 2023 funding cycle, the City had a significantly smaller total allocation due to the effect of the pandemic on soda tax revenues. In addition, the last funding allocation (FY 2020-FY 2021) included unallocated revenues from the general fund for the prior three years over and above the historical base \$3,000,000 allocation. Thus, difficult decisions had to be made that had to affect all beneficiaries of this funding fairly. Three strategies guided the Advisory Subcommittee:

1. All proposals were assessed for their alignment with stated strategic objectives, quality of past performance if previously funded, and particularly for their proposed evaluation and policy measures. Only one proposal was eliminated due to significantly lower scores from both panels.
2. All recommended grantees have been previously funded as the SSBPPE recognizes that changing culture, environment, and behavior takes time and we have all made a commitment to sustainable long-term change. No grantee was awarded more than their previous amount of funding, including the Public Health Division and BUSD with the exception of one grantee who was awarded \$8000 over their prior funding

amount in recognition of their improved proposed evaluation. The cuts ranged from 10-20% depending on the quality of the application as demonstrated by the scores and the rank of the application.

3. The administration funding for the Public Health Division was compared with the funding percentages in other bay area jurisdictions with soda taxes and was aligned with these jurisdictions at 10% which was at the high end of the comparisons. The proposed scope of work for the PHD was also decreased in recognition of the decreased funding.

In summary, in order to be fair and equitable during these challenging times, recommendations for allocations from the subcommittee reflect assessment based on the quality of the application, the quality of the work in the past, and the quality of the evaluation of the project. These recommendations were unanimously approved by the Advisory Subcommittee of the SSBPPE and forwarded to the Mayor and members of the City Council under the advice and guidance of the City Attorney given the status of potential conflict of interest of five of the remaining SSBPPE commission members.

#### BACKGROUND

In November of 2014, Berkeley voters passed Measure D, requiring both the collection of a 1 cent per ounce tax on the distribution of sugary drinks in the City of Berkeley and the convening of the Sugar Sweetened Beverage Products Panel of Experts (SSBPPE) to recommend investments to both reduce the consumption of sugary drinks as well as to address the health consequences of the consumption of sugary drinks.

On December 15, 2020, the Berkeley City Council unanimously approved Action Items 26 (Resolution No. 69,669-N.S.) recommending an allocation of \$2,662,506 over two years, FY 2022 and FY 2023, to fund the Healthy Berkeley Program recognizing that Measure D is a General Tax and its revenues cannot be aligned dollar for dollar with the Healthy Berkeley Program.

On January 22, 2021 the BPHD released a Request for Proposals (RFP) soliciting program proposals from CBOs that promote reduction of consumption of SSBs and address the effects of SSB consumption on health. The RFP announcement was widely distributed to CBOs serving Berkeley.

On February 25, 2021, the City of Berkeley received proposals from 11 CBOs and BUSD. The proposals were reviewed and scored by two parallel review panels (SSBPPE Commission Review Panel and BPHD Staff Review Panel). Three Commissioners reviewed the proposals (five Commissioners recused themselves from the entire review process due to potential conflict of interest).

On April 1, 2021, the Advisory Subcommittee of the SSBPPE unanimously approved a council item to forward the following funding recommendations to the Berkeley City Council:

|                                                 | <b>FY 2022</b>         | <b>FY 2023</b>         | <b>2 Year Total</b>    |
|-------------------------------------------------|------------------------|------------------------|------------------------|
| <b>BUSD</b>                                     | \$ 475,726.00          | \$ 475,726.00          | \$ 951,452.00          |
| <b>Ecology Center</b>                           | \$ 121,125.00          | \$ 121,125.00          | \$ 242,250.00          |
| <b>Healthy Black Families</b>                   | \$ 222,665.00          | \$ 222,665.00          | \$ 445,330.00          |
| <b>Multicultural Institute</b>                  | \$ 15,000.00           | \$ 15,000.00           | \$ 30,000.00           |
| <b>Lifelong Medical Care</b>                    | \$ 118,575.00          | \$ 118,575.00          | \$ 237,150.00          |
| <b>YMCA of the East Bay--<br/>YDPP</b>          | \$ 40,000.00           | \$ 40,000.00           | \$ 80,000.00           |
| <b>YMCA of the East Bay<br/>—Healthy Me!</b>    | \$ 45,275.00           | \$ 45,275.00           | \$ 90,550.00           |
| <b>Berkeley Youth<br/>Alternatives</b>          | \$ 38,800.00           | \$ 38,800.00           | \$ 77,600.00           |
| <b>18 Reasons</b>                               | \$ 29,750.00           | \$ 29,750.00           | \$ 59,500.00           |
| <b>Fresh Approach</b>                           | \$ 18,800.00           | \$ 18,800.00           | \$ 37,600.00           |
| <b>Bay Area Community<br/>Resources</b>         | \$ 58,000.00           | \$ 58,000.00           | \$<br>116,000.00       |
| <b>Community Health<br/>Education Institute</b> | \$ 27,724.00           | \$ 27,724.00           | \$ 55,448.00           |
| <b>City of Berkeley PHD</b>                     | \$ 119,813.00          | \$ 119,813.00          | \$ 239,626.00          |
| <b>Totals</b>                                   | <b>\$ 1,331,253.00</b> | <b>\$ 1,331,253.00</b> | <b>\$ 2,662,506.00</b> |

#### ENVIRONMENTAL SUSTAINABILITY

When the recommended allocations are implemented, the SSBPPE expects the following contributions to environmental sustainability:

1. Significant increase in awareness about health impacts of SSB consumption,
2. Increase in the number of trained youth peer educators, nutritionists, and teachers in low-income communities to reduce consumption of SSBs, and to promote healthy choices and increase consumption of Berkeley's high quality tap water, and
3. Significant reduction in access to sugary drinks in Berkeley.

#### RATIONALE FOR RECOMMENDATION

The Commission believes that investing \$2,662,506 in grants to CBOs, BUSD, and the BPHD will increase the City of Berkeley's likelihood of reducing the consumption of SSBs and improving the health of Berkeley children and youth, particularly those with limited resources, and communities-of-color that are most impacted by obesity,

diabetes, tooth decay, and heart diseases and that are targeted by Big Soda marketing. These grants will increase the capacity of CBOs to develop and implement multi-level interventions that include education, system and/or environmental change. Excellent, on-going, peer-reviewed research has confirmed the decline in the consumption of SSBs in the most affected neighborhoods of our city from 21% the first year of the Healthy Berkeley Program to 55% the third year, a phenomenal achievement.

#### CITY MANAGER

See Companion Report.

#### CONTACT PERSON

Dechen Tsering, MPH, Secretary, SSBPPE Commission, (510) 981-5394

#### Attachments:

- 1: Resolution: Funding Allocation to Berkeley Unified School District for the Gardening and Cooking Program
- 2: Resolution: Funding Allocation to the Ecology Center to Implement For Thirst, Water First! Program
- 3: Resolution: Funding Allocation to Healthy Black Families to Implement Thirsty For Change! Program
- 4: Resolution: Funding Allocation to Multicultural Institute to Implement the Life Skills Day Laborer: Healthy Activity Program
- 5: Resolution: Funding Allocation to YMCA of the East Bay to Implement the YMCA Diabetes Prevention and YMCA Healthy Me! Programs
- 6: Resolution: Funding Allocation to Lifelong Medical Care to Implement the Chronic Disease and Oral Health Prevention Project
- 7: Resolution: Funding Allocation to 18 Reasons to Implement the Cooking Matters Project
- 8: Resolution: Funding Allocation to the Bay Area Community Resources to Implement the Healthy Options at the Point of Sale Project
- 9: Resolution: Funding Allocation to Fresh Approach to Implement VeggieRx Program for Healthy Food and Beverages
- 10: Resolution: Funding Allocation to Berkeley Youth Alternatives to Implement the Urban Agriculture and Teen Nutrition Program
- 11: Resolution: Funding Allocation to the Community Health Education Institute to Implement the Artists Against Soda Project
- 12: Resolution: Funding Allocation to the City of Berkeley Public Health Division to Implement the Healthy Berkeley Program  
Exhibit A: Best Use Examples for Policy, Environmental and/or Systems Changes
- 13: Resolution: Allocation: \$2,662,506 Total for Reduction of Sugar-Sweetened Beverage Consumption Grant Program in FY 2022 and FY 2023

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$951,452 FOR FY 2022 AND  
FY 2023 TO THE BERKELEY UNIFIED SCHOOL DISTRICT FOR  
THE GARDENING AND COOKING PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Resolution No. 69,669-N.S. included a total allocation of up to 40% of the total allocated funds to Berkeley Unified School District to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD gardening and cooking program for the period, July 1, 2021 to June 30, 2023; and

WHEREAS, a Request for Proposal (RFP) was released on January 22, 2021 and BUSD submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff, and determined to be responsive in meeting all aspects of the scope of the work and selection criteria and among the best selection for this contract; and

WHEREAS, funds in the total amount of \$951,452 to **Berkeley Unified School District** will cover the expenses to implement the *Gardening and Cooking Program* for FY 2022 and FY 2023 to be disbursed as follows: \$475,726 for FY 2022 and \$475,726 for FY 2023 to:

- a. Increase awareness and knowledge about the health impacts of consuming SSBs through the cooking and gardening program;
- b. Improve access to water and support family engagement;
- c. Work to support, update and disseminate information on school SSB and water policies. Even small policy efforts can positively influence sustainability of efforts; and
- d. Work to support schoolwide evaluation of district efforts to reduce SSB consumption. For example use of BUSD YRBS data could inform programming within BUSD and the larger community, as well; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for BUSD in FY 2022 and FY2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to execute a contract and any amendments with Berkeley Unified School District in the total amount not to exceed \$951,452 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.



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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$242,250 FOR FY 2022 AND FY2023 TO THE ECOLOGY CENTER TO IMPLEMENT *FOR THIRST, WATER FIRST!* PROGRAM

WHEREAS, high intake of Sugar-Sweetened Beverages (SSBs) is associated with risk of Type 2 diabetes, obesity, hypertension, dental decay and coronary heart disease; and

WHEREAS, over half of California adults (55%) have either prediabetes or diabetes; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021, and the Ecology Center submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff, and determined to be responsive in meeting all aspects of the scope of the work and selection criteria and among the best selection for this contract; and

WHEREAS, funds in the total amount of \$242,250 to the **Ecology Center** will cover the expenses to implement *For Thirst, Water First!* Program to be disbursed in FY 2022 (\$121,125) and FY 2023 (\$121,125) to:

- a. Hire and train paid interns to work on Water First campaign including water access and marketing, as well as food systems including operating food stands and collaborating with BANPAC;
- b. Plan and conduct 9<sup>th</sup> grade assembly focusing on marketing and inequity as well as BHS pop-ups and events with produce and water, food drives and farm box with cooking demonstrations, and a student poster contest; and
- c. Co-create a Health Justice Youth Group who will conduct needs assessment for school water fountains, and who will be trained in program implementation and evaluation and advocacy; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments

with the Ecology Center in the total amount not to exceed \$242,250 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$445,330 FOR FY 2022 AND  
FY 2023 TO HEALTHY BLACK FAMILIES FOR THE THIRSTY FOR CHANGE!  
PROGRAM

WHEREAS, high intake of Sugar-Sweetened Beverages (SSBs) is associated with risk of Type 2 diabetes, obesity, hypertension, dental decay and coronary heart disease; and

WHEREAS, over half of California adults (55%) have either prediabetes or diabetes; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021 and the Healthy Black Families submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the total amount of \$445,330 to Healthy Black Families will cover the expenses to continue the *Thirsty for Change!* Program to be disbursed in FY 2022 (\$222,665) and FY 2023 (\$222,665) to:

- a. Continue to partner with Center for Food, Faith and Justice (CFFJ) who will engage students at B-Tech Academy to do presentations on predatory marketing and other topics and help implement 6-10 new food/beverage policy changes to address health equity and 3-5 faith-based communities who will create food and beverage policies for events;
- b. Continue to educate through classes, workshops and events, and grocery store and farmers market tours focusing on healthy living, health equity and industry marketing. New this year is an outreach effort to engage more men in these efforts;
- c. Work with BHS student leaders and athletes to support and advocate for SSB policies at school sponsored events and student led events; and
- d. Create a campaign to identify targets for media advocacy, encourage healthy retail efforts using 8 quarterly trainings. Work with at least 5 churches and early childhood care providers who will develop a SSB and water policy. This will be part of Voices for Change which is helping others to engage in policy, systems, and environmental changes that will lead to improved health equity; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Healthy Black Families in the amount not to exceed \$445,330 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$30,000 FOR FY 2022 AND  
FY 2023 TO THE MULTICULTURAL INSTITUTE FOR THE LIFE SKILLS DAY  
LABORER: HEALTH ACTIVITY PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021, and the Multicultural Institute submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the total amount of \$30,000 to **Multicultural Institute** will cover the expenses to implement the *Life Skills/Day Laborer: Health Activity Program* to be disbursed in FY 2022 (\$15,000) and FY 2023 (\$15,000) to:

- a. Offer cultural and language appropriate classes and workshops on the serious health risks of consuming SSBs to uninsured or underinsured immigrants, day laborers, and other low-income families in West Berkeley;
- b. Develop and distribute 4 quarterly newsletters with SSB/water resources and information about health conditions related to SSBs and post this information on social media;
- c. Offer health screening and referrals and connect families to services for these conditions when needed; and
- d. Work to provide healthier food and beverages in meal and snack offerings; and  
and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments

with Multicultural Institute in the amount not to exceed \$30,000 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$170,550 FOR FY 2022 AND  
FY 2023 TO THE YMCA OF THE EAST BAY FOR THE YMCA DIABETES  
PREVENTION AND YMCA HEALTHY ME! PROGRAMS

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021, and the YMCA of the Central Bay submitted two proposals in response to the RFP, which were evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the total amount of \$170,550 to the YMCA of the East Bay will cover the expenses to implement the YMCA Diabetes Prevention (YDPP) and the YMCA Healthy Me! (YHME) programs, with \$80,000 of the total grant to implement a *Diabetes Prevention Program* to be disbursed in FY 2022 (\$40,000) and FY 2023 (\$40,000) to:

- a. Utilize a Centers for Disease Control (CDC)-recognized curriculum to prevent type 2 diabetes through providing 24 one hour sessions/year to 50 high risk adult patients with coaching in healthy eating, physical activity, and behavior changes; and
- b. Develop and disseminate a newsletter on diabetes prevention.

And \$90,550 of the total grant to implement the *Healthy Me! Program* to be disbursed in FY 2022 (\$45,275) and FY 2023 (\$45,275) to:

- c. Provide early education classes on healthy foods and water to 1000 children;
- d. Provide reusable water bottles to over 1100 staff, parents and children to support improved access to water;
- e. Provide workshops to 100 parents on the importance of healthy foods and water and enlist 5-10 parents as water champions who will lead 1-2 activities at the child care center;
- f. Distribute 600 newsletters to parents on the importance of SSB reduction to health;
- g. Distribute food to 250 high risk families; and

- h. Strengthen current water policies by extending the policies at meetings in the virtual setting; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with the YMCA of the East Bay in the amount not to exceed \$170,550 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.



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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$237,150 FOR FY 2022 AND  
FY 2023 TO LIFELONG MEDICAL CARE FOR THE CHRONIC DISEASE AND ORAL  
HEALTH PREVENTION PROJECT

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021, and the Lifelong Medical Care submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$237,150 to **Lifelong Medical Care** will cover the expenses to implement the *Chronic Disease and Oral Health Prevention Project* to be disbursed in FY 2022 (\$118,575) and FY 2023 (\$118,575) to:

- a. Conduct 24 outreach educational events/year on medical and oral health impacts of SSBs;
- b. Screen 1000 Berkeley residents for hypertension providing primary care for 200 to mitigate the impact of SSBs; and
- c. Conduct 6 oral health outreach events where 300 dental patients will be provided with SSB education, 200 will have a dental visit; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Lifelong Medical Care in the amount not to exceed \$237,150 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$59,500 FOR FY 2022 AND  
FY 2023 TO 18 REASONS FOR THE COOKING MATTERS PROJECT

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021, and 18 Reasons submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$59,500 to **18 Reasons** will cover the expenses to implement the *Cooking Matters* program to be disbursed in FY 2022 (\$29,750) and FY 2023 (\$29,750) to:

- a. Partner with BUSD and Berkeley Public Library to educate children and their families. Young children are a critically important, yet often overlooked group which would benefit from the program; and
- b. Expand this year to include an important retail component, i.e. Cooking Matters in-store tours; and
- c. Identification of sustainable components of these programs is key as are evaluation of all efforts; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with 18 Reasons in the amount not to exceed \$59,500 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$116,000 FOR FY 2022 AND  
FY 2023 TO BAY AREA COMMUNITY RESOURCES FOR THE HEALTHY OPTIONS  
AT POINT OF SALE PROJECT

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020 (Resolution No. 69,669-N.S), the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021, and the Bay Area Community Resources submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$116,000 to **Bay Area Community Resources** will cover the expenses to implement the *Healthy Options at Point of Sale* program to be disbursed in FY 2022 (\$58,000) and FY 2023 (\$58,000) to:

- a. Continue with recruitment and training of youth advocates to form a Berkeley Advocacy Team to increase knowledge of food justice and the role of retail food environment to reduce disparities. Advocates will be able to disseminate Healthy Checkout data to key stakeholders;
- b. Provide outreach to and support of stores > 2500 sq ft participating in Healthy Checkout Program. Feedback and compliance tools and training materials will be developed and distributed. Feedback to stores and the community at large will be provided by a variety of methods including social media; and
- c. Provision of results from surveys and interviews and other evaluation data will be used to garner support for future program expansion. Letters from businesses will be gathered to support future expansion efforts; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Bay Area Community Resources in the amount not to exceed \$116,000 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$37,600 FOR FY 2022 AND  
FY 2023 TO FRESH APPROACH TO IMPLEMENT VEGGIERX PROGRAM FOR  
HEALTHY FOOD AND BEVERAGES

WHEREAS, high intake of Sugar-Sweetened Beverages (SSBs) is associated with risk of Type 2 diabetes, obesity, hypertension, dental decay and coronary heart disease; and

WHEREAS, over half of California adults (55%) have either prediabetes or diabetes; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021, and Fresh Approach submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff, and determined to be responsive in meeting all aspects of the scope of the work and selection criteria and among the best selection for this contract; and

WHEREAS, funds in the total amount of \$37,600 to **Fresh Approach** will cover the expenses to implement *VeggieRx Program for Healthy Food and Beverages* to be disbursed in FY 2022 (\$18,800) and FY 2023 (\$18,800) to:

- a. Partner with Lifelong to provide high risk patients with standardized nutrition education and access to health food boxes utilizing a video training approach with AmeriCorps volunteers to maximize the resources; and
- b. Develop and institutionalize an evaluation plan using health metrics such as BMI, dental caries and diabetic A1C levels that will over time provide outcome data on the value of combining education with improved access to healthy foods to improve health; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments

with Fresh Approach in the total amount not to exceed \$37,600 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$77,600 FOR FY 2022 AND  
FY 2023 TO BERKELEY YOUTH ALTERNATIVES FOR THE URBAN AGRICULTURE  
AND TEEN NUTRITION PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021, and Berkeley Youth Alternatives submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$77,600 to Berkeley Youth Alternatives will cover the expenses to implement the *Urban Agriculture and Team Nutrition Program* to be disbursed in FY 2022 (\$38,800) and FY 2023 (\$38,800) to:

- a. Recruit, hire, and train 6 garden and nutrition educators to facilitate sessions for programs where participants will sign water pledges; and
- b. Host an annual youth forum to share experiences and cover SSB and water policies and advocacy; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments Berkeley Youth Alternatives in the amount not to exceed \$77,600 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

CONTRACT: TOTAL FUNDING ALLOCATION OF \$55,448 FOR FY 2022 AND  
FY 2023 TO COMMUNITY HEALTH EDUCATION INSTITUTE FOR THE ARTISTS  
AGAINST SODA PROJECT

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 toward funding two-year grants for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health; and

WHEREAS, a Request for Proposal (RFP) for CBOs was released on January 22, 2021 and the Community Health Education Institute submitted a proposal in response to the RFP, which was evaluated by two separate review panels of SSBPPE Commissioners and the City of Berkeley Public Health Division staff members; determined to be responsive in meeting all aspects of the scope of the work and selection criteria; and stood out among the best selection for this contract; and

WHEREAS, funds in the amount of \$55,448 to the **Community Health Education Institute** will cover the expenses to implement the *Artists against Soda* program to be disbursed in FY 2022 (\$27,724) and FY 2023 (\$27,724) to:

- a. Visit markets, gas stations, and small eateries to gather information and to educate;
- b. Work to remove SSB advertising from commercial venues;
- c. Give classes to students on SSBs and on Healthy Checkout Ordinance;
- d. Hold a downtown Berkeley art contest to promote and disseminate educational messages in local venues, as well as through social media; and
- e. Draft, educate and promote a new ordinance based on a student led effort to restrict SSBs in eateries surrounding the high school; and

WHEREAS, in addition to the Council's approval of the funding recommendation, the City Council action is required to authorize advances for select community agency receiving funds in FY 2022 and FY 2023. The advances are to be equivalent to 25% of the agency's allocation.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to execute a contract and any amendments with Community Health Education Institute in the amount not to exceed \$55,448 for the two-year period of July 1, 2021 to June 30, 2023.



A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

TOTAL FUNDING ALLOCATION OF \$239,626 FOR FISCAL YEAR 2022 AND FISCAL YEAR 2023 TO THE CITY OF BERKELEY PUBLIC HEALTH DIVISION TO SUPPORT AND ENHANCE THE HEALTHY BERKELEY PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on December 15, 2020, the City Council allocated \$2,662,506 for FY 2022 and FY 2023 for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health with the following recommendation: direct the City Manager to utilize a percentage of the allocated funds to support the City of Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process; evaluate and enhance the Healthy Berkeley Program; produce an annual report that informs the public and disseminates outcome data; and

WHEREAS, the BPHD allocation of Healthy Berkeley Program funding shall not supplant any existing funding and shall be used solely in support of or to enhance the Healthy Berkeley Program; and

WHEREAS, the costs attributed to the Healthy Berkeley Program funding shall not exceed amounts allocated by City Council per fiscal year for this program; and

WHEREAS, funds in the amount of \$239,626 to the **City of Berkeley Public Health Division** (BPHD) will cover the expenses to support the SSBPPE Commission; assist with evaluations beyond the Results Based Accountability effort; coordinate and monitor the grant process; evaluate and enhance the *Healthy Berkeley Program*; and produce an annual report that informs the public and disseminates outcome data; to be disbursed as follows: \$119,813 in FY 2022 and \$119,813 in FY 2023. The BPHD shall use the funds on policy, system, and/or environmental (PSE) strategies to support and enhance the *Healthy Berkeley Program* and collaborate with the community-based organizations. The BPHD will work in partnership with the SSBPPE Commission in a transparent and open manner to plan and strategize for the best use of these new funds; and

WHEREAS, funds in the amount of \$239,626 to BPHD for two years (July 1, 2021 – June 30, 2023) are to be disbursed in two equal amounts of \$119,813 each in FY 2022 and FY 2023; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to disburse to the BPHD in the amount not to exceed \$239,626 for the two-year period of July 1, 2021 to June 30, 2023.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

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

ALLOCATION: \$2,662,506 TOTAL FOR REDUCTION OF SUGAR-SWEETENED BEVERAGE CONSUMPTION GRANT PROGRAM IN FY 2022 AND FY 2023

WHEREAS, the consumption of sugar-sweetened beverages ("SSB") in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY 2018 and FY 2019, the City Council awarded a total of \$3 million upon the recommendation of the SSBPPE Commission to demonstrate the City's long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, on December 15, 2020, the Berkeley City Council unanimously approved Action Item 26 (Resolution No. 69,669-N.S.), recommending an allocation of \$2,662,506 over two years, FY 2022 and FY 2023, to fund the Healthy Berkeley Program with General Fund dollars that cannot be aligned dollar-for-dollar with Measure D revenues; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9th graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is hereby authorized to allocate \$2,662,506 from the General Fund to be disbursed in two (2) installments of \$1,331,253 in FY 2022 and \$1,331,253 in FY 2023 and invested as follows:

1. Allocate up to 40% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-sweetened beverages (SSBs) through the implementation and enhancement of the BUSD

cooking and gardening programs for the period, July 1, 2021 to June 30, 2023;  
and

2. Allocate at least 40% of the allocated funds through a RFP process managed by the City of Berkeley Public Health Division (BPHD) for grants to community-based organizations consistent with the SSPPE's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period July 1, 2021 to June 30, 2023; and
3. Allocate up to 10% of the allocated funds to support the BPHD to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSPPE funding program.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

39b

ACTION CALENDAR

May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

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

Subject: Companion Report: Approve Funding Recommendation for Programs to Reduce Consumption of Sugar-Sweetened Beverages (SSBs)

RECOMMENDATION

Approve the SSBPPE Commission's recommendation for funding for Community Based Organizations (CBOs) and Berkeley Unified School District (BUSD) and adopt thirteen (13) Resolutions authorizing the City Manager or her designee to enter into contracts with the CBOs and BUSD to distribute a total of \$2,662,506 for FY 2022 and FY 2023 according to the schedule recommended by the SSBPPE. Uphold the City of Berkeley Public Health Division (BPHD) allocation previously approved through Resolution No. 69,669-N.S. by allocating \$399,374 during the same time period.

FISCAL IMPACTS OF RECOMMENDATION

City Council allocated \$2,662,506, a decrease from the prior funding period, from the General Fund on December 15, 2020 (Resolution No. 69,669-N.S.) for grants to BUSD cooking and gardening program and CBOs in FY 2022 and FY 2023; with 15% of funding allocated to the BPHD to coordinate and monitor the grant process, oversee the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE funding program. The total amount of funding being allocated by the SSBPPE currently exceeds projected revenues from the tax on SSBs by approximately \$600,000. Additionally, since BPHD requires the full 15% allocated by Council to adequately support the commission's work, and since SSBPPE is recommending redistributing 5% of these funds to provide additional funding to the CBOs, an additional \$159,748 is being requested to address the BPHD funding gap and approve the SSBPPE community agency funding recommendations.

Further, the Finance Department currently anticipates that the revenue from SSBs will be \$990,210 in FY 2022 and \$1,010,014 in FY 2023. To bridge the gap in what has been allocated by City Council and anticipated revenues from the sugar sweetened beverage tax, city staff will be evaluating the potential to rely on the American Rescue Plan as a one-time measure to offset revenue losses that the City has experienced due to COVID-19 and shelter-in-place orders. Over the long-term, it is anticipated that revenues from the sugar sweetened beverage tax will continue to decline, which will

necessitate discussion about the type of programs that are funded and the level of resources that are available.

**CURRENT SITUATION AND ITS EFFECTS**

With the onset of the COVID-19 pandemic, sugar sweetened beverage tax revenues decreased significantly; reducing the overall allocation for Fiscal Years 2022 and 2023. Through Resolution 69,669-N.S., Council reduced funding for each of the funded groups: BUSD, CBOs, and BPHD, evenly across the board. This was a 58% reduction in funding over prior years. The SSBPPE’s subcommittee recommendation to further reduce the amount allocated to BPHD by 5% in order to provide increased funding to CBOs would constitute a 75% total reduction of funding to BPHD.

|                                                                     |            |               |
|---------------------------------------------------------------------|------------|---------------|
| FY21 Budget Allocation (Resolution 68,914-N.S.)                     | \$475,000  |               |
| FY22 Budget Allocation (Resolution No. 69,669-N.S.)                 | \$199,687  | 58% reduction |
| FY22 Budget Allocation with additional reduction proposed by SSBPPE | \$119, 813 | 75% reduction |

BPHD utilizes its portion of funding to carry out all of the activities mandated by the resolution; including managing all contracts, staffing the SSBPPE, and conducting other SSBPPE-related activities. BPHD is also mandated to fund an epidemiologist for program evaluation. In addition, with the passing of the Healthy Checkout Ordinance (No. 7,734-N.S.), BPHD is required to provide technical assistance and review activities to support implementation and sustainability, and will do so through funding a .20FTE Nutritionist to do this work. The reduction in funding through Resolution No. 69,669-N.S. poses a significant challenge to BPHD’s capacity to carry out all of these activities and the division has been working on finding solutions to manage this gap. With an additional 5% reduction, there is no path for BPHD to conduct all of these activities.

Furthermore, the BPHD has invested a portion of its previous allocations to purchase 23 hydration stations; nine have been installed and have improved accessibility to clean water for the community, particularly for vulnerable populations. Data collected on nine previously installed stations (by this funding source) shows the consumption of 849 gallons of water in the course of three months (one quarter), equaling a reduction of 6,432 plastic water bottles. This initiative is fully aligned with the purposes of the funding. With the reduction in funding, the installation of the 14 additional hydration stations would also be compromised.



| <b>Estimated annual costs for addressing minimum mandated activities.</b> | <b>Amount</b>    |
|---------------------------------------------------------------------------|------------------|
| Administrative Staff (estimated salary including benefits)                | 116,431          |
| Epidemiologist @50% (estimated salary including benefits)                 | 79,870           |
| Nutritionist @ 20% (estimated salary including benefits)                  | 29,130           |
| Installation of hydration stations                                        | 30,000           |
| Software Maintenance                                                      | 5,500            |
| Other Operational Expenses (i.e. supplies, printing, etc.)                | 3,514            |
| <b>Total</b>                                                              | <b>\$264,445</b> |

The Berkeley Public Health Division appreciates the work done by the SSBPPE in conducting a successful RFP process and making funding recommendations for 13 community agencies. BPHD also recognizes that it is important to honor these allocations now, so that contracts can be developed and ready by the start of FY 22. However, SSBPPE's recommendation (#14 in their report) that "indirect or administrative expenses not exceed 10% of the program budget for any entity" does not allow for BPHD to conduct its required administrative and programmatic activities. It also directly contradicts Resolution No. 69,669-N.S.

