

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, January 25, 2022

6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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

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To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/84888765689>. 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: 848 8876 5689. 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. Minutes for Approval**
From: City Manager
Recommendation: Approve the minutes for the Council meetings of December 7 (special), December 9 (closed and special), December 14 (special and regular).
Financial Implications: None
Contact: Mark Numainville, City Clerk, (510) 981-6900
- 2. Revenue Contract: The Center at Sierra Health Foundation for \$90,999.50 for Information Technology Equipment, Telehealth Licenses, and Personal Protective Equipment**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager or her designee to apply for funding provided by the California Department of Health Care Services (DHCS) through the Behavioral Health Telehealth Request for Applications and accept the funding and execute any resultant revenue agreements and amendments to purchase information technology equipment, telehealth software licenses, and personal protective equipment up to \$90,999.50 in FY 2022 and FY 2023.
Financial Implications: See report.
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
- 3. 2022 Fee Assessment – State of California Self-Insurance Fund (Workers’ Compensation Program)**
From: City Manager
Recommendation: Adopt a Resolution authorizing payment to the State of California Department of Industrial Relations for Fiscal Year 2022 for administering the Workers’ Compensation Program, in an amount not to exceed \$268,093.55.
Financial Implications: See report.
Contact: Donald E. Ellison, Human Resources, (510) 981-6800
- 4. Grant Application: Land and Water Conservation Fund – Grove Park Renovation Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to the federal Land and Water Conservation Fund (LWCF) in an amount not to exceed 50% of the Grove Park Renovation total project cost of \$2.4M.
Financial Implications: See report.
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700

Consent Calendar

- 5. Contract No. 32000093 Amendment: DC Electric Group, Inc. for On-Call Electronic Traffic Calming Devices Maintenance Project**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to amend Contract No. 32000093 with DC Electric Group, Inc. to increase the current contract by \$250,000 for a total not to exceed amount of \$500,000 and to remove the \$50,000 annual limit.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 6. Contract: Glosage Engineering, Inc. for Sanitary Sewer Rehabilitation at Various Locations**
From: City Manager
Recommendation: Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project, located on Grizzly Peak Boulevard Backline, Euclid Avenue Backline, Cragmont Avenue Backline, Euclid Avenue, Wildcat Canyon Road, Woodhaven Road, Keeler Avenue, Spruce Street, and Eunice Street; accepting the bid of the lowest responsive and responsible bidder, Glosage Engineering, Inc.; 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 \$1,780,859, which includes a 10% contingency of \$161,896.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300
- 7. Lease and Cooperative Agreement: Downtown Berkeley Bike Station**
From: City Manager
Recommendation:
1. Adopt the first reading of an Ordinance authorizing the City Manager to execute a lease agreement with BART for retail space at the Center Street Garage for a fifteen-year lease term commencing February 1, 2021, and expiring on January 31, 2036.
2. Adopt a Resolution authorizing the City Manager to execute a cooperative agreement with the Bay Area Rapid Transit District (BART) for the continued operation of the Downtown Berkeley Bike Station in its Center Street Garage location for a three-year term commencing July 1, 2020, and expiring on June 30, 2023, in an amount not to exceed \$225,000.
Financial Implications: See report.
Contact: Liam Garland, Public Works, (510) 981-6300

Council Consent Items

- 8. Resolution Requesting State Cannabis Cultivation Tax Reform**
From: Mayor Arreguin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Kesarwani (Co-Sponsor)
Recommendation: Adopt a Resolution requesting State cannabis cultivation tax reform.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 9. 2022 Seating Arrangement during City Council Meetings**
From: Mayor Arreguin (Author)
Recommendation: Rescind Resolution No. 69,647–N.S and adopt a Resolution changing the seating arrangement of the Mayor and City Councilmembers on the dais for calendar year 2022, to accommodate the Vice-Mayor, as follows (From left to right, facing the dais): Kesarwani, Bartlett, Hahn, Harrison, Arreguin, Wengraf, Droste, Robinson, Taplin.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 10. 2022 City Council Committee and Regional Body Appointments**
From: Mayor Arreguin (Author)
Recommendation: Adopt a Resolution approving the appointment of Council representatives to City Council Standing Policy Committees, Partnership Committees, Regional Bodies and Liaisons to City Boards and Commissions for a term ending on December 31, 2022 or until new appointments are made.
Financial Implications: None
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 11. Referring the Civic Arts Commission’s affordable housing for artists in Berkeley Report and other Artist Live, Work and Live-Work opportunities to the Housing Element Update**
From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor), Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)
Recommendation: 1. Refer the Civic Arts Commission’s report entitled affordable housing for artists in Berkeley to the City Manager, Planning Commission, and Housing Advisory Commission to review, consider, and incorporate recommendations, to the greatest extent possible, into the Housing Element update and related planning and zoning processes.
2. Refer to the City Manager, Planning Commission, and Housing Advisory Commission consideration of the feasibility and impacts of allowing ground floor affordable live, work, and live-work space for artists in certain commercial, manufacturing, and mixed-use buildings/areas, both new-build and existing, and exploration of other opportunities for living, work and live-work space for artists.
Financial Implications: See report
Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

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 – Old Business

- 12. Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code**
(Continued from December 14, 2021. Item contains supplemental materials)
From: City Manager
Recommendation: Adopt a Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code.
Financial Implications: None
Contact: Jennifer Louis, Police, (510) 981-5900, LaTanya Bellow, City Manager's Office, (510) 981-7000

Action Calendar – New Business

- 13. COVID-19 Response 2021 Summary Report**
From: City Manager
Contact: Paul Buddenhagen, City Manager's Office, (510) 981-7000

Information Reports

- 14. LPO NOD: 2212 Fifth Street/#LMIN2021-0001**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 15. LPO NOD: 1120 Second Street/#LMSA2021-0001**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400
- 16. LPO NOD: 1325 Arch Street/#LMIN2020-0008**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Information Reports

17. **LPO NOD: 1960 University Avenue/#LMSA2021-0002**
From: City Manager
Contact: Jordan Klein, Planning and Development, (510) 981-7400

Public Comment – Items Not Listed on the Agenda

Adjournment

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

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

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

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

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

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

COMMUNICATION ACCESS INFORMATION:

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



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

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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 January 13, 2022.*



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](#).*

### **Assessment of Vacant Properties**

1. Human Welfare and Community Action Commission

### **Berkeley Marina**

2. David Lerman
3. Erica McFadden

### **Berkeleyside**

4. Charles Clarke
5. Pamela Turntine

### **Clark Kerr Volleyball Courts**

6. UC Berkeley

### **Crypto Currency**

7. Fred Dodsworth

### **Commercial Evictions**

8. Trea Cleaves (2)

### **COVID-19**

9. Anne McClintock
10. David Lerman (2)
11. Kelly Hammagren

### **Emergency Winter Shelter**

12. Elana Auerbach

### **International Day of Education**

13. Mina Karimabadi

### **Landmarks Preservation**

14. Charlene Woodcock



**Mynd Management**

15. Anita Shriver

**Political Representation**

16. Steve Martinot

**Smoke Free Signage Absence**

17. Carol Denney

**Shen Yun**

18. Lisa Ye

**Urban Trees**

19. Nancy Bardach

**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.





Office of the City Manager

CONSENT CALENDAR  
January 25, 2022

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 December 7 (special), December 9 (closed and special), December 14 (special and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. December 7, 2021-Special City Council Meeting
2. December 9, 2021-Special Closed City Council Meeting
3. December 9, 2021-Special City Council Meeting
4. December 14, 2021-Special City Council Meeting
5. December 14, 2021-Regular City Council Meeting

## BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

Tuesday, December 7, 2021

6:00 PM

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

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 IN A HYBRID MODEL WITH BOTH IN-PERSON AND VIRTUAL PARTICIPATION**

*This meeting of the City Council will be conducted in a “hybrid” model with both in-person attendance and virtual participation. This meeting is a one-time test of the technology needs and meeting management processes for hybrid meetings. All other meetings will continue to be conducted exclusively through teleconference and Zoom videoconference pursuant to Government Code Section 54953(e) and the state declared emergency.*

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*If attending in-person, please adhere to all health and safety requirements posted at the Council Chambers. To speak at public comment, line up with appropriate distance and speak from the public podium when recognized by the Presiding Officer.*

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## Preliminary Matters

**Roll Call:** 6:06 p.m.

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

**Absent:** None

## Worksession

### 1. **Presentation by the San Francisco Bay Restoration Authority**

Contact: San Francisco Bay Area Restoration Authority, (510) 286-7193

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

### 2. **Large Scale Ferry Feasibility Study – A Preferred Concept**

**From: City Manager**

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

Recess: 8:32 p.m. – 8:42 p.m.

Recess: 9:31 p.m. – 9:36 p.m.

**Action:** 15 speakers. Presentation made and discussion held.

### 3. **Zero Waste Fund Proposed Five Year (FY 2023/2027) Rate Schedules**

**From: City Manager**

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

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:20 p.m.

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

Councilmember Droste absent 10:47 p.m. – 11:20 p.m.

**Action:** 0 speakers. Presentation made and discussion held.

## Adjournment

Adjourned at 11:20 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting held on December 7, 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

### Item #1: Presentation by the San Francisco Bay Restoration Authority

1. Presentation, submitted by the San Francisco Bay Restoration Authority

### Item #2: Large Scale Ferry Feasibility Study – A Preferred Concept

2. Presentation, submitted by Parks, Recreation and Waterfront
3. Camille Antinori
4. Paul Kamen
5. James McGrath
6. Gordon Stout
7. Steven Castleberry

### Item #3: Zero Waste Fund Proposed Five Year (FY 2023/2027) Rate Schedules

8. Presentation, submitted by Public Works

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

THURSDAY, DECEMBER 9, 2021

4:00 P.M.

JESSE ARREGUIN, MAYOR

Councilmembers:

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

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
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## Preliminary Matters

**Roll Call:** 4:05 p.m.

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

**Absent:** Kesarwani, Bartlett, Hahn, Robinson

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

## CLOSED SESSION:

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

### 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(2):

- a. Significant exposure to litigation – one case

**Action:** M/S/C (Arreguin/Wengraf) to provide direction to approve the settlement agreements as to claims under the Fair Labor Standards Act and applicable Memorandum of Agreements and compensation plans for an amount not to exceed \$207,452.26

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

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

Negotiators: Dee Williams-Ridley, City Manager, Paul Buddenhagen, Deputy City Manager, LaTanya Bellow, Deputy City Manager, Don Ellison, Interim Human Resources Director, Ravinder Rangi, Employee Relations Manager.

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

**Action:** No reportable action taken.

## OPEN SESSION:

City Council met in closed session and provided direction to approve the settlement agreements as to claims under the Fair Labor Standards Act and applicable Memorandum of Agreements and compensation plans for an amount not to exceed \$207,452.26.

## Adjournment

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

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

Adjourned at 4:31 p.m.



I hereby certify that the foregoing is a true and correct record of the closed session meeting held on December 9, 2021.

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Mark Numainville  
City Clerk

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

Thursday, December 9, 2021  
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – TERRY TAPLIN  
DISTRICT 3 – BEN BARTLETT  
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## Preliminary Matters

**Roll Call:** 6:05 p.m.

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

**Absent:** Bartlett

Councilmember Bartlett present at 7:42 p.m.

### Report from Closed Session

The City Council met in closed session and provided direction to approve the settlement agreements as to claims under the Fair Labor Standards Act and applicable Memorandum of Agreements and compensation plans for an amount not to exceed \$207,452.26.

## Worksession

### 1. Housing Element Update Work Session

**From:** City Manager

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

**Action:** 10 speakers. Presentation made and discussion held.

## Adjournment

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

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

Councilmember Droste absent at 8:13 p.m.

Councilmember Hahn absent at 8:21 p.m.

Councilmember Kesarwani absent at 8:39 p.m.

Adjourned at 8:44 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting held on December 9, 2021.

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Mark Numainville  
City Clerk

**Communications**

- None

**Supplemental Communications 1**

- None

**Supplemental Communications 2**

**Item #1: Housing Element Update Work Session**

1. Megan Nguyen, on behalf of East Bay Housing Organizations

**Supplemental Communications 3**

**Item #1: Housing Element Update Work Session**

2. Presentation, submitted by Planning
3. Todd Darling
4. Sidharth Kuper
5. Toni Mester (2)
6. Eric Panzer

# BERKELEY CITY COUNCIL SPECIAL MEETING MINUTES

Tuesday, December 14, 2021  
4:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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

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*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **834 8152 4655**. If you wish to comment during the public comment portion of the agenda, Press \*9 and wait to be recognized by the Chair.*

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## Preliminary Matters

**Roll Call:** 4:05 p.m.

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

**Absent:** Bartlett

Councilmember Bartlett present at 4:09 p.m.

## Consent Calendar

**Action:** M/S/C (Arreguin/Kesarwani) to accept revised material from the City Manager on Item 3.

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

**Public Comment on Consent Calendar and Information Items Only:** 31 speakers.

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

**Vote:** All Ayes.

## Consent Calendar

### 1. **2021 Educator Housing Notice of Funding Availability Funding Reservation From: City Manager**

**Recommendation:** Adopt a Resolution to:

1. Reserve \$24.5M in Measure O affordable housing bond funds for the BUSD Workforce Housing project (1701 San Pablo / Satellite Affordable Housing Associates / Abode Communities) with the following conditions:

- a) Waive Section III.A.1 of the Housing Trust Fund Guidelines to allow the project to serve higher affordability levels, up to 120% of area median income (AMI) in order to meet the needs of BUSD educators; and
- b) Condition disbursement of funding on site control.

2. Authorize the City Manager to execute all original or amended documents or agreements to effectuate these actions.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,134–N.S.

## Consent Calendar

### 2. 2021 Housing Trust Fund Request for Proposals Funding Reservations

**From: City Manager**

**Recommendation:** Adopt a Resolution to:

1. Reserve Housing Trust Funds and other currently available affordable housing funds, and forward reserve of up to \$17M in Measure O Bond funds from the third issuance (anticipated in 2025) and up to \$2.5M in FY2023 general funds from Measure U1 for the following proposals as detailed below:

Ashby Lofts (2909-2919 Ninth / Satellite Affordable Housing Associates /SAHA) at \$850,000, Ephesians Legacy Court (1708 Harmon / Community Housing Development Corporation / CHDC) at \$2,500,000, MLK House (2942-2944 MLK / Resources for Community Development / RCD) at \$1,178,974, St. Paul Terrace (2024 Ashby / Community Housing Development Corporation / CHDC) at \$2,500,000, Supportive Housing in People's Park (2556 Haste / Resources for Community Development / RCD) at \$14,359,593 (including up to \$3M for predevelopment).

2. Reserve the balance of recommended funds of approximately \$13M dollars for one of the CHDC-sponsored projects (Ephesians Legacy Court or St. Paul Terrace) to be determined based on the project's readiness and feasibility, and with the intent that once further predevelopment work has been completed, the City Manager, CHDC, and the HTF Subcommittee work together to recommend a specific project for fund reservation.

3. Prioritize future housing funds (including, but not limited to, HTF and Measure O funds) for the CHDC project (Ephesians Legacy Court or St. Paul Terrace) not fully funded through this RFP.

4. Condition predevelopment funding for new construction projects (Ephesians Legacy Court, St. Paul Terrace, and Supportive Housing in People's Park) on site control;

5. Authorize the City Manager to refinance existing HTF development loans to Ashby Lofts and MLK House and predevelopment loans for each project funded through this NOFA into new loans with terms consistent with the HTF Guidelines;

6. Approve the following waivers of the HTF Guidelines for MLK House: a. Waive Section IV.C.1 to allow a subsidy in excess of 40% of total development costs; and b. Waive Section IV.C.2 to allow an interest rate of 0% for the new loan (in line with Council's 2017 approval of 0% interest rate for the refinanced MLK House loan)

7. Allow Northern California Land Trust to submit a revised application for up to \$500k in Permanent Local Housing Allocation (PLHA) rehabilitation funds to support the renovation of 2207 Haste with the following conditions: a. Application submittal within 90 days of City Council action; and

b. include a scope of work consistent with renovations proposed and substantiated by an updated physical needs assessment.

8. Authorize the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.

**Financial Implications:** See report

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

**Action:** Adopted Resolution No. 70,135–N.S.

## Consent Calendar

### 3. **Funding Recommendation and Joint Homekey Application for Golden Bear Inn at 1620 San Pablo**

**From: City Manager**

**Recommendation:** Adopt three Resolutions approving the following actions in support of a Homekey program funding allocation by:

1. Reserving up to \$8,463,535 in affordable housing funds for the Golden Bear Inn permanent supportive housing project at 1620 San Pablo as proposed by a partnership between Memar Properties and Bay Area Community Services (BACS);
2. Authorizing the City Manager or her designee to prepare and submit a joint application together with Memar Properties and BACS for the State of California Housing and Community Development (HCD) Department's Homekey program for the Golden Bear Inn permanent supportive housing project.
3. Authorizing the City Manager or her designee to take actions needed for the City's participation in HCD's Homekey program, including entering into the State's Standard Agreement and any amendments.
4. Authorizing the City Manager or her designee to execute all original or amended documents or agreements to effectuate these actions.