Given that the funds allocated through Resolution No. 69,669-N.S. already exceed projected costs due to the impacts of COVID-19 and the shelter-in-place orders, and given that this loss will likely rely on the American Rescue Plan as a one-time measure to offset these revenue losses, it is recommended that Council adopt the allocations and resolutions recommended by SSBPPE and also restore the 5% that SSBPPE is recommending be taken from BPHD's allocation and moved to CBO allocations, and add these additional costs (159,748) to the overall effort to restore all lost SSBPPE revenues through the American Rescue Plan as a one-time measure.

## BACKGROUND

Measure D, the Sugar Sweetened Beverage tax, was passed on July 1, 2014 to support the increased consumption of water and decrease the consumption of sugar sweetened beverages. As a result, allocations from the City General Fund associated with Measure D were identified for BPHD to support the development and oversight of SSBPPE community agency contracts, provide secretary support for the SSBPPE, conduct program evaluation activities, and support any programmatic initiatives that were aligned with the purpose of Measure D. For every fiscal year up to FY 21, this funding has been sufficient to cover these costs to administer this program as intended.

In addition, previous funding has allowed for the purchase of 23 hydration stations (indoor and outdoor units) to increase hands-free access to water for the Berkeley community (in light of COVID concerns), to vulnerable populations, and City run facilities that function as cooling shelters during extreme heat emergencies. Only nine of the 23 stations have been installed so far.

## ENVIRONMENTAL SUSTAINABILITY

Upholding the funding recommendations of Resolution 69,699 would allow for the implementation of 14 remaining pre-purchased hydration stations. Data collected on nine previously installed stations (by this funding source) indicated a consumption of 849 gallons of water in the course of three months equaling a reduction of 6,432 plastic water bottles.

With the installation of the remaining 14 hydration stations, there is a potential decrease of an additional 3,335 plastic water bottles per month, and the consumption of potentially 440 gallons of water per month.

Without restoring the 5% of funding to BPHD that the SSBPPE's recommends re-distributing to community agencies, the remaining installations will not be possible and the environmental impacts will not be realized.

## RATIONALE FOR RECOMMENDATION

Clarify information regarding SSBPPE funding and programs in order to continue the good work of the commission and maintain funding to BPHD to allow for ongoing work on these important public health issues.

## ALTERNATIVE ACTIONS CONSIDERED

Approve the SSBPPE's current recommendation for a 75% decrease in general fund associated with Measure D compared to FY 21 for the PHD and maintain administrative support of the SSBPPE Commission and contract management activities only. Eliminate the evaluation and reporting activities, eliminate installation of hydration stations and find storage for hydration stations until funding is available, and eliminate Public Health's ability to support the Healthy Checkout Ordinance.

**CONTACT PERSON**

Janice Chin, MPH, Public Health Division Manager, HHCS, (510) 981-5121

**Attachments**

1. Resolution No. 69,669-N.S.
2. Resolution No. 68,914-N.S.
3. Healthy Checkout Ordinance No. 7,734-N.S.

## RESOLUTION NO. 69,669-N.S.

## ALLOCATION: \$2,662,506 MILLION TOTAL FOR SUGAR-SWEETENED BEVERAGE CONSUMPTION AND REDUCTION GRANT PROGRAM IN FY22 AND FY23

WHEREAS, the consumption of sugar-sweetened beverages ("SSB") in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, in FY22 and FY23, the City Council awarded a total of \$3 million upon the recommendation of the SSBPPE Commission to demonstrate the City's long-term commitment to decreasing the consumption of SSB and mitigate the harmful impacts of SSB on the population of Berkeley; and

WHEREAS, many studies demonstrate that high intake of SSB is associated with risk of Type 2 Diabetes, obesity, tooth decay, and coronary heart disease; and

WHEREAS, the above conditions are all demonstrated to increase both the severity of COVID19 related illness and risk of death; and

WHEREAS Latinx and Black communities are disproportionately affected by COVID-19; and

WHEREAS, hundreds of millions of dollars have been spent in an ongoing massive marketing campaign, which particularly targets children and people of color; and

WHEREAS, an African American resident of Berkeley is 14 times more likely than a White resident to be hospitalized for diabetes; and

WHEREAS, 40% of 9th graders in Berkeley High School are either overweight or obese; and

WHEREAS, tooth decay is the most common childhood disease, experienced by over 70% of California's 3rd graders; and

WHEREAS, in 2012, a U.S. national research team estimated levying a penny-per-ounce tax on sweetened beverages would prevent nearly 100,000 cases of heart disease, 8,000 strokes, and 26,000 deaths over the next decade and 240,000 cases of diabetes per year nationwide.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to allocate \$2,662,506 million from the General Fund to be disbursed in two (2) installments of \$1,331,253 million in FY22 and \$1,331,253 million in FY23 and invested as follows:

1. Allocate up to 42.5% of the allocated funds to Berkeley Unified School District (BUSD) through a grant proposal to reduce the consumption of sugar-

sweetened beverages (SSBs) through the implementation and enhancement of the BUSD cooking and gardening programs for the period, July 1, 2021 to June 30, 2023; and

- 2. Allocate at least 42.5% of the allocated funds through a RFP process managed by the Public Health Division for grants to community-based organizations consistent with the SSBPPE's goals to reduce the consumption of SSB and to address the effects of SSB consumption for the period, July 1, 2021 to June 30, 2023; and
- 3. Allocate 15% of the allocated funds to support the Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process, coordinate the overall program evaluation, and produce an annual report that disseminates process and outcome data resulting from the SSBPPE funding program.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on December 15, 2020 by the following vote:

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

Noes: None.

Absent: None.

  
 \_\_\_\_\_  
 Jesse Arreguin, Mayor

Attest:   
 \_\_\_\_\_  
 Mark Numainville, City Clerk

## RESOLUTION NO. 68,914-N.S.

## TOTAL FUNDING ALLOCATION OF \$950,000 FOR FY 2020 AND FY 2021 TO THE CITY OF BERKELEY PUBLIC HEALTH DIVISION TO SUPPORT AND ENHANCE THE HEALTHY BERKELEY PROGRAM

WHEREAS, the consumption of Sugar-Sweetened Beverages (SSBs) in Berkeley is impacting the health of the people in Berkeley; and

WHEREAS, the City Council is committed to decreasing the consumption of SSBs and mitigating the harmful impacts of SSBs on the population of Berkeley; and

WHEREAS, on January 22, 2019 (Resolution No. 68,746-N.S), the City Council allocated \$4.75 million for FY 2020 and FY 2021 for the purpose of reducing consumption of SSBs and addressing the effects of SSB consumption on health with the following recommendation: direct the City Manager to utilize 20% of the allocated funds to support the City of Berkeley Public Health Division (BPHD) to coordinate and monitor the grant process; evaluate and enhance the Healthy Berkeley Program; produce an annual report that informs the public and disseminates outcome data; and manage a comprehensive and sustainable media campaign with 10% of the BPHD allocation; and

WHEREAS, the BPHD allocation of Healthy Berkeley Program funding shall not supplant any existing funding and shall be used solely in support of or to enhance the Healthy Berkeley Program; and

WHEREAS, the costs attributed to the Healthy Berkeley Program funding shall not exceed amounts allocated by City Council per fiscal year for this program; and

WHEREAS, the net increase of funding for BPHD is \$405,000 for FY 2020 and FY 2021, the BPHD shall use these additional funds on policy, system, and/or environmental (PSE) strategies, as suggested in Exhibit A of the corresponding Council Report, to support and enhance the Healthy Berkeley Program while collaborating with local CBOs and working in partnership with the SSBPPE Commission in a transparent and open manner; and

WHEREAS, funds in the amount of \$950,000 to BPHD for two years (July 1, 2019 – June 30, 2021) are to be disbursed in two equal amounts of \$475,000 each in FY 2020 and FY 2021; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager, or her designee, is authorized to disburse to the BPHD in the amount not to exceed \$950,000 for the two-year period of July 1, 2019 to June 30, 2021.

A records signature copy of the said agreement and any amendments to be on file in the Office of the City Clerk.

The foregoing Resolution was adopted by the Berkeley City Council on May 14, 2019 by the following vote:

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

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk

## EXHIBIT A:

BEST USE EXAMPLES FOR POLICY, ENVIRONMENTAL AND/OR SYSTEMS  
CHANGES

Best use examples for policy, environmental and/or systems changes recommended by the SSBPPE Commission for the City of Berkeley Public Health Division include the following:

- Healthy retail strategies to support local retailers in efforts to sell healthier beverage options including but not limited to: changing marketing in windows and at checkout; offer only healthy drinks at checkout; increase the percentage of healthy beverages in the store.
- Establishing a stand to sell healthy beverages to Berkeley High School and B-tech students at lunch.
- Increasing free, clean drinking water access in parks, schools and shopping areas of Berkeley and adding drinking fountains or incentivizing businesses to offer free drinking water to customers and non-customers.
- Increase the budget for the media campaign above the 10% directed in the Council Action item #27A (1/22/19).



## ORDINANCE NO. 7,734-N.S.

|  
 ADDING CHAPTER 9.82 TO THE BERKELEY MUNICIPAL CODE "HEALTHY  
 CHECKOUT"

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

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

**9.82.010. Findings and Purpose.**

The City of Berkeley hereby finds and declares as follows:

- A. Diets with an excess of added sugars and sodium are correlated to chronic health issues including diabetes, high blood pressure, and stroke.
- B. Food choices are strongly affected by the environments in which they are made. The placement of unhealthy snacks near a register increases the likelihood that consumers will purchase those foods and drinks, thus undermining consumer health choices and public health initiatives.
- C. It is in the interest of the health, safety, and welfare of all who live, work, and do business in the City that large stores offer healthy options and do not actively encourage the purchase of unhealthy foods.
- D. This Chapter is consistent with the General Provisions of Environmental Health of the City (Berkeley Municipal Code 11.04).

**9.82.020. Definitions.**

- A. "Added Sugars" means sugars added during the processing of food and beverages, or are packaged as such, and include sugars (free, mono and disaccharides), sugars from syrups and honey, and sugars from concentrated fruit or vegetable juices that are in excess of what would be expected from the same volume of 100 percent fruit or vegetable juice of the same type, as defined in Section 101.9 of Title 21 of the Code of Federal Regulations.
- B. "Artificial Sweetener" means sweeteners with few to no calories that have a higher intensity of sweetness per gram than sucrose.
- C. "Category List" means the list of foods and beverages which meet the standards of BMC 9.82.030.
- D. "Checkout Area" means any area that is accessible to a customer of the Large Retail Store that is either:
  - i. within a 3-foot distance of any Register; or
  - ii. designated primarily for or utilized primarily by customers to wait in line to make a purchase at a Register, up to and including the Checkout Endcap.
- E. "Checkout Endcap" means product displays placed at endpoints of areas designated primarily for or utilized primarily by customers to wait in line to make a purchase.
- F. "Register" means a device used for monetary transactions that calculates the sales of goods and displays the amount of sales for the customer.
- G. "Large Retail Store" means a commercial establishment selling goods to the public with a total floor area over 2,500 square feet and selling 25 linear feet or

more of food.

#### **9.82.030. Healthy Checkout Areas.**

Each Large Retail Store shall, at all hours during which the Large Retail Store is open to the public, ensure that all foods and beverages sold in all Checkout Areas meet the standards in Sec 9.82.030 A-C and comply with the list of qualifying food and beverage categories:

- A. Beverages with no added sugars and no artificial sweeteners.
- B. Food items with no more than 5 grams of added sugars, and 200 milligrams of sodium per labeled serving.
- C. Food items must be in the following categories: chewing gum and mints with no added sugars, fruit, vegetables, nuts, seeds, legumes, yogurt or cheese and whole grains.

City staff will provide technical assistance for implementation. Bi-annual review of qualifying food and beverage categories will be done by the Public Health Division. There will be a 120 day phase-in period if any changes are made.

#### **9.82.040. Enforcement.**

- A. The City is hereby authorized to issue all rules and regulations consistent with this ordinance, including, but not limited to, fees for re-inspection.
- B. Compliance with this Chapter shall be administered by the City during regular inspections of qualifying Large Retail Stores. The City may require a Large Retail Store to provide such information as may be necessary to determine the Large Retail Store's compliance with this Chapter.

#### **9.82.050. Violation--Penalty.**

- A. A Large Retail Store that violates any provision of this chapter may be subject to administrative citations pursuant to Chapter 1.28 of this Code.
- B. This section shall not limit the City from recovering all costs associated with implementing this chapter or investigating complaints pursuant to fee resolution.
- C. Remedies and penalties under this chapter are cumulative and not exclusive.

#### **9.82.060. Effective Date.**

This ordinance and the legal requirements set forth herein shall take effect and be in force March 1, 2021. Enforcement pursuant to 9.82.040 shall commence no sooner than January 1, 2022.


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 September 22, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

- Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.
- Noes: None.
- Absent: None.

At a regular meeting of the Council of the City of Berkeley held on October 13, 2020, this Ordinance was adopted by the following vote:

- Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.
- Noes: None.
- Absent: None.

  
 Jesse Arreguin, Mayor

ATTEST:   
 Mark Numainville, City Clerk

Date signed: October 20, 2020





Agenda & Rules Committee

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**ACTION CALENDAR**

May 25, 2021

To: Honorable Members of the City Council  
 From: Agenda & Rules Policy Committee: Mayor Jesse Arreguin and Councilmembers Sophie Hahn and Susan Wengraf  
 Subject: Amending the Berkeley Election Reform Act (BERA) Relating to Officeholder Accounts

**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.

Pursuant to BMC Section 2.12.051.A, BERA may be amended by the “double green light” process. This process requires that the amendment first be adopted by a two-thirds vote of the FCPC and then adopted by a two-thirds vote of the City Council, following a public hearing. This item would submit a proposal to the FCPC for its consideration. If adopted by a two-thirds vote of the FCPC, the item would return to the Council for final adoption.

**POLICY COMMITTEE RECOMMENDATION**

On March 29, 2021, the Agenda & Rules Policy Committee adopted the following action:<sup>1</sup> M/S/C (Wengraf/Arreguin) to send the item to Council with two proposed alternatives: 1) Councilmember Hahn’s proposal to regulate officeholder accounts [with modifications brought forward by Committee members], 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. Vote: All Ayes.

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<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/City\\_Council/2021/03\\_Mar/Documents/03-29%20Minutes%20-%20Agenda%20Committee.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/City_Council/2021/03_Mar/Documents/03-29%20Minutes%20-%20Agenda%20Committee.pdf)

**BACKGROUND**

On February 4, 2020, the Fair Campaign Practices Commission (FCPC) submitted a recommendation to Council to adopt an ordinance amending the Berkeley Election Reform Act (BERA), BMC Chapter 2.12, to prohibit Officeholder Accounts.<sup>2</sup> Council took action to refer a discussion on Officeholder Accounts and Council District (D-13) Accounts to the Agenda & Rules Committee, to “consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the FCPC.”<sup>3</sup>

The Agenda & Rules Committee considered this referral with input from FCPC commissioners. The FCPC and Open Government Commission (OGC)<sup>4</sup> also submitted subsequent recommendations to Council related to this process, which were included as part of the discussion regarding officeholder and D-13 accounts. The OGC submitted a recommendation that a special temporary joint advisory committee be created consisting of members of the OGC and Council to review the practice of councilmembers making donations to community organizations from their D-13 accounts. This proposal was referred directly to the Agenda & Rules Committee on August 31, 2020. On January 11, 2021, the FCPC and OGC jointly submitted a proposal to the Council clarifying the desire to create a joint subcommittee of FCPC-OGC members and members of the Council to consider both regulation of officeholder accounts as well as D-13 account grant practices and expressing willingness to consider either prohibition or regulation of officeholder accounts. D-13 account grant practices have since been addressed separately by Council.<sup>5</sup>

The Agenda & Rules Committee discussed the question of officeholder accounts at multiple meetings in early 2021 with input from three FCPC-OGC commissioners (Chair Brad Smith, Vice Chair Jedidiah Tsang and Commissioner Patrick O’Donnell). On March 29, 2021, the Agenda & Rules Committee took action to send this item to Council with two proposed alternatives: 1) a proposal to regulate officeholder accounts in a manner based on existing regulation of campaign committees, and 2) the Fair Campaign Practices Commission proposal to prohibit officeholder accounts. The

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<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/02\\_Feb/Documents/2020-02-04\\_Special\\_Item\\_02\\_Amendments\\_to\\_the\\_Berkeley\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/02_Feb/Documents/2020-02-04_Special_Item_02_Amendments_to_the_Berkeley_pdf.aspx)

<sup>3</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/02\\_Feb/Documents/02-04\\_Special\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/02_Feb/Documents/02-04_Special_Annotated_Agenda_pdf.aspx)

<sup>4</sup> The OGC is composed of the same membership as the FCPC and the two bodies meet concurrently. The FCPC has jurisdiction over BERA while the OGC has broad authority to make recommendations to Council regarding “open and effective government.” (BMC § 2.06.190.A.2.) Therefore, proposals regarding the prohibition or regulation of officeholder accounts in BERA have been presented by the FCPC, while recommendations regarding D-13 accounts have been offered by the OGC.

<sup>5</sup> On February 8, 2021, the Agenda & Rules Committee took action to make a positive recommendation to the City Council on part two of the Commission recommendation to prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members. The Council approved this recommendation on March 9, 2021.

Committee's action also required the Commission's analysis of regulating officeholder accounts to be included in the item that goes to the full Council.<sup>6</sup>

Officeholder accounts are currently allowed in the City of Berkeley, subject only to limitations provided in State Law. The Agenda & Rules Committee's proposal to regulate officeholder accounts would establish local rules that mirror and adapt Berkeley's existing, voter-approved regulations for campaign committees, including regulation of donations and reporting requirements, and narrow the uses for which officeholder account funds can be used.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.<sup>7</sup> They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses officeholder accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, and similar expenses. Cities can place limits on officeholder accounts, as Oakland has done.<sup>8</sup> Under State law, officeholder accounts must be registered as official committees, and adhere to strict public reporting requirements, like campaign accounts. These reporting requirements provide full transparency to the public about sources and uses of funds in officeholder accounts.

The FCPC's recommendation to outlaw officeholder accounts in Berkeley was set aside by the City Council on when it referred on February 4, 2020 to the Agenda & Rules Committee to "consider a reasonable set of limitations and rules for such [officeholder] accounts and bring back recommendations to the full Council."<sup>9</sup> Some members of the FCPC who participated in the Agenda & Rules Committee discussion continued to advocate for the original proposal to outlaw Officeholder Accounts, so the Committee acted to send both the Council-requested "reasonable set of limitations" and the FCPC's original recommendation back to the Council for consideration.

### FISCAL IMPACTS

Regulating the maintenance of officeholder accounts by councilmembers and the Mayor would have a moderate impact on staff time.

### CONTACT INFORMATION

Agenda & Rules Policy Committee: Jesse Arreguin, Mayor, (510) 981-7100; Councilmember Sophie Hahn, District 5, 510-682-5905 (cell); and Susan Wengraf, Councilmember, District 6, (510) 981-7160.

<sup>6</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/City\\_Council/2021/03\\_Mar/Documents/03-29%20Minutes%20-%20Agenda%20Committee.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/City_Council/2021/03_Mar/Documents/03-29%20Minutes%20-%20Agenda%20Committee.pdf)

<sup>7</sup> <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

<sup>8</sup> <http://www2.oaklandnet.com/w/OAK052051>

<sup>9</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/02\\_Feb/Documents/02-04\\_Special\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/02_Feb/Documents/02-04_Special_Annotated_Agenda_pdf.aspx)

ATTACHMENTS

1. Officeholder Accounts Proposal As Forwarded to the City Council by the Agenda Committee on March 29, 2021
2. Proposed Ordinance Amending the Berkeley Election Reform Act and Lobbyist Registration Act to Regulate Officeholder Committees
3. Fair Campaign Practices Commission Proposal to Prohibit Officeholder Accounts,  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2021/03\\_Mar/Documents/03-29\\_Agenda\\_Committee\\_Agenda\\_Packet.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/03-29_Agenda_Committee_Agenda_Packet.aspx)



## Officeholder Accounts As Forwarded to the City Council by the Agenda Committee on March 29, 2021

This set of terms is presented as a basis to discuss a potential amendments to the Berkeley Election Reform Act (“BERA”) (BMC Ch. 2.12) to regulate the maintenance of officeholder accounts by elected officials in Berkeley. The proposal following elements are proposed for discussion by the Agenda Committee:

### General Requirements and Donation Limits

1. **Amend BERA to expressly permit the creation of officeholder accounts** by elected officials in Berkeley
2. Officeholder accounts would **be subject to the same donor requirements as campaign accounts under BERA:**
  - a. May only receive donations from natural persons.
  - b. Per-person donation limit set the same as the contribution limit under BERA (currently \$250; if BERA changes, so would these limits – idea is for them to always be parallel)
  - c. Etc. – All requirements and limitations on who can give, how much, and how donations can be made would be “by reference” to BERA and thus identical over time.
3. Officeholder accounts would be **subject to the same registration and reporting regime as campaign accounts under BERA**. State law currently requires Officeholder Accounts to report using the same forms as campaign accounts; this proposal would also incorporate the reporting requirements of BERA – for example lower thresholds for initial reporting, lower amounts reported, etc.
4. **Cumulative annual donations, not including an officeholder’s own donations to their officeholder account would be capped at fixed amounts**. Suggest the amount be set at the approximate cost of producing and mailing one newsletter to constituents, although use of funds would not be limited to that use (see below). Amount should be indexed.
5. As with campaign accounts, **an officeholder’s own donations to their officeholder account would not be subject to any limits** but would be reported. An officeholder would also still be allowed to spend their own money on officeholder expenses without using an officeholder account. This is a First Amendment issue that can’t be infringed upon.

### Complete Separation from Campaign Accounts and Expenditures

1. An officeholder would **not be allowed to simultaneously maintain an officeholder account and a campaign account of any kind:**
  - a. A winning candidate taking office would be required to close their campaign account before opening an officeholder account.

- b. An incumbent officeholder running for re-election or running for any other elected position – local, state, or federal – would be required to close their officeholder account before opening a campaign account.
- 2. An officeholder could not redesignate their officeholder account as a campaign account or use any officeholder funds to pay campaign expenses, ever.
- 3. Officeholder account funds could not be transferred to or from a candidate committee account for any elective office, local, state or federal.
- 4. “Extra” funds in an officeholder account could be used only for a legitimate officeholder expense, refunded to donors on a pro rata basis, or donated to the City’s General Fund.

### **Impermissible and Permissible Uses of Officeholder Funds**

- 5. **Officeholder accounts would not be used for the following** expenditures:
  - a. Expenditures in connection with an election for any city, county, regional, state, or federal elective office or ballot measure
  - b. Campaign consulting, research, polling, and similar expenditures related to any campaign
  - c. Membership in athletic, social, fraternal, veteran, or religious organizations
  - d. Supplemental compensation for employees for performance of their ordinary duties
  - e. Any expenditure that would violate BERA or state law
- 6. **Officeholder accounts would only be used for the following** expenditures (list likely needs to be honed/expanded – this list reflects narrowing and adaptation of the Oakland ordinance, which is overly broad):
  - f. Office equipment, furnishings, and office supplies
  - g. Officeholder communications not related to a campaign, including but not limited to:
    - i. Mailings, newsletters, and other communications, whether by electronic or traditional media
    - ii. Websites and communications by all media including email, publication, and social media
    - iii. Email and address management
    - iv. Professional/consulting services and/or staff time related to communications.
  - h. Registration, travel, lodging, meals, and related expenses for attending an activity which supports a legislative or governmental purpose, including activities which involve international travel, including but not limited to:
    - i. Conferences, meetings, receptions, sister-city visits, and other events
    - ii. Membership and participation in programs for civic, service, or professional organizations
    - iii. Educational, training, and professional development courses and events

when incurred by the officeholder, their staff, or a community representative of the officeholder (but not a family member or an individual whose organization or who themselves is subject to registration under the City's Lobbyist Ordinance)

- i. Fundraising for the officeholder account.
- j. Consulting, research, surveys, photographic or similar services not related to a campaign.
- k. Expressions of congratulations, appreciation or condolences to constituents or other persons the officeholder communicates/works with in their official capacity.
- l. Salaries or other compensation for consultants/staff working on officeholder activities, including for time spent by regular staff on officeholder activities separate/different from their ordinary duties.
- m. Tax liabilities and other official fees/costs incurred by the officeholder account.
- n. Accounting, legal, and other professional services provided to the officeholder account.
- o. Attorneys' fees and other costs related to administrative procedures, litigation, or other processes arising from the officeholder's activities, duties, or status as an elected officer.

### **Termination of Account on Leaving Office (+ Not running for any office)**

- 1. An officeholder would be **required to terminate their account within 90 days after leaving office.**
- 2. An officeholder **could not make expenditures after their last day in office** except to pay outstanding officeholder debts, repay donations on a pro rata basis, or donate remaining funds to the City's general fund.
- 3. Officeholders running for another office, local, state, or federal, would be required to close their officeholder account before opening a campaign account (see above).

### **Enforcement**

- 1. Violations of the officeholder account rules **would be subject to all enforcement provisions under BERA**, including enforcement by the Fair Campaign Practices Commission ("FCPC").

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT AND  
LOBBYIST REGISTRATION ACT TO REGULATE OFFICEHOLDER  
COMMITTEES

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

Section 1. That Berkeley Municipal Code section 2.09.220 is amended to read as follows:

**2.09.220 Restrictions on payments and expenses benefiting local public officials.**

A. No local government lobbyist or a registered client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals, in which the cumulative value of such payments or expenses exceeds \$240 during any calendar year. This \$240 limit may be adjusted every four years by the OGC to account for inflation. The payments and expenses specified in subsections 2.09.220(A)-(D) include gifts, honoraria and any other form of compensation but do not include:

1. gifts of food or refreshment worth \$25 or less per occasion, if the local governmental lobbyist is a 501 (c)(3) nonprofit organization, the gift of food or refreshment is offered in connection with a public event held by the 501 (c)(3) nonprofit organization, and the same gift of food or refreshment is made available to all attendees of the public event;
2. payments or expenses that, within thirty (30) days after receipt, are returned unused or are reimbursed;
3. gifts of food or beverage worth \$25 or less per occasion, if said gift is provided in the home of an individual local governmental lobbyist or individual local governmental lobbyist's registered client when the individual or member of the individual's family is present;
4. a pass or ticket to a fundraising event for a campaign committee or candidate, or for an organization exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code;
5. informational material;
6. campaign or officeholder contributions not to exceed the limits imposed by the Berkeley Election Reform Act or state law, as applicable; and
7. salaries, consulting fees or other payments for services rendered or bargained

for. No other exception to, or exclusion from, the definition of gift or honoraria contained in the Political Reform Act of 1974 as amended, and the regulations issued pursuant thereto, shall apply to this section.

For purposes of the gift limits imposed by subsections (A)-(C), gifts shall be aggregated set forth in California Code of Regulations, Title 2, Section 18945.1, as it may hereafter be amended.

B. No lobbyist or a lobbyist's registered client shall make any payment to a third-party for the purpose of making any payment or incurring any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals.

C. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from any lobbyist for the individual's personal benefit or for the personal benefit of a member of the immediate family of one of these individuals.

D. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from a third-party if the officer knows or has reason to know that the third-party is providing the payment or expense on behalf of a lobbyist.

Section 2. That Berkeley Municipal Code section 2.12.100 is amended to read as follows:

**Section 2.12.100 Contribution.**

A. "Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events; a candidate's own money or property used on behalf of his or her candidacy; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving on behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee must otherwise report under the terms of this chapter. The term "contribution" further includes any transfer, gift, loan, advance, deposit, forgiveness of indebtedness, payment of a debt by a third party, pledge, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a

committee from another committee. The term "contribution" shall not include a gift of service or labor, but shall include service or labor for which a payment is made, nor shall the term "contribution" include a gift of the use of personal or real property where the value of such use is not in excess of fifty dollars, nor shall it include food and beverages the value of which for any one event is no more than fifty dollars.

B. In the case of an officeholder committee, "contribution" means a monetary payment to an officeholder committee to be used for expenses associated with holding City office as provided in Article 9 of this Chapter.

Section 3. That Berkeley Municipal Code section 2.12.130 is amended to read as follows:

**Section 2.12.130 Expenditure.**

A. "Expenditure" means a payment, pledge or promise of payment of money or anything of value or other obligation, whether or not legally enforceable, for goods, materials, services or facilities in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or adoption of one or more measures. The term "expenditure" includes any transfer, payment, gift, loan, advance, deposit, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly by one committee to another committee. "Expenditure" also includes the forgiving of a loan or the repayment of a loan by a third party.

B. In the case of an officeholder committee, "expenditure" means payment of money by an officeholder committee for expenses associated with holding elective office in the City of Berkeley as provided in Article 9 of this Chapter.

Section 4. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

**Section 2.12.157 Officeholder committee.**

"Officeholder committee" means a committee established by an Elective Officer of the City of Berkeley, as defined in Article V Section 8 of the Charter of the City of Berkeley, to receive contributions and make expenditures associated with holding elective office in the City of Berkeley as provided in Article 9 of this chapter.

Section 5. That Berkeley Municipal Code Section 2.12.545 is amended to read as follows:

**Section 2.12.545 Cost of living adjustments.**

The Commission shall adjust the dollar amounts specified in Sections 2.12.167, 2.12.500.A.3, 2.12.505.B and 2.12.530.B.3.b and 2.12.602 for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections 2.12.167, 2.12.500.A.3 and 2.12.530.B.3.b and one thousand dollars (\$1,000) with respect to Sections 2.12.505.B and 2.12.602.

Section 6. That Article 9 of Chapter 2.12 of the Berkeley Municipal Code is added to read as follows

### **Article 9. Officeholder Committees**

#### **Section. 2.12.600 Regulation of officeholder committees.**

- A. Elective Officers (the “officeholder” or “officeholders”) shall each be permitted to establish one officeholder committee, as defined in Section 2.12.157.
- B. Nothing in this section shall require an officeholder to open an officeholder committee or, if they have established an officeholder committee, to contribute to their officeholder committee to spend personal funds on their own officeholder expenses.
- C. Expenditures of an officeholder’s personal funds for their own officeholder expenses which are not contributed to an officeholder committee are not reportable under this chapter.

#### **Section 2.12.602 Cumulative contribution limits**

- A. For each Elected Officer representing a district within the City of Berkeley, total contributions to an officeholder committee from all contributors other than the officeholder shall not exceed five thousand dollars (\$5,000) in the aggregate per calendar year.
- B. For citywide Elected Officers, total contributions to an officeholder committee from all contributors other than the officeholder shall not exceed in the aggregate per calendar year an amount equal to four times the maximum allowed for elected officers representing districts, as provided in Section 2.12.602.A

#### **Section 2.12.604 Prohibited officeholder expenditures**

An officeholder committee shall not make expenditures for the following purposes:

- A. Expenditures in connection with an election for any city, county, regional, state or federal elective office or in connection with a ballot measure.
- B. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office.
- C. Membership in any athletic, social, fraternal, veterans or religious organization.
- D. Supplemental compensation for officeholder staff for performance of duties required or expected of the person in the regular course or hours of their employment as a City official or employee.
- E. Any expenditure that would violate any provision of the Berkeley Election Reform Act (BMC Chapter 2.12.) or the California Political Reform Act (Cal. Gov. Code § 81000 et seq.), including but not limited to the gift laws pertaining to travel payments, advancements and reimbursements under Government Code section 89506 and provisions related to permissible expenditures which serve legislative or governmental purposes under Government Code sections 89512 through 89519.

**Section 2.12.606 Permissible officeholder expenditures**

An officeholder committee may make expenditures only for the following purposes:

- A. Expenditures for fundraising for the officeholder committee.
- B. Expenditures for office equipment, furnishings and office supplies used for governmental or legislative purposes.
- C. Expenditures for compensation of staff, consultants, or other persons employed by the officeholder for time spent on officeholder activities, provided that such expenditures are not prohibited by Section 2.12.604.D.
- D. Expenditures for research, surveys, photographic, or similar services, provided such services are only for officeholder purposes.
- E. Expenditures for attendance, travel, lodging, meals and other related expenses which serve a legislative or governmental purpose by the officeholder and members of the officeholder's City staff or others employed by the officeholder to perform duties related to officeholder activities. Such permissible expenditures shall include but not be limited to:
  - 1. Expenditures for attendance at conferences, meetings, receptions, and other events occurring within or outside of the United States, including but not limited to registration or other attendance fees, travel, lodging, food, and



incidentals;

2. Expenditures for membership and participation in programs for civic, service, or professional organizations, if such membership bears a reasonable relationship to a governmental or legislative purpose; and
  3. Expenditures for educational courses or events reasonably related to a governmental or legislative purpose.
- F. Expenditures for constituent and community communications, including but not limited to:
1. Mailings, newsletters and other paper, electronic, or other communications which provide information related to community events, an officeholder's governmental duties, an officeholder's position on a particular matter, or any other matter of public concern or interest;
  2. An officeholder's website and social media;
  3. Email and address list management.
- G. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in their official capacity.
- H. Expenditures for payment of tax liabilities incurred as a result of permissible officeholder committee transactions.
- I. Expenditures for accounting, legal, professional, administrative, and similar services provided to the officeholder committee.
- J. Expenditures for attorneys' fees and other costs related to litigation, administrative procedures, or other processes arising directly from the officeholder committee's activities or the officeholder's activities, duties, or status as an elected officer.

### **Section 2.12.608 Prohibitions on transfer or reallocation of funds**

The following restrictions apply to the transfer or reallocation of officeholder funds:

- A. No funds may be contributed, redesignated, or transferred to an officeholder committee from any campaign committee for any city, county, regional, state, or federal elective office or ballot measure, or any other political committee.
- B. No funds may be contributed, redesignated, or transferred from an officeholder

committee to any candidate or campaign committee for any city, county, regional, state, or federal elective office or ballot measure, or any other political committee.

- C. No officeholder committee may be redesignated as a campaign committee for any city, county, regional, state, or federal elective office or ballot measure.
- D. No campaign committee for any city, county, regional, state, or federal elective office or ballot measure may be redesignated as an officeholder committee.

**Section 2.12.610 Prohibition on simultaneously maintaining officeholder and campaign committees**

- A. An officeholder may not simultaneously maintain an officeholder committee and a campaign committee for any city, county, regional, state or federal elective office.
- B. A candidate who is elected to any elective office in Berkeley must terminate their campaign committee before opening an officeholder committee.
- C. An officeholder must terminate any open officeholder committee prior to filing a Statement of Organization or equivalent initial filing for a campaign committee for any city, county, regional, state, or federal elective office.

For officeholders filing a Statement of Organization with the City Clerk to form a campaign committee for a City of Berkeley office, the Clerk shall provide notice of the need to close any open officeholder committee prior to accepting the campaign committee Statement of Organization.

**Section 2.12.612 Termination of officeholder committees upon leaving office**

- A. An officeholder who does not file a Statement of Organization or equivalent initial filing to seek a subsequent city, county, regional, state, or federal elective office shall terminate their officeholder committee within 90 days of leaving office.
- B. Following the date of leaving office, an officeholder shall not make any new expenditures from their officeholder committee except for the following purposes:
  - 1. Paying for legitimate, outstanding officeholder expenses accrued on or prior to the date of leaving office.
  - 2. Repaying contributions to contributors to the officeholder committee on a pro rata basis.
  - 3. Donating funds to the City's general fund.

**2.12.615 Limits and requirements for contributions and expenditures**

- A. The limit on cumulative contributions to an officeholder committee by a person other than the officeholder in a calendar year shall be the same as the limit on contributions to a candidate with respect to a single election under Section 2.12.415. Contributions to a candidate shall not be counted against the limit on contributions to an officeholder committee in the same calendar year.
- B. Officeholder committees shall be subject to the limits on contributions from organizations and entities to candidates and committees under Section 2.12.440.
- C. Nothing in this Article shall limit the amount an officeholder may contribute to their own officeholder committee or spend on officeholder expenses either through or not through an officeholder committee.
- D. All requirements and prohibitions for campaign contributions and expenditures under Sections 2.12.300, 2.12.305, 2.12.310, 2.12.315, and 2.12.320 shall apply to officeholder committees.

**2.12.645 Officeholder Committee Treasurer**

Each officeholder committee shall appoint a committee treasurer and shall comply with all requirements for campaign committee treasurers under section 2.12.245.

**2.12.650 Officeholder expenditure and contribution account – Establishment required – Procedure for use**

An officeholder committee treasurer shall establish and manage a checking account. All provisions of Section 2.12.250 regarding the establishment and use of campaign accounts shall also apply to the establishment and use of officeholder committee checking accounts, unless otherwise provided in this Article.

**2.12.655 Statement of organization – Committee required to file.**

- A. Every officeholder committee shall file with the City Clerk a statement of organization before accepting contributions.
- B. The date on which an officeholder committee is formed by filing a statement of organization shall determine the officeholder committee's obligation to file statements and reports required by this chapter.

**2.12.660 Statement of organization – information required**

The statement of organization required by Section 2.12.655 shall include:

- A. The name, street address and telephone number of the officeholder committee;
- B. The name of the officeholder;
- C. The full name, street address and telephone number of the treasurer and other principal officers;
- D. The elected office held by the officeholder;
- E. The account number and name of the bank at which the checking account, required by Section 2.12.650, is maintained; if the information required by this section is unavailable at the time of filing the statement of organization, the filer shall promptly submit an amended statement after such information becomes available;
- F. The cash on hand at the time of filing the statement of organization;
- G. Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.

**Section 2.12.665 Statement of organization--Change of information--Amendment required.**

Whenever there is a change in any of the information contained in the statement of organization, an amendment shall be filed within ten days to reflect the change.

**Section 2.12.670 Officeholder statements – filing requirements**

- A. Each officeholder committee statement shall be filed in accordance with the filing dates prescribed by state law for campaign committee statements. If state law does not establish the filing dates for campaign statements, the commission shall set the necessary filing dates.

**Section 2.12.675 Officeholder statements - Verification**

- A. Reports and statements required by this Article shall be subject to the filing requirement of Sections 2.12.025, 2.12.030, 2.12.032, 2.12.033, 2.12.035, 2.12.040, 2.12.045 and 2.12.050.
- B. An officeholder shall verify his or her officeholder statement. The verification shall be in accordance with the provisions of Section 2.12.025 except that it shall state that they have made reasonable inquiry into the truthfulness and completeness of such officeholder statement and that to the best of their knowledge, the treasurer of the officeholder committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any officeholder committee from the obligation to verify each officeholder statement filed pursuant to Section 2.12.025.

**Section 2.12.680 Officeholder Statement – Information required**

Officeholder committee statements required by this article shall include all applicable information required for campaign committee statements by Section 2.12.280.

**Section 2.12.685 Enforcement**

Violations of this article involving the unlawful use of officeholder committees are subject to the enforcement procedures and penalties in Article 7 of this chapter.

## MEMORANDUM

DATE: March 29, 2021

TO: Mayor Jesse Arreguin and Councilmembers Sophie Hahn and Susan Weingraf, Members of the Council Agenda and Rules Committee

FROM: Brad Smith, Patrick O'Donnell and Jedidiah Tsang, Delegation from the Fair Campaign Practices and Open Government Commissions

SUBJECT: Officeholder Accounts

Two main approaches have been considered regarding local Officeholder Accounts in California. The first, adopted by the City of San Jose, would prohibit these accounts. The second, adopted by the city of Oakland, would permit these accounts but regulate them.

For the reasons discussed below, the FCPC previously recommended that Officeholder Accounts be prohibited (Exhibit 3). However, the Council decided in February 2020 not to approve the FCPC's recommendation and referred the issue of Officeholder Accounts, along with concomitant issues related to D-13 accounts, to the Council's Agenda and Rules Committee.

The Fair Campaign Practices and Open Government Commissions have been studying Officeholder and D-13 Accounts since 2019. At its regular meeting on November 21, 2019, the FCPC voted without opposition to recommend amendments to the Berkeley Election Reform Act (BERA) that would prohibit Officeholder Accounts. The FCPC's recommendation was presented to the City Council at a February 4, 2020 special meeting. (A copy of the Report to Council is attached as Exhibit 3.)

Although the Council did not approve the FCPC's recommendations at that time and is considering alternatives that would allow for regulated Officeholder Accounts, a discussion in which the FCPC is glad to participate, the FCPC continues to believe that the prohibition of such accounts may ultimately be the preferable solution.

Briefly, our reasons for recommending prohibiting Officeholder Accounts are as follows:

1. Donations to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.
2. The City of San Jose has prohibited Officeholder Accounts (Section 12.06.810) since January 2008, providing as a rationale "to prevent the perception by the public that such contributions may give rise to undue or improper influence over elected officials" (Section 12.06.1100).

3. There are a number of permissible expenditures that could be made from Officeholder Accounts, now made from the Councilmember's discretionary council office budget (D-13 account), that put the elected official in a favorable light. Such expenditures include contributions to nonprofit organizations and newsletters mailed to constituents related to events, information or an officeholder's position on matters before the Council. We are not arguing these expenditures should be prohibited, only not paid for by funds collected in Officeholder Accounts.

4. As evidenced by contributions to nonprofit organizations from the Councilmember's D-13 accounts, which in total increased from \$50,938 in FY 2017 to \$113,526 in FY2018, enough funds are now available to Councilmembers to cover office expenses. It stretches the imagination to see donations to nonprofit organizations as an "office expense." If not enough funds are available for office expenses, the allocation to the D-13 accounts should be increased by the Council rather than relying on funds solicited from donors for an Officeholder Account.

5. Members of the FCPC are concerned about the amount of staff time required to track paperwork required for the administration of Officeholder Accounts and to assist in the enforcement process.

6. Members of the FCPC have discussed concerns that Councilmembers from wealthier areas of the City will have an easier time of raising funds for Officeholder Accounts.

7. Finally, we note the Officeholder Account has been rarely used in Berkeley, only once in the last several years that we are aware of.

While we look forward to a good, frank discussions and careful consideration of the alternative of permitting and regulating Officeholder Accounts, we respectfully request that Council members continue to consider that a prohibition of these accounts may, in the end, be the preferable approach.

Exhibit 1. Although the FCPC continues to support prohibition, it has prepared a draft version of an ordinance that would allow for regulated Officeholder Accounts. This draft identifies the issues that a regulated approach, if pursued, would need to address.

Exhibit 2. RESOLUTION NO. 67,992-N.S. (City Council Expenditures and Reimbursement Policies), referred to in the proposed language for changes to BERA to regulate Officeholder Accounts.

Exhibit 3. Language for amending the Berkeley Election Reform Act to prohibit Officeholder Accounts included in the FCPC submission to the City Council of February 4, 2020.

[DRAFT]

[Annotations are in RED. These include ISSUES for discussion and RECOMMENDATIONS of the three FCPC members participating in the joint meetings.]

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT TO REGULATE OFFICEHOLDER ACCOUNTS

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

Section 1. That the Berkeley Municipal Code section 2.12.157 is added to read as follows:

**Section 2.12.157 Officeholder Account.**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Article 9 of Chapter 2.12 of the Berkeley Municipal Code is added to read as follows

Article 9. Officeholder Accounts

**Section. 2.12.600 Regulation of Officeholder Accounts.**

A. The Mayor and Council members (the “officeholder” or “office holders”) shall each be permitted to establish one Officeholder Account, as defined in section 2.12.157.

ISSUE: What limitations should be placed on which public officials may be authorized to open Officeholder Accounts? Currently, Berkeley law is silent on this issue, as it is generally with respect to matters relating to Officeholder Accounts. Should the authorization to have Officeholder Accounts be limited to the Mayor and Council members?

State law applies to “elected state officeholder[s],” which includes the Governor, members of the state senate and assembly, and “other statewide elected official[s] other than the Governor.” (Gov. Code sec.85316(b)(1).)

RECOMMENDATION: Amendments to BERA authorizing Officeholder Accounts should be limited to the offices of Mayor and members of the City Council. Extending the authorization more broadly appears to other city officeholders at this time appears to be fiscally unnecessary and would impose significant burdens on the clerk’s office and the FCPC, which would be responsible for compliance with reporting requirements and the enforcement of the laws relating to Officeholder Accounts. If Berkeley’s experience with Officeholder Accounts proves to be positive, BERA could be amended in the future to expand the categories of elected officials authorized to establish Officeholder Accounts.

B. All donations deposited into an Officeholder Account shall be deemed to be held in trust solely for expenses associated with holding the office currently held by the elected city



officer. For the purpose of this section, “donation” means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, in support of the office currently held by an elected official.

ISSUE: This draft uses the term “donation” throughout new section 2.12.600 instead of “contribution.” The use of the term “donation” in the proposed new section of the BERA reflects that funds made for Officeholder Accounts are different from campaign contributions; prevents making all the legal provisions applicable to campaign fund arguably applicable to officeholder donations; and avoids confusion in how the funds for this specific purpose are treated.

RECOMMENDATION: Include the new definition of “donation” in this section and use it – and related terms such as “donor” – consistently throughout, instead of using the term “contribution” in the new section on Officeholder Accounts.

C. Only a natural person who is a resident of the City may make a donation to an Officeholder Account.

ISSUE: To prevent undue influence in election campaigns, BERA currently contains limitations on who may make contributions to such campaigns. Proposed new paragraph C. would provide a similar limitation for donations to Officeholder Accounts. Specifically, like the limitation similar in the Berkeley Elections Reform Act (BERA sec. 2.12.167.), it would limit donations to Officeholder Accounts to natural persons residing in Berkeley.

There is a need for an express provision on this subject to be included in the proposed amendments. As currently written, neither of the BERA limitations relating to campaign contributions would apply by their own terms to donations to Officeholder Accounts nor would a cross-reference work.

The limitation in the Berkeley Election Reform Act to natural person residing in Berkeley is part of the definition of “qualifying contribution” to be eligible for public financing (BERA sec. 2.12.167); and so would not apply to Officeholder Accounts. The limitation in BERA section 2.12.440 prohibits “contributions” by any “proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, including non-profit corporations, or labor union”; but such contributions are prohibited only to “any candidate or committee (supporting or opposing any candidate)” and so would not apply to Officeholder Accounts. Cross-references to these sections would be confusing since by their own terms the referenced sections apply only to campaign contributions, and not to donations to Officeholder Accounts.

RECOMMENDATION: The proposed language that would expressly limit the persons eligible to make donations to “natural persons who are residents of the City of Berkeley” should be adopted. This will avoid undue influence by entities and persons outside Berkeley whose donations might improperly influence officeholders.

D. Donations to an Officeholder Account must be made by a separate check or other separate written instrument. Single donations may not be divided between the Officeholder Account and any candidate committee or other entity.

E. No donor shall make, and no elected officer shall receive from a donor, a donation or donations under this section totaling more than fifty [or two-hundred and fifty] dollars (\$50.00 [or \$250.00]) per person for the calendar year. "Donor" means a natural person who is a resident of the City who makes a donation as defined in paragraph B.

ISSUE: Any regulated scheme for Officeholder Accounts should include a limit on the amount of that each individual is permitted to donate each year. The amount of the individual donations permitted each year is an issue that the Council and the FCPC need to decide, as well as the manner in which this limit is prescribed.

The California state statute on Officeholder Accounts provides explicit limits on the amount that a person is permitted to make for each officeholder per calendar year (e.g., \$3,000 for Senate and Assembly members and \$20,000 for Governor). (Gov. Code sec. 85316(b)(1)(A)-(B).)

The proposed draft amendments to the BERA, above, currently provide for a limit on donations in the range of \$50-\$250; the exact amount is an issue to be determined. Assuming the amount chosen is \$250, this amount could be explicitly placed in the ordinance, as the draft does. Alternatively, the amount might be specified by cross-reference to the maximum campaign amount permitted under BERA (e.g., by a cross-reference stating the amounts of any individual annual donation shall not exceed the amount of a campaign contribution permitted for a single election under BERA section 2.12.415).]

RECOMMENDATION: An explicit amount should be included in the new section of BERA on Officeholder Accounts. This will make the officeholder section—including the exact amount of the donation limit—clear and easy to understand. If in the future the campaign limits under BERA are increased and it makes sense also to increase the amount of the permitted annual individual donations to Officeholder Accounts to a similar (or other) amount, the permissible amount of the donations can be revised at that time.

F. For the office of Mayor, total donations to an Officeholder Account from all donors shall not exceed ten thousand dollars (\$10,000.00) in the aggregate per calendar year. For each member of the City Council, total donations to an Officeholder Account from all donors shall not exceed five thousand dollars (\$5,000.00) in the aggregate per calendar year.

ISSUE: Any regulated scheme for Officeholder Accounts should also include a limit on the total amount of donations from all donors that can be contributed to an officeholder each year. The amount of the total "cap" is an issue that the Council and the FCPC need to decide.

RECOMMENDATION: The total aggregate donations permitted to be made to specific officeholders in Berkeley should be proportional to their offices' size, scope, and needs.

G. All donations received for, and expenditures made from, an Officeholder Account during a calendar year shall be reported at least annually on the date or dates prescribed by the FCPC and the report shall be made available to the public promptly thereafter. The FCPC shall adopt or designate a form or forms for the purpose of reporting the information about each elected officer's Officeholder Account. The forms shall be filed electronically. The information on the form or forms shall be verified by the officeholder. The information that shall be included in the Officeholder Account report shall include the following:

1. The name of the officeholder and the office held;
2. The reporting period covered by the report;
3. A description of all receipts and expenditures.
4. The full name of each donor from whom a donation or donations has been received together with their street address, occupation, and the name of their employer, if any, or the principal place of business if they are self-employed; the amount which they donated; the date on which the each donation was received during the period covered by the report; and the cumulative amount that the donor donated. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated with regard to each lender, together with the date and amount of the loan, and if the loan has been repaid, the date of the payment and by whom paid;
5. The full name and street address of each person to whom an expenditure or expenditures have been made, together with the amount of each separate expenditure to each person during the period covered by the report; a description of the purpose for which the expenditure was made; and the full name and street address of the person receiving the expenditure.
6. Under the heading "receipts," the total amount of donations received, and under the heading "expenditures," the total amount of expenditures made during the reporting period and cumulative amount of such totals;
7. The balance of cash and cash equivalents, including the amounts in the officeholder bank account, at the beginning and end of each period covered by the report.

ISSUE: The amended BERA provisions on Officeholder Accounts (Section 2.12.600.G.1-7, above), like those for campaign statements (see BERA sec. 2.12.200 A.-K.), would specify the information that must be disclosed. In new section 2.12.600, the provisions have been tailored to address donations, donors, donors' names and addresses, and so forth. Having these requirements specified in the ordinance will provide the legal foundation for the information requested about Officeholder Accounts on statements or forms. Also, having these requirements in the ordinance will make it possible for the City more easily to add or modify the information required on statements.

Subsection G. also provides that the FCPC shall adopt or designate a form or forms for the purpose of reporting the information about each elected officer's Officeholder Account. This would permit, but not require, the City to require officeholders to use California Form 460 or 470 to comply with the reporting requirements. This flexibility is important so that the City will be able to exercise its discretion as to what information needs to be reported about donations to, and expenditures from, Officeholder Accounts.

Finally, this section provides that the commission shall prescribe the time for filing the forms and that the forms shall be verified and filed electronically. These provisions will improve the effectiveness of the reporting on Officeholder Accounts.

RECOMMENDATION: Section G. should be adopted as proposed for the reasons stated above.

purposes, and may not be used for any of the purposes prohibited in subsections J. and K. of this section.

ISSUE: This provision clarifies the intent of these amendments—that they authorize “true” Officeholder Accounts whose purpose is strictly limited to lawful officeholder purposes—and are not intended for any other broader purposes. This approach should help officeholders avoid the pitfalls of running afoul of campaign finance laws (as warned against in past opinions by the Berkeley City Attorney).

RECOMMENDATION: Section H. should be adopted as proposed for the reasons stated above.

I. Allowable expenses from an Officeholder Account are limited to expenses for travel, meals, and lodging incurred in connection with the following types of activities:

1. Communicating with representatives of local, regional, state and national governments on City policy positions;
2. Attending educational seminars designed to improve officials’ skill and information levels, provided that a brief report of such seminar shall be made by the Mayor and Council at a subsequent Council meeting;
3. Participating in local, regional, state and national organizations of cities whose activities affect the City’s interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of normal value and cost);
5. Attending City events; or events sponsored by organizations or entities whose activities affect the City’s interests where the primary purpose of the event is to discuss subjects which relate to City business;
6. Implementing City approved policies; and
7. Meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents) as long as the amount of such meal does not exceed the daily maximum set forth in city, state, and federal standards for when meal reimbursement may be allowed.

J. Expenditures from an Officeholder Account shall not be used for any of the following types of activities:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;
3. Family expenses, including partner’s expenses when accompanying the official on agency-related business, as well as children or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage, and or golf related expenses); or other recreational and cultural events;
5. Alcoholic beverages;
6. Non-mileage personal automobile expenses, including repairs, traffic, citations, insurance or gasoline; and
7. Personal losses incurred while on City Business.

RECOMMENDATION: Sections I. and J. should be based on the list of Authorized Activities and Unauthorized Expenses in Sections IIA. and B. of the City Council Expenditure and Reimbursement Policies, Resolution No. 67,992—N.S. (“Policies”). The lists identified in the Policies are thoughtful, carefully prepared lists of which expenses are permissible or impermissible for officeholders under current law. The policies were unanimously adopted

by the Berkeley City Council on May 30, 2017. For the purposes of the proposed ordinance on Officeholder Accounts, the lists in the Policies are more appropriate for adoption than the lists developed by the Oakland City Council that appear to be based largely on state laws relating to on campaign expenditures.

I. Prohibitions:

1. No funds may be contributed or transferred from an Officeholder Account to any candidate or committee, as defined in sections 2.12.085 and 2.12.095 of this chapter, including to any committee in which the officeholder is a candidate. An officeholder may not redesignate his or her Officeholder Account as a committee for a future term of the same office or redesignate his or her Officeholder Account funds to be used as campaign funds by his or her committee for a future term of the same office.

2. No funds may be used from an Officeholder Account to pay any campaign expenses.

3. An officeholder may not transfer or contribute funds from any other committee he or she controls to the Officeholder Account.

ISSUE: These prohibitions make it clear that funds from an Officeholder Account may never be used for any type of campaign purposes. This is consistent with the ordinance's intent that Officeholder Accounts be strictly limited to officeholder purposes. The provision also makes it explicit that these strictly officeholder funds cannot be redesignated as funds for a future campaign.

L. Once an officeholder's term of office ends or she or he leaves that office, whichever is earlier, the former officeholder may use his or her Officeholder Account funds only for the following purposes:

1. Paying for legitimate, outstanding officeholder expenses.

2. Repaying contributions to donors to the Officeholder Accounts.

3. Making a donation to a bona fide charitable, educational, civic, religious or similar tax-exempt, non-profit organization if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

M. The officeholder shall terminate the Officeholder Account within 90 days of the date that the officeholder's term of office ends or he or she leaves that office, whichever is earlier. The FCPC may for good cause extend the termination date. The disposition of all funds from the closed Officeholder Account, including the identification of all persons and entities that have received funds from the account and the amounts distributed, shall be described on a form prescribed by the FCPC. The officeholder must verify and file the form electronically no later the date prescribed for the termination of the Officeholder Account or an approved extension thereof.

N. All funds from a closed Officeholder Account not properly disposed of within the 90 day period prescribed above, or an approved extension thereof, shall be deposited in the City's General Fund.

ISSUES: Several issues exist with respect to the termination of Officeholder Accounts.

Draft sections 2.12.600 L.-N., above, propose procedures for terminating Officeholder Accounts in Berkeley based, in large part, on the state regulations on terminating Officeholder Accounts and committees (see Regulations of the Fair Political Practices Commission, Cal. Code of Reg., sec. 18531.63(g)).

The proposed provisions include the main options for disposing of Officeholder Account funds listed in the regulations (i.e., paying legitimate expenses, returning funds to donors, and making donations to bona fide organizations). However, the provision in the state regulations (sec. 18531.63(g)(2)) allowing for redesignation of Officeholder Accounts as accounts for a future campaign has been omitted because the Berkeley ordinance would authorize only strict Officeholder Accounts, prohibit the use of those accounts for any campaign purposes, and prohibit the redesignation of those accounts for use by campaign committees.

The proposed provisions, though, are incomplete: they do not address what should happen to an Officeholder Account if an incumbent wins re-election? Maybe it would be appropriate, under certain circumstances, for an incumbent who is elected to a new term of office, to redesignate a previous Officeholder Account for use in the officeholder's new term of office (as envisaged in the state regulations (see sec. 18531.63(g)(3)). Alternatively, as suggested at a previous joint meeting, perhaps it might be better for incumbents to terminate their Officeholder Accounts completely by a certain time before an election; and, if successful, they could open up a new Officeholder Account after their re-election.

The issues around the termination of Officeholder Accounts should be discussed by the joint committee and decisions made about what additions or modifications to the proposed ordinance are warranted.

**M. Violations of this article involving the unlawful use of Officeholder Accounts are subject to the procedures of, and the penalties in, Article 7 of this chapter.**

ISSUE: Are there any other issues on enforcement besides this general provision that need to be addressed?

\* \* \*

**OTHER ISSUES TO BE CONSIDERED:**

Some of the other issues not yet incorporated into the draft, but which merit consideration, include:

**1. Establishment of an Officeholder Committee.** State law requires an officeholder to create an Officeholder Controlled Committee if the officeholder receives more than \$2,000; and it provides guidance on the procedures for establishing such a committee, the committee's name, and other requirements. (Cal. Code of Reg., sec. 18531.63(c).) The Berkeley ordinance should probably include similar provisions.

**2. Return of Excess Contributions/Donations.** State law requires that an excess contribution to an officeholder be returned. (Gov. Code sec.85316(b)(3).) The regulations prescribe that the officeholder return the contribution within 14 days. (Cal. Code of Reg., sec. 18531.63(f).) The Berkeley ordinance should probably include similar provisions.

**3. Conforming Amendments to BERA.** A BERA section on the disposition of excess

campaign funds will probably need to be amended to be consistent with the new section 2.12.600 on Officeholder Accounts (see BERA sec. 2.12.245.C.). There may be other sections to BERA that require similar conforming changes.

RESOLUTION NO. 67,992-N.S.

CITY COUNCIL EXPENDITURE AND REIMBURSEMENT POLICIES

WHEREAS, each fiscal year, the City Council appropriates funds in the Mayor and Councilmember's departmental budgets to cover the costs of Mayor and Council staff and non-personnel expenditures which are reasonable and necessary for the performance of the duties of Mayor and Councilmember; and

WHEREAS, the Council needs to ensure that the expenditures are incurred and paid in conformity with the requirements of the City Charter; and

WHEREAS, AB 1234, adopted in 2005 and codified as Government Code Sections 53232, et. seq., requires that all cities adopt an expense reimbursement policy for Mayor and Council expenses; and

WHEREAS, on July 25, 2006, the City Council adopted Resolution No. 63,412-N.S. to establish the expenditure and reimbursement policy required by state law; and

WHEREAS, on September 10, 2103, the City Council rescinded Resolution No. 63,412-N.S. and replaced it with Resolution No. 66,295-N.S., which revised the expenditure and reimbursement policy required by state law.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Councilmember Office Budget Relinquishment and Grant Policy enumerated in Exhibit A is incorporated by reference into the policy for City Expenditures and Expense Reimbursement for Mayor and Council.