**Financial Implications:** See report

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

**Action:** 1. Adopted Resolution No. 70,136–N.S. (Approval of funding) 2. Adopted Resolution No. 70,137–N.S. (Joint application) 3. Adopted Resolution No. 70,138–N.S. (Homekey participation) as revised by the City Manager in Supplemental Communications Packet #2 and materials submitted at the meeting.

### 4. **Jointly Apply for No Place Like Home Funding for Supportive Housing in People's Park at 2556 Haste**

**From: City Manager**

**Recommendation:** Adopt two Resolutions that enable the proposed Supportive Housing in People's Park project to access State of California No Place Like Home program funds by:

1. Authorizing the City Manager to prepare and submit a joint application for Supportive Housing in People's Park at 2556 Haste.
2. Authorizing the City Manager to take actions needed for the City's participation in the No Place Like Home program by adopting State requirements regarding submitting applications, entering into the State's Standard Agreement and other documents, and providing mental health services for tenants of the resulting housing.

**Financial Implications:** See report

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

**Action:** 1. Adopted Resolution No. 70,139–N.S. (Joint application) 2. Adopted Resolution No. 70,140–N.S. (NPLH)



## **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.*

## Action Calendar – Public Hearings

### 5. Amending the PY21 Annual Action Plan to accept HOME-ARP Funds and Amending the Permanent Local Housing Allocation Five-Year Plan to Support a Homekey Project

**From:** City Manager

**Recommendation:** Conduct a Public Hearing on:

1. The proposed HOME Investment Partnerships Program – American Rescue Plan (HOME-ARP) Allocation Plan, which the City will submit to the U.S. Department of Housing and Urban Development (HUD) as a substantial amendment to the PY2021 (FY2022) Annual Action plan;

2. The proposed Permanent Local Housing Allocation (PLHA) Five-Year Plan Amendment, which the City is required to submit to the California Department of Housing and Community Development (HCD) since the proposed amendments will result in a change in funding for eligible activities that exceeds 10% of the annual allocation. And upon conclusion, adopt two Resolutions authorizing the City Manager, or her designee, to:

1. Amend the PY2021 Annual Action Plan to accept \$2,735,696 in HUD's HOME-ARP funds. Allocate up to 15% (\$410,354) for administration and planning, up to 5% for operating expenses for a Community Housing Development Organizations (CHDO) or other nonprofit organizations, up to 5% for nonprofit capacity building, and the remainder (75-85%) (\$2,051,772 - \$2,325,342) to a proposed State of California Housing and Community Development (HCD) Homekey Program (Homekey) project. In the event that the HOME-ARP allocation is modified, the same formula will be used to allocate funds. If the funds are not used for a Homekey project the City will use HOME-ARP funds for another HOME-ARP approved project.

2. Amend the PLHA Five-Year Plan to allocate \$1,138,194 to a proposed HCD Homekey project.

3. Submit the approved PY2021 Annual Action Plan Substantial Amendment #1 to HUD, and accept any resulting agreements with HUD.

4. Submit the approved PLHA Five-Year Plan Amendment to HCD and accept any resulting agreements with HCD.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 5 speakers.

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

**Vote:** All Ayes.

**Action:** M/S/C (Kesarwani/Droste) to adopt Resolution No. 70,141-N.S. (Amending the PY21 Annual Action Plan), and to adopt Resolution No. 70,142-N.S. (Adopting PLHA five-year plan)

**Vote:** All Ayes.

## Action Calendar – Public Hearings

**6. California Municipal Finance Authority Bond Financing for 2001 Ashby Avenue  
From: City Manager**

**Recommendation:** Conduct a public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Internal Revenue Code of 1986, as amended, and upon conclusion, adopt a Resolution approving the issuance of the bonds by the California Municipal Finance Authority (CMFA) for the benefit of the 2001 Ashby Avenue rental housing development.

**Financial Implications:** See report

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

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

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

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Harrison) to adopt Resolution No. 70,143-N.S.

**Vote:** All Ayes.

## Action Calendar – Old Business

**7. Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code  
(Continued from November 30, 2021) (Item Contains Supplemental Material)**

**From: City Manager**

**Recommendation:** Adopt a Resolution Accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code.

**Financial Implications:** None

Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000, Jennifer Louis, Police, (510) 981-5900

**Action:** Moved to Consent Calendar. Item continued to January 25, 2022.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 6:08 p.m.

I hereby certify that the foregoing is a true and correct record of the special meeting held on December 14, 2021.

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Mark Numainville  
City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

### Item #2: 2021 Housing Trust Fund Request for Proposals Funding Reservations

1. Alex Knox, on behalf of the Telegraph Business Improvement District

### Item #3: Funding Recommendation and Joint Homekey Application for Golden Bear Inn at 1620 San Pablo

2. Revised material, submitted by Health, Housing & Community Services Department
3. Lee Bishop
4. Eric Johnson

## Supplemental Communications and Reports 3

### Item #2: 2021 Housing Trust Fund Request for Proposals Funding Reservations

5. Dave Pate
6. Charlotte Pyle
7. Mary Dorst
8. Alicia Klein, on behalf of the Vedanta Society Berkeley
9. Cora Johnson-Grau

### Item #3: Funding Recommendation and Joint Homekey Application for Golden Bear Inn at 1620 San Pablo

10. Revised material, submitted by Health, Housing & Community Services Department
11. Hilary Clark
12. Trevor Wu
13. Salma Elmallah
14. Kevin Burke
15. Adam Rogers
16. Libby Lee-Egan

17. Alfred Twu
18. Milo Trauss
19. Annie Preston
20. Anirvan Chatterjee
21. Mary Dorst
22. Inder Sidhu
23. Ryan Finnigan
24. Igor Tregub

**Item #5: Amending the PY21 Annual Action Plan to Accept HOME-ARP Funds and Amending the Permanent Local Housing Allocation Five-Year Plan to Support a Homekey Project**

25. Presentation, submitted by Health, Housing and Community Services Department

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, December 14, 2021**  
**6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

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## Preliminary Matters

**Roll Call:** 6:21 p.m.

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

**Absent:** Bartlett, Droste

Councilmember Droste present at 6:22 p.m.

Councilmember Bartlett present at 6:27 p.m.

### Ceremonial Matters:

1. Adjourned in Memory of Bob Meola, Peace & Justice Commissioner

### City Manager Comments:

The City Manager shared a presentation on the efforts and data reports of the Homeless Response Team.

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

**Action:** M/S/C (Arreguin/Wengraf) to accept supplemental material from Mayor Arreguin on Item 7.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to accept supplemental material from Mayor Arreguin on Item 48.

**Vote:** All Ayes.

## Consent Calendar

**Public Comment on Consent Calendar and Information Items Only:** 20 speakers.

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

**Vote:** All Ayes.

## Consent Calendar

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



## Consent Calendar

- 4. Resolution Making Required Findings Pursuant to the Government Code and Directing City Legislative Bodies to Continue to Meet Via Videoconference and Teleconference**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution making the required findings pursuant to Government Code Section 54953(e)(3) and determining that as a result of the continued threat to public health and safety posed by the spread of COVID-19, City legislative bodies shall continue to meet via videoconference and teleconference, initially ratified by the City Council on September 28, 2021, and subsequently reviewed and ratified on October 26, 2021 and November 16, 2021.  
**Financial Implications:** To be determined  
Contact: Farimah Brown, City Attorney, (510) 981-6950  
**Action:** Adopted Resolution No. 70,144–N.S.
- 5. Resolution Reviewing and Ratifying the Proclamation of Local Emergency Due to the Spread of a Severe Acute Respiratory Illness Caused by a Novel (New) Coronavirus (COVID-19)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution reviewing the need for continuing the local emergency due to the spread of a severe acute respiratory illness caused by a novel (new) coronavirus (COVID-19) and ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services on March 3, 2020, initially ratified by the City Council on March 10, 2020, and subsequently reviewed and ratified by the Council on April 21, 2020, June 16, 2020, July 28, 2020, September 22, 2020, November 17, 2020, December 15, 2020, February 9, 2021, March 30, 2021, May 25, 2021, July 20, 2021, September 14, 2021, and November 9, 2021.  
**Financial Implications:** To be determined  
Contact: Farimah Brown, City Attorney, City Attorney’s Office (510) 981-6998  
**Action:** Adopted Resolution No. 70,145–N.S.
- 6. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the council meetings of November 2 (closed), November 4 (special), November 9 (closed and regular), November 16 (closed and regular), November 18 (closed) and November 30 (closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved minutes as submitted.

## Consent Calendar

- 7. City of Berkeley's 2022 State and Federal Legislative Platform**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving the City of Berkeley's 2022 State and Federal Legislative Platform.  
**Financial Implications:** See report  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000  
**Action:** Adopted Resolution No. 70,146–N.S. as revised in Supplemental Material from Mayor Arreguin introduced at the meeting.
- 8. Extension of Interim Director of Police Accountability Appointment**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution extending the appointment of Katherine J. Lee as Interim Director of Police Accountability and approving an employment contract to be effective January 1, 2022 at an annual salary of \$182,260.65.  
**Financial Implications:** See report  
Contact: Dee Williams-Ridley, City Manager, (510) 981-7000  
**Action:** Adopted Resolution No. 70,147–N.S. and to authorize the City Manager to make clarifying corrections on the term of the agreement.
- 9. Protiviti Government Services: Using General Services Administration (GSA) Vehicle for Professional Services Purchase Orders**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to issue purchase orders with Protiviti Government Services for the purchase of professional services using the General Services Agency's (GSA) purchasing vehicle no. GS-35F-0280X for an amount not to exceed \$70,000 through November 8, 2022.  
**Financial Implications:** General Fund - \$70,000  
Contact: Matthai Chakko, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,148–N.S.
- 10. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on December 14, 2021**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** General Fund - \$960,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation.

## Consent Calendar

- 11. Contract: RLH & Associates for Providing Temporary Governmental Financial Consulting Services for the Finance Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with RLH Associates for providing temporary governmental financial consulting as required by the Finance Department for an initial term of two years. The total not to exceed contract amount is \$150,000.  
**Financial Implications:** General Fund - \$150,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 70,149–N.S.
- 12. Contract: Valdes and Moreno for Professional Services for the Microbond Financing Pilot Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract, with any amendments, with Valdes and Moreno for professional services needed to establish and administer full-services consulting and other services related to a Microbond Financing Program. The total not to exceed amount is \$150,000.  
**Financial Implications:** General Fund - \$150,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 70,150–N.S.
- 13. Contract: Gainey Scientific for Project Management & Consulting**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Ganey Scientific. (Contractor) to provide project management and consulting services for the Fire Department (Department) from September 13, 2021 to August 31, 2022 in an amount not to exceed \$300,000 with an option to extend for an additional two years, for a total contract amount not to exceed \$900,000.  
**Financial Implications:** See report  
Contact: Abe Roman, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,151–N.S.
- 14. Revenue: FY2022 Federal COVID-19 Funding from HHS CARES Act Provider Relief Fund**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to accept payments from the Health and Human Services (HHS) CARES Act Provider Relief Fund and to execute any resultant revenue agreements and amendments to conduct and implement mitigation strategies in response to COVID-19 in the estimated amount of \$80,000 for FY 2022.  
**Financial Implications:** See report  
Contact: Abe Roman, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,152–N.S.

## Consent Calendar

- 15. Revenue Contract: Funding from an Instructional Service Agreement with Los Positas College to support Fire Department Training**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to enter an Instructional Service Agreement (ISA) with Los Positas Community College (LPC) to provide contract instruction, assessment, and counseling services from July 20, 2021, to July 19, 2024 for an amount not to exceed \$250,000 per fiscal year.  
**Financial Implications:** See report  
Contact: Abe Roman, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 70,153–N.S.
- 16. Contract: Statewide Prevention and Early Intervention Project Participation Agreement - California Mental Health Services Authority**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a Participation Agreement and any amendments with the California Mental Health Services Authority (CalMHSA) to allocate Mental Health Services Act (MHSA) funds in the amount of \$65,956 to participate in the Statewide Prevention and Early Intervention (PEI) Project, for a total amount not to exceed \$65,956 through June 30, 2022.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,154–N.S. as revised by the city Manager in Supplemental Communications Packet #2.
- 17. Contract: 2022 Community Services Block Grant**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to accept the Community Services Block Grant (CSBG) Contract Number 22F-5001 for the amount of \$274,202 to provide services for low-income people for the period January 1, 2022 to May 31, 2023.  
**Financial Implications:** See report  
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400  
**Action:** Adopted Resolution No. 70,155–N.S.

## Consent Calendar

- 18. Resolution Authorizing an Amendment to the Miscellaneous CalPers Contract Pursuant to California Government Code 20516**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution revising Resolution No 70,081 N.S to initiate a process to amend the contract between the Board of Administration, California Public Employees' Retirement System and the City Council for the City of Berkeley pursuant to California Government Code 20516 to effectuate changes to the cost sharing agreement between the City and Unrepresented PEPRA members in the Unrepresented Employees Group.  
**Financial Implications:** See report  
 Contact: Donald E. Ellison, Human Resources, (510) 981-6800  
**Action:** Adopted Resolution No. 70,156–N.S.
- 19. Contract 32100185 Amendment: Digital Hands for Endpoint Detection and Response (EDR) Monitoring**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend contract number 32100185 with Digital Hands, for Cybersecurity Event Monitoring and Security Information and Event Management (SIEM), increasing the previously authorized contract amount by \$381,137, for a total not to exceed amount of \$996,117 from December 15, 2021 to June 30, 2024.  
**Financial Implications:** IT Cost Allocation Fund - \$381,137  
 Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,157–N.S.
- 20. Contract: Alcor Solutions, Inc. for Managed Services and Upgrade Support of the ServiceNow Application**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Alcor Solutions, Inc. to provide managed support services and upgrade support for the ServiceNow application from July 1, 2022 to June 30, 2024 for an amount not-to-exceed \$300,000.  
**Financial Implications:** IT Cost Allocation Fund - \$300,000  
 Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,158–N.S.
- 21. Contract No. 31900197 Amendment: Accela, Inc. for Software Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 31900197 with Accela, Inc., for software maintenance, increasing the amount by \$133,420 for a total not to exceed \$2,192,611 from December 12, 2011 to June 30, 2023.  
**Financial Implications:** Various Funds - \$133,420  
 Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,159–N.S.

## Consent Calendar

- 22. Contract No. 114159-1 Amendment: Tyler Technologies, Inc. for Professional Services and Computer Aided Dispatch (CAD) Software**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 114159-1 with Tyler Technologies, Inc. for additional professional services and an extension of the Computer Aided Dispatch (CAD) software, increasing the amount not-to-exceed by \$733,720 for a total contract value not-to-exceed \$2,288,950, and extending the term of the contract through June 30, 2024.  
**Financial Implications:** Various Funds - \$733,720  
 Contact: LaTanya Bellow, City Manager's Office, (510) 981-7000  
**Action:** Adopted Resolution No. 70,160–N.S.
- 23. Donation: New Fencing for a Dog Park at Aquatic Park**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting a cash donation in the amount of \$26,566 to install fencing for a dog park at Aquatic Park.  
**Financial Implications:** See report  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,161–N.S.
- 24. Contract: Cumming Management Group, Inc. for Project Management Services for the African American Holistic Resource Center**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a not-to-exceed \$900,000 contract with the Cumming Management Group, Inc. for project management services for the African American Holistic Resource Center (AAHRC) for a contract period of January 3, 2021 through June 30, 2025.  
**Financial Implications:** Various Funds - \$900,000  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,162–N.S. revised to correct all instances of “January 3, 2021” to “January 3, 2022” in the report and resolution.
- 25. Contract: Get IT Tech – New Electronic Gate System at the Waterfront**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to execute a contract with Get IT Tech to provide a new electronic gate system at the Waterfront in an amount not-to-exceed of \$100,000, which includes a contract amount of \$91,748.67 and a 9% contingency in the amount of \$8,251.33, rescinding Resolution No. 69,929-N.S.  
**Financial Implications:** Marina Fund - \$100,000  
 Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 70,163–N.S.

## Consent Calendar

**26. Contract: Best Contracting Services, Inc. for Fire Station No.3 Re-Roofing Project at 2710 Russell Street. Specification No. 20-11408**

**From: City Manager**

**Recommendation:** Adopt a Resolution:

1. Approving plans and specifications for the Fire Station No.3 Re-roofing Project, Specification No.20-11408;
2. Accepting the bid of Best Contracting Services, Inc. as the lowest responsive and responsible bidder; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$326,733.

**Financial Implications:** Capital Improvement Fund - \$326,733

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

**Action:** Adopted Resolution No. 70,164–N.S.

**27. Purchase Order: Arata Equipment Company for one 18-yard Rear Loader**

**From: City Manager**

**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the city to participate in Sourcewell (formerly NJPA) bid procedures and authorize the City Manager to execute a purchase order for one 18-yard rear loader with Arata Equipment Company in an amount not to exceed \$345,000.