BE IT FURTHER RESOLVED that Resolution No. 66,295-N.S. and any amendments thereto are hereby rescinded.

BE IT FURTHER RESOLVED that the policy concerning City Expenditures and Expense Reimbursement for Mayor and Council departments is hereby adopted to read as follows:

**CITY EXPENDITURES AND EXPENSE REIMBURSEMENT FOR MAYOR AND COUNCIL DEPARTMENTS**

**I. City Expenditures for Mayor and Council**

The Mayor and Council members shall purchase all office supplies, office equipment, furniture, computers, or any other product, good, or service for the actual and necessary expense of their office in the manner normally applicable to all other purchases of goods and services by the City. Such expenses may include membership in organizations of elected officials and the purchase of newspapers and periodicals that provide information needed for the performance of official duties.



**II. Reimbursement of Actual and Necessary Expense of Office**

The Mayor and Council members and their staff may be reimbursed for the actual and necessary expenses for the categories of activities set forth below under "Authorized Activities."

**A. Authorized Activities.**

Travel, meals and lodging incurred in connection with the following types of activities set forth below constitute authorized expenses, as long as the other requirements of this Resolution are fulfilled:

1. Communicating with representatives of local, regional, state and national government on City policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels, provided that a brief report of such seminar shall be made by the Mayor and Council at a subsequent Council meeting;
3. Participating in local, regional, state and national organizations of cities whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events; or events sponsored by organizations or entities whose activities affect the City's interests where the primary purpose of the event is to discuss subjects which relate to City business;
6. Implementing City approved policies;
7. Meals where the primary purpose of the meal is to conduct City-related business (other than simply meeting constituents) as long as the amount of such meal does not exceed the daily maximum as set forth in this Resolution and meets applicable federal and state standards as to when meal reimbursement may be allowed; and
8. Expenditures for these purposes approved in advance by a Mayor or Council member and undertaken by that person's staff.

Expenditures for all other activities require prior approval by the City Council and must meet an articulated municipal purpose that must be recited in the report proposing the expenditure and the resolution authorizing the expenditure. Most frequently, prior approval by the City Council is given in items to authorize relinquishment of Council office budget fund to general fund and grant of such funds for charitable events, which would be unauthorized expenses if not pre-approved by Council. The policy for relinquishments and grants from Councilmember office budgets is enumerated in Exhibit A.

**B. Unauthorized Expenses**

The following personal expenditures incurred by City officials shall not be reimbursed:

1. The personal portion of any trip, such as where the official is on his/her own vacation activities;
2. Political contributions or attendance at political or charitable events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children or pet-related expenses;

4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other recreational and cultural events;
5. Alcoholic beverages;
6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
7. Personal losses incurred while on City business.

Any questions regarding the propriety of a particular type of expense should be resolved by the City Council before the expense is incurred.

**C. Particular Types of Authorized Expenditures Defined**

To conserve City resources and keep expenses within community standards for public officials, expenditures should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

1. **Registration.** Registration fee charged for any authorized convention, conference, seminar or meeting is reimbursable.
2. **Transportation.** The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements must be used, using the most direct and time-efficient route. Charges for rental-vehicles may be reimbursed under this provision if more than one City official is attending an out of town conference, and it is determined that sharing a rental vehicle is more economical than other forms of transportation. In making such determination, the cost of the rental vehicle, parking and gasoline will be compared to the combined cost of such other forms of transportation. Government and group rates must be used when available.
3. **Airfare.** Airfares that are equal to or less than those available through the California Department of General Services (DGS) Statewide Travel Program offered through the League of California Cities, [www.dgs.ca.gov/travel](http://www.dgs.ca.gov/travel)<sup>1</sup>, are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for airfare must not exceed 110% of either the state DGS rates or the Federal rates published by the U.S. General Services Administration (GSA) rates, [www.gsa.gov](http://www.gsa.gov)<sup>2</sup>, whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred.

<sup>1</sup> California Department of General Services Statewide Travel Program (DGS): [www.dgs.ca.gov/travel](http://www.dgs.ca.gov/travel)

<sup>2</sup> U.S. General Services Administration (GSA): [www.gsa.gov](http://www.gsa.gov)

ITEM 14  
ATTACHMENT 2

4. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service rates presently in effect. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable. The Internal Revenue Service rates will not be paid for rental vehicles; only receipted fuel expenses will be reimbursed.
5. **Car Rental.** Rental rates that are equal or less than those published by the California Department of General Services (DGS) Statewide Travel Program available through the League of California Cities shall be considered the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for car rental must not exceed 110% of either the state DGS rates or the Federal GSA rates, whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred.
6. **Taxis/Ride Shares/Shuttles.** Taxis, ride shares, or shuttles fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.
7. ~~7.~~ **Lodging.** Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the Council member at the time of booking. If lodging at the group rate is not available, or if travel is not in connection with a conference, rates that are equal to or less than those available through the California Department of General Services (DGS) Statewide Travel Program offered through the League of California Cities, are presumed to be the most economical and reasonable for purposes of reimbursement under this policy. If DGS rates are not available, reimbursement for lodging must not exceed 120% of the state DGS rates or 100% of the Federal rates published by the GSA, whichever is greater. Any exceptions to these rates must be approved at a public Council meeting before the expense is incurred. **Meals.** Meal expenses and associated gratuities will be reimbursed at the rate set forth in Administrative Regulation 3.9. "Meals which are served at regular meetings of associations to which the city belongs (i.e. Alameda County Mayors' Conference, league of California Cities, or ABAG) shall be exempt from this policy.
8. **Telephone/Fax/Cellular.** Council members will be reimbursed for actual telephone and fax expenses incurred on City business. Telephone bills should identify which calls were made on City business. For calls made on an official's personal cell phone, the official may obtain reimbursement for business calls based on the following formula: minutes used on public business divided by the total minutes allowed under a monthly plan, plus

- long-distances charges for those calls.
9. **Airport Parking.** Short-term airport parking may not be used for travel exceeding 24-hours.
  10. **Other Travel Related Expenses.** Reasonable baggage fees given the duration of the travel will be reimbursed. Expenses for which City officials receive reimbursement from another agency are not reimbursable.
  11. **Miscellaneous Office Products.** Notwithstanding the requirement in Section I, occasionally an elected officer or officer's staff may need to make an immediate small out of pocket purchase of office supplies that are normally ordered by the City for which payment is paid directly to the vendor. In accordance with the applicable City Manager Administrative Regulation concerning petty cash refunds, the City may reimburse such purchases.

**D. Cash Advance Policy for Airfare and Hotel Only (per A.R. 3.9)**

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Auditor, and copied to the City Manager, ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. Whether the expenditure is for an authorized activity;
3. The benefit to the residents of the City;
4. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
5. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used in compliance with this expense policy.

**E. Expense Report Content and Submission Deadline**

1. A statement of expense must be completed, signed and submitted to the City Auditor for review and forwarded to the Finance Department for payment. The statement of expense must document that the expense in question met the requirements of this Resolution. For example, if the meeting is with a legislator, the local agency official should explain whose meals were purchased, what issues were discussed and how those relate to the City's adopted legislative positions and priorities.
2. Officials must submit their statement of expense reports to the Auditor's Office within 60 days of an expense being incurred, accompanied by receipts documenting each expense. Itemized restaurant receipts, including number of individuals served, in addition to any credit card receipts, are also part of the necessary documentation. Receipts for gratuities and tolls under \$5 are not required.
3. Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.



**F. Audits of Expense Reports**

All expenses are subject to verification by the City Auditor of compliance with this policy.

**G. Reports**

At the following City Council meeting, each official shall briefly report on meetings attended at City expense. If multiple officials attended, a joint report may be made.

**H. Compliance with Laws**

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

**I. Violation of This Policy**

Use of public resources or falsifying expense reports in violation of this policy may result in any or all of the following:

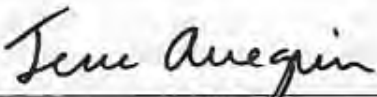
1. loss of reimbursement privileges;
2. a demand for restitution to the City;
3. the City's reporting the expenses as income to the elected official to state and federal tax authorities;
4. civil penalties of up to \$1,000 per day and three times the value of the resources used; and
5. prosecution for misuse of public resources.

The foregoing Resolution was adopted by the Berkeley City Council on May 30, 2017 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Maio, Wengraf, Worthington and Arreguin.

Noes: None.

Absent: None.

  
 \_\_\_\_\_  
 Jesse Arreguin, Mayor

Attest:   
 \_\_\_\_\_  
 Mark Numalville, City Clerk

Exhibit A

**Councilmember Office Budget Relinquishment and Grant Policy**Introduction – Limitations on the Expenditure of Public Funds

The basic purpose of the City as an entity is to exist and function as a *municipality*. This is also reflected in the Charter, which limits the Council's powers only to those "municipal affairs adequate to a complete system of local government". (Section 38.)

Exercises of this power may not be used solely to further the interests of particular individuals, although they may incidentally benefit private interests:

The exercise of the police power is available only for the purpose of promoting the general welfare, the interests of the public as distinguished from those of individuals or persons. It cannot be used to promote private gain or advantage, except so far as the same may also promote the public interest and welfare, and it is the latter, and not the former, effect which forms the basis of the power and warrants its exercise.  
(*Binford v. Boyd* (1918) 178 Cal. 458, 461.)

The Council's basic powers circumscribe its ability to spend public funds. In other words, the Council cannot spend public funds for purposes that are beyond its authority in the first place. Thus the City may only use its funds for municipal purposes. In any given case the crucial inquiry is whether an expenditure serves such a purpose.

The determination of what constitutes a public purpose is primarily a matter for the legislature, and its discretion will not be disturbed by the courts so long as that determination has a reasonable basis.  
(*County of Alameda v. Carlson* (1971) 5 Cal.3d 730, 745-746.)

If the courts find that there is a valid public purpose, they next examine whether the government's actions are reasonably related to effectuating this purpose. (*Tip Top Foods, Inc. v. Lyng* (1972) 28 Cal.App.3d 533, 541.) Public appropriations granted to private interests will not be considered unlawful diversions of public funds when the transaction serves the public interest, merely granting an incidental benefit to the private individual. (*Cane v. City and County of San Francisco* (1978) 78 Cal.App.3d 654, 660.)

Criteria for Grants of City Funds from Councilmember Office Budgets

Relinquishments and grants for purposes and recipients that fall within the categories listed in Table 1 may be "pre-approved" each fiscal year by Council resolution.

Table 1.

| Recipient                                                                                                                                                | Purpose                                                                                                                                                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The City ( <i>e.g.</i> , the Berkeley Public Library, the Berkeley Animal Shelter)                                                                       | Any purpose already being undertaken, because it already serves a public purpose. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                                                              |
| BUSD and other public agencies operating in Berkeley                                                                                                     | Any purpose already being undertaken, because it already serves a public purpose, assuming the activity is in Berkeley. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                        |
| Entities with which the City is co-sponsoring a public event in Berkeley ( <i>e.g.</i> , Earth Day, Solano Stroll).                                      | City co-sponsorship suggests but is not conclusive of public purpose; public purpose would need to be stated, and all such events should be open to the public at no cost. Alternatively, a list of ongoing events that have been determined to serve a public purpose could be developed. |
| Entities in Berkeley to which the City already contributes funds for municipal purposes ( <i>e.g.</i> , affordable housing or social service nonprofits) | To advance the same public purposes for which the entities are funded. This includes both grants and attendance at fundraising events in capacity as the Mayor or a Councilmember.                                                                                                         |

Proposed relinquishments and grants that do not meet the criteria for pre-approval, but that meet an appropriate municipal purpose, may be approved by resolution with a majority vote of the City Council.



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%'#!&Ä (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

- (A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.
- (B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.
- (C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

- (A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.
- (B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.
- (C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

**§ 18531.62. Elected State Officeholder Bank Accounts.**

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

- (1) "Officeholder" means an elected state officer.
- (2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.
- (3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).
- (4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder



account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.”

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees.

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision (e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.



**HISTORY**

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.
2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the  
City Attorney

**DATE:** December 28, 1999

**TO:** BARBARA GILBERT,  
Aide to Mayor Shirley Dean

**FROM:** MANUELA ALBUQUERQUE, City Attorney *MA*  
By: CAMILLE COUREY, Deputy City Attorney

**SUBJECT:** APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts *per se*. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.<sup>1</sup> For similar reasons, the BERA does not

<sup>1</sup> However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert

Re: Application of Berkeley Election Reform Act To Officeholder Accounts

December 28, 1999

Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.<sup>2</sup> Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

#### Attachment

cc: Fair Campaign Practices Commission  
Sherry Kelly, City Clerk

City Attorney Opinion Index: ILE 1 and IILG

CCM

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<sup>2</sup> Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)





Fair Campaign Practices Commission

Date: September 17, 2020

To: Fair Campaign Practices Commission and Open Government Commission

From: Commissioner Patrick O'Donnell

Subject: Amendments to the Berkeley Election Reform Act (BERA) to Regulate Officeholder Accounts and Proposed Changes to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

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This memorandum to the Fair Campaign Practices Commission (FCPC) and the Open Government Commission (OGC) substitutes for the one previously posted, mailed to members of the FCPC, and appearing as Item 7 on the agenda of the FCPC. The key difference is that this memorandum addresses not only officeholder accounts, but also proposed changes to City Council Expenditure and Reimbursement Policies (so-called D-13 Accounts). These two proposals are closely linked and should be considered together. Because the proposal relating to officeholder accounts falls under the jurisdiction of the FCPC and that relating to D-13 accounts falls under the jurisdiction of the OGC, the FCPC and OGC should act jointly in considering the proposed changes to BERA and the Reimbursement Policies.

The memorandum also makes the following recommendation:

Form a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

The preceding recommendations are consistent with previous discussions and the annual workplans of the FCPC and the OGC.

To implement the recommendations in this memorandum, a revised report to the Council is attached.



At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. It agreed that the Council Committee would work collaboratively with the FCPC and OGC on matters relating to officeholder accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, I propose that the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

PUBLIC HEARING  
XXXXX XX, XXXX

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices and Open Government Commissions

Subject: Amendments to the Berkeley Election Reform Act (BERA) and Change to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

RECOMMENDATION

Form a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Officeholder accounts are not expressly regulated by BERA. However, under existing law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements.

Donations to nonprofit organizations from Councilmember’s discretionary council budgets (D-13 accounts) are allowed by the authority of City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.).

Action:

Vote:

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.

Changes to the City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) can be made by a majority vote of the Council.

## BACKGROUND

### ***Officeholder Accounts***

During 2019, the Fair Campaign Practices Commission (FCPC) discussed whether there is a need to amend the law relating to these accounts. These accounts are not expressly regulated by BERA, but under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.”

In the course of its review of the issue of officeholder accounts, the FPPC considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met several times in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission’s proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.)

At the February 4, 2020 meeting, the Council had a lengthy discussion about their D-13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder accounts. The City Council referred the issues relating to officeholder and D-13 accounts to its Agenda and Rules Committee for further consideration.

***Proposed Changes to City Council Expenditure and Reimbursement Policies***

At the April 23, 2020 meeting of the Open Government Committee (OGC), a motion to direct staff to develop a proposal recommending Council change City policy to remove councilmember names from donations to nonprofit organizations from D-13 accounts was approved unanimously.

Donations to nonprofit organizations from the Councilmember's discretionary council budget (D-13 accounts) puts that elected official in a favorable light with Berkeley citizens at no cost to the Councilmember, an option not available to a challenger for that office. A look at the Consent Calendar of City Council Meeting Agendas will often contain one or more items from one or more Councilmembers making a donation to a nonprofit organization "from the discretionary council budget" of the Councilmember. This line item ("Services and Materials") from the General Fund was increased from \$50,938 in FY 2017 to \$113,526 in FY 2018 (approximately \$40,000 for the Mayor, the balance evenly divided among the Councilmembers; see Attachment 1 – Council Office Budget Summaries). While not technically a "campaign contribution," those individuals in the organization as well as individuals favorably disposed to the nonprofit organization receiving the funds would certainly see it favorably. A person running against this incumbent would have to draw on their own resources to match a Councilmember's contribution from public funds and without the public notice of the contribution the Councilmember receives.

In addition to favoring incumbents, the use of public moneys for contributions to nonprofit organizations from the discretionary council budgets of individual Council members is arguably improper and certainly bad optics. The commissioners of the OGC have no argument with contributions being made to nonprofit organizations from the City of Berkeley, but believe they should be made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley, not from individual Council members. Perhaps a nonprofit fund could be set up from which the donations could be made from recommendations made to one of the Council's Policy Commissions. This would free funds for other purposes now being directed to nonprofit organizations from individual Councilmember's D-13 accounts.

**Proposed Action:**

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee agreed to work collaboratively with the FCPC and OGC on matters relating to officeholder

accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to:

(1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and

(2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

#### RATIONALE FOR RECOMMENDATION

The “double green light” process requires that the FCPC adopt an amendment by a two-thirds vote, and that the City Council hold a public hearing and also adopt an amendment by a two-thirds vote. Evidence to date suggests there are differences of perspective regarding this matter between the City Council and the FCPC regarding the D-13 accounts. It would seem to be a rational step to discuss and come to agreement and possibly compromise prior to the “double green light” process.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

#### CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions,  
(510) 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices and Open  
Government Commissions, (510) 981-6998



Fair Campaign Practices Commission

Date: September 17, 2020

To: Fair Campaign Practices Commission

From: Commissioner Patrick O'Donnell

Subject: Amendments to the Berkeley Election Reform Act to regulate officeholder accounts

---

In 2019, the FCPC approved an amendment to the Berkeley Election Reform Act (“BERA”) prohibiting officeholder accounts. That proposal was submitted to Council. However, some councilmembers have expressed opposition to an outright ban on officeholder accounts and a preference for developing regulations for those accounts. This report contains a new alternative proposal to regulate – rather than prohibit – officeholder accounts. At its July 16, 2020 meeting, the Commission voted to direct Commissioner O’Donnell to return at the Commission’s September 17, 2020 meeting with a version of the proposal drafted as an amendment to BERA that can be voted on and presented to Council.

## Background

During 2019, the Commission discussed whether there is a need to amend the law relating to the use of officeholder accounts. These accounts are not expressly regulated by BERA. But under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.” (Report, page 14.)

In the course of its review of the issue of officeholder accounts, the Commission considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or

(3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission's proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: "Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016." (Report, page 1.) At the February 4 meeting, the Council had a lengthy discussion about their D13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder Accounts. (See Memorandum to FCPC dated February 12, 2020, a copy of which is attached.)

The City Council, however, referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. At that meeting, it was agreed that the Council Committee would work collaboratively with the FCPC on matters relating to D13 accounts and officeholder accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

### **Alternative Proposal for Legislation on Officeholder Accounts**

Given the Council's opposition to accepting an outright prohibition of officeholder accounts, the FCPC should at least explore some alternatives, including the option of amending the BERA to allow for officeholder accounts that would be subject to limitations, as the City of Oakland has done. The subcommittee which examined officeholder accounts briefly discussed this option but, given that there was unanimous support for prohibiting officeholder accounts entirely, it never developed a detailed proposal for this kind of alternative. However, now that the FCPC/OGC will be in conversation with the council about the options going forward, it seems to make good sense to examine in more detail what the alternative might look like.

For discussion purposes, a draft proposal to amend the BERA is attached (Attachment 1). It is based generally on the Oakland ordinance but differs in important ways from that statute. The basic concept behind this alternative is to allow officeholders to have *true* officeholder accounts, but to insure that the funds in these accounts are

used *strictly* for officeholder purposes and may not be used for political campaigns or other non-officeholder purposes. The proposal would also include limitations on the amount each donor may contribute and the total amount of donations to each officeholder account permitted annually. The amendments would require disclosures of the sources and amounts of all donations and expenditures. And they would specify how officeholder accounts are to be terminated.

Although not as fully effective as the complete prohibition of officeholder accounts previously recommended by the FCPC, this approach would allow officeholders to create regulated accounts for proper officeholder purposes. At the same time, these true officeholder accounts would be subject to public scrutiny and express limitations that would prevent serious abuses. Finally, the strict prohibitions in the proposed legislation against using any funds from officeholder accounts for campaign purposes would greatly simplify the management and oversight of these accounts. Current state law, which permits certain officeholder funds to be redesignated for campaign purposes under certain circumstances and subject to various disclosure and notice requirements, creates a nightmare of administrative and reporting requirements. It has made it difficult for officeholders to comply with the law and has established traps for the unwary. Thus, it is hardly surprising that most candidates elected to public office do not even attempt to set up officeholder accounts.

In the end, it may well be that the alternative presented here—or any other—may be unable to carry the day. Because of the double-green light requirements of BERA, no proposal may be able to garner the 2/3 votes of both the Council and Commission required to change the law. But for the purposes of collaborating with the Council on ways of improving the officeholder account process, the Commission should review the attached proposal which offers at least one possible scenario for addressing the problems and pitfalls involved with officeholder accounts.

Prior to approving this item, the Commission will need to make a determination regarding the dollar amounts for limits on donations to officeholder accounts. These amounts are highlighted in the attached Proposal in Section 2.12.600.E & F.

**Attachments:**

1. New draft proposed amendments to BERA to allow for officeholder accounts, to limit such accounts to being used strictly for officeholder purposes, and to subject these accounts to various other limitations and disclosure requirements (“Proposal”)
2. Report to the City Council from the Fair Campaign Practices Commission entitled “Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts: Amending BMC Chapter 2.12” (for Public Hearing on February 4, 2020) (with Attachments) (“Report”)
3. Memorandum from Dean Metzger, Chair, to FCPC dated February 12, 2020 (with Attachments) (“Memorandum”)





Fair Campaign Practices Commission

PUBLIC HEARING  
XXXXX XX, XXXX

To: Honorable Mayor and Members of the City Council  
From: Brad Smith, Chair, Open Government Commission  
Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices Commission  
Subject: Amendments to the Berkeley Election Reform Act

RECOMMENDATION

Adopt an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to regulate officeholder accounts.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

These recommended amendments to the Berkeley Lobbyist Registration Act were approved by the Open Government Commission at its regular meeting of XXXXX XX, XXXX.

**Action:**

**Vote:**

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

In 2019, the FCPC approved an amendment to the Berkeley Election Reform Act (“BERA”) prohibiting officeholder accounts. That proposal was submitted to Council. However, some councilmembers have expressed opposition to an outright ban on officeholder accounts and a preference for developing regulations for those accounts. This report contains a new alternative proposal to regulate – rather than prohibit – officeholder accounts.

During 2019, the Commission discussed whether there is a need to amend the law relating to the use of officeholder accounts. These accounts are not expressly regulated

by BERA. But under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: “[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws.” (Report, page 14.)

In the course of its review of the issue of officeholder accounts, the Commission considered three options: (1) leaving the law on officeholder accounts unchanged; (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission’s proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.” (Report, page 1.) At the February 4 meeting, the Council had a lengthy discussion about their D13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder Accounts. (See Memorandum to FCPC dated February 12, 2020, a copy of which is attached.)

The City Council, however, referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee had an initial discussion of these topics. At that meeting, it was agreed that the Council Committee would work collaboratively with the FCPC on matters relating to D13 accounts and officeholder accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

### **Alternative Proposal for Legislation on Officeholder Accounts**

At its September 17, 2020 meeting, the FCPC passed the attached proposal to amend the BERA (Attachment 1). It is based generally on the Oakland ordinance but differs in important ways from that statute. The basic concept behind this alternative is to allow officeholders to have *true* officeholder accounts, but to insure that the funds in these accounts are used *strictly* for officeholder purposes and may not be used for political

campaigns or other non-officeholder purposes. The proposal also includes limitations on the amount each donor may contribute and the total amount of donations to each officeholder account permitted annually. The amendments would require disclosures of the sources and amounts of all donations and expenditures, and specify how officeholder accounts are to be terminated.

This approach would allow officeholders to create regulated accounts for proper officeholder purposes. At the same time, these true officeholder accounts would be subject to public scrutiny and express limitations that would prevent serious abuses. Finally, the strict prohibitions in the proposed legislation against using any funds from officeholder accounts for campaign purposes would greatly simplify the management and oversight of these accounts. Current state law, which permits certain officeholder funds to be redesignated for campaign purposes under certain circumstances and subject to various disclosure and notice requirements, creates a nightmare of administrative and reporting requirements. It has made it difficult for officeholders to comply with the law and has established traps for the unwary. Thus, it is hardly surprising that most candidates elected to public office do not even attempt to set up officeholder accounts.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

#### RATIONALE FOR RECOMMENDATION

This proposal is offered as an alternative to the proposed ban on officeholder accounts previously submitted to Council by the FCPC. This proposal would regulate – rather than prohibit – officeholder accounts.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CITY MANAGER

#### CONTACT PERSON

Brad Smith, Chair, Open Government Commission, (510) 981-6998

Samuel Harvey, Commission Secretary, Open Government Commission (510) 981-6998

#### Attachments:

1. Proposed ordinance amending BERA to allow and regulate officeholder accounts
2. Report to the City Council from the Fair Campaign Practices Commission entitled “Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts: Amending BMC Chapter 2.12” (for Public Hearing on February 4, 2020) (with Attachments) (“Report”)
3. Memorandum from Dean Metzger, Chair, to FCPC dated February 12, 2020 (with Attachments) (“Memorandum”)

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT TO REGULATE OFFICEHOLDER ACCOUNTS

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

Section 1. That the Berkeley Municipal Code section 2.12.157 is added to read as follows:

**Section 2.12.157 Officeholder account.**

“Officeholder account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Article 9 of Chapter 2.12 of the Berkeley Municipal Code is added to read as follows

Article 9. Officeholder Accounts

**Section. 2.12.600 Regulation of officeholder accounts.**

A. The mayor and council members (the “officeholder” or “office holders”) shall each be permitted to establish one officeholder account, as defined in section 2.12.157.

B. All donations deposited into an officeholder account shall be deemed to be held in trust solely for expenses associated with holding the office currently held by the elected city officer. For the purpose of this section, “donation” means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, in support of the office currently held by an elected official.

C. Only a natural person who is a resident of the City may make a donation to an officeholder account.

D. Donations to an officeholder account must be made by a separate check or other separate written instrument. Single donations may not be divided between the officeholder account and any candidate committee or other entity.

E. No donor shall make, and no elected officer shall receive from a donor, a donation or donations under this section totaling more than fifty [or two-hundred and fifty] dollars (\$50.00 [or \$250.00]) per person for the calendar year. “Donor” means a natural person who is a resident of the City who makes a donation as defined in paragraph B.

F. For the office of mayor, total donations to an officeholder account from all donors shall not exceed ten thousand dollars (\$10,000.00) in the aggregate per calendar year. For each member of the city council, total donations to an officeholder account from all donors shall not exceed five thousand dollars (\$5,000.00) in the aggregate per calendar year.

G. All donations received for, and expenditures made from, an officeholder account during a calendar year shall be reported at least annually on the date or dates prescribed by the commission and the report shall be made available to the public promptly thereafter. The commission shall adopt or designate a form or forms for the purpose of reporting the information about each elected officer's officeholder account. The forms shall be filed electronically. The information on the form or forms shall be verified by the officeholder. The information that shall be included in the officeholder account report shall include the following:

1. The name of the officeholder and the office held;
2. The reporting period covered by the report;
3. A description of all receipts and expenditures.
4. The full name of each donor from whom a donation or donations 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 donated; the date on which the each donation was received during the period covered by the report; and the cumulative amount that the donor donated. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated with regard to each lender, together with the date and amount of the loan, and if the loan has been repaid, the date of the payment and by whom paid;
5. The full name and street address of each person to whom an expenditure or expenditures have been made, together with the amount of each separate expenditure to each person during the period covered by the report; a description of the purpose for which the expenditure was made; and the full name and street address of the person receiving the expenditure.
6. Under the heading "receipts," the total amount of donations received, and under the heading "expenditures," the total amount of expenditures made during the reporting period and cumulative amount of such totals;
7. The balance of cash and cash equivalents, including the amounts in the officeholder bank account, at the beginning and end of each period covered by the report.

H. Expenditures from an officeholder account may be made only for lawful officeholder purposes, and may not be used for any of the purposes prohibited in subsections J. and K. of this section.

I. Allowable expenditures from an officeholder account include the following:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder account;
2. Expenditures for office equipment, furnishings and office supplies;

3. Expenditures for office rent;

4. Expenditures for salaries of part-time or full-time staff employed by the officeholder for officeholder activities;

5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;

6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the officeholder (2) a member of the officeholder's staff; or (3) such other person designated by the officeholder who is authorized to perform such government duties;

7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the officeholder, (2) a member of the officeholder's staff, (3) or such other person designated by the officeholder who is authorized to perform such government duties;

8. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;

9. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the officeholder or a member of the officeholder's staff in the performance of his or her governmental responsibilities;

10. Expenditures for mailing to persons within the city which provide information related to city-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council or Mayor;

11. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in his or her official capacity;

12. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions; and

13. Expenditures for accounting, professional and administrative services provided to the officeholder account.

J. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office or in connection with a ballot measure;

2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;

3. Membership in any athletic, social, fraternal, veteran or religious organization;

4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a city official or employee;

5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519, and any provisions of the BERA.

K. Prohibitions:

1. No funds may be contributed or transferred from an officeholder account to any candidate or committee, as defined in sections 2.12.085 and 2.12.095 of this chapter, including to any committee in which the officeholder is a candidate. An officeholder may not redesignate his or her officeholder account as a committee for a future term of the same office or redesignate his or her officeholder funds to be used as campaign funds by his or her committee for a future term of the same office.