**Financial Implications:** General Fund - \$345,000

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

**Action:** Adopted Resolution No. 70,165–N.S.

**28. Authorization for Additional Public Works Commission Meeting in 2021**

**From: Public Works Commission**

**Recommendation:** Adopt a Resolution authorizing one additional meeting of the Public Works Commission in 2021.

**Financial Implications:** None

Contact: Joe Enke, Commission Secretary, (510) 981-6300

**Action:** Adopted Resolution No. 70,166–N.S.

## Council Consent Items

- 29. Allocating Remainder of Berkeley Relief Fund**  
**From: Mayor Arreguin (Author), Councilmember Robinson (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution accepting a \$28,142.38 payment from the East Bay Community Foundation of funds raised by the Berkeley Relief Fund and authorizing the City Manager to allocate these funds to the following:  
\$10,000 to the Starry Plough Pub and Music Venue  
\$18,142.38 to the Eviction Defense Center for the Housing Retention Program  
**Financial Implications:** Berkeley Relief Fund - \$28,142.38  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Adopted Resolution No. 70,167–N.S.
- 30. Eleventh Annual Martin Luther King Jr. Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund**  
**From: Mayor Arreguin (Author), Councilmember Taplin (Co-Sponsor), Councilmember Bartlett (Co-Sponsor), and Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** 1. Adopt a Resolution co-sponsoring the 11th Annual Martin Luther King Jr. Celebration Breakfast on January 17, 2022.  
2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Arreguin, to the Berkeley Rotary Endowment, the fiscal sponsor of the 11th Annual Martin Luther King Jr. celebration, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Arreguin and any other Councilmembers who would like to contribute.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** 1. Adopted Resolution No. 70,168–N.S. (MLK Jr. Breakfast) 2. Adopted Resolution No. 70,169–N.S. (Expenditure) amended to include contributions from the following Councilmembers up to the amounts listed: Councilmember Harrison - \$250; Councilmember Wengraf - \$250; Councilmember Hahn - \$300; Councilmember Kesarwani - \$100; Councilmember Robinson - \$100.
- 31. Resolution in Support of Bay Adapt: Regional Strategy for a Rising Bay**  
**From: Mayor Arreguin (Author) and Councilmember Hahn (Co-Sponsor)**  
**Recommendation:** Adopt a Resolution in support of Bay Adapt: Regional Strategy for a Rising Bay.  
**Financial Implications:** See report  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmembers Harrison and Taplin added as co-sponsors. Adopted Resolution No. 70,170–N.S.



## Council Consent Items

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

## Council Consent Items

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

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

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

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

**Financial Implications:** See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

**Action:** Approved recommendation.

### 33. **Budget Referral: Pedestrian Crossing Improvements at Ashby and Acton** **From: Councilmember Taplin (Author)**

**Recommendation:** That the City Council refers to the FY2023 budget process the funding of Rectangular Rapid Flashing Beacons (RRFB) at Ashby Avenue and Acton Street.

**Financial Implications:** See report

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

**Action:** Approved recommendation.

## Council Consent Items

- 34. Budget Referral: Russell Street Bicycle and Pedestrian Improvements**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** That the City Council refers to the FY2023 budget process the funding of the following bicycle and pedestrian improvements along Russell Street:  
 Traffic Circle at Russell & King Street  
 Cycle Track Crossing at Russell & San Pablo Avenue  
 Pedestrian Hybrid Beacons at Russell & Sacramento Street  
**Financial Implications:** See report  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Approved recommendation.
- 35. Commit the City of Berkeley to a Just Transition from the Fossil Fuel Economy**  
*(Reviewed by the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee)*  
**From: Councilmember Taplin (Author), Councilmember Bartlett, Councilmember Hahn, and Mayor Arreguin (Co-Sponsors)**  
**Recommendation:** Adopt a resolution (1) committing the City of Berkeley to a Just Transition from the fossil fuel economy, that secures a livable future for all Berkeleyans, combats environmental racism, ensures access to good paying jobs, and cultivates economic and social prosperity for Berkeley in the 21st century and beyond and (2) requiring that all Council reports related to climate include a Just Transition section.  
*Policy Committee Recommendation: On June 2, 2021, the Facilities, Infrastructure, Transportation, Environment & Sustainability Policy Committee took the following action: M/S/C (Harrison/Robinson) to send the item to Council with a positive recommendation as submitted in the supplemental material and further revised to include a recommendation that all Council reports related to climate include a just transition section.*  
**Financial Implications:** None  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Adopted Resolution No. 70,171–N.S. as revised by Councilmember Taplin in Supplemental Communications Packet #2, and further revised at the meeting to be renamed West and South Berkeley Green New Deal.
- 36. Reaffirming the City Council’s Endorsement of a Carbon Fee and Dividend**  
**From: Councilmember Taplin (Author)**  
**Recommendation:** Readopt Resolution No. 67,595–N.S urging the United States Congress to enact a national revenue-neutral carbon tax and send a copy of the resolution to Representative Barbara Lee, Senator Dianne Feinstein and Senator Alex Padilla urging them to take action.  
**Financial Implications:** None  
 Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120  
**Action:** Adopted Resolution No. 70,172–N.S.

## Council Consent Items

### 37. Health Care Facility Oversight

**From: Councilmember Bartlett (Author)**

**Recommendation:** Refer to the City Manager and the Community Health Commission an assessment of the breadth of regulatory control the City of Berkeley can exert on skilled nursing facilities, and create a process of accountability if complaints are found to be substantiated that threaten, or could potentially escalate to the point of threatening, the wellbeing of patients and/or violate federal, state, or local law; the business license of the offending facility will be suspended until the skilled nursing facility submits a report demonstrating rectification of the situation.

**Financial Implications:** See report

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

**Action:** Councilmembers Harrison and Hahn added as co-sponsors. Approved recommendation.

### 38. Consideration of Expansion of Paid Parking to Support the Parking Meter Fund and Improved Pedestrian and Bicycle Facilities

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

**Recommendation:** 1. Refer to the City Manager and the Transportation Commission to consider the extension of paid metered parking to include all days of the week, paralleling the calendar for off-street parking garages.

2. Consider a pilot, phasing-in, and/or exempting certain areas, and conduct broad outreach to merchants, faith-based and other institutions and organizations, neighborhood groups, and others potentially supported or impacted by change.

3. Consider allocation of potential additional revenues to help offset losses to the Parking Meter Fund incurred during COVID. Once the Fund has recovered, consider allocations to support pedestrian and bicycle facilities to help achieve Berkeley's Climate Action and Vision Zero goals on an accelerated basis.

**Financial Implications:** See report

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

**Action:** Approved recommendation.

### 39. Letter to UC President Michael Drake in Support of Student Researchers United-UAW

**From: Councilmember Robinson (Author) and Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Send a letter to UC President Drake and Provost Michael Brown in support of the full recognition of the Student Researchers United-UAW labor union.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Councilmembers Harrison and Taplin added as co-sponsors. Approved recommendation.

## Council Consent Items

### 40. Support for H.R. 4194: The People's Response Act

**From: Councilmember Robinson (Author) and Councilmember Hahn (Co-Sponsor)**

**Recommendation:** Adopt a Resolution supporting H.R. 4194, the People's Response Act, which would create a Division of Community Safety and provide grants to local governments, state governments, and community-based organizations to support non-carceral approaches to public safety. Furthermore, send a letter of support to Representative Cori Bush, Representative Barbara Lee, Senator Alex Padilla, and Senator Dianne Feinstein.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170

**Action:** Adopted Resolution No. 70,173–N.S.

## Action Calendar

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

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

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

## Action Calendar – Public Hearings

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

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

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

## Action Calendar – Public Hearings

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

**From: City Manager**

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

**First Reading Vote:** All Ayes

**Financial Implications:** None

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

**Public Testimony:** The Mayor opened the public hearing. 8 speakers.

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

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Wengraf) to adopt the second reading of Ordinance No. 7,791-N.S.

**Vote:** All Ayes.

42. **Public Hearing: Implement Residential Preferential Parking (RPP) Program on the 1600 Block of Lincoln Street**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon its conclusion, adopt a Resolution amending Resolution No. 56,508-N.S. Section 25E by adding a subsection to implement Residential Preferential Parking (RPP) on both sides of the 1600 block of Lincoln Street in Area E.

**Financial Implications:** See report

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

**Public Testimony:** The Mayor opened the public hearing. 1 speaker.

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

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Bartlett) to adopt Resolution No. 70,174–N.S.

**Vote:** All Ayes.

## Action Calendar – Public Hearings

**43. Fees: Vital Records**

**From: City Manager**

**Recommendation:** Conduct a public hearing and upon conclusion, adopt a Resolution establishing a new fee schedule for Vital Records effective January 1, 2022 and rescinding Resolution No. 70,116-N.S. This fee adjustment is to become effective January 1, 2022 pursuant to Assembly Bill (AB) 128 (Chapter 21, Statutes of 2021), and Health & Safety (H&S) Codes, § 103627, 100425, 100430, and 100435.

**Financial Implications:** See report

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

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

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to adopt Resolution No. 70,175–N.S.

**Vote:** All Ayes.

Recess 8:10 p.m. – 8:21 p.m.

## Action Calendar – New Business

### 44. FY 2021 Year-End and FY 2022 First Quarter Budget Update

**From: City Manager**

**Recommendation:** Discuss and determine the funding allocations for FY 2022 based on the FY 2021 Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) City Manager Budget Recommendations and 3) the Council Budget Referrals approved during FY 2022 to be considered in November 2021.

**Financial Implications:** See report

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

**Action:** M/S/C (Arreguin/Robinson) to accept supplemental material from the City Manager on Item 45.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:15 p.m. to complete Items 44 and 45; and to continue Items 46 and 47 to January 18, 2022.

**Vote:** All Ayes.

**Action:** 23 speakers. M/S/C (Arreguin/Kesarwani) to adopt the budget recommendations for excess equity as contained in the supplemental materials submitted at the meeting with the amendment that funding of the security cameras is conditioned on development and implementation of a Use Policy prior to deployment and Siting of Cameras in District 1, District 2 and District 8 locations as proposed by the Police Department and at 62nd & King (District 3). Policy will be adopted administratively and presented to the City Council as an off-agenda memo; repayment of the Workers Comp fund will be a top priority in the June budget process.

**Vote:** All Ayes.



## Action Calendar – New Business

**45. Amendment: FY 2022 Annual Appropriations Ordinance**

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance amending the FY 2022 Annual Appropriations Ordinance No. 7,779–N.S. for fiscal year 2022 based upon recommended re-appropriation of committed FY 2021 funding and other adjustments authorized since July 1, 2021, in the amount of \$177,309,914 (gross) and \$163,076,585 (net).

**Financial Implications:** See report

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

**Action:** 2 speakers. M/S/C (Arreguin/Robinson) to adopt first reading of Ordinance No. 7,795–N.S. as presented in the supplemental materials from the City Manager. Second reading scheduled for January 18, 2021.

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

Councilmember Harrison absent 11:10 p.m. – 11:13 p.m.

Councilmember Droste absent 11:10 p.m. – 11:13 p.m.

## Action Calendar – Public Hearings

**46. Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of a local Accessory Dwelling Unit (ADU) Ordinance [Berkeley Municipal Code (BMC) Chapter 23.306] and amendments to relevant Defined Terms [BMC Chapter 23.502.020] in the Zoning Ordinance.

**Financial Implications:** None

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

**Action:** Item 46 continued to January 18, 2022 including supplemental material from Councilmember Kesarwani.

**47. Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns**

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt the first reading of a local Ordinance enacting Chapter 12.99 (Accessory Dwelling Units in Wildfire Hazard Areas) Accessory, and amending (BMC) Chapter 23.306.

**Financial Implications:** None

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

**Action:** Item 47 continued to January 18, 2022 including supplemental material from the City Manager.

## Action Calendar – New Business

### 48. Ratification of Police Accountability Board’s Standing Rules

**From: Police Accountability Board**

**Recommendation:** Review and approve Standing Rules of the Police Accountability Board.

**Financial Implications:** None

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

**Action:** Moved to Consent Calendar. Referred the item to the Police Accountability Board with the revisions submitted at the meeting by Mayor Arreguin.

## Information Reports

### 49. City of Berkeley, State Tobacco Prevention Program (STPP) Overview

**From: City Manager**

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

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

Adjourned at 11:13 p.m.

I hereby certify that the foregoing is a true and correct record of the regular meeting held on December 14, 2021.

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Mark Numainville  
City Clerk

## Communications – December 14, 2021

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

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

1. Patricia Hart and Hans Stahlschmidt

**Support the Berkeley Plastic Bag Ordinance**

2. 30 similarly-worded form letters

**Solano-Peralta Park**

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

**Tenant Opportunity to Purchase Act (TOPA)**

14. 4 similarly-worded form letters

**Free Speech**

15. Nilang Gor

**Alta Bates Hospital**

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

**Crime Suppression Unit**

17. Diana Bohn

**Fee Parking at Marina**

18. Nancy Bartell

**Traffic Safety Enforcement**

19. Keith Nickolaus

**Hopkins Street Traffic and Placemaking Study**

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

**Housing & Absentee Investors**

22. V. Sommer

**Happy Thanksgiving**

23. Dirk Neyhart

**Leonard Powell**

24. Diana Bohn

**No masks**

25. David Lerman

**Elmwood Parking**

26. Dona Bretherick

**Pilot for Transportation Dept.**

27. Sheila Goldmacher

**GoBerkeley SmartSpace Parking Pilot**

28. Jean H.

**Banning Gendered Language**

29. Jo Foley

**Rapid Rehousing Funding**

30. Diana Bohn

**November Newsletter**

31. Eden I&R

**East Bay Community Energy**

32. Board of Directors Agenda

**Climate Change**

33. Thomas Lord

**Housing Crisis**

34. JE

**Supplemental Communications and Reports 1**

**Item #44: FY 2021 Year-End and FY 2022 First Quarter Budget Update**

35. Revised material, submitted by City Manager

36. Elizabeth Dillon

37. Catherine Betts

38. Joshua Miller

39. Leslie Roulias

40. Rachel Gold

41. Norman Gold

42. Mari Vlastos

43. Brick Conway

44. Liz Grubin

45. EJ Holowicki

- 46. Simona Nass
- 47. Niccole Blanchet
- 48. Jessica Jennings
- 49. Phoebe Tussey

**Item #45: Amendment: FY 2022 Annual Appropriations Ordinance**

- 50. Joe Rapoza
- 51. Julia Goodman
- 52. Tanya Stiller
- 53. Michael Rodriguez
- 54. Susan Black
- 55. Regina Fletcher
- 56. 20 similarly-worded form letters

**Supplemental Communications and Reports 2**

**Item #16: Contract: Statewide and Early Intervention Project Participation Agreement – California Mental Health Services Authority**

- 57. Supplemental material, submitted by Health, Housing and Community Services Department

**Item #35: Commit the City of Berkeley to a Just Transition from the Fossil Fuel Economy**

- 58. Supplemental material, submitted by Councilmember Taplin

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

- 59. Christina Bucey, Greenfire Law, PC

**Item #44: FY 2021 Year-End and FY 2022 First Quarter Budget Update**

- 60. Revised material, submitted by the City Manager’s Office
- 61. Supplemental material, submitted by the Mayor
- 62. Angie Garling
- 63. Sheridan Pauker
- 64. Alfred Twu
- 65. Homeless Commission
- 66. Nathan Tsuizaki
- 67. Jason Spangenthal
- 68. Amy Petersen
- 69. Timothy Burroughs
- 70. Paku Khan
- 71. Chizu Hamada
- 72. Phyllis Stowell
- 73. Ben Werner

- 74. Carolyn Werner
- 75. Shelley Golomb
- 76. John Sterns
- 77. Jacalyn Thompson
- 78. Beth Rhine

**Item #45: Amendment: FY 2022 Annual Appropriations Ordinance**

- 79. 14 similarly-worded form letters
- 80. Brian LaFranchi
- 81. Frances Haselsteiner
- 82. Lauren Salvo
- 83. Sam Kang

**Item #46: Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance**

- 84. Supplemental material, submitted by Councilmember Kesarwani
- 85. Debra Sanderson

**Item #47: Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns**

- 86. Revised material, submitted by Planning and Development Department

**Supplemental Communications and Reports 3**

**Item #7: City of Berkeley's 2022 State and Federal Legislative Platform**

- 87. Supplemental material, submitted by the Mayor

**Item #44: FY 2021 Year-End and FY 2022 First Quarter Budget Update**

- 88. Paul Preston
- 89. David Williamson
- 90. Laurie Nardinelli
- 91. Andrea Mullarkey
- 92. Leah Zoller
- 93. Kira Deutch
- 94. Mary Zernicke
- 95. Ira Serkes
- 96. Dennis Weikel
- 97. Pat Hill
- 98. Stephen Jahn
- 99. Yuri Murphy
- 100. Kathryn Murphy
- 101. Frances Haselsteiner
- 102. Jane Scantlebury
- 103. Robbin Henderson

104. William Springer
105. Allie Pape
106. Elisa Mikiten
107. Angad Bhalla
108. Akiko Minaga
109. Jen Antonuccio
110. Michael Dillingham
111. Doug Woos
112. Linda Franklin (3)
113. Tonette Vazquez
114. Igor Tregub, on behalf of the Sierra Club
115. Holly Scheider
116. Terri Saul
117. Alfred Twu
118. Mark Misoshnik
119. Zoe Stahl
120. Kasey Harboe
121. Beth Auclair
122. Izzy Meckler
123. Kathy Dervin, on behalf of 350 East Bay
124. Anita Ayers
125. Juli Dickey
126. Tome Luce

**Item #45: Amendment: FY 2022 Annual Appropriations Ordinance**

127. Revised material, submitted by the City Manager's Office
128. Michelle Schurig
129. Carol Cho
130. Debra and David Summers
131. Greg Martin
132. Arabelle Mailinis
133. hakiah@

**Item #47: Response to City Council Action on October 26, 2021 regarding Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns**

134. Steven Segal
135. Lisa Goodman
136. Robert Sonderegger and Joanna Moss
137. George Porter
138. Robert Sonderegger
139. Catherine Lazio

**Item #48: Ratification of Police Accountability Board's Standing Rules**

140. Supplemental material, submitted by the Mayor

**Miscellaneous**

141. Presentation on Homeless Response Team, submitted by the City Manager





Office of the City Manager

CONSENT CALENDAR  
January 25, 2022

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 Contract: The Center at Sierra Health Foundation for \$90,999.50 for Information Technology Equipment, Telehealth Licenses, and Personal Protective Equipment

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to apply for funding provided by the California Department of Health Care Services (DHCS) through the Behavioral Health Telehealth Request for Applications and accept the funding and execute any resultant revenue agreements and amendments to purchase information technology equipment, telehealth software licenses, and personal protective equipment up to \$90,999.50 in FY 2022 and FY 2023.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds up to the amount of \$90,999.50 from the Center at Sierra Health Foundation for the purchase of information technology (IT) equipment, telehealth software licenses, and personal protective equipment for the provision of mental health services. The funds for this contract will be deposited and expensed from the One-Time Grant: No Capital Fund, ERMA revenue GL Code 336-51-503-520-0000-000-000-432390- (FUND\$ Code 421-4401-331-40-93and will be appropriated in a future amendment to the Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The Health, Housing and Community Services Department (HHCS) applied for the grant funds and received notification that it had been awarded \$90,999.50 in funding. The funding is restricted for use in providing IT equipment and telehealth software licenses for mental health staff. The grant funding will allow HHCS to offset costs for IT due to the COVID-19 pandemic, and will support staff in providing mental health services remotely. The grant will fund the purchase of laptops, monitors, sound cancelling headsets, and Zoom Telehealth licenses. The Telehealth grant is a Strategic Plan Priority Project, advancing our goal to champion and demonstrate social and racial equity.