2. No funds may be used from an officeholder account to pay any campaign expenses.

3. An officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account.

L. Once an officeholder's term of office ends or she or he leaves that office, whichever is earlier, the former officeholder may use his or her officeholder funds only for the following purposes:

1. Paying for legitimate, outstanding officeholder expenses.

2. Repaying contributions to contributors to the officeholder accounts.

3. Making a donation to a bona fide charitable, educational, civic, religious or similar tax-exempt, non-profit organization if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

M. The officeholder shall terminate the officeholder account within 90 days of the date that the officeholder's term of office ends or he or she leaves that office, whichever is earlier. The Commission may for good cause extend the termination date. The disposition of all funds from the closed officeholder account, including the identification of all persons and entities that have received funds from the account and the amounts distributed, shall be described on a form prescribed by the Commission. The officeholder must verify and file the form electronically no later the date prescribed for the termination of the officeholder account or an approved extension thereof.

N. All funds from a closed officeholder account not properly disposed of within the 90 day period prescribed above, or an approved extension thereof, shall be deposited in the City's general fund.

O. Violations of this article involving the unlawful use of officeholder accounts are subject to the procedures of, and the penalties in, Article 7 of this chapter.

**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, [date of hearing] at [6:00 p.m.] in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City’s website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of [date of agenda posting].

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.

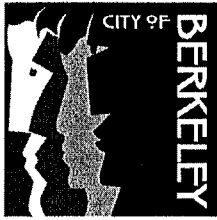
Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication 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 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** [Publication Date in Newspaper]

Pursuant to Berkeley Municipal Code section 2.12.051

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on [Enter Date].

Mark Numainville, City Clerk



Fair Campaign Practices Commission

PUBLIC HEARING
February 4, 2020

To: Honorable Mayor and Members of the City Council
 From: Fair Campaign Practices Commission
 Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission
 Subject: Amendments to the Berkeley Election Reform Act to prohibit
 Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

Action: M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

Vote: Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

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.

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder AccountsPUBLIC HEARING
February 4, 2020BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

Definition of an Officeholder Account

Under state law, an "officeholder account" refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for "paying expenses associated with holding public office." Officeholder Account funds cannot be used to pay "campaign expenses." This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, Section 18531.62 (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA's reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley's Public Access Portal.) If, however, a complaint is filed that an Officeholder Account is used for

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder AccountsPUBLIC HEARING
February 4, 2020

campaign contributions or to pay "campaign expenses," BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda's conclusions remain valid and are still controlling guidance.

Contributions to Officeholder Accounts

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

Expenditures from Officeholder Accounts

Except for the restriction that Officeholder Account funds cannot be used for "campaign expenses," BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a "campaign expense," would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder's position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent's name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not "campaign expenses," also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
February 4, 2020

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.¹ Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

Recommendation

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. (Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10)

Part 8 - OFFICEHOLDER ACCOUNTS

12.06.810 - Officeholder account prohibited.

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

2.12.157 Officeholder Account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

¹Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

Amendments to the Berkeley Election Reform Act
to prohibit Officeholder Accounts

PUBLIC HEARING
January 21, 2020

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPPC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

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

OFFICEHOLDER ACCOUNT PROHIBITED; 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 2.12.157 is added to read as follows:

BMC 2.12.157 Officeholder account

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

BMC 2.12.441 Officeholder account prohibited

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

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

10/8/2019

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Search Phrase: **GOVERNMENT CODE - GOV****TITLE 9. POLITICAL REFORM [81000 - 91014]** (Title 9 added June 4, 1974, by initiative Proposition 9.)**CHAPTER 5. Limitations on Contributions [85100 - 85802]** (Chapter 5 added June 7, 1988, by initiative Proposition 73.)**ARTICLE 3. Contribution Limitations [85300 - 85321]** (Article 3 added June 7, 1988, by initiative Proposition 73.)

85316. (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18531.62. Elected State Officeholder Bank Accounts.

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder

account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office.”

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees:

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision

(e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

HISTORY

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.
2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the
City Attorney

DATE: December 28, 1999

TO: BARBARA GILBERT,
Aide to Mayor Shirley Dean

FROM: MANUELA ALBUQUERQUE, City Attorney *MA*
By: CAMILLE COUREY, Deputy City Attorney

SUBJECT: APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Reynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.¹ For similar reasons, the BERA does not

¹ However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (FPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert
Re: Application of Berkeley Election Reform Act To Officeholder Accounts
December 28, 1999
Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.² Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

Attachment

cc: Fair Campaign Practices Commission
Sherry Kelly, City Clerk

City Attorney Opinions Index: H.E.I. and H.L.G.

CCM

PAUSERS\BBL2\ofthldr.mem.doc

² Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991

Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso,  Secretary & Staff CounselSUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSESBACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Ioni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS
December 9, 1991
Page 2

in opposition to the nomination or election of one or more candidates (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.^{1/} (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

^{1/}I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.

**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 prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

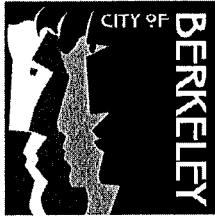
Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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 981-6900 or clerk@cityofberkeley.info for further information.

Published: January 24, 2020 – The Berkeley Voice
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on January 30, 2020.

\_\_\_\_\_  
Mark Numainville, City Clerk



[First Last name]  
Councilmember District [District No.]

## SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2

**Meeting Date:** February 4, 2020

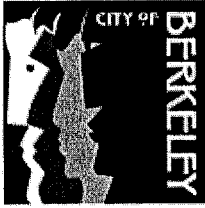
**Item Number:** 2

**Item Description:** Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

**Submitted by:** Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

**SOPHIE HAHN**

Berkeley City Council, District 5  
 2180 Milvia Street, 5th Floor  
 Berkeley, CA 94704  
 (510) 981-7150  
 shahn@cityofberkeley.info

ACTION CALENDAR

February 4, 2020

To: Honorable Mayor and Members of the City Council  
 From: Vice Mayor Sophie Hahn  
 Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.<sup>1</sup> They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.<sup>2</sup> Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

<sup>1</sup> <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

<sup>2</sup> <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, "such as a newsletter or brochure, [ ] delivered, by any means [ ] to a person's residence, place of employment or business, or post office box."<sup>3</sup> Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.<sup>4</sup> Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or "Officeholder") funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

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<sup>3</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

<sup>4</sup> <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.<sup>5</sup> For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

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<sup>5</sup> Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.<sup>5</sup>

*members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.*

Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.<sup>6</sup>

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

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

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<sup>6</sup> <http://www2.oaklandnet.com/w/OAK052051>





Fair Campaign Practices Commission

**Date:** February 12, 2020  
**To:** FAIR CAMPAIGN PRACTICES COMMISSION  
**From:** Dean Metzger, Commission Chair  
**Subject:** Council discussion and action with regards to the Officeholder Accounts FCPC proposal.

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At the Special City Council meeting of Tuesday February 4, 2020, the City Council had a lengthy discussion about their D13 accounts, and the lack of discretionary funds Council Members have to spend. They then decided not to approve the FCPC recommendation to prohibit Officeholder Accounts.

To remedy this concern the FCPC should request from the City Manager the amount each Council Member receives in their D13 accounts and after some discussion make a recommendation to Council. If the D13 account is large enough to allow Council members to make the expenditures they feel will keep their constituents informed of their activities, travel to local meetings, provide transportation expenses and meals - there would be no need for Officeholders Accounts.

A search of the City's Budget documents did not reveal the amounts allocated to the Council D13 accounts. Once the information is available the FCPC can make its recommendations to City Council.

**Attachments:**

1. Mayor and City Council Financial Summary
2. Draft request to City Manager for budget details of the Mayor and each individual Council Member

**MAYOR AND CITY COUNCIL FINA**

|                        | FY 2015<br>Actual | FY 2016<br>Actual | FY 2017<br>Adopted | FY 2018<br>Proposed | FY 2019<br>Proposed |
|------------------------|-------------------|-------------------|--------------------|---------------------|---------------------|
| <b>EXPENDITURES</b>    |                   |                   |                    |                     |                     |
| <b>By Type:</b>        |                   |                   |                    |                     |                     |
| Salaries and Benefits  | 1,660,661         | 1,760,619         | 1,723,617          | 1,833,734           | 1,880,031           |
| Services and Materials | 36,942            | 43,407            | 113,526            | 113,526             | 113,526             |
| Capital Outlay         | 1,953             | 7,674             |                    |                     |                     |
| Internal Services      | 89,100            | 81,181            | 81,181             | 81,181              | 81,181              |
| Indirect Cost Transfer |                   |                   |                    |                     |                     |
|                        | <b>1,788,656</b>  | <b>1,892,881</b>  | <b>1,918,324</b>   | <b>2,028,441</b>    | <b>2,074,738</b>    |
| <b>By Division:</b>    |                   |                   |                    |                     |                     |
| Mayor's Office         | 515,095           | 558,137           | 584,877            | 554,389             | 566,917             |
| Council Offices        | 1,273,561         | 1,334,744         | 1,333,447          | 1,474,052           | 1,507,821           |
| Exiting Officials      |                   |                   |                    |                     |                     |
|                        | <b>1,788,656</b>  | <b>1,892,881</b>  | <b>1,918,324</b>   | <b>2,028,441</b>    | <b>2,074,738</b>    |
| <b>By Fund:</b>        |                   |                   |                    |                     |                     |
| General Fund           | 1,788,656         | 1,892,881         | 1,918,324          | 2,028,441           | 2,074,738           |
|                        | <b>1,788,656</b>  | <b>1,892,881</b>  | <b>1,918,324</b>   | <b>2,028,441</b>    | <b>2,074,738</b>    |

|                         |       |       |       |       |       |
|-------------------------|-------|-------|-------|-------|-------|
| <b>General Fund FTE</b> | 12.00 | 12.00 | 12.00 | 12.00 | 12.00 |
| <b>Total FTE</b>        | 12.00 | 12.00 | 12.00 | 12.00 | 12.00 |

**DRAFT**

**DRAFT**

**DRAFT**

**Date:** February 20, 2020

**To:** Dee Williams-Riley  
City Manager

**From:** Fair Campaign Practices Commission

**Subject:** Request for budget details of the Mayor and each individual Council Member.

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At the Special Council meeting of Tuesday, February 4, 2020 the Council heard and took action on the FCPC recommendation to amend the Berkeley Municipal Code to prohibit Officeholder Accounts. The Council discussion went to great lengths about why they needed the Officeholder Account before declining to approve the FCPC recommendation.

The FCPC needs to understand why the Council took the action it did.

To help the Commission determine if any further action on its part would be helpful, the Commission requests that your office provide the FCPC with the detailed budgets of the Mayor and each Council Member. The Commission has the budget summaries of the Mayor and City Council but it is of little use for the discussion.

Please provide the requested information in time for the FCPC meeting on March 19, 2020.

Thank you,

**Fair Campaign Practices Commission**



Fair Campaign Practices Commission  
Open Government Commission

ACTION CALENDAR  
January 26, 2021

To: Honorable Mayor and Members of the City Council

From: Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions

Submitted by: Samuel Harvey, Secretary, Fair Campaign Practices and Open Government Commissions

Subject: Amendments to the Berkeley Election Reform Act (BERA) and Change to City Council Expenditure and Reimbursement Policies (Resolution 67,992-N.S.)

RECOMMENDATION

Form a joint subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to (1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Officeholder accounts are not expressly regulated by BERA. However, under existing law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and may trigger various local and state legal requirements.

Donations to nonprofit organizations from Councilmember's discretionary council budgets (D-13 accounts) are allowed by the authority of City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.).

*Action: Motion to submit report to City Council recommending creation of a subcommittee of members of the Council, FCPC and OGC to (1) prepare an ordinance prohibiting or regulating officeholder accounts and (2) prepare a change in City Council Expenditure and Reimbursement policies*

Vote: M/S/C: Blome/Metzger; Ayes: O'Donnell, Ching, Blome, Tsang, Smith; Noes: Metzger, Sheahan; Abstain: none; Absent: McLean.

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.

Changes to the City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) can be made by a majority vote of the Council.

## BACKGROUND

### ***Officeholder Accounts***

During 2019, the Fair Campaign Practices Commission (FCPC) discussed whether there is a need to amend the law relating to these accounts. These accounts are not expressly regulated by BERA, but under current law, if funds for officeholder accounts are used for campaign purposes, this may implicate campaign financing law and trigger various local and state legal requirements. A 1999 legal opinion from the City Attorney stated: "[t]he mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable laws."

In the course of its review of the issue of officeholder accounts, the FCPC considered three options:

- (1) leaving the law on officeholder accounts unchanged;
- (2) prohibiting officeholder accounts entirely (an approach used by the City of San Jose), or
- (3) authorizing officeholder accounts but limiting their use and imposing various restrictions and requirements on them (an approach used by the City of Oakland).

The Commission referred the issue of officeholder accounts to a subcommittee, which met several times in the fall of 2019 and considered the options. The subcommittee unanimously recommended prohibiting officeholder accounts entirely. At its regular meeting on November 21, 2019 the Commission voted without opposition to recommend amendments to the BERA that would prohibit officeholder accounts.

The Commission's proposal was presented to the City Council at a February 4, 2020 special meeting. (Report to the Council, with Attachments, is attached.) The FCPC report summarized its proposal: "Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016." (Report, page 1.)

At the February 4, 2020 meeting, the Council had a lengthy discussion about their D- 13 accounts and the lack of discretionary funds that members have to spend. They also decided not to approve the FCPC recommendation to prohibit officeholder accounts. The City Council referred the issues relating to officeholder and D-13 accounts to its Agenda and Rules Committee for further consideration.

***Proposed Changes to City Council Expenditure and Reimbursement Policies***

At the April 23, 2020 meeting of the Open Government Committee (OGC), a motion to direct staff to develop a proposal recommending Council change City policy to remove councilmember names from donations to nonprofit organizations from D- 13 accounts was approved unanimously.

Donations to nonprofit organizations from the Councilmember’s discretionary council budget (D-13 accounts) puts that elected official in a favorable light with Berkeley citizens at no cost to the Councilmember, an option not available to a challenger for that office. A look at the Consent Calendar of City Council Meeting Agendas will often contain one or more items from one or more Councilmembers making a donation to a nonprofit organization “from the discretionary council budget” of the Councilmember. This line item (“Services and Materials”) from the General Fund was increased from \$50,938 in FY 2017 to \$113,526 in FY 2018 (approximately \$40,000 for the Mayor, the balance evenly divided among the Councilmembers; see Attachment – Council Office Budget Summaries). While not technically a “campaign contribution,” those individuals in the organization as well as individuals favorably disposed to the nonprofit organization receiving the funds would certainly see it favorably. A person running against this incumbent would have to draw on their own resources to match a Councilmember’s contribution from public funds and without the public notice of the contribution the Councilmember receives.

In addition to favoring incumbents, the use of public moneys for contributions to nonprofit organizations from the discretionary council budgets of individual Council members is arguably improper and certainly bad optics. The commissioners of the OGC have no argument with contributions being made to nonprofit organizations from the City of Berkeley, but believe they should be made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley, not from individual Council members. Perhaps a nonprofit fund could be set up from which the donations could be made from recommendations made to one of the Council’s Policy Commissions. This would free funds for other purposes now being directed to nonprofit organizations from individual Councilmember’s D-13 accounts.

**Proposed Action:**

At this stage, the Council has referred both the issues relating to officeholder accounts and those relating to D-13 accounts to its Agenda and Rules Committee for further consideration. At a special meeting on March 9, 2020, that Committee agreed to work collaboratively with the FCPC and OGC on matters relating to officeholder accounts and D-13 accounts. This collaborative work with the Council was included in the FCPC and OGC 2020-2021 workplans, which were approved on May 21, 2020.

Consistent with the prior actions of the Council and the FCPC/OGC, the Commissions recommend the establishment of a subcommittee of members of the City Council and members of the Fair Campaign Practices and Open Government Commissions to:

(1) prepare an ordinance amending the Berkeley Election Reform Act (BMC Chapter 2.12) to prohibit or regulate officeholder accounts, and

(2) prepare a change in City Council Expenditure and Reimbursement policies (Resolution 67,992-N.S.) to have donations to nonprofit organizations made in the name of the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

The “double green light” process requires that the FCPC adopt an amendment by a two-thirds vote, and that the City Council hold a public hearing and also adopt an amendment by a two-thirds vote. Evidence to date suggests there are differences of perspective regarding this matter between the City Council and the FCPC regarding the D-13 accounts. It would seem to be a rational step to discuss and come to agreement and possibly compromise prior to the “double green light” process.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

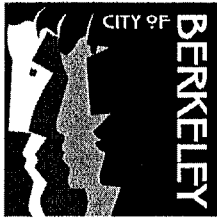
CONTACT PERSON

Brad Smith, Chair, Fair Campaign Practices and Open Government Commissions, (510) 981-6998

Samuel Harvey, Commission Secretary, Fair Campaign Practices and Open Government Commissions, (510) 981-6998

Attachments:

1. FCPC February 4, 2020 report to Council and attachments
2. Mayor and City Council Financial Summary



Fair Campaign Practices Commission

PUBLIC HEARING  
February 4, 2020

To: Honorable Mayor and Members of the City Council  
From: Fair Campaign Practices Commission  
Submitted by: Dean Metzger, Chairperson, Fair Campaign Practices Commission  
Subject: Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt first reading of an ordinance amending the Berkeley Election Reform Act, Berkeley Municipal Code Chapter 2.12, to prohibit Officeholder Accounts (See Section 18531.62. Elected State Officeholder Bank Accounts, Regulations of the Fair Political Practices Commission).

SUMMARY

Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also a goal of the Fair Elections Act of 2016.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The proposed amendments to the Berkeley Election Reform Act (BERA) were adopted by the Fair Campaign Practices Commission (FCPC) at its regular meeting of November 21, 2019.

**Action:** M/S/C (Smith/Saver) to adopt the proposed amendments to BERA related to Officeholder Accounts.

**Vote:** Ayes: Metzger, Ching, Saver, Blome, McLean, Tsang, Smith; Noes: none; Abstain: none; Absent: O'Donnell (excused).

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.



Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

BACKGROUND

The Fair Campaign Practices Commission has supported creating the circumstances in which the incumbent and challengers during an election play on as level a playing field as possible and reducing the influence of private campaign contributions. For instance, the Berkeley Fair Elections Act of 2016, which was passed by voters and recommended to Council by the Commission, included the following express purposes:

- Eliminate the danger of actual corruption of Berkeley officials caused by the private financing of campaigns.
- Help reduce the influence of private campaign contributions on Berkeley government.
- Reduce the impact of wealth as a determinant of whether a person becomes a candidate.

(Section 2.12.490(B)-(D).)

A recent inquiry to the Commission Secretary regarding the regulation of Officeholder Accounts resulted in a request from a Commissioner to have discussion of these accounts placed on the May 16, 2019 agenda for possible action. The following motion was made and passed at that meeting:

Motion to request staff work with Commissioner Smith to bring to a future meeting background information and a proposal to eliminate officeholder accounts (M/S/C: O'Donnell/Blome; Ayes: Blome, Ching, McLean, Metzger, O'Donnell, Saver, Smith, Tsui; Noes: None; Abstain: None; Absent: Harper (excused)).

**Definition of an Officeholder Account**

Under state law, an "officeholder account" refers to the funds held in a single bank account at a financial institution in the State of California separate from any other bank account held by the officeholder and that are used for "paying expenses associated with holding public office." Officeholder Account funds cannot be used to pay "campaign expenses." This definition is drawn from state law applicable to statewide elected officials: Government Code section 85316 (Attachment 2), and the accompanying regulation by the Fair Political Practices Commission (FPPC) codified at Title 2, Division 6, of the California Code of Regulations, Section 18531.62 (Attachment 3).

Contributions to or expenditures from an Officeholder Account are not subject to BERA's reporting requirements. (The FPPC still requires the reporting of activity relating to Officeholder Accounts, which is available to view on Berkeley's Public Access Portal.) If, however, a complaint is filed that an Officeholder Account is used for

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

campaign contributions or to pay "campaign expenses," BERA can be used to respond to the complaint. The legal arguments for these statements are contained in a memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert, dated December 28, 1999 and a December 9, 1991 memorandum by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, that is attached to the December 28, 1999 memo. (Attachment 4.) Because the BERA provisions relied on in these memoranda have not been amended, and because no other BERA provisions have been added to regulate officeholder accounts, the memoranda's conclusions remain valid and are still controlling guidance.

### **Contributions to Officeholder Accounts**

Funds raised for Officeholder Accounts in Berkeley are not subject to any limitations, either from the FPPC or BERA. Neither is there a limit on the total amount the Officeholder Account fund may receive in contributions per year. Contributions to an elected official's Officeholder Account may put that contributor in a more favorable light with the elected official than might otherwise be the case.

### **Expenditures from Officeholder Accounts**

Except for the restriction that Officeholder Account funds cannot be used for "campaign expenses," BERA does not restrict how funds from Officeholder Accounts can be used.

There are a number of permissible expenditures from Officeholder Accounts that could put an elected official in a favorable light with voters that are not available to a challenger for that office. A donation to a nonprofit organization, although technically not a "campaign expense," would be seen favorably by those receiving the funds as well as individuals favorably disposed to the nonprofit organization receiving the funds. An individual running against this incumbent would have to draw on their own resources to make contributions to nonprofit organizations.

As long as political campaigns are not included, newsletters mailed to constituents related to events, information, or an officeholder's position on matters before the Council are a permissible Officeholder Account expenditure. This keeps the incumbent's name in front of the voter in a way unavailable to a challenger unless they pay for a newsletter and its distribution from their own resources.

Expenditures from Officeholder Account funds for flowers and other expressions of condolences, congratulations, or appreciation, while technically not "campaign expenses," also increase the probability that the recipient will be favorably predisposed toward the elected official as a candidate for reelection or election to another office. Again, a challenger would have to draw on their own resources to express condolences, congratulations, or appreciation to their potential supporters.

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
February 4, 2020

Further, officeholder accounts can be used to pay for a broad range of office expenses, such as meals, travel, parking tickets, or contributions to other candidates or political parties.<sup>1</sup> Eliminating officeholder accounts would reduce reliance on and the influence of private contributions for these expenditures.

**Recommendation**

To make elections more equitable between challengers and incumbent and for the reasons given above, the Fair Campaign Practices Commission recommends prohibiting Officeholder Accounts.

Berkeley will not be the first to prohibit Officeholder Accounts. The San Jose Municipal Code was amended to prohibit officeholder accounts in January 2008. (Chapter 12.06 – ELECTIONS, San Jose, CA Code of Ordinances, p. 10)

**Part 8 - OFFICEHOLDER ACCOUNTS**

**12.06.810 - Officeholder account prohibited.**

No city officeholder, or any person or committee on behalf of a city officeholder may establish an officeholder account or an account established under the Political Reform Act, California Government Code Section 8100 et seq. as amended, for the solicitation or expenditure of officeholder funds. Nothing in this section shall prohibit an officeholder from spending personal funds on official or related business activities.

The following additions to BERA are proposed:

**2.12.157 Officeholder Account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

**2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.

<sup>1</sup> Under state law applicable to state elected officials, officeholders may use campaign contributions for “expenses that are associated with holding office.” (Govt. Code, § 89510.) To qualify, expenditures must be “reasonably related to a legislative or governmental purpose.” (*Id.*, § 89512.) “Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.” (*Ibid.*)

Amendments to the Berkeley Election Reform Act  
to prohibit Officeholder Accounts

PUBLIC HEARING  
January 21, 2020

- C. Anyone holding an active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account, in accordance with FPPC guidelines.

ENVIRONMENTAL SUSTAINABILITY

There are no identified environmental effects related to the recommendation in this report.

RATIONALE FOR RECOMMENDATION

This proposed change to BERA will help to level the playing field between challengers and the incumbent running for elective office.

ALTERNATIVE ACTIONS CONSIDERED

A Subcommittee was formed to consider the options of (1) amending the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts, (2) amending BERA to mitigate possible advantages incumbents with an Officeholder Accounts have over challengers, or (3) doing nothing with regard to Officeholder Accounts. The four members of the Subcommittee recommended unanimously to the full Commission to amend the Berkeley Elections Reform Act, BMC Chapter 2.12, to prohibit Officeholder Accounts.

CITY MANAGER

The City Manager takes no position on the content and recommendations of this report.

CONTACT PERSON

Dean Metzger, Chair, Fair Campaign Practices Commission. 981-6998

Attachments:

- 1: Proposed Ordinance
- 2: Government Code section 85316
- 3: Section 18531.62 (Elected State Officeholder Bank Accounts), Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations
- 4: Memorandum signed by City Attorney Manuela Albuquerque to Aide to Mayor Shirley Dean, Barbara Gilbert (including attached memorandum signed by Secretary and Staff Counsel to the FCPC, Sarah Reynoso, to the FCPC)

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

OFFICEHOLDER ACCOUNT PROHIBITED; 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 2.12.157 is added to read as follows:

**BMC 2.12.157 Officeholder account**

“Officeholder Account” means any bank account maintained by an elected officer or by any person or committee on behalf of an elected officer, and whose funds are used for expenses associated with holding office and not for direct campaign purposes.

Section 2. That Berkeley Municipal Code section 2.12.441 is added to read as follows:

**BMC 2.12.441 Officeholder account prohibited**

- A. No elected officer, or any person or committee on behalf of an elected officer, may establish an officeholder account.
- B. No elected officer, or any person or committee on behalf of an elected officer, may use contributions, as defined in 2.12.100, for expenses associated with holding office.
- C. This provision does not affect a candidate’s ability to establish a legal defense fund or the requirements for such a fund, as set forth in the Political Reform Act or by regulation.
- D. Any active Officeholder Account on the date this change to BERA is adopted on a second reading by the City Council has one year from that date to terminate their Officeholder Account.

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



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**GOVERNMENT CODE - GOV**

**TITLE 9. POLITICAL REFORM [81000 - 91014]** ( Title 9 added June 4, 1974, by initiative Proposition 9. )

**CHAPTER 5. Limitations on Contributions [85100 - 85802]** ( Chapter 5 added June 7, 1988, by initiative Proposition 73. )

**ARTICLE 3. Contribution Limitations [85300 - 85321]** ( Article 3 added June 7, 1988, by initiative Proposition 73. )

**85316.** (a) Except as provided in subdivision (b), a contribution for an election may be accepted by a candidate for elective state office after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election.

(b) Notwithstanding subdivision (a), an elected state officer may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this subdivision shall be deposited into a bank account established solely for the purposes specified in this subdivision.

(1) No person shall make, and no elected state officer shall receive from a person, a contribution pursuant to this subdivision totaling more than the following amounts per calendar year:

(A) Three thousand dollars (\$3,000) in the case of an elected state officer of the Assembly or Senate.

(B) Five thousand dollars (\$5,000) in the case of a statewide elected state officer other than the Governor.

(C) Twenty thousand dollars (\$20,000) in the case of the Governor.

(2) No elected state officer shall receive contributions pursuant to paragraph (1) that, in the aggregate, total more than the following amounts per calendar year:

(A) Fifty thousand dollars (\$50,000) in the case of an elected state officer of the Assembly or Senate.

(B) One hundred thousand dollars (\$100,000) in the case of a statewide elected state officer other than the Governor.

(C) Two hundred thousand dollars (\$200,000) in the case of the Governor.

(3) Any contribution received pursuant to this subdivision shall be deemed to be a contribution to that candidate for election to any state office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this title. If a contribution received pursuant to this subdivision exceeds the allowable contribution limit for the office sought, the candidate shall return the amount exceeding the limit to the contributor on a basis to be determined by the Commission. None of the expenditures made by elected state officers pursuant to this subdivision shall be subject to the voluntary expenditure limitations in Section 85400.

(4) The commission shall adjust the calendar year contribution limitations and aggregate contribution limitations set forth in this subdivision in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100).

(Amended by Stats. 2007, Ch. 130, Sec. 149. Effective January 1, 2008. Note: This section was added by Stats. 2000, Ch. 102, and approved in Prop. 34 on Nov. 7, 2000.)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18531.62. Elected State Officeholder Bank Accounts.

(a) Application and Definitions. For purposes of Section 85316(b) and this regulation, the following definitions apply:

(1) "Officeholder" means an elected state officer.

(2) "Officeholder controlled committee" means a committee formed pursuant to subdivision (c) of this regulation.

(3) "Officeholder account" means the bank account established at a financial institution located in the State of California pursuant to Section 85316(b).

(4) "Officeholder funds" means money in the officeholder account.

(b) Establishing the Officeholder Account: For purposes of Section 85316(b), an officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(c) Establishing the Officeholder Controlled Committee, Reporting and Recordkeeping:

(1) Formation: The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Section 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year.

(2) Committee Name: The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) Filing Requirements: The controlled committee shall file campaign statements and reports pursuant to Chapters 4 and 5, except Sections 85200 and 85201, of Title 9 of the Government Code at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to state office.

(4) Required Recordkeeping and Audits. The officeholder and treasurer shall be subject to recordkeeping requirements under Section 84104. The officeholder account and officeholder controlled committee shall be subject to audits under Chapter 10 of Title 9 of the Government Code. Any audit of the officeholder, or any of his or her controlled committees, under Section 90001 shall include all officeholder accounts and officeholder controlled committees maintained by the officeholder during the audit period as described in Regulation 18996(a)(1).

(d) Prohibitions:

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in subdivisions (g) (2) and (g)(3).

(2) Officeholders may not use officeholder funds to pay "campaign expenses" as defined in Regulation 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in subdivision (g)(2) and (g)(3).

(e) Contributions to the Officeholder Account:

(1)(A) Required Notices: In addition to the requirements of Regulation 18523.1, a written solicitation for contributions to the officeholder account shall include the following: "For purposes of the Political Reform Act's contribution limits, a contribution to an officeholder



account is also considered to be a contribution to all campaign committees for future elective state office the officeholder seeks during his or her current term of office."

(B) In addition to the requirements of subparagraph (A) above, an officeholder who files a statement of intention to be a candidate for any elective state office during the officeholder's term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in subparagraph (A) and be transmitted or mailed within 10 days of filing the statement of intention to be a candidate.

(2) Cumulation: A contribution to the officeholder account shall also be deemed a contribution to the officeholder's controlled committee for election to elective state office for the purposes of Section 85316(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective state office, at any time during the period covered in subparagraph (A).