BACKGROUND

During the COVID-19 Pandemic, HHCS' Mental Health Division (MH) has shifted many services to telehealth through phone or Zoom for everyone's protection. MH identified this opportunity for related funding and applied. On November 30, 2021, the Center at Sierra Health Foundation awarded the City \$90,999.50 for certain costs associated with providing telehealth services.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects, climate impacts, or sustainability opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

These funds will support the City's ability to provide services for individuals with Medi-Cal or no insurance who have mental health service needs in Berkeley. Providing safe and equitable access to essential health services is a key purpose of HHCS. The funding provided in this agreement will offset expected costs during the COVID-19 pandemic.

ALTERNATIVE ACTIONS CONSIDERED

No alternatives consistent with the City's goal of providing equitable mental health services were identified.

CONTACT PERSON

Steven Grolnic-McClurg, Manager of Mental Health Services, (510) 981-5290

Attachments:

1: Resolution

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

REVENUE CONTRACT: THE CENTER AT SIERRA HEALTH FOUNDATION FOR  
INFORMATION TECHNOLOGY EQUIPMENT, TELEHEALTH LICENSES, AND  
PERSONAL PROTECTIVE EQUIPMENT

WHEREAS, the Department of Health Care Services issued a Behavioral Health Telehealth Request for Applications administered by The Center at Sierra Health Foundation; and

WHEREAS, the Mental Health Division of the Health, Housing and Community Services Department will incur costs for Internet Technology Equipment to provide needed services during the COVID-19 Pandemic; and

WHEREAS, applying for and accepting funding provided through the Behavioral Health Telehealth Request for Applications will assist the Mental Health Division acquire information technology equipment, telehealth licenses, and personal protective equipment; and

WHEREAS, the Center at Sierra Health Foundation has awarded the City of Berkeley \$90,999.50 for the purchase of Internet Technology Equipment and Personal Protective Equipment after receiving an application for this funding.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves the following: The City Manager or her designee is hereby authorized to submit an application for funding from the Center at Sierra Health Foundation, accept the funding, and execute any resultant revenue agreements and amendments to purchase internet technology equipment, telehealth software licenses and personal protective equipment in the projected amount of \$90,999.50 total in Fiscal Year 2022 and Fiscal Year 2023. The funds for this contract will be deposited and expensed from the One-Time Grant: No Capital Fund (ERMA revenue GL Code 336-51-503-520-0000-000-000-432390- (FUND\$ Code 421-4401-331-40-93), and will be appropriated in a future amendment to the Annual Appropriations Ordinance. A signature copy of said documents, agreements and any amendments shall be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
January 25, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Donald Ellison, Interim Director of Human Resources

Subject: 2022 Fee Assessment – State of California Self-Insurance Fund  
(Workers' Compensation Program)

RECOMMENDATION

Adopt a Resolution authorizing payment to the State of California Department of Industrial Relations for Fiscal Year 2022 for administering the Workers' Compensation Program, in an amount not to exceed \$268,093.55.

FISCAL IMPACTS OF RECOMMENDATION

The annual fee assessed by the Department of Industrial Relations for Fiscal Year 2022 is \$268,093.55. The 2022 invoice amount is calculated based on the direct workers' compensation premiums reported to the Department of Insurance for total indemnity benefits. Funding for this annual fee is included in the Workers' Compensation Self-Insurance Fund, Budget Code 676-99-900-900-0000-000-479-682110- .

BACKGROUND

The State of California Department of Industrial Relations regulates the Workers' Compensation Insurance Industry. Under California Labor Code Sections 62.5 and 62, every year, each City is assessed a fee by the Department of Industrial Relations to support the administration of the State's Workers' Compensation Program. The assessments provide a stable funding source to support court operations to resolve claims more quickly, improve the overall operation of the state workers' compensation system; to ensure safe and healthy working conditions on the job; including enforcement of labor standards and requirements for workers' compensation coverage.

Labor Code Sections 62.5 and 62.6 require allocation of the total assessment between insured and self-insured employers in proportion to payroll for the most recent year available. The City's total assessment is calculated by multiplying Self-Insured Employer Assessment Factors for each assessment by the total indemnity paid by the City.

This year's assessment is associated with a number of administrative costs. The agency uses these assessments to support the operations of the courts by pursuing employers who break employment laws; enforcement of labor standards, and workplace safety across the state.

The 2022 fee assessment has increased from FY 2020-2021. FY 2020-2021 the City paid \$235,979.19 in fees. The increase for FY 2021-2022 is \$32,114.36.

The largest assessment factor this year is the Workers' Compensation Subsequent Injuries Benefits Trust Fund Assessment (SIBTF). This fund pays for additional compensation to injured workers who already had a disability or impairment at the time of injury.

The City's share is calculated by multiplying the six self-insured employer assessment factors listed below by the total indemnity paid in the previously reported fiscal year. For fiscal year 2020-2021, the City reported to the Office of Self-Insurance Plans annual program statistics which include indemnity costs. The total City paid indemnity cost for 2020-2021 was \$3,049,525.

The City's share for the Fiscal Year 2022 assessment authorized under Labor Code Sections 62.5 and 62.6 for our self-insurance plan will be broken down as follows:

- I. Workers' Compensation Administration Revolving Fund Assessment
- II. Uninsured Employers Benefits Trust Fund Assessment
- III. Subsequent Injuries Benefits Trust Fund Assessment
- IV. Occupational Safety and Health Fund Assessment
- V. Workers' Compensation Fraud Account Assessment
- VI. Labor Enforcement and Compliance Fund

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Required annual funding is for the State of California, Department of Industrial Relations.

ALTERNATIVE ACTIONS CONSIDERED

None. This is a state-mandated fee assessment.

CONTACT PERSON

Donald Ellison, Interim Director of Human Resources, 981-6807  
July Cole, Associate Human Resources Analyst, 981-6816

Attachments:

- 1: Resolution
- 2: Invoice

### 3. State of California Fiscal year 2021-2022 Assessments

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

AUTHORIZING PAYMENT TO THE STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS FOR FISCAL YEAR 2022 FEES IN AN AMOUNT NOT TO EXCEED \$268,093.55 (WORKERS' COMPENSATION PROGRAM)

WHEREAS, the City of Berkeley is Self-Insured for Workers' Compensation since 1979; and

WHEREAS, the Workers' Compensation Insurance Industry is administered and regulated by the State of California, Department of Industrial Relations; and

WHEREAS, the State of California, under California Labor Code Section 62.5 and 62.6, authorizes the Department of Industrial Relations to assess fees to employers for costs of administering the Workers' Compensation Program; and

WHEREAS, the City of Berkeley is assessed each year by the Department of Industrial Relations to support the state program; and

WHEREAS, for Fiscal Year 2022, the City's share of assessments authorized by Labor Code Sections 62.5 and 62.6 is not expected to exceed \$268,093.55; and

WHEREAS, funds are available in the current budget in the Workers' Compensation Fund, budget code 676-99-900-900-0000-000-479-682110-.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to pay the State of California, Department of Industrial Relations, Self-Insurance Plans invoice for Fiscal Year 2022 for Workers' Compensation Administration Revolving Fund Assessment; Uninsured Employers Benefits Trust Fund Assessment; Subsequent Injuries Benefits Trust Fund Assessment; Occupational Safety and Health Fund Assessment; Labor Enforcement and Compliance Fund; and Workers' Compensation Fraud Account Assessment in an amount not to exceed \$268,093.55.





**Department of Industrial Relations**

Office of Self-Insurance Plans  
 11050 Olson Drive, Suite 230  
 Rancho Cordova, CA 95670  
 (916) 464-7000  
 Fax: (916) 464-7007

**INVOICE**

Invoice Number: OSIP 69293  
 Certificate No.: 7149  
 Invoice Date: December 1, 2021  
 Due Date: December 31, 2021  
 OSIP Federal Tax ID.: 94-3160882

Customer Information:

| Billing Address: |                                                | Send Payment To: |                                    |
|------------------|------------------------------------------------|------------------|------------------------------------|
| Company:         | City of Berkeley                               | Company:         | Department Of Industrial Relations |
| Name:            | July Cole                                      | Name:            | Office of Self Insurance Plans     |
| Address:         | 2180 Milvia Street, 1st Floor, Human Resources | Address:         | 11050 Olson Drive, Suite 230       |
| City/State/Zip   | Berkeley, CA 94704                             | City/State/Zip   | Rancho Cordova, CA 95670           |

For : City of Berkeley

**Terms:** Due and payable within 30 days

| Factor                         | Assessment for fiscal year July 1, 2021 through June 30, 2022 using 2020 / 2021 Public Annual Report | Paid Indemnity (Line4 minus Line11 on the annual report) | Assessment Due       |
|--------------------------------|------------------------------------------------------------------------------------------------------|----------------------------------------------------------|----------------------|
| 0.031386                       | Workers' Compensation Administration Revolving Fund Assessment (WCARF)                               | \$ 2,530,259                                             | \$ 79,414.70         |
| 0.002301                       | Uninsured Employers Benefits Trust Fund Assessment (UEBTF)                                           | \$ 2,530,259                                             | \$ 5,822.12          |
| 0.034845                       | Subsequent Injuries Benefits Trust Fund Assessment (SIBTF)                                           | \$ 2,530,259                                             | \$ 88,166.87         |
| 0.016639                       | Occupational Safety and Health Fund Assessment (OSHF)                                                | \$ 2,530,259                                             | \$ 42,100.97         |
| 0.008178                       | Workers's Compensation Fraud Account Assessment (FRAUD)                                              | \$ 2,530,259                                             | \$ 20,692.45         |
| 0.012606                       | Labor Enforcement and Compliance Fund (LECF)                                                         | \$ 2,530,259                                             | \$ 31,896.44         |
| <b>License Fee Assessment:</b> |                                                                                                      |                                                          |                      |
|                                | Base Fee (determined by total number of employees)                                                   |                                                          | \$ 0.00              |
|                                | Additional Location Fee (No. of Locations)                                                           |                                                          | \$ 0.00              |
|                                | Per Capita Employee Charge (# of ee's * 0 )                                                          | License Fee Assessment Subtotal:                         | \$ 0.00              |
|                                |                                                                                                      | <b>Invoice Totals:</b>                                   | <b>\$ 268,093.55</b> |
|                                |                                                                                                      | <b>Amount Paid:</b>                                      | <b>\$ 0.00</b>       |
|                                |                                                                                                      | <b>Balance Due:</b>                                      | <b>\$ 268,093.55</b> |

**Notes:**  
 The letter establishing the assessment factors and methodology used for calculation are available on the OSIP website at <http://sip.dir.ca.gov> You can also make an electronic funds transfer(EFT)payment online at <http://www.dir.ca.gov/osip>  
 It is very important to enter the correct invoice number when making an online payment.

STATE OF CALIFORNIA  
 DEPARTMENT OF INDUSTRIAL RELATIONS  
 Office of the Director  
 1515 Clay Street, Suite 2208  
 Oakland, CA 94612  
 Tel: (510) 286-7087 Fax: (510) 622-3265

GAVIN NEWSOM, Governor



DATE: November 29, 2021

TO: California Self-Insured Employer

FROM: Katrina S. Hagen, Director, Department of Industrial Relations

SUBJECT: Fiscal Year 2021/2022 Assessments:

- Workers' Compensation Administration Revolving Fund (WCARF)
- Uninsured Employers Benefits Trust Fund (UEBTF)
- Subsequent Injuries Benefits Trust Fund (SIBTF)
- Occupational Safety and Health Fund (OSHF)
- Labor Enforcement and Compliance Fund (LECF)
- Workers' Compensation Fraud Account (FRAUD)

Labor Code Sections 62.5 and 62.6 authorize the Department of Industrial Relations to assess employers for the costs of the administration of the workers' compensation, health and safety and labor standards enforcement programs. These assessments provide a stable funding source to the support operations of the courts, to ensure safe and healthy working conditions on the job, to ensure the enforcement of labor standards and requirements for workers' compensation coverage.

The purpose of this letter is to inform you that you will be receiving an invoice for your share of the assessments authorized by Labor Code Sections 62.5 and 62.6. The Labor Code requires allocation of the total assessment between insured and self-insured employers in proportion to payroll for the most recent year available

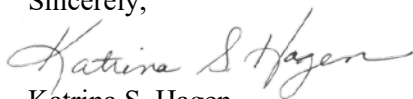
| Authority         | Type                                                                   | Total Assessment for all Payers | 2022 Self-Insured Employer Assessment Factor |
|-------------------|------------------------------------------------------------------------|---------------------------------|----------------------------------------------|
| Labor Code § 62.5 | Workers' Compensation Administration Revolving Fund Assessment (WCARF) | \$562,924,500                   | 0.031386                                     |
| Labor Code § 62.5 | Uninsured Employers Benefits Trust Fund Assessment (UEBTF)             | \$52,692,900                    | 0.002301                                     |
| Labor Code § 62.5 | Subsequent Injuries Benefits Trust Fund Assessment (SIBTF)             | \$372,069,914                   | 0.034845                                     |
| Labor Code § 62.5 | Occupational Safety and Health Fund Assessment (OSHF)                  | \$168,104,708                   | 0.016639                                     |
| Labor Code § 62.5 | Labor Enforcement and Compliance Fund Assessment (LECF)                | \$143,662,000                   | 0.012606                                     |
| Labor Code § 62.6 | Workers' Compensation Fraud Account Assessment (FRAUD)                 | \$77,909,442                    | 0.008178                                     |

Attached is a worksheet detailing the methodology used to compute the Workers' Compensation Administration Revolving Fund, Uninsured Employers Benefits Trust Fund, Subsequent Injuries Trust Fund, Occupational Safety and Health Fund, Labor, Labor Enforcement and Compliance Fund allocation and Workers' Compensation Fraud Account Assessment and to allocate the assessment between insured and self-insured employer.

Your share of the various assessments will be calculated by multiplying the self-insured employer assessment factors for each assessment by the total indemnity paid by your organization.

If you have any questions, please contact the Office of Self-Insurance Plans in Sacramento at (916)464-7000.

Sincerely,

A handwritten signature in cursive script that reads "Katrina S. Hagen".

Katrina S. Hagen  
Director

Enclosure

**California Department of Industrial Relations**  
**2021-2022 Workers' Compensation Administration Revolving Fund Assessment,**  
**Uninsured Employers Benefits Trust Fund Assessment,**  
**Subsequent Injuries Benefits Trust Fund Assessment,**  
**Occupational Safety and Health Fund Assessment,**  
**Labor Enforcement and Compliance Fund Assessment and**  
**Workers' Compensation Fraud Account Assessment**

**METHODOLOGY**

Labor Code Sections 62.5 and 62.6 require the Department of Industrial Relations to levy the total amounts of the Workers' Compensation Administration Revolving Fund Assessment, Uninsured Employers Benefits Trust Fund Assessment, Subsequent Injuries Trust Fund Assessment, Occupational Safety and Health Fund Assessment, Labor Enforcement and Compliance Fund Assessment and Workers' Compensation Fraud Account Assessment between insured employers and self-insured employers in proportion to payroll paid in the most recent year for which information is available.

**Step 1: Determine Total Assessments Required for 2021-2022**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| <p><b>(1.1)</b> Workers' Compensation Administration Revolving Fund Assessment (Labor Code § 62.5).....</p> <p>Total Assessment Required..... \$562,924,500</p> <p>Fund Balance..... (\$277,472,686)</p> <p>Insured Over/Undercollection..... \$205,468,524</p> <p>Self-Insured Over/Undercollection..... <u>\$72,004,162</u></p> <p style="text-align: right;"><b>\$562,924,500</b></p>                                                                                                          | <p><b>\$562,924,500</b></p> |
| <p><b>(1.2)</b> Uninsured Employers Benefits Trust Fund Assessment (Labor Code § 62.5).....</p> <p>Total Assessment Required..... \$52,692,900</p> <p>Fund Balance..... (\$31,766,464)</p> <p>Insured Over/Undercollection..... \$23,523,067</p> <p>Self-Insured Over/Undercollection..... <u>\$8,243,398</u></p> <p style="text-align: right;"><b>\$52,692,900</b></p>                                                                                                                           | <p><b>\$52,692,900</b></p>  |
| <p><b>(1.3)</b> Subsequent Injuries Benefits Trust Fund Assessment (Labor Code § 62.5).....</p> <p>Total Assessment Required..... \$372,069,914</p> <p>Fund Balance..... (\$55,157,868)</p> <p>Insured Over/Undercollection..... \$40,844,401</p> <p>Self-Insured Over/Undercollection..... <u>\$14,313,467</u></p> <p style="text-align: right;"><b>\$372,069,914</b></p>                                                                                                                        | <p><b>\$372,069,914</b></p> |
| <p><b>(1.4)</b> Occupational Safety and Health Fund Assessment (Labor Code § 62.5).....</p> <p>Total Assessment Required..... \$168,104,708</p> <p>Fund Balance..... (\$16,777,646)</p> <p>Insured Over/Undercollection..... \$12,423,847</p> <p>Self-Insured Over/Undercollection..... <u>\$4,353,799</u></p> <p style="text-align: right;"><b>\$168,104,708</b></p>                                                                                                                             | <p><b>\$168,104,708</b></p> |
| <p><b>(1.5)</b> Labor Enforcement and Compliance Fund Assessment (Labor Code § 62.5).....</p> <p>Total Assessment Required..... \$143,662,000</p> <p>Fund Balance..... (\$29,009,809)</p> <p>Insured Over/Undercollection..... \$21,481,764</p> <p>Self-Insured Over/Undercollection..... <u>\$7,528,045</u></p> <p style="text-align: right;"><b>\$143,662,000</b></p>                                                                                                                           | <p><b>\$143,662,000</b></p> |
| <p><b>(1.6)</b> Workers' Compensation Fraud Account Assessment (Labor Code § 62.6).....</p> <p><i>The workers' compensation fraud account assessment is established by the Department of Insurance, Fraud Commission.</i></p> <p>Total Assessment Required..... \$77,909,442</p> <p>Fund Balance..... (\$3,530,616)</p> <p>Insured Over/Undercollection..... \$2,614,421</p> <p>Self-Insured Over/Undercollection..... <u>\$916,195</u></p> <p style="text-align: right;"><b>\$77,909,442</b></p> | <p><b>\$77,909,442</b></p>  |

\* Fund balance amounts reflect the best available information for use in decision-making for this assessment. Additional review and reconciliation will occur on an ongoing basis and adjustments will be made to future assessments as necessary.

**California Department of Industrial Relations**  
**2021-2022 Workers' Compensation Administration Revolving Fund Assessment,**  
**Uninsured Employers Benefits Trust Fund Assessment,**  
**Subsequent Injuries Benefits Trust Fund Assessment,**  
**Occupational Safety and Health Fund Assessment,**  
**Labor Enforcement and Compliance Fund Assessment and**  
**Workers' Compensation Fraud Account Assessment**

**Step 2: Determine Payroll Amounts**

|                                                                                                                            |                                                         |                                                |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|------------------------------------------------|
| <b>(2.1)</b>                                                                                                               | Total payroll for insured employers.....                | <u><b>\$817,620,774,661</b></u>                |
| <small>Source: California Workers' Compensation Insurance Rating Bureau (WCIRB) policy year 2019</small>                   |                                                         |                                                |
| <b>(2.2)</b>                                                                                                               | Payroll for self-insured employers .....                | <u><b>\$266,331,088,479</b></u> <sup>1</sup>   |
| <b>(2.2.1)</b>                                                                                                             | 2020-21 Fiscal Year for Public Sector* .....            | <u><b>\$139,945,939,165</b></u>                |
| <b>(2.2.2)</b>                                                                                                             | 2020 for Private Sector.....                            | <u><b>\$126,385,149,314</b></u>                |
| <small>* Source: Department of Industrial Relations, Office of Self-Insurance Plans (excludes State of California)</small> |                                                         |                                                |
| <b>(2.3)</b>                                                                                                               | Payroll for State of California (including SCIF)**..... | <u><b>\$20,150,870,297</b></u>                 |
| <small>* Source: Department of Industrial Relations, Office of Self-Insurance Plans (excludes State of California)</small> |                                                         |                                                |
| <b>(2.4)</b>                                                                                                               | Total payroll for self-insured employers.....           | <u><b>\$286,481,958,776</b></u> <sup>2</sup>   |
| <b>(2.5)</b>                                                                                                               | Total combined payroll.....                             | <u><b>\$1,104,102,733,437</b></u> <sup>3</sup> |
| <small>(Insured and self-insured employers)</small>                                                                        |                                                         |                                                |

**Step 3: Calculate Proportional Payroll for Insured and Self-Insured Employers**

|                                      |                               |                                                                               |                 |
|--------------------------------------|-------------------------------|-------------------------------------------------------------------------------|-----------------|
| <b>(3.1) Insured Employers:</b>      |                               |                                                                               |                 |
|                                      | Insured Employer Payroll      | = $\frac{\text{Methodology Section (2.1)}}{\text{Methodology Section (2.5)}}$ |                 |
|                                      | Total Combined Payroll        | = $\frac{\$817,620,774,661}{\$1,104,102,733,437}$                             | = <b>74.05%</b> |
| <b>(3.2) Self-Insured Employers:</b> |                               |                                                                               |                 |
|                                      | Self-Insured Employer Payroll | = $\frac{\text{Methodology Section (2.4)}}{\text{Methodology Section (2.5)}}$ |                 |
|                                      | Total Combined Payroll        | = $\frac{\$286,481,958,776}{\$1,104,102,733,437}$                             | = <b>25.95%</b> |

<sup>1</sup> **(2.2) Payroll for Self-Insured Employers** =  $\Sigma$  of Methodology Section (2.2.1) and Methodology Section (2.2.2)  
<sup>2</sup> **(2.4) Total Payroll for Self-Insured Employers** =  $\Sigma$  of Methodology Section (2.2) and Methodology Section (2.3)  
<sup>3</sup> **(2.5) Total Combined Payroll** =  $\Sigma$  of Methodology Section (2.1) and Methodology Section (2.4)

**Step 4: Determine the Total Assessments for Insured and Self-Insured Employers**

**Workers' Compensation Administration Revolving Fund Assessment**

**Calculation for Insured Employers:**

|                                                                                                                   |                                                                                      |   |                      |          |  |                             |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|---|----------------------|----------|--|-----------------------------|
| ▶ ( WCARF Assessment)                                                                                             | X 74.05%                                                                             | = | <b>\$562,924,500</b> | X 74.05% |  | <b>\$416,845,592</b>        |
| ▶ INCREASED by credits due individual insurers which undercollected against previous advances [ CCR § 15609]..... |                                                                                      |   |                      |          |  | <b>\$60,430,875</b>         |
| ▶ DECREASED by insurer overcollection [pursuant to CCR § 15606(f)].....                                           |                                                                                      |   |                      |          |  | <b>(\$205,468,524)</b>      |
| <b>(4.1)</b>                                                                                                      | Resulting Final Insured Employers Workers' Compensation User Funding Assessment..... |   |                      |          |  | <u><b>\$271,807,943</b></u> |

**Calculation for Self-Insured Employers:**

|                                                                     |                                                                                           |   |                      |          |  |                            |
|---------------------------------------------------------------------|-------------------------------------------------------------------------------------------|---|----------------------|----------|--|----------------------------|
| ▶ ( WCARF Assessment)                                               | X 25.95%                                                                                  | = | <b>\$562,924,500</b> | X 25.95% |  | <b>\$146,078,908</b>       |
| ▶ DECREASED by the Self-Insurer overcollection from prior year..... |                                                                                           |   |                      |          |  | <b>(\$72,004,162)</b>      |
| <b>(4.2)</b>                                                        | Resulting Final Self-Insured Employers Workers' Compensation User Funding Assessment..... |   |                      |          |  | <u><b>\$74,074,746</b></u> |

**California Department of Industrial Relations  
2021-2022 Workers' Compensation Administration Revolving Fund Assessment,  
Uninsured Employers Benefits Trust Fund Assessment,  
Subsequent Injuries Benefits Trust Fund Assessment,  
Occupational Safety and Health Fund Assessment,  
Labor Enforcement and Compliance Fund Assessment and  
Workers' Compensation Fraud Account Assessment**

**Uninsured Employers Benefits Trust (UEBT) Fund Assessment**

**Calculation for Insured Employers:**

|                                                                                                                   |                     |   |        |       |                            |
|-------------------------------------------------------------------------------------------------------------------|---------------------|---|--------|-------|----------------------------|
| ▶ (UEBTF Assessment) X 74.05% =                                                                                   | <b>\$52,692,900</b> | X | 74.05% | ..... | <b>\$39,019,092</b>        |
| ▶ INCREASED by credits due individual insurers which undercollected against previous advances [ CCR § 15609]..... |                     |   |        |       | <b>\$5,013,991</b>         |
| ▶ DECREASED by insurer overcollection [pursuant to CCR § 15606(f)].....                                           |                     |   |        |       | <b>(\$23,523,067)</b>      |
| <b>(4.3)</b> Resulting Final Insured Employers UEBT Fund Assessment.....                                          |                     |   |        |       | <b><u>\$20,510,017</u></b> |

**Calculation for Self-Insured Employers:**

|                                                                               |                     |   |        |       |                           |
|-------------------------------------------------------------------------------|---------------------|---|--------|-------|---------------------------|
| ▶ (UEBTF Assessment) X 25.95% =                                               | <b>\$52,692,900</b> | X | 25.95% | ..... | <b>\$13,673,808</b>       |
| ▶ DECREASED by the Self-Insurer overcollection from prior year.....           |                     |   |        |       | <b>(\$8,243,398)</b>      |
| <b>(4.4)</b> Resulting Final Self-Insured Employers UEBT Fund Assessment..... |                     |   |        |       | <b><u>\$5,430,410</u></b> |

**Subsequent Injuries Benefits Trust (SIBT) Fund Assessment**

**Calculation for Insured Employers:**

|                                                                                                                   |                      |   |        |       |                             |
|-------------------------------------------------------------------------------------------------------------------|----------------------|---|--------|-------|-----------------------------|
| ▶ (SIBTF Assessment) X 74.05% =                                                                                   | <b>\$372,069,914</b> | X | 74.05% | ..... | <b>\$275,517,771</b>        |
| ▶ INCREASED by credits due individual insurers which undercollected against previous advances [ CCR § 15609]..... |                      |   |        |       | <b>\$11,380,941</b>         |
| ▶ DECREASED by insurer overcollection [pursuant to CCR § 15606(f)].....                                           |                      |   |        |       | <b>(\$40,844,401)</b>       |
| <b>(4.5)</b> Resulting Final Insured Employers SIBT Fund Assessment.....                                          |                      |   |        |       | <b><u>\$246,054,311</u></b> |

**Calculation for Self- Insured Employers:**

|                                                                               |                      |   |        |       |                            |
|-------------------------------------------------------------------------------|----------------------|---|--------|-------|----------------------------|
| ▶ (SIBTF Assessment) X 25.95% =                                               | <b>\$372,069,914</b> | X | 25.95% | ..... | <b>\$96,552,143</b>        |
| ▶ DECREASED by the Self-Insurer overcollection from prior year.....           |                      |   |        |       | <b>(\$14,313,467)</b>      |
| <b>(4.6)</b> Resulting Final Self-Insured Employers SIBT Fund Assessment..... |                      |   |        |       | <b><u>\$82,238,676</u></b> |

**Occupational Safety and Health Fund (OSHF) Assessment**

**Calculation for Insured Employers:**

|                                                                                                                   |                      |   |        |       |                             |
|-------------------------------------------------------------------------------------------------------------------|----------------------|---|--------|-------|-----------------------------|
| ▶ (OSHF Assessment) X 74.05% =                                                                                    | <b>\$168,104,708</b> | X | 74.05% | ..... | <b>\$124,481,536</b>        |
| ▶ INCREASED by credits due individual insurers which undercollected against previous advances [ CCR § 15609]..... |                      |   |        |       | <b>\$17,335,821</b>         |
| ▶ DECREASED by insurer overcollection [pursuant to CCR § 15606(f)].....                                           |                      |   |        |       | <b>(\$12,423,847)</b>       |
| <b>(4.7)</b> Resulting Final Insured Employers OSH Fund Assessment.....                                           |                      |   |        |       | <b><u>\$129,393,510</u></b> |

**Calculation for Self- Insured Employers:**

|                                                                              |                      |   |        |       |                            |
|------------------------------------------------------------------------------|----------------------|---|--------|-------|----------------------------|
| ▶ (OSHF Assessment) X 25.95% =                                               | <b>\$168,104,708</b> | X | 25.95% | ..... | <b>\$43,623,172</b>        |
| ▶ DECREASED by the Self-Insurer overcollection from prior year.....          |                      |   |        |       | <b>(\$4,353,799)</b>       |
| <b>(4.8)</b> Resulting Final Self-Insured Employers OSH Fund Assessment..... |                      |   |        |       | <b><u>\$39,269,373</u></b> |

**Labor Enforcement and Compliance Fund (LECF) Assessment**

**Calculation for Insured Employers:**

|                                                                                                                   |                      |   |        |       |                             |
|-------------------------------------------------------------------------------------------------------------------|----------------------|---|--------|-------|-----------------------------|
| ▶ (LECF Assessment) X 74.05% =                                                                                    | <b>\$143,662,000</b> | X | 74.05% | ..... | <b>\$106,381,711</b>        |
| ▶ INCREASED by credits due individual insurers which undercollected against previous advances [ CCR § 15609]..... |                      |   |        |       | <b>\$15,244,055</b>         |
| ▶ DECREASED by insurer overcollection [pursuant to CCR § 15606(f)].....                                           |                      |   |        |       | <b>(\$21,481,764)</b>       |
| <b>(4.9)</b> Resulting Final Insured Employers LEC Fund Assessment.....                                           |                      |   |        |       | <b><u>\$100,144,002</u></b> |

**Calculation for Self- Insured Employers:**

|                                                                               |                      |   |        |       |                            |
|-------------------------------------------------------------------------------|----------------------|---|--------|-------|----------------------------|
| ▶ (LECF Assessment) X 25.95% =                                                | <b>\$143,662,000</b> | X | 25.95% | ..... | <b>\$37,280,289</b>        |
| ▶ DECREASED by the Self-Insurer overcollection from prior year.....           |                      |   |        |       | <b>(\$7,528,045)</b>       |
| <b>(4.10)</b> Resulting Final Self-Insured Employers LEC Fund Assessment..... |                      |   |        |       | <b><u>\$29,752,244</u></b> |

**California Department of Industrial Relations  
2021-2022 Workers' Compensation Administration Revolving Fund Assessment,  
Uninsured Employers Benefits Trust Fund Assessment,  
Subsequent Injuries Benefits Trust Fund Assessment,  
Occupational Safety and Health Fund Assessment,  
Labor Enforcement and Compliance Fund Assessment and  
Workers' Compensation Fraud Account Assessment**

**Workers' Compensation Fraud Account Assessment**

**Calculation for Insured Employers:**

|                                                                                                                              |              |   |        |                     |
|------------------------------------------------------------------------------------------------------------------------------|--------------|---|--------|---------------------|
| ▶ (Fraud Assessment) X 74.05% =                                                                                              | \$77,909,442 | X | 74.05% | \$57,691,942        |
| ▶ INCREASED by credits due individual insurers which undercollected against previous advances [pursuant to CCR § 15609]..... |              |   |        | \$13,392,817        |
| ▶ DECREASED by insurer overcollection [pursuant to CCR § 15606(f)].....                                                      |              |   |        | (\$2,614,421)       |
| <b>(4.11)</b> Resulting Final Insured Employers Workers' Compensation Fraud Account Assessment..                             |              |   |        | <b>\$68,470,338</b> |

**Calculation for Self- Insured Employers:**

|                                                                                                          |              |   |        |                     |
|----------------------------------------------------------------------------------------------------------|--------------|---|--------|---------------------|
| ▶ (Fraud Assessment) X 25.95% =                                                                          | \$77,909,442 | X | 25.95% | \$20,217,500        |
| ▶ DECREASED by the Self-Insurer overcollection from prior year.....                                      |              |   |        | (\$916,195)         |
| <b>(4.12)</b> Resulting Final Self-Insured Employers Workers' Compensation Fraud Account Assessment..... |              |   |        | <b>\$19,301,305</b> |