(3) Cumulation and Primary and General Elections: A person's contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective state office may not exceed the contribution limits applicable to the primary and general election.

(4) Multiple Officeholder Accounts: When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Section 85316(b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Section 85316(b)(2).

(f) Contributions Over the Limits:

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of Section 85301, 85302 (after cumulation) or 85316 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective state office pursuant to Section 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder's election to a future elective state office as otherwise provided under Section 85316(b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective state office.

(g) Terminating Officeholder Accounts and Committees:

(1) The officeholder may not accept contributions after the officeholder's term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office by amending the statement of

organization for the committee to reflect the redesignation for the future term of office prior to the date the officer's term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in subdivision

(e)(4).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(5) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier. The Executive Director may for good cause extend the termination date or permit the candidate to reopen the account.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 85316 and 90000-90007, Government Code.

**HISTORY**

1. New section filed 7-3-2007; operative 8-2-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 27). For prior history, see Register 2007, No. 26.

2. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).



Office of the  
City Attorney

**DATE:** December 28, 1999

**TO:** BARBARA GILBERT,  
Aide to Mayor Shirley Dean

**FROM:** MANUELA ALBUQUERQUE, City Attorney *MA*  
By: CAMILLE COUREY, Deputy City Attorney

**SUBJECT:** APPLICATION OF BERKELEY ELECTION REFORM ACT TO OFFICEHOLDER ACCOUNTS

ISSUE:

Does the Berkeley Election Reform Act (BERA) govern officeholder accounts?

CONCLUSION:

No. The BERA does not govern true officeholder accounts per se. However, the mere fact that an account may be designated an officeholder account does not insulate it from scrutiny under the BERA or other applicable local law if the officeholder account is not used strictly for officeholder purposes or if some action taken with respect to the officeholder account implicates campaign contributions and expenditures or other applicable local laws.

ANALYSIS:

Sarah Raynoso, former secretary and staff counsel to the Fair Campaign Practices Commission (FCPC), issued an opinion to the FCPC dated December 2, 1991, a copy of which is attached, stating that the BERA's contribution limit does not apply to contributions made to an officeholder account. The opinion reasons that the BERA's contribution limit applies only to "contributions" as defined in the BERA, i.e., which are made directly or indirectly in support of or in opposition to the nomination or election of one or more candidates to elective office. (See Berkeley Municipal Code (BMC) § 2.12.100.) Contributions to a true officeholder account are not made for the purpose of nominating or electing a candidate to office, but rather for the use of an officeholder in carrying out the duties of his or her office. Therefore, the contribution limit of the BERA is inapplicable to officeholder accounts.<sup>1</sup> For similar reasons, the BERA does not

<sup>1</sup> However, the opinion also provided that contributions to officeholder accounts still had to be reported on campaign statements because the State Fair Political Practices Commission (SFPPC) Regulations broadly defined contributions as any contribution for "political purposes." Since officeholder expenses are for political purposes, they must be reported to the State.

Barbara Gilbert

Re: Application of Berkeley Election Reform Act To Officeholder Accounts

December 28, 1999

Page 2

apply to true officeholder accounts.

The BERA requires the filing of statements to report the amounts received and expended in municipal elections. (See BMC §§ 2.12.015, 2.12.030 through 2.12.050) Specifically, a "campaign statement" required to be filed under the BERA is an itemized report which provides the information required by Sections 2.12.245 through 2.12.325 of the BERA. (BMC § 2.12.080.) Sections 2.12.245 through 2.12.325 govern the reporting of contributions and expenditures. "Contributions" and "expenditures" are defined by the BERA as any amounts received or expended, respectively, in aid of or in opposition to the nomination or election of one or more candidates to elective office. (See BMC §§ 2.12.100 and 2.12.130.) Contributions to or expenditures from a true officeholder account are not subject to the BERA's reporting requirements because they are made for the purpose of carrying out the duties of elective office, and not for the purpose of aiding or opposing the nomination or election of one or more candidates to elective office.<sup>2</sup> Therefore, the BERA does not apply to true officeholder accounts.

However, the fact that an account may be designated as an officeholder account will not shield it from scrutiny under the BERA if the officeholder account is, in fact, being used for the receipt of contributions or the making of expenditures in aid of the nomination or election of a candidate for local elective office. Nor will BERA requirements, such as the \$250 contribution limit or the prohibition against contributions from businesses to candidates, be held inapplicable if contributions made initially to an officeholder account are transferred subsequently to a campaign account. Where the actions taken with respect to an officeholder account implicate campaign contributions and expenditures in municipal elections, the officeholder account will be scrutinized under the BERA and other applicable local law.

#### Attachment

cc: Fair Campaign Practices Commission  
Sherry Kelly, City Clerk

City Attorney Opinions Index: H.E.I. and H.L.G.

CCM

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<sup>2</sup> Again, however, the State FPPC still requires the reporting of activity relating to an officeholder account. (See footnote 1.)

CITY OF BERKELEY

DATE: December 9, 1991 Memorandum

TO: FCPC COMMISSIONERS

FROM: Sarah Reynoso, Secretary & Staff Counsel

SUBJECT: APPLICABILITY OF BERA'S CONTRIBUTION LIMIT TO FUNDS RAISED FOR OFFICEHOLDER EXPENSES

BACKGROUND AND ISSUE

I received the attached letter from Richard N. Lerner, treasurer of Friends of Ioni Hancock Committee ("Committee"), regarding the applicability of BERA's (Berkeley Election Reform Act) \$250 contribution limit to funds raised to cover officeholder expenses. The Committee would like to raise money to cover activities by the Mayor for which the City has not allocated funds, for example, distribution of a newsletter and international travel to visit Berkeley Sister Cities.

Thus, the issue presented to the Commission is as follows: Is BERA's \$250 contribution limit applicable to funds raised for officeholder expenses?

CONCLUSION

No. The BERA's contribution limitation is only applicable to money raised "in aid of or in opposition to the nomination or election" of a candidate. Since the Committee intends to raise these funds for activities unrelated to the nomination or election of the Mayor, they are not subject to the BERA's \$250 contribution limitation. However, such funds must be reported as contributions under the State Political Reform Act and their expenditure itemized on the disclosure forms.

ANALYSIS

The BERA prohibits candidates for elective office from soliciting or accepting a contribution of more than \$250 from any one contributor. (BERA section 2.12.415.) Thus, funds which fall within BERA's definition of a contribution, are subject to the \$250 limit. In order to determine whether funds raised for officeholder expenses are subject to the contribution limitation, BERA's definition of contribution must be reviewed.

The BERA defines contribution, in part, as follows:

"Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or

FCPC COMMISSIONERS

December 9, 1991

Page 2

in opposition to the nomination or election of one or more candidates . . . . (Emphasis added.)

Thus, the plain language of the BERA requires that a contribution be solicited for purposes related to the nomination or election of a candidate for office to be subject to its contribution limitation. Since the Committee intends to raise funds for purposes unrelated to the Mayor's nomination or election for elective office, such funds do not fall within the BERA's definition and are therefore not subject to its \$250 limitation.

However, because the state Political Reform Act defines contribution to include any funds raised for political purposes, funds raised for officeholder expenses are considered contributions and must be reported on campaign disclosure forms.<sup>1/</sup> (Government Code section 82015.) Additionally, since the court's ruling in SEIU v. FPPC invalidated the state's \$1,000 contribution limit, funds raised for officeholder expenses are not subject to any limitation.

As a final precaution, the Committee should be advised that the FPPC has issued regulations concerning officeholder expenses and it should review them with respect to their interaction with the BERA.

Attachment

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<sup>1/</sup>I spoke with the FPPC's legal staff and confirmed that funds raised for officeholder expenses must be reported as contributions on the campaign disclosure forms.



**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 prohibition of officeholder accounts.

The hearing will be held on, February 4, 2020, at 4:00 p.m. in the School District Board Room, 1231 Addison Street.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **January 30, 2020**.

For further information, please contact Samuel Harvey, Commission Secretary at 981-6998.

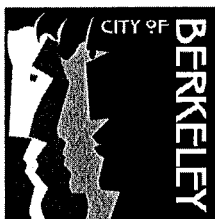
Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

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 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

**Published:** January 24, 2020 – The Berkeley Voice  
Pursuant to Berkeley Municipal Code Section 2.12.051

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on January 30, 2020.

Mark Numainville, City Clerk



[First Last name]
Councilmember District [District No.]

SUPPLEMENTAL REVISED AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: February 4, 2020

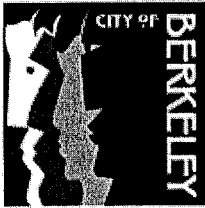
Item Number: 2

Item Description: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

Submitted by: Councilmember Hahn

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.



SOPHIE HAHN

Berkeley City Council, District 5
2180 Milvia Street, 5th Floor
Berkeley, CA 94704
(510) 981-7150
shahn@cityofberkeley.info

ACTION CALENDAR

February 4, 2020

To: Honorable Mayor and Members of the City Council
From: Vice Mayor Sophie Hahn
Subject: Statement on Item 2 - Amendments to the Berkeley Election Reform Act to prohibit Officeholder Accounts; Amending BMC Chapter 2.12

RECOMMENDATION

This item seeks to outlaw Officeholder Accounts in Berkeley. I would like to offer an alternative: to allow Officeholder Accounts but establish regulations to limit them in ways that reflect Berkeley's limitations on campaign donations and consider narrowing the uses for which Officeholder Account funds can be used.

The action I advocate for Council to take is to refer a discussion of Officeholder accounts to the Agenda and Rules Committee, to consider a reasonable set of limitations and rules for such accounts and bring back recommendations to the full Council, for the Council to consider referring to the Fair Campaign Practices Committee.

Officeholder accounts are accounts an elected official can open, and raise funds for, to pay for expenses related to the office they hold.¹ They are not campaign accounts, and cannot be used for campaign purposes. The types of expenses Officeholder Accounts can be used for include research, conferences, events attended in the performance of government duties, printed newsletters, office supplies, travel related to official duties, etc. Cities can place limits on Officeholder Accounts, as Oakland has done.² Officeholder Accounts must be registered as official "Committees" and adhere to strict public reporting requirements, like campaign accounts. They provide full transparency to the public about sources and uses of funds.

The FCPC bases its recommendation to prohibit Officeholder Accounts on arguments about "equity" and potential "corruption" in elections. The report refers repeatedly to "challengers" and "incumbents," suggesting that Officeholder Accounts are vehicles for unfairness in the election context.

I believe that the FCPC's recommendations reflect a misunderstanding of the purpose and uses of Officeholder Accounts, equating them with campaign accounts and suggesting that they create an imbalance between community members who apparently have already decided to run against an incumbent (so-called "challengers") and elected officials who are presumed to be

¹ <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter5/18531.62.pdf>

² <http://www2.oaklandnet.com/w/OAK052051>

always running for office. The recommendations do not take into account some important framing: the question of what funds are otherwise available to pay for Officeholder-type expenses for Officeholders or members of the public. Contrary to the conclusions of the FCPC, I believe Officeholder accounts are an important vehicle to redress a significant disadvantage for elected officials, whose ability to exercise free speech in the community and participate in conferences and events related to their profession is constrained by virtue of holding public office, as compared to community members, whose speech rights are unrestricted in any manner whatsoever, and who can raise money to use for whatever purposes they desire.

Outlawing Officeholder Accounts is also posited as a means to create equity between more and less wealthy Officeholders, on the theory that less affluent Officeholders will have less access to fundraising for Officeholder Accounts than more affluent Officeholders. Because there are no prohibition on using personal funds for many of the purposes for which Officeholder Account funds can be used, prohibiting Officeholder Accounts I believe has the opposite effect; it leaves more affluent Officeholders with the ability to pay for Officeholder expenses from personal funds, without providing an avenue for less affluent Officeholders, who may not have available personal funds, to raise money from their supporters to pay for such Officeholder expenses.

The question of whether Officeholder Accounts should be allowed in Berkeley plays out in the context of a number of rules and realities that are important to framing any analysis.

First, by State Law, elected officials are prohibited from using public funds for a variety of communications that many constituents nevertheless expect. For example, an elected official may not use public funds to send a mailing announcing municipal information to constituents, "such as a newsletter or brochure, [] delivered, by any means [] to a person's residence, place of employment or business, or post office box."³ Nor may an elected official mail an item using public funds that features a reference to the elected official affiliated with their public position.⁴ Note that Electronic newsletters are not covered by these rules, and can and do include all of these features, even if the newsletter service is paid for by the public entity. That said, while technically not required, many elected officials prefer to use email newsletter distribution services (Constant Contact, MailChimp, Nationbuilder, etc.) paid for with personal (or "Officeholder") funds, to operate in the spirit of the original rules against using public funds for communications that include a photo of, or references to, the elected official.

Without the ability to raise funds for an Officeholder Account, for an elected official to send a paper newsletter to constituents or to use an email newsletter service that is not paid for with public funds, they must use personal funds. A printed newsletter mailed to 5-6,000 households (a typical number of households in a Berkeley City Council District) can easily cost \$5,000+, and an electronic mail service subscription typically costs \$10 (for the most basic service) to \$45 per month, a cost of \$120.00 to over \$500 per year - in personal funds.

³ <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

⁴ <http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/communications-sent-using-public-funds/campaign-related-communications.html>

Second, Berkeley City Councilmembers and the Mayor of Berkeley are not paid enough for there to be any reasonable expectation that personal funds should be used for these types of expenses.⁵ For many Councilmembers and/or the Mayor, work hours are full time - or more - and there is no other source of income.

Finally, and most importantly, local elected officials are restricted from accepting money or gifts. An elected official cannot under any circumstances raise money to pay for Officeholder expenses such as printed communications, email newsletter services, travel and admission to industry conferences for which the elected official is not an official delegate (e.g., conferences on City Planning, Green Cities, Municipal Finance, etc.), and other expenses related to holding office that are not covered by public funds. Again, without the possibility of an Officeholder Account, an elected official generally must use personal funds for these expenses, allowing more affluent elected officials to participate while placing a hardship or in some cases a prohibition on the ability of less affluent elected officials to undertake these Officeholder-type activities - which support expected communications with constituents and participation in industry activities that improve the elected official's effectiveness.

The elected official's inability to raise funds from others must be contrasted with the ability of a community member - a potential "challenger" who has not yet declared themselves to be an actual candidate - or perhaps a neighborhood association, business or corporation (Chevron, for example) - to engage in similar activities. Nothing restricts any community member or organization from using their own funds - or funds obtained from anyone - a wealthy friend, a corporation, a local business, a community organization or their neighbors - for any purpose whatsoever.

Someone who doesn't like the job an elected official is doing could raise money from family or connections anywhere in the community - or the world - and mail a letter to every person in the District or City criticizing the elected official, or buy up every billboard or banner ad on Facebook or Berkeleyside to broadcast their point of view. By contrast, the elected official, without access to an Officeholder Account, could only use personal funds to "speak" with their own printed letter, billboard or advertisement. Community members (including future "challengers") can also attend any and all conferences they want, engage in travel to visit interesting cities and projects that might inform their thoughts on how a city should be run, and pay for those things with money raised from friends, colleagues, businesses, corporations, foreign governments - *anyone*. They are private citizens with full first amendment rights and have no limitations, no reporting requirements, no requirements of transparency or accountability whatsoever.

The imbalance is significant. Outside of the campaign setting, where all declared candidates can raise funds and must abide by the same rules of spending and communications, *elected officials cannot raise money for any expenses whatsoever, from any source, while community*

⁵ Councilmembers receive annual compensation of approximately \$36,000, while the Mayor receives annual compensation of approximately \$55,000.⁵

members, including organizations and private companies, can raise as much money as they want from any sources, and use that money for anything they choose.

Without the ability to establish and fund an Officeholder Account, the only option an elected official has is to use personal funds, which exacerbates the potential imbalance between elected officials with more and less personal funds to spend. Elected officials work within a highly regulated system, which can limit their ability to “speak” and engage in other activities members of the public are able to undertake without restriction. Officeholder Accounts restore some flexibility by allowing elected officials to raise money for expenses related to holding office, so long as the sources and uses of those funds is made transparent.

By allowing Officeholder Accounts and regulating them, Berkeley can place limits on amounts that can be raised, and on the individuals/entities from whom funds can be accepted, similar (or identical) to the limits Berkeley places on sources of campaign funds. Similarly, Berkeley can restrict uses of funds beyond the State’s restrictions, to ensure funds are not used for things like family members’ travel, as is currently allowed by the State. Oakland has taken this approach, and has a set of Officeholder Account regulations that provide a good starting point for Berkeley to consider.⁶

I respectfully ask for a vote to send the question of potential allowance for, and regulation of, Officeholder Accounts to the Agenda and Rules Committee for further consideration.

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

⁶ <http://www2.oaklandnet.com/w/OAK052051>

MAYOR AND CITY COUNCIL FINANCIAL SUMMARY

	FY 2015 Actual	FY 2016 Actual	FY 2017 Adopted	FY 2018 Proposed	FY 2019 Proposed
EXPENDITURES					
By Type:					
Salaries and Benefits	1,660,661	1,760,619	1,723,617	1,833,734	1,880,031
Services and Materials	36,942	43,407	113,526	113,526	113,526
Capital Outlay	1,953	7,674			
Internal Services	89,100	81,181	81,181	81,181	81,181
Indirect Cost Transfer					
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>
By Division:					
Mayor's Office	515,095	558,137	584,877	554,389	566,917
Council Offices	1,273,561	1,334,744	1,333,447	1,474,052	1,507,821
Exiting Officials					
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>
By Fund:					
General Fund	1,788,656	1,892,881	1,918,324	2,028,441	2,074,738
	<u>1,788,656</u>	<u>1,892,881</u>	<u>1,918,324</u>	<u>2,028,441</u>	<u>2,074,738</u>
General Fund FTE	12.00	12.00	12.00	12.00	12.00
Total FTE	12.00	12.00	12.00	12.00	12.00



Lori Droste
Berkeley Vice Mayor

ACTION CALENDAR

May 25, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Lori Droste (Author), Councilmembers Rigel Robinson (Co-Sponsor), Rashi Kesarwani (Co-Sponsor) and Mayor Jesse Arreguín (Co-Sponsor)

Subject: Commission Reorganization for Post-COVID19 Budget Recovery

RECOMMENDATION

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

Phase 2: All other Commissions as proposed below.

As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

New Commission Name	Former Commissions to be Reorganized
Commission on Climate and the Environment	Zero Waste, Energy, Community Environmental Advisory, and Animal Care
Parks, Recreation, Waterfront (special Marina subcommittee)	Children, Youth, and Recreation and Parks and Waterfront

Peace, Justice, and Human Welfare ¹	Peace and Justice and Human Welfare, Community Action Commissions
Public Health Commission & Sugar Sweetened Beverage Panel of Experts	Community Health Commission and Sugar Sweetened Beverage Panel of Experts
Housing Advisory Commission	Measure O and Housing Advisory Commission
Homeless Services Panel of Experts	Homeless Commission and Measure P Homeless Services Panel of Experts
Public Works and Transportation	Public Works and Transportation
Planning	Planning and Cannabis
<p>All other commissions will maintain their current structure: Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth</p>	

2. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.

3. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.

4. The Peace, Justice and Human Welfare Commission will be composed of only Mayor and Council appointees.

5. Refer to City Manager and Commissions the following additional considerations:

- Federal, state or other external mandates that might be impacted, and determine how to handle.
- Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted
- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter.

¹ Members will be appointed by Council and membership should adhere to Government Code Section 12736(e); 12750(a)(2) and 12751.

- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission’s charter

Policy Committee Oversight ²	Commissions
Agenda and Rules	<ol style="list-style-type: none"> 1. Fair Campaign Practices/Open Government Commission 2. Personnel Board
Budget and Finance	(Any legislation that requires funding)
Public Safety	<ol style="list-style-type: none"> 1. Disaster and Fire Safety Commission 2. Police Accountability Board/Police Review Commission 3. Reimagining Public Safety Task Force
Facilities, Infrastructure, Transportation and the Environment	<ol style="list-style-type: none"> 1. Commission on the Environment 2. Parks, Recreation and Waterfront with Marina subcommittee 3. Public Works and Transportation
Land Use and Economic Development	<ol style="list-style-type: none"> 1. Measure O Housing Commission 2. Planning Commission 3. Labor 4. Civic Arts Commission
Health, Equity, Life Enrichment, and Community	<ol style="list-style-type: none"> 1. Peace, Justice, and Civil Rights 2. Health and Sugar Sweetened Beverage Panel of Experts 3. Homeless Services Panel of Experts 4. Mental Health Commission (state/federal mandate) 5. Commission on the Status of Women 6. Disability Commission
Other Commissions: Zoning Adjustments Board (DRC), Landmarks Preservation, Board of Library Trustees, BIDs, Independent Redistricting Commission, Loan Administration Board	

² Primary policy committee oversight but legislation may be referred to multiple policy committees.

POLICY COMMITTEE RECOMMENDATION

On April 5, 2021, the Agenda and Rules Committee made a qualified positive recommendation to City Council to:

1. Refer to the City Manager and City Attorney to bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

Phase 2: All other Commissions as proposed below.

As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

New Commission Name (suggested)	Former Commissions to be Reorganized
Commission on Climate and the Environment	Zero Waste, Energy, Community Environmental Advisory, and Animal Care
Parks, Recreation, Waterfront (special Marina subcommittee)	Children, Youth, and Recreation and Parks and Waterfront
Peace, Justice, and Human Welfare	Peace and Justice Commission and Human Welfare and Community Action Commission
Public Health Commission & Sugar Sweetened Beverage Panel of Experts	Community Health Commission and Sugar Sweetened Beverage Panel of Experts
Housing Advisory Commission	Measure O and Housing Advisory Commission
Homeless Services Panel of Experts	Homeless Commission and Measure P Homeless Services Panel of Experts
Public Works and Transportation	Public Works and Transportation
Planning	Planning and Cannabis

All other commissions will maintain their current structure: Aging, Library Board of Trustees, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Planning, Police Review/Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth

2. Refer to the Commissions impacted a process to determine the charge/responsibilities of the newly merged commissions, and bring Commission input to the appropriate Policy Committees (as proposed by Vice-Mayor Droste in 4/5/21 submittal) for further recommendations to the City Manager on revised charge/responsibilities of merged commissions.

3. Refer to staff to develop recommendations on the transition to new consolidated commissions and the effective date of the changes.

4. Consider establishing 18 members on the new Climate and Environment Commission and establishing specific subcommittees focused on the policy areas of the merged commissions.

5. The Peace, Justice and Human Welfare Commission will be comprised of only Mayor and Council appointees.

6. Refer Councilmember Hahn questions to City Manager and Commissions: “Commissions to Combine/Merge - Suggested Considerations”

- Federal, state or other external mandates that might be impacted, and determine how to handle
- Whether charters of to-be-merged Commissions were adopted by City Council, through measures or initiatives passed by voters, or are by Charter, and by what means they might be merged/adjusted
- What elements of each Commission to keep, update, or retire, as well as relevant topics/issues not currently covered that might be added to a more comprehensive and/or relevant merged Commission’s charter.
- Whether the merged Commission might include 9, or a greater number of members.
- The possibility of requiring specific qualifications for appointment to the merged Commission.
- The possibility of recommended or required Standing Committees of the Merged Commission
- Volunteer workload and capacity given scope of Commission’s charter

PROBLEM/SUMMARY STATEMENT

Commissions provide an important mechanism for residents to shape public policy and provide input on City business. However, the City of Berkeley maintains far more

commissions than other cities of similar size, with a significant investment of City resources to staff all 37 commissions. Some commission secretaries report spending upwards of 20+ hours per week on commission business, which takes valuable time away from addressing other pressing City priorities. The local public health emergency created by the global COVID-19 pandemic has required City staff to shift to new roles and maintain an Emergency Operations Center since January 2020; recovery from the pandemic will continue to demand the full attention of our City staff for the foreseeable future. Given the uncertainties that our City faces in recovering from the COVID-19 pandemic and the demands that this recovery places on our City staff, it is an appropriate time to consider how best to consolidate our commissions in a manner that helps the City to achieve its core mission.

REITERATION OF PRINCIPLES

Commissions are a fundamental part of the City's policymaking process. Members of boards and commissions provide an invaluable service to our City. They advise the City Council on a wide variety of subjects by making recommendations on important policy matters. Without the assistance of the various boards and commissions, the City Council could give many complex and significant matters only a perfunctory review. The detailed studies and considered advice of boards and commissions are often catalysts for innovative programs and improved services. Serving on a board or commission can be a rewarding experience for community service-minded residents. It is an excellent way to participate in the functioning of local government and to make a personal contribution to the improvement of our community. Making local government effective and responsive is everybody's responsibility.

- The Public Works Commission, for example, develops the City's five year paving plan which they then present to City Council for approval. Through extensive community outreach and research, the Commission identifies the streets most in need of repaving.
- With the passage of Measure D in 2014, a Panel of Experts on Sugar-Sweetened Beverages has guided the City's spending of over \$5 million in revenue generated from the Measure. Those dollars have bolstered local public campaigns and education initiatives.

These are merely two examples of the powerful role that Commissions play in City policymaking.

CURRENT SITUATION AND ITS EFFECTS

Current Commission Structure

The City of Berkeley has approximately thirty-seven commissions overseen by city administration, most of which have at least nine members and who are appointed by individual councilmembers. These commissions were intended to be a forum for public participation beyond what is feasible at the City Council, so that issues that come before the City Council can be adequately vetted.

Some commissions are required by charter or mandated by voter approval or state/federal mandate. Those commissions are the following:

1. Board of Library Trustees (charter)
2. Business Improvement Districts (state mandate)
3. Civic Arts Commission (charter)
4. Community Environmental Advisory Commission (state/federal mandate--CUPA)
5. Fair Campaign Practices Commission/Open Government (ballot measure)
6. Homeless Services Panel of Experts (ballot measure)
7. Housing Advisory Commission (state/federal mandate)
8. Human Welfare and Community Action (state/federal mandate)
9. Measure O Bond Oversight Committee (ballot measure)
10. Mental Health Commission (state/federal mandate)
11. Personnel (charter)Police Review Commission (ballot measure)
12. Sugar-Sweetened Beverages (ballot measure)

Berkeley must have its own mental health commission because of its independent Mental Health Division. In order to receive services, the City needs to have to have an advisory board. Additionally, Berkeley's Community Environmental Advisory Commission is a required commission in order to oversee Certified Unified Program Agency (CUPA) under California's Environmental Protection Agency. Additionally, some commissions serve other purposes beyond policy advisories. The Children, Youth and Recreation Commission, Housing Advisory Commission, and the Human Welfare and Community Action Commission advise Council on community agency funding. However, some of the aforementioned quasi-judicial and state/federal mandated commissions do not need to stand independently and can be combined to meet mandated goals.

The Importance of Commissions

Commissions serve a vital role in the City of Berkeley's rich process of resident engagement. An analysis of agendas over the past several years shows that the commissions have created policy that have benefited the community in meaningful and important ways. In 2020, 14 of the 16 commission items submitted to Council passed.

From 2016-2020, an average of 34 items were submitted by commissions to Council for consideration.

The City’s Health, Housing and Community Development department serves an important role in addressing COVID-19, racial disparities, inequitable health outcomes, affordable housing, and other important community programs. Additionally, Health, Housing, and Community Development also staffs ten commissions, more than many cities of Berkeley’s size. Council needs to wrestle with these tradeoffs to ensure that we seek the maximum benefit for *all* of the Berkeley community, particularly our most vulnerable.

Commission Structures in Neighboring Jurisdictions

In comparison to neighboring jurisdictions of similar size, Berkeley has significantly more commissions. The median number of commissions for these cities is 12 and the average is 15.

Comparable Bay Area City	Population (est.)	Number of Commissions	Links
Berkeley	121,000	37	https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/External%20Roster.pdf
Antioch	112,000	6	https://www.antiochca.gov/government/boards-commissions/
Concord	130,000	14	https://www.cityofconcord.org/264/Applications-for-Boards-Committees-Commi
Daly City	107,000	7	http://www.dalycity.org/City_Hall/Departments/city_clerk/Commissions_Information/boards.htm
Fairfield	117,000	7	https://www.fairfield.ca.gov/gov/comms/default.asp
Fremont	238,000	15	https://www.fremont.gov/76/Boards-Commissions-Committees
Hayward	160,000	12	https://www.hayward-ca.gov/your-government/boards-commissions
Richmond	110,000	29	https://www.ci.richmond.ca.us/256/Boards-and-Commissions
San Mateo	105,000	7	https://www.cityofsanmateo.org/60/Commissions-Boards

Sunnyvale	153,000	10	https://sunnyvale.ca.gov/civicax/filebank/blobdload.aspx?blobid=22804
Vallejo	122,000	17	http://www.ci.vallejo.ca.us/cms/one.aspx?pagelid=22192

To understand the impact on various departments and staffing capacity, the following table shows which departments are responsible for overseeing various commissions.

Staffing and Resources Supporting Berkeley's Current Commission Structure

Commission Name	Overseeing Department (Total Commissions in Department)
Animal Care Commission	City Manager (8)
Civic Arts Commission	City Manager (8)
Commission on the Status of Women	City Manager (8)
Elmwood BID Advisory Board	City Manager (8)
Loan Administration Board	City Manager (8)
Peace and Justice Commission	City Manager (8)
Solano Ave BID Advisory Board	City Manager (8)
Cannabis Commission	Planning (7)
Community Environmental Advisory Commission	Planning (7)
Design Review Committee	Planning (7)
Energy Commission	Planning (7)
Landmarks Preservation Commission	Planning (7)
Planning Commission	Planning (7)
Zoning Adjustments Board	Planning (7)
Children, Youth, and Recreation Commission	Parks (3)
Parks and Waterfront Commission	Parks (3)

Youth Commission	Parks (3)
Commission on Aging	Health, Housing, and Community Services (HHCS) (10)
Commission on Labor	HHCS (10)
Community Health Commission	HHCS (10)
Homeless Commission	HHCS (10)
Homeless Services Panel of Experts	HHCS(10)
Housing Advisory Commission	HHCS (10)
Human Welfare & Community Action Commission	HHCS (10)
Measure O Bond Oversight Committee	HHCS (10)
Mental Health Commission	HHCS (10)
Sugar-Sweetened Beverage Product Panel of Experts	HHCS (10)
Disaster and Fire Safety Commission	Fire (1)
Commission on Disability	Public Works (4)
Public Works Commission	Public Works (4)
Transportation Commission	Public Works (4)
Zero Waste Commission	Public Works (4)
Fair Campaign Practices Commission/Open Government Commission	City Attorney (1)
Personnel Board	Human Resources (1)
Police Review Commission/Police Accountability Board	Police Review Commission/Police Accountability Board Staff
Reimagining Public Safety Task Force	City Manager *(8) and BPD (2)

Board of Library Trustees	Library (1)
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Gray=charter
 Red=state/federal mandate
 Yellow=quasi-judicial
 Blue=ballot initiative
 Orange=state/federal mandate and quasi-judicial
 Green=quasi-judicial and ballot initiative

The departments that staff more than five commissions are Health, Housing, and Community Services (10 commissions), Planning (7 commissions), and the City Manager’s department (8 commissions). At the same time, some smaller departments (e.g. the City Attorney’s office) may be impacted just as meaningfully if they have fewer staff and larger individual commission workloads.

Policy Committee Structure Expands Opportunities for Public Input

With the recent addition of policy committees, proposed legislation is now vetted by councilmembers in these forums. Each policy committee is focused on a particular content area aligned with the City of Berkeley’s strategic plan and is staffed and an advisory policy body to certain city departments. Members of the public are able to provide input at these committees as well. The policy committees currently have the following department alignment:

Department and Policy Committee alignment

1. **Agenda and Rules**—all departments
2. **Budget and Finance**—City Manager, Clerk, Budget, and Finance
3. **Land Use and Economic Development**—Clerk, Planning, HHCS, City Attorney, and City Manager (OED)
4. **Public Safety**—Clerk, City Manager, Police, and Fire
5. **Facilities, Infrastructure, Transportation, Environment and Sustainability** (Clerk, City Manager, Planning, Public Works, and Parks)
6. **Health, Equity, Life Enrichment, and Community** (Clerk, City Manager, HHCS)

Staffing Costs

Based upon preliminary calculations of staff titles and salary classifications, the average commission staff secretary makes roughly \$60-\$65/hour. Based upon recent interviews with secretaries and department heads, individual commission secretaries work anywhere from 8-80 hours a month staffing and preparing for commission meetings. To illustrate this example, a few examples are listed below.

Commission	Step 5 Rate of Pay	Reported Hours a Month	Total Direct Cost of Commission per Month
Animal Care	\$70.90	8	\$567.20
Landmarks Preservation Commission	\$57.96	80	\$4,636.80
Design Review Commission	\$52.76	60	\$3,165.60
Peace and Justice	\$60.82	32	\$1,946.24

It is extremely challenging to estimate a specific cost of commissions in the aggregate because of the varying workload but a safe estimate of salary costs dedicated to commissions would be in the six-figure range.

Many commissions--particularly quasi-judicial and land use commissions-- require more than one staff member to be present and prepare reports for commissions. For example, Zoning Adjustment Board meetings often last five hours or more and multiple staff members spend hours preparing for hearings. The Planning Department indicates that *in addition* to direct hours, additional commission-related staff time adds an extra 33% staff time. Using the previous examples, this means that the Landmarks Preservation Commission would cost the city over \$6,000 in productivity while the Design Review Commission would cost the City over \$4,000 a month.

Productivity Losses and Administrative Burden

Current productivity losses are stark because of the sheer amount of hours of staffing time dedicated to commissions. As an example, in 2019 one of the City of Berkeley's main homeless outreach workers staffed a commission within the City Manager's department. She spent approximately 32 hours a month working directly on commission work. While this is not a commentary on a particular commission, this work directly impacted her ability to conduct homeless outreach.

RATIONALE FOR RECOMMENDATION

At a time when the City needs to demonstrate efficiency and fiscal restraint, the current commission structure is costly and duplicative. At the same time, civic engagement and commission work absolutely deserve an important role in Berkeley. Consequently, this legislation retains commissions but centers on overall community benefit, staff

productivity, and associated costs. This is imperative to address, especially in light of COVID-19 and community demands for reinvestment in important social services.

FISCAL IMPACTS

Significant savings associated with reduced staffing.

CONTACT

Vice Mayor Lori Droste 510-981-7180



Mental Health Commission

42

INFORMATION CALENDAR
May 25, 2021

To: Honorable Mayor and Members of the City Council
From: Mental Health Commission
Submitted by: Dr. Margaret Fine, Chair, Mental Health Commission
Subject: Mental Health Commission Work Plan 2021-2022

INTRODUCTION

At its March 25, 2021 meeting, the Mental Health Commission adopted its 2021-2022 Work Plan.

CURRENT SITUATION AND ITS EFFECTS

On March 25, 2021, the Mental Health Commission adopted the attached work plan through the action detailed below.

The 2021-2022 Work Plan is a Strategic Plan Priority Project, advancing our goal to address public mental health and substance use services for community members living with serious mental illness (SMI) and substance use difficulties (SUD) --many of whom are unhoused, people of color, LGBTQIA+ people. people living with disabilities of all ages.

We advance this goal by focusing on: 1) client-centered, well-integrated coordination of services to support whole person care for individuals with SMI and SUD and 2) reducing and eliminating overrepresentation and disproportionate impacts from involvement with law enforcement, criminal legal and incarceration systems. In this light, the Work Plan is designed to specifically address the need for a 24/7 non-police crisis response program for the City of Berkeley as an alternative to policing for non-criminal matters.

In addition, our Work Plan is designed to champion and demonstrate the importance of equitable public mental health and substance use service delivery in the form of tailored culturally safe and responsive public mental health and substance use services to diverse people and communities. The Work Plan thus advances this effort by achieving these goals to: 1) build partnerships with people using these services, families, community members and CBOs in order to evaluate service delivery and 2) participating in mental health and substance use program evaluation at the system level for the Division of Mental Health.

The Work Plan is designed to promote mental health and substance use education in an effort to reduce and eliminate the stigmatization and stereotyping of people living with mental health and substance use conditions, particularly diverse people living with SMI and SUD--many of whom are unhoused--in the community. This goal is designed to improve the way society views mental health and substance use so people are without fear of judgement in seeking services needed to foster and sustain mental wellness in the community.

BACKGROUND

In 2016, the City Council adopted direction to commissioners to submit a work plan annually.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental sustainability impact associated with the adoption of this work plan.

POSSIBLE FUTURE ACTION

None

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

None

CONTACT PERSON

Jamie Works-Wright, MH Commission Secretary, HHCS/MH, 510-981-7721

Attachments: Attachment 1: FY 2021-2022 Work Plan



Mental Health Commission

Mental Health Commission Work Plan 2021 – 2022

1. People living with Serious Mental Illness/Substance Use Problems, especially Unhoused People
 - Advise and make recommendations to Berkeley Mental Health and the Berkeley City Council about the capacity of the public mental health system to address the needs of unhoused people living with mental illness and substance use problems.
2. Specialized Care Unit (SCU) Non-Police Crisis Response
 - Review and evaluate the RDA Report, including about the Berkeley Mental Health's Mobile Crisis Unit and the SCU, and Advise the Division of Mental Health and Berkeley City Council about the MHC Recommendations.
3. Reduce Mental Health Impacts from Policing
4. Mental Health Equity and Inclusion
 - Identify and apply a rubric for evaluating compliance with best practices for mental health equity, disparities and inclusion for diverse and marginalized peoples.
5. Mental Health Education
 - Increase Public Education on Mental Health and Wellness
6. MHC Partnerships and Presentations
 - Build a Strong Partnership with Consumers, Families, Community, Berkeley Mental Health, Community-Based Organizations, including inviting representatives to Mental Health Commission meetings to present and answer questions about the public mental health and substance use systems for the City of Berkeley

7. Accountability

- Assess the financial accountability of Berkeley Mental Health and related Community Based Organizations (CBOs) (particularly focused on drastic tax revenue reductions from impacts of COVID).
- Review and evaluate program need, services, and facilities— including challenges and any problems and make recommendations, including about Division of Mental Health, to incorporate harm reduction principles and increases substance use services into all programs and make reports.
- Make site visits to Berkeley Mental Health programs, as well as to CBO programs which have contracts with BMH and ACBHCSA, to become more informed and familiar with the continuum of interventions and services. Meet with staff and consumers of these services.

8. Membership and Governance

9. Recruitment

- Prepare membership materials and recruit members to MHC.

10. Annual Report

- Submit Annual Report for 2020 to the Berkeley City Council.

Communications – May 25, 2021

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

Tenant Opportunity to Purchase Act

1. 4 similarly-worded form letter (My name is)
2. Mary Behm-Steinberg
3. David Nutt
4. Annie Koruga
5. Kathleen Crandall
6. Berkeley Rental Housing Coalition
7. East Bay Young Democrats
8. California Democratic Renters Council

1921 Walnut Street Demolition

9. Northern Alameda County Sierra Club
10. University of California, Berkeley

COVID-19

11. Ava See (2)

City of Berkeley Crime

12. Erwan Illian

2021 LRDP and Housing Projects #1 and #2 – UC Berkeley

13. City of Berkeley Landmarks Preservation Commission

Affordable Housing Overlay

14. Cal Berkeley Democrats
15. Associated Student University of California

Public Comment at Agenda and Rules Meeting

16. Thomas Lord

Benado, Tony

From: ranil <randhani@gmail.com>
Sent: Tuesday, May 4, 2021 3:54 PM
To: All Council; City Clerk
Subject: YES to TOPA!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Council members,

My name is Ranil and I am a member of the Berkeley Tenants Union. I live on property of the Northern California Land Trust. If not for organizations such as these that support TOPA I would not be able to afford to live and work in Berkeley.

I am writing to demand that you **fully support the Tenant Opportunity to Purchase Act (TOPA)**. TOPA has the full backing of the Berkeley community - including three dozen organizations - because it provides an exclusive right of first offer for tenants and qualified organizations; timelines that give tenants a real chance to organize, make an offer, and secure financing; has a strong, tenant-centered policy that limits opportunities for loopholes and allows tenants to assign their rights to a qualified organization; and has a broad applicability that includes single family homes so no tenant is left behind.

Passing a strong and comprehensive TOPA policy will set the stage for the numerous localities across California that are looking to pass local TOPA ordinances as well as places across the country such as Minneapolis, Massachusetts, and beyond.

Do the right thing. Stand with tenants by fully supporting the Tenant Opportunity to Purchase Act.

Ranil Abeysekera

--

Stay safe Be Healthy

Show your Love, Keep your Distance 

Benado, Tony

From: Summer Brenner <summerbrenner@gmail.com>
Sent: Tuesday, May 4, 2021 1:26 PM
To: All Council; City Clerk
Subject: Yes 2 TOPA!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Council members,

My name is Summer Brenner, a long-time Berkeley resident, and while I am fortunate now to own a home now, I was a renter for many years.

I am writing to demand that you **fully support the Tenant Opportunity to Purchase Act (TOPA)**.

TOPA has the full backing of the Berkeley community (including three dozen organizations) because:

- 1) it provides an exclusive right of first offer for tenants and qualified organizations;
- 2) timelines that give tenants a real chance to organize, make an offer, and secure financing; has a strong, tenant-centered policy that limits opportunities for loopholes and allows tenants to assign their rights to a qualified organization; and
- 3) has a broad applicability that includes single family homes so no tenant is left behind.

Passing a strong and comprehensive TOPA policy will set the stage for the numerous localities across California that are looking to pass local TOPA ordinances as well as places across the country such as Minneapolis, Massachusetts, and beyond.

Do the right thing. Stand with tenants by fully supporting the Tenant Opportunity to Purchase Act.

Thank you,

Summer Brenner

District 4

Benado, Tony

From: La Fan <elefantone@gmail.com>
Sent: Tuesday, May 4, 2021 4:37 PM
To: All Council
Cc: City Clerk
Subject: YES 2 TOPA- support fair housing in Berkeley at this Thursday Meeting

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Council members,

My name is Laura and I am a member of the Berkeley Tenants Union. I am writing to demand that you fully support the Tenant Opportunity to Purchase Act (TOPA).

TOPA has the full backing of the Berkeley community - including three dozen organizations - because it provides an exclusive right of first offer for tenants and qualified organizations; timelines that give tenants a real chance to organize, make an offer, and secure financing; has a strong, tenant-centered policy that limits opportunities for loopholes and allows tenants to assign their rights to a qualified organization; and has a broad applicability that includes single family homes so no tenant is left behind.

Passing a strong and comprehensive TOPA policy will set the stage for the numerous localities across California that are looking to pass local TOPA ordinances as well as places across the country such as Minneapolis, Massachusetts, and beyond.

Do the right thing.

Stand with tenants by fully supporting the Tenant Opportunity to Purchase Act.

Best,

Laura

--

Laura Fantone
researcher/ educator
university of California, Berkeley
<https://ffh.films.com/title/56135>
<https://newmedialab.cuny.edu/project/resistancesexistence>
We are all here, now, to be awakened from our illusion of separateness. Thích Nhất Hạnh

Benado, Tony

From: Nicole Henley <nhenley.professional@gmail.com>
Sent: Wednesday, May 5, 2021 6:14 PM
To: All Council; City Clerk
Cc: Nicole Henley
Subject: Yes 2 TOPA!!!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Council members,

My name is Nicole Henley and I am a member of the Berkeley Tenants Union. I am writing to demand that you **fully support the Tenant Opportunity to Purchase Act (TOPA)**. TOPA has the full backing of the Berkeley community - including three dozen organizations - because it provides an exclusive right of first offer for tenants and qualified organizations; timelines that give tenants a real chance to organize, make an offer, and secure financing; has a strong, tenant-centered policy that limits opportunities for loopholes and allows tenants to assign their rights to a qualified organization; and has a broad applicability that includes single family homes so no tenant is left behind.

My family, a family of color, which includes three minor children, is currently facing displacement as the single family home we have rented for the past five years is on the market to be sold. This program would assist families like mine and many others that are at risk of displacement to remain in this community.

Passing a strong and comprehensive TOPA policy will set the stage for the numerous localities across California that are looking to pass local TOPA ordinances as well as places across the country such as Minneapolis, Massachusetts, and beyond.

Do the right thing. Stand with tenants by fully supporting the Tenant Opportunity to Purchase Act.

--
Regards,

Nicole Henley
1276 University Ave.,
Berkeley, CA 94702
415.966.9177

Benado, Tony

From: Mary BehmSteinberg <marybehmsteinberg@gmail.com>
Sent: Tuesday, April 27, 2021 3:50 PM
To: Berkeley Mayor's Office; Kesarwani, Rashi; Taplin, Terry; Bartlett, Ben; Harrison, Kate; Hahn, Sophie; Wengraf, Susan; Robinson, Rigel; Droste, Lori; City Clerk
Cc: Becky O'Malley; cheryla.k.davila@gmail.com
Subject: Essential fixes to TOPA: "bondification" of the City, legal structures, limiting equity

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mayor and Council:

I'm writing to you as a private individual, not as a Commissioner, but I feel I have to comment on support for TOPA, which only narrowly passed the HWCAC last week.

While I'm in strong support of TOPA in principle, I'm writing to implore you to fix the serious lapses in the measure as written that undermine the security of both existing residents and potential beneficiaries of the measure. I appreciate all the hard work that's gone into to fixing problems with the DC measure, and appreciate that it's helped a lot of people there, but there is more work to be done before this measure passes if we hope to make Berkeley truly equitable and maintain the social contract with all of our residents, not just those who can afford to pay the extra burden

of even more bond measures, or those who can buy a non-deed-restricted unit (which will NOT help affordability if they decide to flip their units).

The first problem is, of course, funding. I noticed that Item 24 on tonight's consent calendar is to direct the City Manager to explore yet more bond measures to pay for affordable housing. What most people don't realize is that low-income homeowners, including many who are elderly and/or disabled, are at risk of displacement from the community they helped build over this. I bring this up repeatedly, and yet it is ignored. For those who are unaware, Prop. 13 doesn't protect homeowners against property tax increases through bond measures and parcel taxes, and many of those are on a fixed income and simply can't more monthly bills. The whole purpose of Prop. 13 was to ensure that people who tried to ensure their own housing stability, including people like former teachers; art workers; service workers; and black property owners in formerly redlined areas wouldn't be driven out by the speculative housing market in California. Now, no one seems to care anymore. According to the Berkeley Housing Element, 22.9% of Berkeley

homeowners are low income or below, and of those 4% are in the lowest income category. Many of those are on a fixed income, and Prop. 13 was supposed to be their rent control. Bond measures are listed as a potential source of revenue to pay for this program, but robbing Peter to pay Paul is a poor way to run a city, and displacing vulnerable elderly and disabled people from their community, and possibly from having housing, is not a service to those who are struggling. Moreover, bond measures cost the City one and half to two times the amount borrowed in interest, and are possibly the worst way to fund these improvements.

There are many paths to poverty, and not all of these people have the equity or the ability to move that some otherwise well-intentioned people assume. Instead, the Mayor and those of you with close ties in Sacramento should be organizing with San Francisco Supervisor Jane Kim and other like-minded city and county officials to pressure Sacramento for robust corporate tax increases on those who have created the affordability problem: large corporate interests (particularly tech, which has had outsized profits

during the pandemic) and high-income individuals and corporations. As a reminder, California was, pre-pandemic, the 5th largest economy in the world, ahead of the UK, and the Bay Area alone was 19th because of the presence of Big Tech. They can well afford to pay while low-income homeowners cannot

<https://markets.businessinsider.com/news/stocks/california-economy-16-mind-blowing-facts-2019-4-1028142608>.

Second, while the measure has some outstanding components, such as giving tenants the opportunity to purchase OR assign that ability to non-profits like the community land trust, anyone who can afford to buy without City assistance can do so without a deed restriction. I foresee some buying and flipping, and adding to the speculative real estate market. Instead, we should be either putting a deed restriction for at least the missing middle on those units, or requiring a minimum of 20 years occupancy to escape it.

Otherwise, we're just adding to the gentrification problem.

Third, there is no outline of legal structures for multiple unit buildings in this. What happens if the elevator goes out and a disabled resident needs it to get to their unit, and the other tenants don't want to pay? They can't sue themselves, and this is one case in which a landlord could be forced to do the work.

Will the new units be condos? Or will they be like TICs? Having a strong agreement in place that soon to be homeowners can get adequate legal advice on is essential. I've seen first-hand, in a 2 unit complex, how complicated things like this can be when someone fails to keep up their financial and maintenance issues on a property, and trust me when I say that no one wants to be liable for their neighbors' failure to pay their share of maintenance costs, or in the case of a TIC a mortgage. In a TIC, if your neighbor doesn't pay their mortgage and you don't step in to do it, the bank considers all the owners to be in default and forecloses on everyone.

While I really hope that we will get a viable form of TOPA in this City, this measure isn't yet ready for prime time, and these issues must be addressed to ensure

the success and longevity what should be an example nationwide. Passing something with these gaping holes will not only damage local residents, but will give more ammunition to large real estate interests who would oppose it in other places.

Please rectify these problems before you consider passing this measure.

Respectfully,

Mary Behm-Steinberg
(she/her pronouns)

Vice Chair, Human Welfare and Community Action
Commission

Commissioner, Homeless Commission

(Speaking solely as an individual and not as a
representative of either commission)

Benado, Tony

From: David R. Nutt <davidrnut@gmail.com>
Sent: Tuesday, April 27, 2021 5:00 PM
To: City Clerk
Subject: Yes 2 TOPA!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello,

Please support the Tenant Opportunity to Purchase Act (TOPA). As a Berkeley tenant who would like to have the opportunity to someday own a home this is an important act that could make this possible for me and others. Is TOPA a panacea to Berkeley's housing needs? No - but it is an important step in the process.

TOPA has the full backing of the Berkeley community - including three dozen organizations - because it provides an exclusive right of first offer for tenants and qualified organizations; timelines that give tenants a real chance to organize, make an offer, and secure financing; has a strong, tenant-centered policy that limits opportunities for loopholes and allows tenants to assign their rights to a qualified organization; and has a broad applicability that includes single family homes so no tenant is left behind.

Passing a strong and comprehensive TOPA policy will set the stage for the numerous localities across California that are looking to pass local TOPA ordinances as well as places across the country such as Minneapolis, Massachusetts and beyond.

Do the right thing. Stand with tenants by fully supporting the Tenant Opportunity to Purchase Act.

Best,
David Nutt
1431 67th St Apt B
Berkeley, CA 94702

Benado, Tony

From: Annie Koruga <annie.koruga@gmail.com>
Sent: Sunday, May 2, 2021 6:36 PM
To: City Clerk; All Council
Subject: Support TOPA

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Council members,

I am writing to demand that you fully support the Tenant Opportunity to Purchase Act (TOPA). TOPA has the full backing of the Berkeley community - including three dozen organizations - because it provides an exclusive right of first offer for tenants and qualified organizations; timelines that give tenants a real chance to organize, make an offer, and secure financing; has a strong, tenant-centered policy that limits opportunities for loopholes and allows tenants to assign their rights to a qualified organization; and has a broad applicability that includes single family homes so no tenant is left behind.

Passing a strong and comprehensive TOPA policy will set the stage for the numerous localities across California that are looking to pass local TOPA ordinances as well as places across the country such as Minneapolis, Massachusetts, and beyond.

Do the right thing. Stand with tenants by fully supporting the Tenant Opportunity to Purchase Act.

Benado, Tony

From: Kathleen Crandall <kcrand1111@aol.com>
Sent: Wednesday, May 5, 2021 7:43 AM
To: All Council; City Clerk
Subject: Who will TOPA really help- not the neediest Berkeley Tenants!

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Councilmember's and City Manager,

I am writing to suggest you NOT support the Tenant Opportunity to Purchase Act (TOPA).

THE ARGUMENT THAT...

Passing a strong and comprehensive TOPA policy will set the stage for the numerous localities across California that are looking to pass a local TOPA ordinances as well as places across the country such as Minneapolis, Massachusetts is not helpful to Berkeley tenants and unfair to tenants that think this is going to help them.

PRICES! The fair market values of most of the units in Berkeley are out of reach for most tenants and so you will not be helping the most needy. In fact you may hurt them by interfering in what is known as NAOH(naturally occurring affordable housing).

MORE UNITS and more units that do not require a partnership agreement are key to helping the working class, and low income tenants who can and want to purchase.

I highly suggest you consult Mary Murtagh, the former CEO of EAH Housing who brought 8000 affordable housing units on line during her tenure, and ask her about nonprofits and coops and management and costs and what really happens when a nonprofit buys and manages(and mismanages) property.

TOPA IN DC does not have a great track record after 40 years. They converted under 100 units and they were not small unit buildings.

Better ideas:

1. Equity share programs for ADU's.
2. Promote condo conversions with low to no cost to the owners who pre- sale to a tenant.
3. Promote a program for owners who do a condo conversion with no fees that agree to sell at a certain % below market and assists the tenants/buyers with a downpayment.

THERE ARE SO MANY BETTER IDEAS THAN TOPA.

There are also unintended consequences to

TOPA and one of them is it will hurt minority owners, especially in South Berkeley. Timing is always key to a sale and a delay because of TOPA could mean thousands of lost dollars lost to minority owners. My 95 year old African American neighbor would be one of them.

That would be awful.

I hope the IDEA of TOPA does not drive your vote for it. It's not the best idea. In fact it's not even a good one according to UC Professors at Cal in the City Planning Department. But there are better ideas. Not all tenants want to buy their unit. But anyone who does want to buy a home should be shown how. And I have even more ideas how to make that happen. TOPA is NOT one of them.

Sincerely,

Kathleen Crandall

Benado, Tony

From: Krista Gulbransen <krista@bpoa.org>
Sent: Wednesday, May 5, 2021 8:00 AM
To: City Clerk
Subject: Land Use Committee Meeting - Proposal from BPOA

Importance: High

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Land Use Committee Members,

I am writing in regard to Thursday's agenda. I think we are all aware that this is a highly-charged, community-engaged piece of legislation. While this proposal may be a number of years in the making, it is only recently that community members (and some of you) have had a chance to dig into the legislation.

There are **clearly an extraordinary number of unanswered questions, especially as it relates to the timelines** and applicability. And we just now discovered that there are new additions that the author has made that are quite substantial. These need further review and discussion.

This legislation only continues to be more convoluted, confusing and unclear to your constituents. You are trying to account for every possible version of a sale, which will only lead to a need for massive amounts of AR.

We have proposed from the beginning, **a simple application of TOPA that notifies the tenants and QOs of intent to sell, 90 days prior to going to market (or allowing for marketing of the property). This gives Tenants and QOs plenty of time to prepare to make an offer once the property has been listed.** It would cut out a lot of the costs related to administrative and development of AR.

Regards,

Krista C. Gulbransen

Executive Director

510.304.3575 / thebrhc.org



Berkeley
 Rental Housing
 Coalition



East Bay Young Democrats

To: Berkeley Mayor Jesse Arreguín and Members of the Berkeley City Council

RE: Letter of Support for Berkeley's Tenant Opportunity to Purchase Act (TOPA)

We are writing on behalf of the East Bay Young Democrats (EBYD) to express our support for Berkeley's Tenant Opportunity to Purchase Act (TOPA). We believe that affordable and fair housing is essential to the continued vibrancy of the East Bay and support an anti-displacement approach to urban renewal. Berkeley's TOPA advances housing affordability and housing security by creating a fair and open process for tenants to purchase their homes.

Berkeley's TOPA is informed by years of research and community conversations that the Yes2TOPA coalition conducted and continues to pursue. We need to continue building toward a just and equitable Berkeley and are confident that a strong TOPA policy will create a future where all residents, including those who were pushed out and are most marginalized, can thrive.

Communities across California and the United States, including Minneapolis, Portland, Massachusetts, and New York, are looking to Berkeley as they consider their own TOPA policies. Berkeley can and must continue to lead the nation with our progressive values.

When we began the new year, our general membership made it clear that housing and homelessness were the most important topics for our club to focus on. Since then, we have held several important discussions and events to address the various aspects of the housing crisis. We will do everything we can to ensure the passage of a TOPA policy that addresses these concerns and we will continue to encourage you to do so. The time for housing for all is now.

Thank you for your time and consideration in this matter.

Ruben Hernandez Story, Policy Director
James Chang, President

Caleb Smith, Vice President - Political Affairs



CAREN

CALIFORNIA DEMOCRATIC RENTERS COUNCIL

May 6, 2021

Mayor Jesse Arreguin
 Members of the Berkeley City Council
 2180 Milvia St.
 Berkeley, CA 94704
 TRANSMITTED VIA EMAIL

RE: SUPPORT – Berkeley Tenant Opportunity to Purchase Act

Dear Mayor Arreguin and Members of the Berkeley City Council,

We are reaching out to you today to voice our support for the Tenant Opportunity to Purchase Act. This is a policy that has been developed with significant community feedback and meticulous legal research, and it directly speaks to the needs of vulnerable Berkeley tenants.

The San Francisco Bay Area is among the top most expensive places to live in the U.S. According to Zillow, the current median home value in Berkeley is nearly \$1.4 million dollars, compared to around \$930,000 for Alameda County overall. Since 2000, adjusting for inflation, single-family home values in Berkeley have increased 225%, compared to a 200% increase in Alameda County overall (Zillow, 2020). The rapid rate of Bay Area home sales and high offers from investors has resulted in bidding wars that privilege cash offers and put buyers who use conventional financing at a disadvantage. These challenges place low- and moderate-income tenants, first-time homebuyers, and affordable housing developers such as community land trusts, at a severe disadvantage when trying to purchase property in the Bay Area. TOPA, is a policy tool uniquely equipped to level the playing field through rights for tenants and timelines that make it feasible for tenants and affordable housing developers to purchase.

We ask you today to commit to passing a meaningful tenant-centered policy that courageously and proactively levels the real estate playing field so that the preservation of affordable housing is not only a stated goal but also a lived reality. Together we can achieve the shared goals of expanding homeownership opportunities, curbing the displacement of long-time residents, and preserving affordable housing and community stability. But, this can only happen if Council passes the strongest policy possible.



CARENT

CALIFORNIA DEMOCRATIC RENTERS COUNCIL

We know moving forward that you all will be lobbied by various interest groups, and while you perform your duties as a public servant, we ask that you ground your perspective in the needs of Berkeley's most vulnerable tenants. If we have learned anything from the past 4 years, it is that we need bold and progressive policy. Berkeley City Council has the opportunity to contribute towards this collective goal, and to be a national leader, in its support of TOPA.

Respectfully,

Igor A. Tregub
Northern California Vice Chair
California Democratic Renters Council

Benado, Tony

From: Igor Tregub <itregub@gmail.com>
Sent: Wednesday, April 28, 2021 1:17 AM
To: regentsoffice@ucop.edu; President@ucop.edu; media@ucop.edu; Chancellor; publicaffairs@berkeley.edu
Cc: Claire.Doan@ucop.edu; Kristine.Luken@ucop.edu; Bob.Hartnagel@ucop.edu; dmogulof@berkeley.edu; jangilmore@berkeley.edu; diana.harvey@berkeley.edu; All Council; City Clerk; TheRentBoard
Subject: Sierra Club OPPOSITION to UC Berkeley's Proposed Demolition of 1921 Walnut St. in Berkeley, CA and Displacement of its Tenants
Attachments: Sierra Club Letter - 1921 Walnut St Demolition.pdf

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear University of California (UC) President Drake, Chair Perez, Members of the UC Board of Regents, and Chancellor Christ,

Please find our subject letter attached. As mentioned in the letter, we would be glad to meet with you at your convenience to further discuss the concerns stated in the letter. Thank you for your time and consideration.