**Step 5: Calculate the Assessment Factors**

**Workers' Compensation Administration Revolving Fund Assessment Factor**

**(5.1) Calculation for Insured Employers:**

|                                     |                  |   |                 |
|-------------------------------------|------------------|---|-----------------|
| Total Insured Employers Assessment  | \$271,807,943    | = | <u>0.019277</u> |
| Total Direct Workers' Compensation* | \$14,100,000,000 | = |                 |

\*Estimated Premium (Source: WCIRB estimate for 2021 Policy Year)

**(5.2) Calculation for Self-Insured Employers:**

|                                             |                 |   |                 |
|---------------------------------------------|-----------------|---|-----------------|
| Total Self-Insured Employer Assessment      | \$74,074,746    | = | <u>0.031386</u> |
| Total Amt. of Workers' Comp. Indemnity Pd** | \$2,360,103,569 | = |                 |

\*\* SOURCE: Dept. of Industrial Relations, Office of Self-Insurance Plans [Σ of Methodology Sections (5.2.1) to (5.2.3)]:

|         |                                  |                 |
|---------|----------------------------------|-----------------|
| (5.2.1) | 2020-21 Public Sector.....       | \$1,465,499,943 |
| (5.2.2) | 2020 Private Sector.....         | \$637,670,804   |
| (5.2.3) | 2020-21 State of California..... | \$256,932,822   |

**Uninsured Employers Benefits Trust (UEBT) Fund Assessment Factor**

**(5.3) Calculation for Insured Employers:**

|                                     |                  |   |                 |
|-------------------------------------|------------------|---|-----------------|
| Total Insured Employers Assessment  | \$20,510,017     | = | <u>0.001455</u> |
| Total Direct Workers' Compensation* | \$14,100,000,000 | = |                 |

\*Estimated Premium (Source: WCIRB estimate for 2021 Policy Year)

**(5.4) Calculation for Self-Insured Employers:**

|                                              |                 |   |                 |
|----------------------------------------------|-----------------|---|-----------------|
| Total Self-Insured Employer Assessment       | \$5,430,410     | = | <u>0.002301</u> |
| Total Amt. of Workers' Comp. Indemnity Pd ** | \$2,360,103,569 | = |                 |

\*\* SOURCE: Dept. of Industrial Relations, Office of Self-Insurance Plans [Σ of Methodology Sections (5.2.1) to (5.2.3)]:

**Subsequent Injuries Benefits Trust (SIBT) Fund Assessment Factor**

**(5.5) Calculation for Insured Employers:**

|                                     |                  |   |                 |
|-------------------------------------|------------------|---|-----------------|
| Total Insured Employers Assessment  | \$246,054,311    | = | <u>0.017451</u> |
| Total Direct Workers' Compensation* | \$14,100,000,000 | = |                 |

\*Estimated Premium (Source: WCIRB estimate for 2021 Policy Year)

**(5.6) Calculation for Self-Insured Employers:**

|                                              |                 |   |                 |
|----------------------------------------------|-----------------|---|-----------------|
| Total Self-Insured Employer Assessment       | \$82,238,676    | = | <u>0.034845</u> |
| Total Amt. of Workers' Comp. Indemnity Pd.** | \$2,360,103,569 | = |                 |

\*\* SOURCE: Dept. of Industrial Relations, Office of Self-Insurance Plans [Σ of Methodology Sections (5.2.1) to (5.2.3)]:

**California Department of Industrial Relations  
2021-2022 Workers' Compensation Administration Revolving Fund Assessment,  
Uninsured Employers Benefits Trust Fund Assessment,  
Subsequent Injuries Benefits Trust Fund Assessment,  
Occupational Safety and Health Fund Assessment,  
Labor Enforcement and Compliance Fund Assessment and  
Workers' Compensation Fraud Account Assessment**

**Occupational Safety and Health Fund (OSHF) Assessment Factor**

**(5.7) Calculation for Insured Employers:**

|                                           |   |                  |   |                 |
|-------------------------------------------|---|------------------|---|-----------------|
| <u>Total Insured Employers Assessment</u> | = | \$129,393,510    | = | <u>0.009177</u> |
| Total Direct Workers' Compensation*       |   | \$14,100,000,000 |   |                 |

\*Estimated Premium (Source: WCIRB estimate for 2021 Policy Year)

**(5.8) Calculation for Self-Insured Employers:**

|                                               |   |                 |   |                 |
|-----------------------------------------------|---|-----------------|---|-----------------|
| <u>Total Self-Insured Employer Assessment</u> | = | \$39,269,373    | = | <u>0.016639</u> |
| Total Amt. of Workers' Comp. Indemnity Pd.**  |   | \$2,360,103,569 |   |                 |

\*\*SOURCE: Dept. of Industrial Relations, Office of Self-Insurance Plans [Σ of Methodology Sections (5.2.1) to (5.2.3)]:

**Labor Enforcement and Compliance Fund (LECF) Assessment Factor**

**(5.9) Calculation for Insured Employers:**

|                                           |   |                  |   |                 |
|-------------------------------------------|---|------------------|---|-----------------|
| <u>Total Insured Employers Assessment</u> | = | \$100,144,002    | = | <u>0.007102</u> |
| Total Direct Workers' Compensation*       |   | \$14,100,000,000 |   |                 |

\*Estimated Premium (Source: WCIRB estimate for 2021 Policy Year)

**(5.10) Calculation for Self-Insured Employers:**

|                                               |   |                 |   |                 |
|-----------------------------------------------|---|-----------------|---|-----------------|
| <u>Total Self-Insured Employer Assessment</u> | = | \$29,752,244    | = | <u>0.012606</u> |
| Total Amt. of Workers' Comp. Indemnity Pd.**  |   | \$2,360,103,569 |   |                 |

\*\*SOURCE: Dept. of Industrial Relations, Office of Self-Insurance Plans [Σ of Methodology Sections (5.2.1) to (5.2.3)]:

**Workers' Compensation Fraud Account Assessment Factor**

**(5.11) Calculation for Insured Employers:**

|                                         |   |                  |   |                 |
|-----------------------------------------|---|------------------|---|-----------------|
| <u>Total Insured Employer Surcharge</u> | = | \$68,470,338     | = | <u>0.004856</u> |
| Total Direct Workers' Compensation*     |   | \$14,100,000,000 |   |                 |

\*Estimated Premium (Source: WCIRB estimate for 2021 Policy Year)

**(5.12) Calculation for Self-Insured Employers:**

|                                              |   |                 |   |                 |
|----------------------------------------------|---|-----------------|---|-----------------|
| <u>Total Self-Insured Employer Surcharge</u> | = | \$19,301,305    | = | <u>0.008178</u> |
| Total Amt. of Workers' Comp. Indemnity Pd.** |   | \$2,360,103,569 |   |                 |

\*\*SOURCE: Dept. of Industrial Relations, Office of Self-Insurance Plans [Σ of Methodology Sections (5.2.1) to (5.2.3)]:

**Step 6: Determine Individual Employer's Workers' Compensation Administration Revolving Fund Assessment**

**(6.1) Individual Insured Employers:**

Assessment Factor [ 0.019277 ] X Employer's Expected Assessable Premium\*

**(6.2) Calculation for Individual Self-Insured Employers:**

Assessment Factor [ 0.031386 ] X Total Indemnity Paid by the Employer

**Step 7: Determine Individual Employers Uninsured Employers Benefits Trust (UEBT) Fund Assessment**

**(7.1) Individual Insured Employers:**

Assessment Factor [ 0.001455 ] X Employer's Expected Assessable Premium\*

**(7.2) Calculation for Individual Self-Insured Employers:**

Assessment Factor [ 0.002301 ] X Total Indemnity Paid by the Employer



California Department of Industrial Relations  
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 Subsequent Injuries Benefits Trust Fund Assessment,  
 Occupational Safety and Health Fund Assessment,  
 Labor Enforcement and Compliance Fund Assessment and  
 Workers' Compensation Fraud Account Assessment

**Step 8: Determine Individual Employers Subsequent Injuries Benefit Trust (SIBT) Fund Assessment**

**(8.1)** Individual Insured Employers:  
 Assessment Factor [ 0.017451 ]      X Employer's Expected Assessable Premium\*

**(8.2)** Calculation for Individual Self-Insured Employers:  
 Assessment Factor [ 0.034845 ]      X Total Indemnity Paid by the Employer

**Step 9: Determine Individual Employers Occupational Safety and Health (OSHF) Fund Assessment**

**(9.1)** Individual Insured Employers:  
 Assessment Factor [ 0.009177 ]      X Employer's Expected Assessable Premium\*

**(9.2)** Calculation for Individual Self-Insured Employers:  
 Assessment Factor [ 0.016639 ]      X Total Indemnity Paid by the Employer

**Step 10: Determine Individual Employers Labor Enforcement and Compliance (LECF) Fund Assessment**

**(10.1)** Individual Insured Employers:  
 Assessment Factor [ 0.007102 ]      X Employer's Expected Assessable Premium\*

**(10.2)** Calculation for Individual Self-Insured Employers:  
 Assessment Factor [ 0.012606 ]      X Total Indemnity Paid by the Employer

**Step 11: Determine Individual Employer's Workers' Compensation Fraud Account Assessment**

**(11.1)** Individual Insured Employers:  
 Assessment Factor [ 0.004856 ]      X Employer's Expected Assessable Premium\*

**(11.2)** Calculation for Individual Self-Insured Employers:  
 Assessment Factor [ 0.008178 ]      X Total Indemnity Paid by the Employer

**\* Assessable Premium**

*The premium the insured is charged after all rating adjustments (experience rating, schedule rating, premium discounts, expense constants, etc.) except for adjustments resulting from the application of deductible plans, retrospective rating or the return policyholder dividends.*





Office of the City Manager

CONSENT CALENDAR

January 25, 2022

To: Honorable Mayor and Members of the City Council  
 From: Dee Ridley-Williams, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Grant Application: Land and Water Conservation Fund – Grove Park  
 Renovation Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to submit a grant application to the federal Land and Water Conservation Fund (LWCF) in an amount not to exceed 50% of the Grove Park Renovation total project cost of \$2.4M.

FINANCIAL IMPLICATIONS

There are sufficient funds in the Measure T1 allocation and the Parks Tax Fund in the amount of \$2.4M for the Grove Park Renovation Project. This allocation can be used to leverage grant opportunities such as the Land and Water Conservation Fund (LWCF) grant program that require local matching funds. If awarded, the LWCF grant program will reimburse the City up to 50% of the total project cost.

CURRENT SITUATION AND ITS EFFECTS

This year's grant application deadline for the state's Land and Water Conservation Fund (LWCF) grant program for parks improvement projects is in February of 2022. The City has identified \$2.4M in Measure T1 and Parks Tax Funds for the Grove Park Renovation Project. Grant award decisions are expected in the summer of 2022, the NEPA environmental review approval is expected by 2023 at which time the project can commence.

BACKGROUND

In 2021, after a year-long community engagement process, the City completed the conceptual designs for the Grove Park Renovation Project, which includes improvements to the sports field and the playground. The City will commence with the design process in 2022 and construction in 2024.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

All parks improvement construction projects are required to comply with the City of Berkeley Climate Action Plan, specifically in terms of reducing construction waste, as well as environmentally preferred purchasing guidelines to reduce waste and increase the use of renewable resources.

Grant Application: Land and Water Conservation Fund --  
Grove Park Renovation Project

CONSENT CALENDAR  
January 25, 2022

RATIONALE FOR RECOMMENDATION

The allocation of local funds for parks improvement projects allows the City to apply for grant opportunities that require significant local matching funds.

CONTACT PERSON

Evelyn Chan, Supervising Civil Engineer, Parks, Recreation & Waterfront, 981-6703

Attachments

1: Resolution

RESOLUTION NO. -N.S.

APPROVING THE APPLICATION FOR LAND AND WATER CONSERVATION FUND  
GROVE PARK RENOVATION PROJECT

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a federal Land and Water Conservation Fund Grant-In-Aid program, providing Matching funds to the State of California and its political subdivisions for acquiring lands and developing Facilities for public outdoor recreation purposes; and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing Applications by local agencies under the program; and

WHEREAS, the Applicant certifies by resolution the approval of the Application and the availability of eligible Matching funds prior to submission of the Application to the State.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Berkeley:

1. Approves the filing of an Application for Land and Water Conservation Fund assistance for the proposed Grove Park Renovation Project.
2. Agrees to abide by Section 6(f)(3) of Public Law 88-578 which states "No property acquired or developed with assistance under this section shall, without the approval of the National Secretary of the Interior, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location."
3. Certifies that said agency has Matching funds from eligible source(s) and can finance 100 percent of the Project, which up to half may be reimbursed; and
4. Appoints the City Manager or her designee as agent of the Applicant to conduct all negotiations and execute and submit all documents, including, but not limited to, Applications, Contracts, amendments, payment requests, and compliance with all applicable current state and federal laws which may be necessary for the completion of the aforementioned Project.

BE IT FURTHER RESOLVED THAT, Council authorizes the implementation of the projects and appropriation of funding for related expenses, subject to securing the grant.

BE IT FURTHER RESOLVED THAT, A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
January 25, 2022

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. 32000093 Amendment: DC Electric Group, Inc. for On-Call Electronic Traffic Calming Devices Maintenance Project

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to amend Contract No. 32000093 with DC Electric Group, Inc. to increase the current contract by \$250,000 for a total not to exceed amount of \$500,000 and to remove the \$50,000 annual limit.

FISCAL IMPACTS OF RECOMMENDATION

Funding for the current contract is available from the State Transportation Tax Fund (account code 127-54-622-668-0000-000-431-612990), with an annual recurring allocation of \$50,000 over 5 years, for a total of \$250,000.

Funding for the additional \$250,000 will be identified and expended only for the actual services that are required. Therefore, funding will be subject to appropriation in the specific fiscal year that the services are needed.

CURRENT SITUATION AND ITS EFFECTS

DC Electric Group, Inc. was retained under contract 32000093 to maintain existing electronic traffic calming devices and to install new devices at the direction of the City. The existing contract has a not-to-exceed amount of \$250,000 and limits contract expenditures to \$50,000 per year, regardless of the funding source used. This annual cap has reduced flexibility and efficiency, as maintenance needs and traffic calming device installation can fluctuate year-by-year and may exceed \$50,000 in some years.

Since the original contract was executed there has been an increased need for installation of new traffic calming devices and signal modifications within the City. Additionally, the Traffic Calming Program was put on hold in 2020 as resources were diverted to the Healthy Streets network, and traffic data for the program could not accurately be collected due to significantly reduced traffic. There is now a backlog of traffic calming requests from 2019, 2020, and 2021 to be processed, and a higher demand for the installation of electronic traffic calming devices over the next couple of years is expected.

The proposed increase of \$250,000 and removal of the \$50,000 annual cap will accelerate project delivery and allow City staff to meet the increasing demand for electronic traffic calming devices.

On-Call Electronic Traffic Calming Devices Maintenance is a Strategic Plan Priority Project, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

### BACKGROUND

The City of Berkeley has been at the forefront of traffic calming among other cities in the nation, and has taken the initiative to install and experiment with new technologies (including electronic traffic calming devices) to further improve the quality of life and enhance safety for residents and visitors. As a result, the City is responsible for ensuring maintenance of electronic traffic calming devices, including rectangular rapid flashing beacons (RRFBs), pedestrian crossing flashing beacons, and speed feedback signs, and must ensure their operation for pedestrian, bicyclist, and driver safety.

A Request for Proposal (RFP) was issued on June 26, 2019, and four contractors responded to the RFP on July 18, 2019, meeting all requirements of the proposal for On-Call Electronic Traffic Calming Devices Maintenance. Resolution No. 69,086-N.S. authorized the City Manager to execute a contract and any amendments with DC Electric Group, Inc. in an amount not to exceed \$250,000 to repair, replace, maintain, and install electronic traffic calming devices for the period of October 16, 2019 to June 30, 2024 with an option for up to three one-year extensions. Contract no. 32000093 was executed on November 4, 2019 for DC Electric Group, Inc. to maintain existing traffic calming devices and to install new devices as authorized by the City.

### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This contract amendment is consistent with the City's efforts to improve efficiency of movement of people and vehicles throughout the City's roadway network. Traffic calming devices are expected to make the City of Berkeley a more pedestrian, bicycle, and transit friendly community thus working to reduce greenhouse gases and pollutants that impact air quality.

### RATIONALE FOR RECOMMENDATION

This contract amendment will accelerate project delivery and will allow City staff to meet the increasing demand for electronic traffic calming devices while continuing to maintain the growing electronic traffic calming devices inventory. The City does not have adequate staff, experience, or equipment to keep up with the growing demand for traffic calming devices and signal modifications.

### ALTERNATIVE ACTIONS CONSIDERED

Do not amend the contract and delay installation of new electronic traffic calming devices until a time when enough traffic calming projects can be funded and grouped together to be bid competitively.



CONTACT PERSON

Farid Javandel, Deputy Director of Public Works, Transportation, (510) 981-7061

Jesse Peoples, Associate Transportation Engineer, Public Works, (510) 981-6416

Attachments:

1: Resolution

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

CONTRACT NO. 32000093 AMENDMENT: DC ELECTRIC GROUP, INC. FOR ON-CALL ELECTRONIC TRAFFIC CALMING DEVICES MAINTENANCE PROJECT

WHEREAS, the City must periodically maintain existing electronic traffic calming devices to ensure that they are in a good operating condition and install new devices for pedestrian, bicyclist, and motorist safety; and

WHEREAS, the City does not have internal recourses or technical expertise to provide the required repair, replacement, maintenance, and installation in a timely or cost-effective manner; and

WHEREAS, an invitation for a Request for Proposal (RFP) was advertised on June 26, 2019, and based on the selection criteria established in the RFP the highest scoring and selected contractor was DC Electric Group, Inc.; and

WHEREAS, Resolution No. 69,086-N.S. authorized the City Manager to execute a contract and any amendments with DC Electric Group, Inc. in an amount not to exceed \$250,000 to repair, replace, maintain, and install electronic traffic calming devices for the period of October 16, 2019 to June 30, 2024 with an option for up to three one-year extensions; and

WHEREAS, DC Electric Group, Inc. was retained under contract no. 32000093 for On-Call Electronic Traffic Calming Devices Maintenance; and

WHEREAS, due to the increased need for new electronic traffic calming devices and signal modifications, removal of the \$50,000 annual limit and an additional \$250,000 in contract capacity is necessary to construct improvements in an efficient manner; and

WHEREAS, funding for the additional \$250,000 will be identified and expended only for the actual services that are required. Therefore, funding will be subject to appropriation in the specific fiscal year that the services are needed.

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. 32000093 with DC Electric Group, Inc. to increase the current contract by \$250,000 for a total not to exceed amount of \$500,000 and to remove the \$50,000 annual limit.



Office of the City Manager

CONSENT CALENDAR  
January 25, 2022

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Liam Garland, Director, Department of Public Works  
Subject: Contract: Glosage Engineering, Inc. for Sanitary Sewer Rehabilitation at Various Locations

RECOMMENDATION

Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project, located on Grizzly Peak Boulevard Backline, Euclid Avenue Backline, Cragmont Avenue Backline, Euclid Avenue, Wildcat Canyon Road, Woodhaven Road, Keeler Avenue, Spruce Street, and Eunice Street; accepting the bid of the lowest responsive and responsible bidder, Glosage Engineering, Inc.; 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 \$1,780,859, which includes a 10% contingency of \$161,896.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the FY 2022 Sanitary Sewer Fund 611-54-623-676-3013-000-473-665130-PWENSR2203.

|                                |                    |
|--------------------------------|--------------------|
| Low bid by Glosage.....        | \$1,618,963        |
| 10% Contingency .....          | \$161,896          |
| <b>Total construction cost</b> | <b>\$1,780,859</b> |

CURRENT SITUATION AND ITS EFFECTS

An Invitation for Bids (Specification. No. 22-11484-C) was released on November 24, 2021 and six non-local bids were received, ranging from a low of \$1,618,963 to a high of \$2,149,950 (Attachment 3, Bid Results). The engineer's estimate for the project was \$2,000,000. Glosage Engineering, Inc. of Richmond, CA was the lowest responsive and responsible bidder with a bid of \$1,618,963. Previous work and references for Glosage Engineering, Inc. proved satisfactory, thus staff recommends award of the contract to Glosage Engineering, Inc.

This sanitary sewer project supports the City's Strategic Plan goals of providing state

of-the-art, well-maintained infrastructure, amenities, and the goal of protecting the environment.

### BACKGROUND

To remain compliant with the September 22, 2014 Consent Decree, the City has implemented a long-term mandated Sanitary Sewer Capital Improvement Program to eliminate sanitary sewer overflows (SSOs) and to reduce storm water infiltration and inflow into the sanitary sewer system. Under this program, the City utilizes a comprehensive asset management approach based on complex and evolving hydrologic and hydraulic modeling and condition assessments to repair, replace, or upgrade the City's portion of the sanitary sewer system. Ultimately, these actions will assist East Bay Municipal Utility District (EBMUD) in their goal of eliminating discharges from their wet weather facilities by the end of 2035.

This is the eighth year of the twenty-two-year Consent Decree program, which stipulates that the City shall perform collection system repair and rehabilitation to control infiltration and inflow.<sup>1</sup> This is in support of and in addition to ongoing work previously identified in the City's Sanitary Sewer Management Plan (SSMP) and Asset Management Implementation Plan (AMIP).

This sanitary sewer project is part of the City's ongoing program to rehabilitate or replace its aging sanitary sewer system, and to eliminate potential health hazards to the public. The project is located on Grizzly Peak Boulevard Backline, Euclid Avenue Backline, Cragmont Avenue Backline, Euclid Avenue, Wildcat Canyon Road, Woodhaven Road, Keeler Avenue, Spruce Street, and Eunice Street as shown on the Location Map (Attachment 2). The sanitary sewer collection system in this area needs immediate rehabilitation to prevent pipe failures, sewer blockages, and leakage problems. Field investigations performed using a closed circuit television camera revealed deteriorated piping and pipe defects in the existing sanitary sewer mains. These conditions are similar to problems previously found in other sanitary sewer mains prior to their replacement.

Planned work entails rehabilitation of approximately 4,429 linear feet sanitary sewer mains varying in size from 6-inch to 18-inch diameter; maintenance hole rehabilitation; replacement of 4-inch and 6-inch diameter sanitary sewer laterals; and other related work. To reduce traffic impacts, minimize inconvenience to the public, and reduce cost, a majority of this sanitary sewer rehabilitation work will be performed using the pipe bursting and cured-in-place-pipe methods. These trenchless methods allow replacement of buried pipelines without the need for a traditional open trench construction. These methods of pulling a new high-density polyethylene pipe (HDPE) or a new felt liner through the existing clay and concrete pipes allow for cost savings

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<sup>1</sup> At an average annual rate of no less than 22,120 feet of sanitary sewer mains on a three-fiscal-year rolling average.

and avoid street closures and traffic disruptions caused by open trenches.

The Living Wage Ordinance does not apply to this project as Department of Public Works construction contracts are subject to State prevailing wage laws. Glosage Engineering, Inc. has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement applies to this project because the estimated value of the project exceeds \$500,000. As a result, the contractor and all subcontractors will be required to sign an agreement to be bound by the terms of the Agreement.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Improvements to the City's sanitary sewer system will help protect water quality by reducing the frequency of SSOs, and infiltration and inflow into the City's sanitary sewer system that can negatively affect the San Francisco Bay. There are no identified climate impacts.

#### RATIONALE FOR RECOMMENDATION

Contracted services are required for the specialized services required for this project, as the City lacks in-house resources needed to complete scheduled sanitary sewer rehabilitation and replacement projects. Further, the City must take timely action to address urgent/emergent sewer repairs without delay. Finally, subject to fines and stipulated penalties, the Consent Decree demands the City to repair acute defects within one year of discovery, and complete sanitary sewer mains rehabilitation and replacement at an average annual rate of no less than 22,120 feet on a three-fiscal-year rolling average. The City will have a three-year annual average of approximately 22,160 linear feet of replaced or rehabilitated sewer through the end of FY 2022 on June 30, 2022.

#### ALTERNATIVE ACTIONS CONSIDERED

No reasonable alternative exists as the City's sanitary sewer pipelines are in poor condition and in need of timely rehabilitation to prevent an increased probability of infiltration and inflows, sanitary sewer leakages, and backup problems in the sanitary sewer system.

#### CONTACT PERSON

Joe Enke, Acting Manager of Engineering, Public Works, (510) 981-6411  
Daniel Akagi, Supervising Civil Engineer, Public Works, (510) 981-6394

Attachments:

- 1: Resolution
- 2: Location Map
- 3: Bid Results

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

CONTRACT FOR SANITARY SEWER REHABILITATION – GRIZZLY PEAK BOULEVARD BACKLINE, EUCLID AVENUE BACKLINE, CRAGMONT AVENUE BACKLINE, EUCLID AVENUE, WILDCAT CANYON ROAD, WOODHAVEN ROAD, KEELER AVENUE, SPRUCE STREET, AND EUNICE STREET.

WHEREAS, the Sanitary Sewer Project is part of the City's on-going Sanitary Sewer Capital Improvement Program to rehabilitate or replace the aging and deteriorated sanitary sewer system; and

WHEREAS, the Capital Improvement Program is a requirement of compliance with the National Pollution Discharge Elimination System Permit (NPDES) and California Regional Water Quality Control Board Consent Decree; and

WHEREAS, the City has neither the staff nor the equipment necessary to undertake this Sanitary Sewer Rehabilitation Project and other urgent/emergent sewer repairs; and

WHEREAS, on November 24, 2021 the City released an Invitation for Bids (Specification No. 22-11484-C) for sanitary sewer rehabilitation and replacement; and

WHEREAS, the City received six bids, and Glosage Engineering, Inc. was found to be the lowest responsive and responsible bidder; and

WHEREAS, funds are available in the FY 2022 budget Sanitary Sewer Fund 611; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specifications No. 22-11484-C for the Sanitary Sewer Rehabilitation Project are approved.

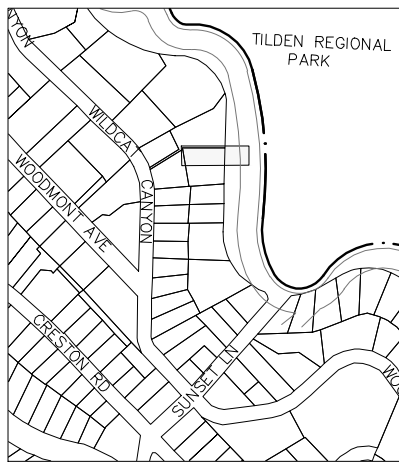
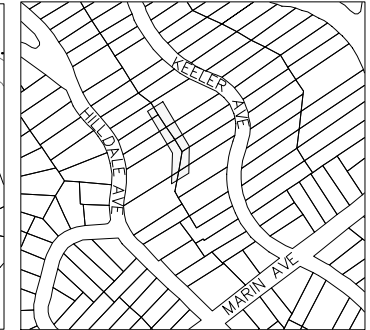
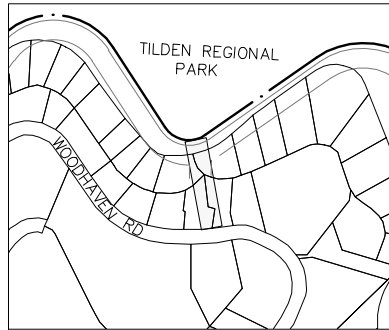
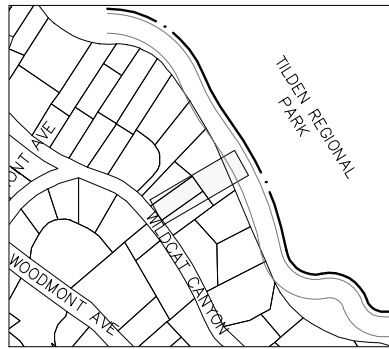
BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments with Glosage Engineering, Inc., until completion of the project in accordance with the approved plans and specifications for the Sanitary Sewer Rehabilitation Project located on Grizzly Peak Boulevard Backline, Euclid Avenue Backline, Cragmont Avenue Backline, Euclid Avenue, Wildcat Canyon Road, Woodhaven Road, Keeler Avenue, Spruce Street, and Eunice Street, in an amount not to exceed \$1,780,859 which includes a 10% contingency for unforeseen circumstances. A record signature copy of said agreement and any amendments will be on file in the Office of the City Clerk.

# LOCATION MAP

## SANITARY SEWER REHABILITATION PROJECT

GRIZZLY PEAK BOULEVARD BACKLINE, EUCLID AVENUE BACKLINE, CRAGMONT AVENUE BACKLINE, EUCLID AVENUE, WILDCAT CANYON ROAD, WOODHAVEN ROAD, KEELER AVENUE, SPRUCE STREET, AND EUNICE STREET

SPECIFICATION NO. 22-11484-C



### ATTACHMENT 2

 - CONSTRUCTION AREA



**City of Berkeley  
Abstract of Bid Worksheet**

Finance Department  
General Services Division

**Bid Date: 12/21/2021**

**FOR: 22-11484-C Sanitary Sewer Rehab, Grizzly Peak, Euclid, etc.**

required w/ bid

|   | Bidders                      | Base Bid        | Bid Bond | Addendum (1) | Experience - Fin. Qual. | Taxpayer ID | Nuclear Free | Oppressive States | Sanctuary City | EBO |
|---|------------------------------|-----------------|----------|--------------|-------------------------|-------------|--------------|-------------------|----------------|-----|
| 5 | Glosage Engineering, Inc.    | \$ 1,618,962.50 | X        | X            | X                       | X           | X            | X                 | X              | X   |
| 1 | Andes Construction           | \$ 1,657,722.00 | X        | X            | X                       | X           | X            | X                 | X              | X   |
| 3 | Devaney Engineering, Inc.    | \$ 1,679,215.00 | X        | X            | X                       | X           | X            | X                 | X              | X   |
| 6 | Westland Contractors, Inc.   | \$ 1,785,090.00 | X        | X            | X                       | X           | X            | X                 | X              | X   |
| 2 | Cratus, Inc.                 | \$ 1,942,080.00 | X        | X            | X                       | X           | X            | X                 | X              | X   |
| 4 | EPS, Inc. (Express Plumbing) | \$ 2,149,950.00 | X        | X            | X                       | X           | X            | X                 | X              | X   |

*DPS*

Bid Recorder: Darryl Sweet \_\_\_\_\_  
 Bid Opener: Josh Roben \_\_\_\_\_  
 Project Manager: Daniel Akagi *Daniel Akagi*

2180 Milvia Street, Berkeley, CA 94704 Tel: 510.981.7320 TDD: 510.981.6903 Fax: 510.981.7390  
 E-mail: finance@ci.berkeley.ca.us





Office of the City Manager

07

CONSENT CALENDAR  
January 25, 2022

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: Lease and Cooperative Agreement: Downtown Berkeley Bike Station

RECOMMENDATION

1. Adopt the first reading of an Ordinance authorizing the City Manager to execute a lease agreement with BART for retail space at the Center Street Garage for a fifteen-year lease term commencing February 1, 2021, and expiring on January 31, 2036.
2. Adopt a Resolution authorizing the City Manager to execute a cooperative agreement with the Bay Area Rapid Transit District (BART) for the continued operation of the Downtown Berkeley Bike Station in its Center Street Garage location for a three-year term commencing July 1, 2020, and expiring on June 30, 2023, in an amount not to exceed \$225,000.

FISCAL IMPACTS OF RECOMMENDATION

The City's contribution to the Bike Station operations by way of the cooperative agreement is not to exceed \$75,000 per year, for a total contract amount not to exceed \$225,000. Funding for FY 2022 is available in the amount of \$75,000 and the subsequent fiscal years will be subject to appropriation in Capital Improvement Fund 501.

The City would receive \$4,112.50 per month in lease revenue for the Bike Station spaces and utilities for the first three years with a 2.0% increase in rent at the start of Years 4, 7, 10, and 13. The total lease revenue for the initial term of the lease is \$770,578.33. Continuation of the lease is contingent upon the renewal of the cooperative agreement. If the cooperative agreement is not renewed, the lease will terminate on the cooperative agreement's termination date. Revenue generated from the lease agreement will be deposited in the Off-Street Parking Fund 835.

CURRENT SITUATION AND ITS EFFECTS

The Downtown Berkeley Bike Station has been in continuous operation since 1999, originally on the concourse level of the Downtown Berkeley BART station, then from a storefront located at 2208 Shattuck Avenue from 2010 to 2018, and then to its current location at 2023 Center Street in the City of Berkeley's Center Street Garage.

BART's initial lease at the Center Street Garage expired on January 31, 2021. Impacts from the pandemic and a protracted negotiation process caused the delay in bringing the agreements to City Council. The City and BART agreed to exercise the holdover section of the previous lease and BART has continued to pay rent and manage the day-to-day operations of the Bike Station within the limits established by the Shelter in Place Order and social distancing requirements. This new lease, if approved, would therefore have a retroactive start date of February 1, 2021, and would terminate January 31, 2036. The fifteen-year lease also includes one five-year option to extend.

Under the new lease and cooperative agreement, BART would continue to manage day-to-day operations of the Bike Station including performing its obligations under the Lease, reviewing and monitoring any sublease agreements, and managing the private company which operates the Bike Station. According to BART, in April 2018 the Bike Station parked 105 bikes on an average weekday or about 2,300 securely parked bikes per month. Currently, the Bike Station is working towards meeting and exceeding 2018 numbers as usage rebounds from pandemic-related closures. Usage is expected to continue to increase.

BART requested that the City's share of funding rise from \$60,000 annually, the amount the City has been paying since 2010, to \$75,000 annually. Staff recommends that the City's share of funding rise at this time.

### BACKGROUND

The Bike Station at Center Street Garage has additional services, such as retail sales of bicycle equipment and parts, and bicycle repairs and rentals as well as a café area. The total number of bike parking spaces is 326 (282 valet spaces and 48 self-park). All services, provided by BART's Downtown Berkeley Bike Station operator, BikeHub, generate revenue that has helped defray annual operating costs in the form of profit-sharing with both BART and the City. Berkeley's profit-sharing funds are reinvested in the Bike Station.