Respectfully,
Igor Tregub (he/him)
Chair, Northern Alameda County Group
Sierra Club

"The arc of history is long, but it bends towards justice." - Martin Luther King, Jr.



SIERRA CLUB

SAN FRANCISCO BAY

NORTHERN ALAMEDA COUNTY GROUP
ALAMEDA ALBANY BERKELEY EMERYVILLE OAKLAND PIEDMONT SAN LEANDRO

April 28, 2021

University of California Office of the President
University of California Board of Regents
University of California Chancellor Dr. Carol T. Christ
TRANSMITTED VIA EMAIL

RE: OPPOSITION to the Demolition of 1921 Walnut St. in Berkeley, CA and Displacement of its Tenants

Dear University of California (UC) President Drake, Chair Perez, Members of the UC Board of Regents, and Chancellor Christ,

The Sierra Club speaks with the collective voices of nearly 800,000 members nationally, of which nearly 35,000 are in the San Francisco Bay Chapter and over 10,000 are within the Northern Alameda County Group; many of them (myself included) are UC Berkeley alumni and/or members of its extended community. **We write in strong opposition to a current proposal to demolish the rent-controlled eight-unit 1921 Walnut Street property in the City of Berkeley that was acquired by UC Berkeley last year and to displace its twelve tenants, several of whom have resided in that building for more than a decade.** While we laud the objective of creating housing for hundreds of new UC Berkeley students, we believe that the vast majority of this objective can be achieved without resorting to displacing longtime Berkeley residents.¹ Longstanding Sierra Club policy supports a harmonious interplay between the “3 P’s” of housing: production of new housing, protection of sitting tenants, and preservation of “naturally-occurring” affordable housing.^{2 3} In this case, UC Berkeley is proposing to implement 60 additional beds at the cost of completely eschewing the other two “P’s.”

Last week we submitted our comments on the Draft Long-Range Development Plan (LRDP) and stated the following on Page 3: “Displacement of existing residents, particularly residents in affordable or rent-controlled housing, would pose a significant impact to the community’s population and housing. To mitigate to less than significant levels, the mitigation measure should (1) commit to avoiding displacement of existing residents in any projects under the LRDP, and (2) require compliance with the City of Berkeley Demolition Ordinance, BMC 23C.08.020. Under the ordinance, demolitions may still occur, but displaced residents must be provided with comparable replacement housing, and rent

¹ After public input, the project was reduced to beds for 700 students, said Mogulof. But the addition of the land under 1921 Walnut St., means the complex can house 760 students and offer larger rooms, said Mogulof.

² <https://www.berkeleyside.com/2021/01/27/uc-berkeley-tells-tenants-of-112-year-old-rent-controlled-building-they-must-leave>

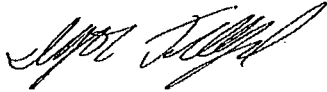
³ <https://www.sierraclub.org/sites/www.sierraclub.org/files/sce-authors/u19041/SClub%20Infill%20Policy%202019-05-18.pdf>

³ https://www.sierraclub.org/sites/www.sierraclub.org/files/sce/sierra-club-california/PDFs/SCC_Housing_Policy_Report.pdf

controlled housing units must be replaced or mitigated with a monetary payment to the City's Housing Trust Fund according to adequate, quantifiable standards. Therefore, compliance with this ordinance is a feasible mitigation measure." **At minimum, we expect the UC to abide by all applicable state and local laws that would bind any other developer wishing to do business in Berkeley.**

We would be glad to arrange a meeting at your convenience to further discuss these comments. Thank you for your consideration.

Respectfully,



Igor Tregub, Chair
Sierra Club Northern Alameda County Group

Benado, Tony

From: lspier@berkeley.edu on behalf of Chancellor Departmental <chancellor@berkeley.edu>
Sent: Friday, April 30, 2021 2:34 PM
To: Igor Tregub
Cc: regentsoffice@ucop.edu; President; media@ucop.edu; Publicaffairs Departmental; Claire.Doan@ucop.edu; Kristine.Luken@ucop.edu; Bob.Hartnagel@ucop.edu; Dan MOGULOF; Janet GILMORE; Diana L Harvey MA; All Council; City Clerk; TheRentBoard
Subject: Re: Sierra Club OPPOSITION to UC Berkeley's Proposed Demolition of 1921 Walnut St. in Berkeley, CA and Displacement of its Tenants

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Tregub

Thank you for contacting us about the Sierra Club's concerns. We received a similar letter from the Sierra Club on April 21 which the University of California, Berkeley will respond to in the Final EIR for the Long Range Development Plan.

Respectfully yours,
 Office of the Chancellor

On Wed, Apr 28, 2021 at 1:17 AM Igor Tregub <itregub@gmail.com> wrote:

Dear University of California (UC) President Drake, Chair Perez, Members of the UC Board of Regents, and Chancellor Christ,

Please find our subject letter attached. As mentioned in the letter, we would be glad to meet with you at your convenience to further discuss the concerns stated in the letter. Thank you for your time and consideration.

Respectfully,
 Igor Tregub (he/him)
 Chair, Northern Alameda County Group
 Sierra Club

"The arc of history is long, but it bends towards justice." - Martin Luther King, Jr.

--
 Office of the Chancellor
 University of California, Berkeley
 200 California Hall #1500
 Berkeley, CA 94720
 510-642-7464

Benado, Tony

From: Ava See <ava.see@berkeley.edu>
Sent: Monday, April 26, 2021 5:27 PM
To: Berkeley City Council Policy Committee
Subject: UC Berkeley's Upcoming School Year

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello Berkeley City Council,

I'm not sure if I'm emailing the right email, but regardless I think it's best to share my concerns. I'm very concerned with how the university is going about this next school year with the pandemic. Though the vaccine is out, its release is still recent and I think we should take the same precautions as we were before by having everything virtual. I've seen a lot of towns swing back and forth between how many people contract COVID and I believe this is because these towns didn't continue following the same precautions as they were before. The situation of COVID being unpredictable could be mitigated if we continued following the same precautions that led to the declining number of cases in the first place. My school wants the classes filled with 200+ students to still be online, but I don't understand how they think it's fine to still execute classes in person that have 195 students. There's still a problem with overcrowding classes in colleges, even before the pandemic hit. How can social distancing still be accomplished in this case? The school wants me to put all my faith in the vaccine, which I already have, but I am still extremely worried about this given the fact that I have very bad respiratory problems to begin with. It seems like the campus still hasn't learned to take precaution since the incident in January if everyone was out gathering together on Memorial Glade to celebrate 420 day this year.

I was told by my advisers from school that UC Berkeley still has to follow the policies of the city first; this is why I have contacted you.

Thank you for your time,

Ava See

--

Class of 2019

Here is everyone last Tuesday with no social distancing, no masks, and no vaccines (at least not the dose of the vaccine)

On Mon, Apr 26, 2021 at 5:26 PM Ava See <ava.see@berkeley.edu> wrote:

Hello Berkeley City Council,

I'm not sure if I'm emailing the right email, but regardless I think it's best to share my concerns. I'm very concerned with how the university is going about this next school year with the pandemic. Though the vaccine is out, its release is still recent and I think we should take the same precautions as we were before by having everything virtual. I've seen a lot of towns swing back and forth between how many people contract COVID and I believe this is because these towns didn't continue following the same precautions as they were before. The situation of COVID being unpredictable could be mitigated if we continued following the same precautions that led to the declining number of cases in the first place. My school wants the classes filled with 200+ students to still be online, but I don't understand how they think it's fine to still execute classes in person that have 195 students. There's still a problem with overcrowding classes in colleges, even before the pandemic hit. How can social distancing still be accomplished in this case? The school wants me to put all my faith in the vaccine, which I already have, but I am still extremely worried about this given the fact that I have very bad respiratory problems to begin with. It seems like the campus still hasn't learned to take precaution since the incident in January if everyone was out gathering together on Memorial Glade to celebrate 420 day this year.

I was told by my advisers from school that UC Berkeley still has to follow the policies of the city first; this is why I have contacted you.

Thank you for your time,

Ava See

--

Class of 2019

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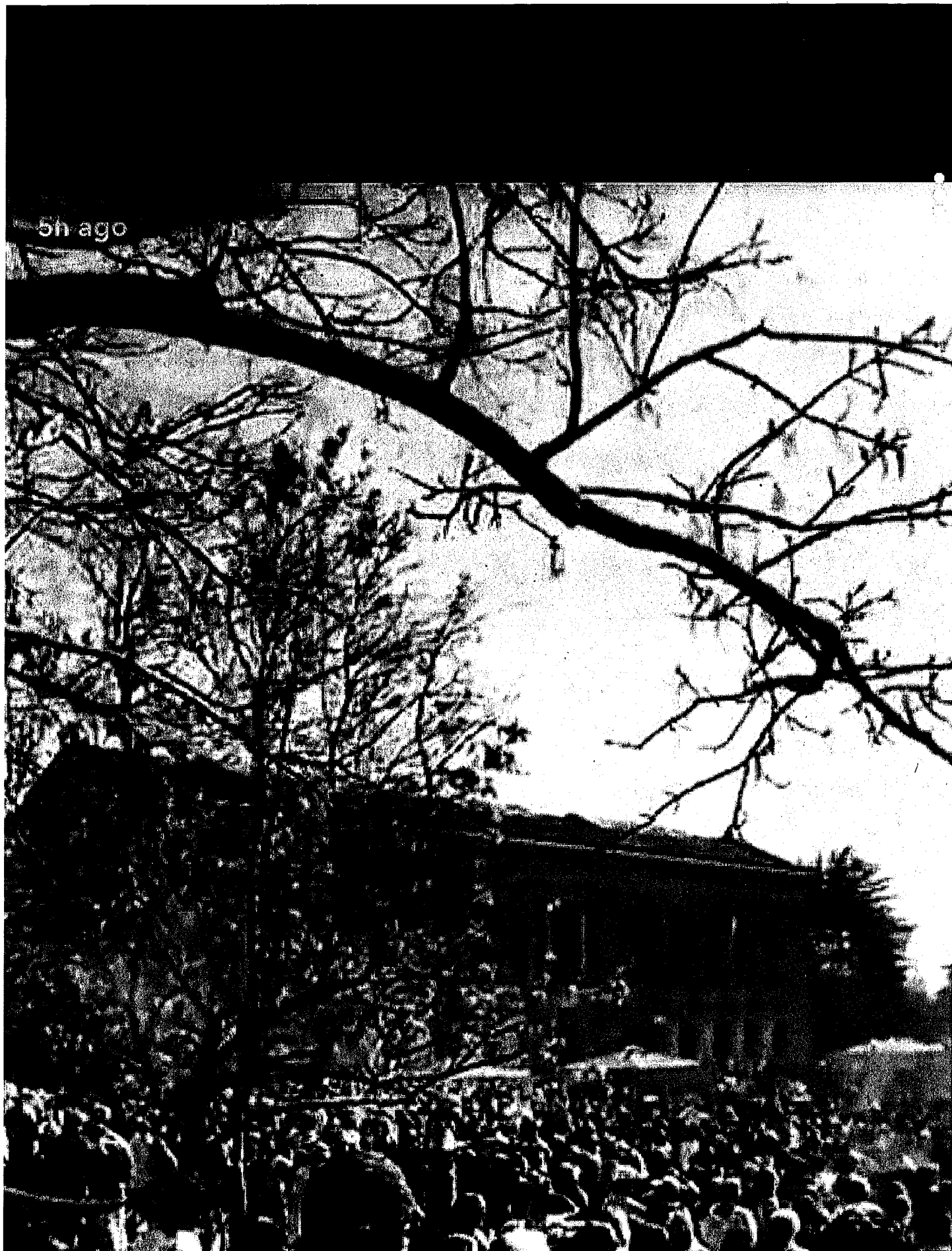
Class of 2019

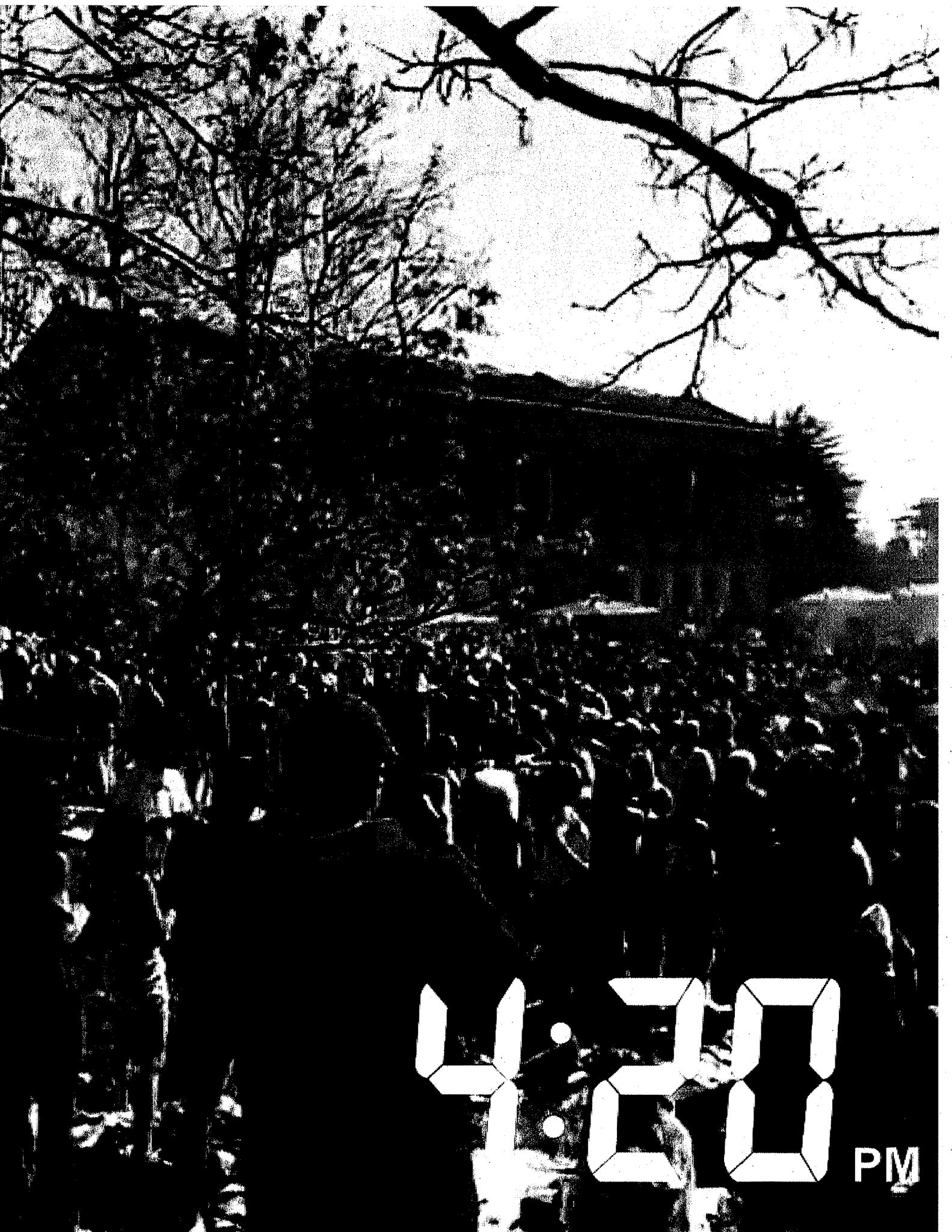
Benado, Tony

From: Ava See <ava.see@berkeley.edu>
Sent: Tuesday, April 27, 2021 4:19 PM
To: Berkeley City Council Policy Committee
Subject: Re: UC Berkeley's Upcoming School Year
Attachments: 2ECC2F98-DBB3-4ACA-BF16-7F3A0858A151.jpeg; 9F5BBF4B-7444-4246-BAE2-374D8367899A.jpeg

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.







4:20

PM

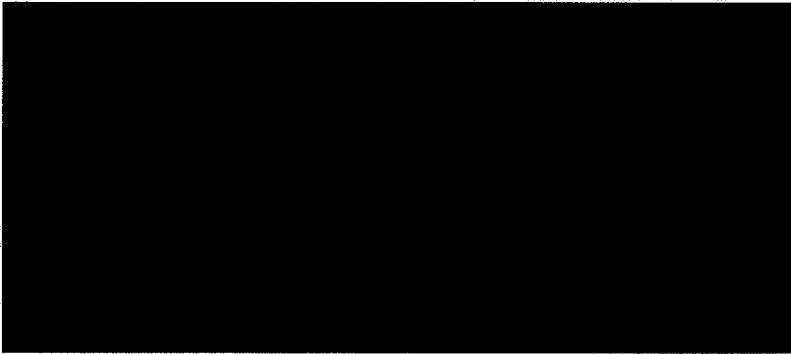


Benado, Tony

From: erwan illien <info@erwanillian.com>
Sent: Wednesday, April 28, 2021 5:11 AM
To: Berkeley Mayor's Office; City Clerk; Manager, C; Ferris, Scott; marinainbox; Scott, Christopher
Subject: Welcome to Berkeley

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[Crime log: Guns seized, elders attacked, hate crime arrests, more](#)



Crime log: Guns seized, elders attacked, hate crime arrests, more

Police investigated two shootings, made two hate crime arrests and seized several guns during traffic stops. Str...

After the complacency of the Police Department regarding how delinquency, petty crimes such as trespassing (forcing entry into bathrooms) were not addressed (no one was ever apprehended when I called The Police Department during my times as a live aboard), **this as per your instructions**, here we are. Bravo! You should be real proud of yourselves for doing not only nothing , but by doing so encouraging this type of activities to take hold... In my world, it has a name: INCOMPETENCE.

Erwan Illian

Benado, Tony

From: Crane, Fatema
Sent: Wednesday, April 28, 2021 4:12 PM
To: City Clerk; All Council
Subject: Copy of COB LPC letter to UC re: UC LRDP
Attachments: 2021-04-21_CORR_UC LRDP_LPC via Chair Adams.pdf

Clerk staff,
Good afternoon.

The Landmarks Preservation Commission (LPC) Chair would like City Council to receive a copy of the letter that LPC sent to UC providing comments on the UC LRDP and DEIR.

Please forward as required.

Thank you.

Sincerely,

Fatema Crane

Senior Planner/LPC Secretary

April 21, 2021

UC Berkeley, Physical & Environmental Planning
Attention: 2021 LRDP and Housing Projects #1 and #2 Draft EIR
300 A&E Building
Berkeley, CA 94720-1382

planning@berkeley.edu

CC: City Council

Re: Draft EIR Comments: 2021 LRDP and Housing Projects #1 and #2

At its meeting on April 1, 2017 the City of Berkeley Landmarks Preservation Commission (LPC) authorized me as chairperson to draft a letter to the University of California, commenting on the Long Range Development Plan and associated Draft EIR. The comments which follow have been circulated to commissioners by e-mail and are now submitted to the University.

1. The LPC recognizes that it is the responsibility of the University of California to provide the opportunity for higher education at its campuses throughout the state to meet the needs of a growing population and a growing economy. However, the LPC questions whether this LRDP and DEIR present the academic or institutional basis for the enormous predicted enrollment at the Berkeley campus, which will exacerbate threats to preservation of its host city's existing and historic housing stock, which already is already threatened by the housing crisis in the Bay Area. In the past, UC as a state institution has accommodated major enrollment needs through creation of a new campus, beginning with UCLA and continuing to UC Merced. The LRDP and its DEIR are to be approved by The Regents of UC; it is not a campus document. Yet nowhere in the LRDP or DEIR is a *state* response to enrollment needs suggested.
2. As a result of litigation subsequent to the last LRDP the UC established the procedure of providing informational presentations (or "referrals") to LPC about projects effecting City landmarks and structure of merit sites. However, in preparation of this LRDP and DEIR the University has failed to consult with the LPC and, with the exception of renovation of the former University Art Museum on Bancroft Way, has had no meaningful discussion with the LPC about any campus planning or building preservation issue in recent years. This commitment should be restored in the new LRDP as a formal procedure. Consultation should be early in the design / planning process, so the LPC (and the City Design Review Committee) can give meaningful input in time to help shape proposed projects to best fit in the Berkeley community.
3. In general, the cumulative impacts section of the DEIR, the aesthetics section, and Cultural Resource Data (Appendix F) lack consideration of mitigation measures for impact to historic resources except those owned by the University. This is a serious defect given that the University's expansion has been

parcel by parcel into the campus environs, where UC's checkerboard development is often directly adjacent to other historic resources.

4. The LRDP DEIR should but does not consider as a mitigation measure moving existing city landmarks or other historic resources to another location to create a development site, for example moving the four-story apartment building at 1921 Walnut to the undeveloped Oxford Tract one block north. This is a model the University used successfully when as a mitigation for the displacement of historic Girton Hall (designed by Julia Morgan), the Haas School of Business paid to relocate it to the Botanical Garden and renovate it as an event space in order to construct a large new academic building on the old Girton Hall site. Similarly, in the 1990s when the University constructed new housing buildings and a parking structure on Southside, the University included in the project the relocation and rehabilitation of the historic Fox Cottage / Rose Berteaux House, which was moved and used as the Staff Ombudsman headquarters for the campus.
5. With regard to the specific building proposal for the People's Park site, the LPC respects those in the Berkeley community who personally remember the pain of the University's history on Southside: a blanket demolition of existing housing stock which left the land undeveloped for years after clearance and the ensuing violence and police killing when student activists tried to occupy it. But the LPC also recognizes the need for the University to move forward with long delayed plans for housing. The LPC recommends that the University as mitigation should pledge to invest in the restoration of some University owned historic buildings as development plans commence. For example, for a very small percentage of the money the University will spend on construction during the lifetime of the LRDP, the remaining and unrestored portions of the nearby Anna Head School complex could be renovated and Berkeley's oldest remaining house--the 1860s Smyth House, with renovations by Julia Morgan--could be restored, perhaps for housing use.
6. The LPC also notes that the DEIR analysis of the People's Park development (including Appendix F) does not consider the extreme visual and shadow impact of a 17-story tower on adjacent and nearby City and Federal landmarks. The site of the proposed 17-story tower is across the street from the First Church of Christ Science, one of only 2,500 Federally designated National Historic Landmarks in the United States. Neither the visual impact of the overpowering scale of the proposed tower nor its shadows on the church windows are considered in the DEIR. The LPC strongly urges that the DEIR incorporate a low-rise building as a feasible alternative
7. The DEIR refers to studies apparently recently conducted by the campus last year but not previously made publicly available, which conclude that a large number of older buildings owned by the University are "not eligible" or "not historic". These appear to be primarily buildings that the University might want to demolish for development, and the list perplexingly includes some prominent structures on the campus, including buildings designed by

John Galen Howard (Dwinelle Annex) and George Kelham (University Heating Plant). These conclusions should be further reviewed.

Respectfully submitted,

Christopher Adams, Chairperson
City of Berkeley Landmarks Preservation Commission

Benado, Tony

From: Davina Srioudom <dsriou@berkeley.edu>
Sent: Tuesday, May 4, 2021 12:50 PM
To: All Council
Cc: Tran, Be; City Clerk
Subject: In support of AHO: Affordable Housing Overlay
Attachments: Affordable Housing Overlay - Letter of Support.pdf

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Honorable Mayor and City Councilmembers

On behalf of the Cal Berkeley Democrats, the official arm of the Democratic Party on UC Berkeley's campus, we'd like to express our **support** for the **Affordable Housing Overlay Item proposed by Councilmember Taplin, which would allow for increased height and density for 100% affordable housing developments**. If you have any questions regarding this letter of support, please feel free to contact us at board@caldems.com

All the best,
Davina Srioudom

--

Davina Srioudom
University of California, Berkeley
B.A., Political Science | Class of 2023
Phone: (951) 775-7439 | Email: dsriou@berkeley.edu



May 4th, 2021

City of Berkeley Land Use, Housing & Economic Development Committee
City Clerk Department
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

Re: In Support of Resolution to Affordable Housing Overlay

Dear Honorable Mayor and City Councilmembers

On behalf of the Cal Berkeley Democrats, the official arm of the Democratic Party on UC Berkeley's campus, we'd like to express our **support** for the **Affordable Housing Overlay Item proposed by Councilmember Taplin, which would allow for increased height and density for 100% affordable housing developments.**

The current regulations in Berkeley concerning heights and density limits the ability of developers to provide a large quantity of dwellings to residents and students alike. Given the precarious nature of the housing market perpetuated by the Bay Area at-large, the continuation of barriers to increased heights and density does little to serve the needs of Berkeley residents and only serves as an inefficient, demand-insensitive use of City real estate. The implementation of increasing height and density for development achieves the city's goal of ensuring affordable housing for low-income and moderate-income families and frees up real estate for much-needed residential units.

Given the state-mandated requirement for Berkeley to zone for 8,934 new homes, this item will help Berkeley meet its goals, through emphasizing density in our main commercial corridors and permitting missing middle housing in our neighborhoods. Affordability, public safety, design guidelines, and tenant and displacement protections are critical to any zoning changes, and they are specifically prioritized in this referral.

Berkeley students support the long-overdue and necessary work of confronting and dismantling barriers to housing accessibility that disproportionately impacts our most marginalized communities. It is also much needed for the next generation of Berkeley residents, most of whom will not be able to afford single-family homes. Legalizing two-four unit housing will also provide another much-needed housing option for older students and student-parents. And additional housing is badly needed to achieve Berkeley's housing and climate goals.

This item would strengthen the City's commitment to providing affordable housing for all of Berkeley's residents. For these reasons, Cal Berkeley Democrats strongly supports this item and urges the Council to vote YES on Item 1.

Sincerely,
Elizabeth Grubb, President
Sophie Morris, Finance Director
Jenny Lee, Co-Outreach Director
Meher Mann, Smart Ass Editor-In-Chief

Davina Srioudom, Political Director
Siffat Kohli, Operations Director
Daniel Jang, Co-Outreach Director

Benado, Tony

From: Davina Srioudom <dsriou@berkeley.edu>
Sent: Tuesday, May 4, 2021 12:53 PM
To: All Council
Cc: City Clerk; Tran, Be
Subject: [EAVP] PUBLIC COMMENT ITEM FOR 4 X 4 COMMITTEE: In Support of the AHO: Affordable Housing Overlay
Attachments: ASUC Letter of Support - AHO.pdf

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mayor and City Council Members,

On behalf of the **Associated Students of the University of California, the representative body of more than 40,000 students at the University of California, Berkeley**, I am writing to express our **strong support** for the Affordable Housing Overlay Item proposed by Councilmember Taplin, which would allow for increased height and density for 100% affordable housing developments. **Please see the attached letter of support from Derek Imai, ASUC EAVP.** Thank you!

With warmth,
Davina Srioudom

--

Davina Srioudom
University of California, Berkeley
B.A., Political Science | Class of 2023
Phone: (951) 775-7439 | Email: dsriou@berkeley.edu



March 18th, 2021

City of Berkeley Land Use, Housing & Economic Development Committee

City Clerk Department
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

Re: In Support of Resolution to Affordable Housing Overlay

Dear Mayor and City Council Members,

On behalf of the Associated Students of the University of California, the representative body of more than 40,000 students at the University of California, Berkeley, **I am writing to express our resolute support for the Affordable Housing Overlay Item proposed by Councilmember Taplin, which would allow for increased height and density for 100% affordable housing developments.**

The current regulations in Berkeley concerning heights and density limits the ability of developers to provide a large quantity of dwellings to residents and students alike. Given the precarious nature of the housing market perpetuated by the Bay Area at-large, the continuation of barriers to increased heights and density does little to serve the needs of Berkeley residents and only serves as an inefficient, demand-insensitive use of City real estate. The implementation of increasing height and density for development achieves the city's goal of ensuring affordable housing for low-income and moderate-income families and frees up real estate for much-needed residential units.

Given the state-mandated requirement for Berkeley to zone for 8,934 new homes, this item will help Berkeley meet its goals, through emphasizing density in our main commercial corridors and permitting missing middle housing in our neighborhoods. Affordability, public safety, design guidelines, and tenant and displacement protections are critical to any zoning changes, and they are specifically prioritized in this referral.

Berkeley students support the long-overdue and necessary work of confronting and dismantling barriers to housing accessibility that disproportionately impacts our most marginalized communities. It is also much needed for the next generation of Berkeley residents, most of whom will not be able to afford single-family homes. And additional housing is badly needed to achieve Berkeley's housing and climate goals.

As a result, I urge the City Council to vote YES on AHO. Should you have any questions regarding our position on this item, please don't hesitate to contact us at eavp@asuc.org.

Sincerely,

DEREK IMAI
ASUC External Affairs Vice President

SAMUEL TAPLIN
ASUC Local Government Relations Director

DAVINA SRIUDOM
ASUC Local Government Relations Deputy

Benado, Tony

From: Thomas Lord <lord@basiscraft.com>
Sent: Monday, April 26, 2021 5:32 PM
To: City Clerk; All Council; Berkeley Mayor's Office; City Attorney's Office
Subject: Re: public comment problems at Agenda and Rules

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Oh and according to the City Attorney today, it satisfies the Brown Act to allow an average of 17 seconds to comment on each of 7 agenda items, one of which is the draft agenda which contains quite a few potential sub-items to make comment on.

That satisfies the Brown Act only insofar as it is difficult for most people to raise the funds to sue the City on the basis of well established court precedent to the contrary.

-t

On 2021-04-26 15:19, Thomas Lord wrote:

I repeat that the initial announcement of public comment was misleading.

And the mayor is not truthful to say that I commented on any specific item on the agenda. Of that much I can be absolutely certain.

-t

On 2021-04-26 14:54, Thomas Lord wrote:

Please review the recording.

What I was certain I heard, though of course could be wrong, is the Mayor announce that he would take public comments on unagendized items and on unscheduled referrals.

As that comment session concluded he announced that that concludes comment on items 1-7 which includes comments on the draft agenda.