Provision of secure bicycle parking in the Downtown Berkeley Bike Station supports multiple policies in the Berkeley Bicycle Plan; Berkeley Climate Action Plan Goal #5: Accelerate Implementation of the City's Bicycle & Pedestrian Plans; Berkeley General Plan Policy T-43, which calls for expansion of the supply of secure bicycle parking near transit hubs and in commercial areas; and the following specific Downtown Area Plan Policy measures:

Policy AC-5.2: Bicycle Parking. Increase the availability of convenient, secure and attractive short- and long-term bicycle parking throughout Downtown.

a) Increase the availability of secured bicycle parking throughout Downtown, particularly in areas of high use, including bicycle parking options that are sheltered and/or attended.

d) Promote the creation of an at-grade attended or automated bicycle-parking service. Work with BART to consider replacing the existing bicycle station with a joint City/BART aboveground facility, perhaps in a storefront on Shattuck Avenue.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

According to BART, the Bike Station parks approximately 2,300 securely parked bicycles per month. Each of the associated bicycle trips is free of greenhouse gas emissions and thus reduces emissions compared to the more polluting motorized modes of transportation that could have been chosen for many of these trips had secure bicycle parking not been available. These outcomes help achieve the Berkeley Climate Action Plan targets of reducing greenhouse gas emissions 33% below year 2000 levels by year 2020, and 80% below year 2000 levels by 2050. The plan states that, in order to meet these targets, “Transportation modes such as public transit, walking and bicycling must become the primary means of fulfilling our mobility needs.” More specifically, Goal #5: Accelerate Implementation of the City’s Bicycle & Pedestrian Plans has an implementation action to “Expand and improve secure bicycle parking at all Berkeley BART stations and bus stops.”

RATIONALE FOR RECOMMENDATION

Despite the City’s successful expansion of on-street bicycle parking, there continues to be a shortage of adequate bicycle parking in the downtown area, especially secure, long-term bicycle parking of the type offered at the Downtown Bike Station. Supporting the Downtown Bike Station will help serve that demand while helping the City to meet its Climate Action Plan targets to reduce greenhouse gas emissions.

The City designed and constructed approximately \$310,000 of purpose-built capital improvements in the Center Street Garage Bike Station, including bike racks for valet bicycle parking and an area for BikeLink bicycle lockers, a bicycle accessory retail area, and a café area, including electrical connections and plumbing.

ALTERNATIVE ACTIONS CONSIDERED

In the short term, the City could choose not to enter into a new Bike Station cooperative agreement and lease with BART. As a result, the Downtown Bike Station would likely close after the current contract between the City and BART concerning its operations expires. BART management has indicated that BART would not assume the City’s current portion of Bike Station operating costs.

CONTACT PERSON

Andrew Brozyna, Deputy Director, Public Works - Engineering, 981-6396  
Farid Javandel, Deputy Director, Public Works - Transportation, 981-7061  
Beth Thomas, Principal Planner, Public Works Transportation Division, 981-7068  
Dionne Early, Community Dev. Project Coord., Public Works – Real Property, 981-6453

Cooperative Agreement Amendment:  
Downtown Berkeley Bike Station

CONSENT CALENDAR  
January 25, 2022

**Attachments:**

1: Ordinance

    Exhibit A: Lease

2: Resolution

3: Cooperative Agreement

ORDINANCE NO. ##,###–N.S.

LEASE AGREEMENT WITH BAY AREA RAPID TRANSIT (BART) FOR BIKE  
STATION RETAIL SPACE AT 2023 CENTER STREET

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

Section 1. The City Manager, or designee, is hereby authorized to execute a lease agreement with BART to use City property at 2023 Center Street for a 15-year lease term, commencing February 1, 2021, and expiring January 31, 2036, with an option to extend for one additional five-year term. The lease shall be substantially in the form attached hereto as Exhibit “A”.

Section 2. All revenue from said lease shall be deposited in the Off-Street Parking Fund 627 in a specific revenue account to be established for leases at the Center Street Garage location.

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

## CENTER STREET GARAGE LEASE

THIS LEASE is made on \_\_\_\_\_ 2021 between the CITY OF BERKELEY, a charter city organized and existing under the laws of the State of California ("Landlord") and the SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT, a rapid transit district ("BART", or the "Tenant").

### RECITALS

A. Landlord is the owner of the real property consisting of approximately 3,685 square feet of space located on the ground floor of the Center Street Parking Garage at 2023 Center Street, Berkeley, California ("**Premises**") as further described in Exhibit A-1, attached to and made a part of this lease.

B. Tenant entered into a three-year (FY21-23) cost-sharing agreement for the operation of the Downtown Berkeley Bike Station, the Fund Transfer and Cooperative Agreement ("**Fund Agreement**"), attached to and made a part of this Lease as Exhibit E.

C. Tenant is willing to lease the Premises from Landlord pursuant to the provisions stated in this lease and contingent on the Fund Transfer and Cooperative Agreement being in effect as further described in Exhibit E, attached to and made a part of this lease. Should the parties terminate or fail to extend the Agreement, this lease would also be terminated.

D. Tenant wishes to lease the Premises for the purpose of operating a valet and self-service bike parking facility with supporting retail-commercial and café uses.

E. Tenant has examined the Premises and is fully informed of the condition thereof.

### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the Landlord and Tenant hereby agree as follows:

#### 1. DESCRIPTION OF PREMISES

Landlord leases to Tenant and Tenant lease from Landlord the Premises described above and as further described in Exhibit E, attached to and made a part of this Lease.

#### 2. TERM

The term of this Lease shall commence on February 1, 2021 (the "Commencement Date") and shall be for a period of fifteen (15) years. Tenant shall have an option to extend the term for an additional five (5) year period as outlined in Section 32 of this lease. Landlord and Tenant agree to sign and date Exhibit B, attached hereto and acknowledge the Lease

Commencement Date, Rent Commencement Date, and Expiration Date of the Lease. The Lease is contingent on the Fund Transfer and Cooperative Agreement being in effect as further described in Exhibit E, attached to and made a part of this Lease. Should the parties terminate or fail to extend the Agreement, this Lease would also be terminated.

**3. RENT**

- a. Commencing on the Commencement Date, Tenant shall pay to Landlord as monthly rent, without deduction, setoff, prior notice, or demand, the sum of \$4,112.50 per month (the "Rent") in advance of the first day of each month and continuing during the term. 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 the Landlord at the address to which notices to Landlord are given. At Tenant's option, rent may be paid automatically on the first day of each month by providing the following to the City: a completed Authorization for Direct Automatic Bill Payment Form with required attachments and signatures. Landlord will provide the form upon your request.
- 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 fourth, seventh, tenth, and thirteenth years of the term ("the adjustment date") to the monthly rent in effect immediately preceding the adjustment date plus two percent (2.0%), as further described in Exhibit B, attached to and made a part of this Lease.

**5. SECURITY DEPOSIT**

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

## 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 the Landlord will incur by reason of late payment by the 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 operation of a valet and self-service bike parking facility with supporting retail-commercial and café uses and agrees to continuously and uninterruptedly occupy and use the leased Premises. 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, between the hours of 6:00 AM and 2:00 AM and in accordance with Chapter 23E.68 of the Berkeley Municipal Code and specifically Sections 23E.68.030 *Uses Permitted* and 23E.68.060 *Use Limitations*. Tenant hours of operation, including vacation, holiday, and seasonal schedule changes and/or closures (if any) must be approved by the Director of Public



Works or his/her designee. Approved hours of operation must be posted at the primary public entrance.

c. Tenant agrees to abide by all facility "Rules and Regulations." The current version is attached hereto as Exhibit D and may be amended by the City from time to time.

d. In addition Tenant agrees 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 Tenant 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 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 non-compliance 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 is self-insured, and covenants and agrees that at its cost, Tenant 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 911 and the Office of Emergency Services.

d. To Landlord's actual knowledge, neither the common area of the Building nor the Premises has 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 Commencement 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 – NOT APPLICABLE TO PUBLIC ENTITIES**

19. **BERKELEY LIVING WAGE ORDINANCE**

a. If Tenant is currently subject to the Berkeley Living Wage Ordinance, 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 employees who spend 25% or more of their compensated time on the leased property, or engaged in work directly related to the license, concession or franchise 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 25 and 26 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 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 a default of the lease, upon which City may terminate this lease pursuant to Section 26.

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 - WAIVED**

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 25 and 26 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 a default of the lease, upon which City may terminate this lease pursuant to Section 26.

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. 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.

## **22. 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.

## **23. 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.

**24. 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.

**25. 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.

## 26. 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 provided it gives Tenant 90 days of notice prior to termination. 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 of the unpaid rent that had been earned at the time of termination of this Lease;

ii. If Tenant defaulted, the worth 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 relet that exceeds the amount of the loss of rent that Tenant proves could have been reasonably avoided;

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 within 30 days 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 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.

## **27. 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.

## **28. 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.

**29. 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](mailto:real_property@cityofberkeley.info)

To the Tenant: Heath Maddox  
BART Customer Access,  
2150 Webster Street, 8<sup>th</sup> Floor  
Oakland, CA 94612  
Telephone: 415-728-1352  
Email: [hmaddox@bart.gov](mailto:hmaddox@bart.gov)

With a copy to: Abigail Thorne-Lyman  
BART Real Estate & Property Development  
2150 Webster St. 9<sup>th</sup> Floor  
Oakland, CA 94612  
Telephone: 510-821-8262  
Email Address: [athorne@bart.gov](mailto:athorne@bart.gov)

**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 Lease 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 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 (1) 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 Term of this Lease plus two percent (2.0%).

**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.

**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:  
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT,  
a rapid transit district

Signature: DocuSigned by:  
*Abigail Thorne-Lyman*  
EFB00EAF4363431...

Title: Acting Director, Real Estate & Prop. Devt

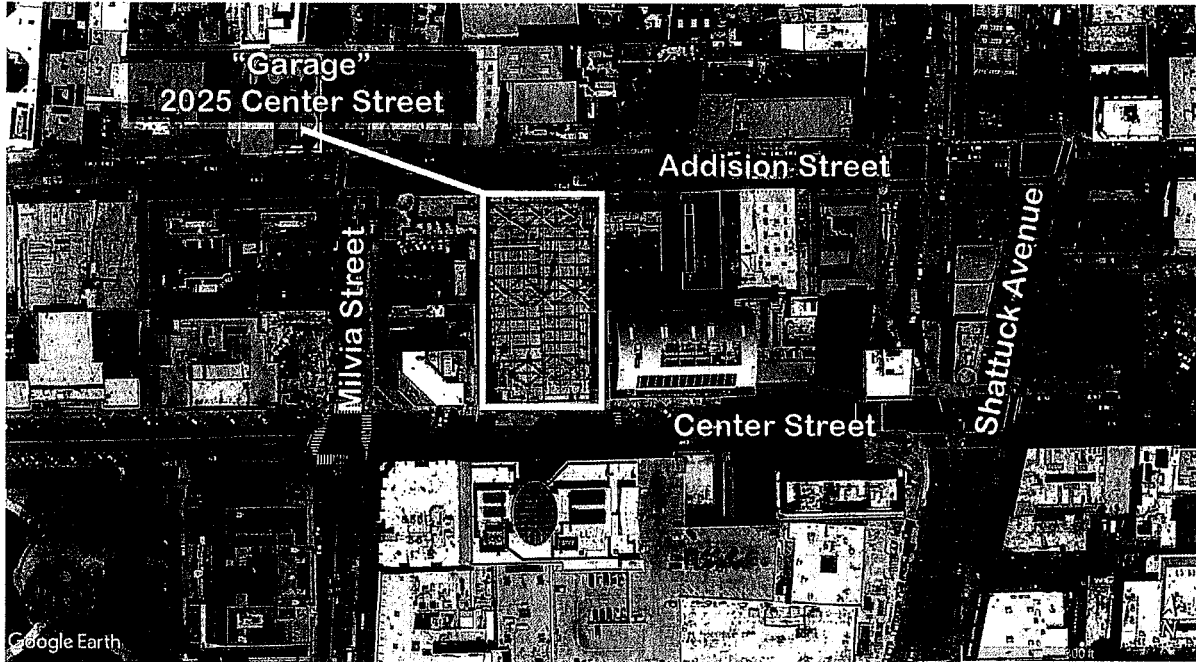
Signature: \_\_\_\_\_

Title: \_\_\_\_\_

City of Berkeley Business License No. \_\_\_\_\_

EXHIBIT A  
TO  
LEASE

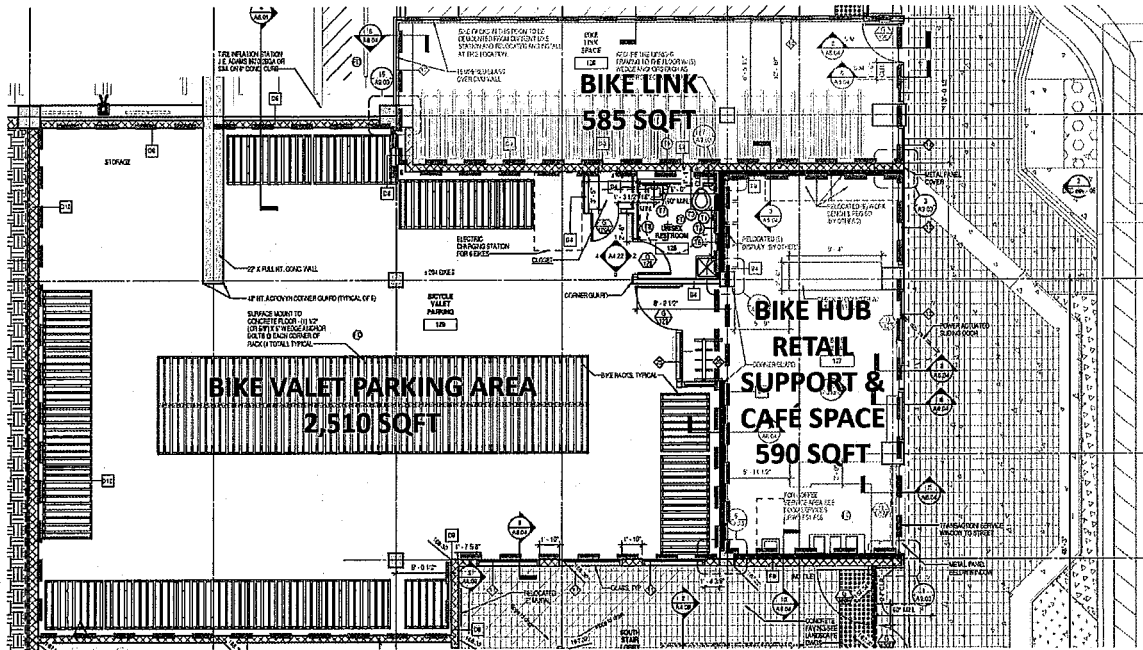
Location of Garage





**EXHIBIT A-1  
TO LEASE**

Site Plan of Premises - 2023 Center Street (Lease Space outlined in bold dash marks)



- **Bike Link** space for 24/7 accessible indoor bicycle parking (585 square feet);
- **Bike Valet Parking** with staff unisex restroom (2,510 square feet); and
- **Bike Hub** Retail Support and Café space (590 square feet)

**EXHIBIT B  
TO  
LEASE**

Agreement Specifying Term of Lease

Attached to and made part of the Lease dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF BERKELEY, a municipal corporation, as Landlord, and BAY AREA RAPID TRANSIT DISTRICT, as Tenant ("**Lease**").

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

Lease Commencement Date is February 1, 2021  
Rent Commencement Date is February 1, 2021  
Expiration Date is January 31, 2036, 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:**  
BAY AREA RAPID TRANSIT DISTRICT

By: DocuSigned by:  
*Abigail Thorne Lyman*  
EF8CDEAF4353431

Its: Director of Real Estate & Property Development

| <b>LEASE PAYMENT SCHEDULE FOR 2023 CENTER STREET</b> |      |              |              |              |              |              |              |              |              |              |
|------------------------------------------------------|------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                                                      | YEAR | YEAR         | YEAR         | YEAR         | YEAR         | YEAR         | YEAR         | YEAR         | YEAR         | YEAR         |
|                                                      | 1    | 2            | 3            | 4            | 5            | 6            | 7            | 8            | 9            |              |
| FEBRUARY                                             | 1    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| MARCH                                                | 2    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| APRIL                                                | 3    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| MAY                                                  | 4    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| JUNE                                                 | 5    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| JULY                                                 | 6    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| AUGUST                                               | 7    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| SEPTEMBER                                            | 8    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| OCTOBER                                              | 9    | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| NOVEMBER                                             | 10   | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| DECEMBER                                             | 11   | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| JANUARY                                              | 12   | \$ 4,112.50  | \$ 4,112.50  | \$ 4,112.50  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,194.75  | \$ 4,278.65  | \$ 4,278.65  | \$ 4,278.65  |
| <b>ANNUAL TOTAL:</b>                                 |      | \$ 49,351.00 | \$ 49,352.00 | \$ 49,353.00 | \$ 50,341.00 | \$ 50,342.00 | \$ 50,343.00 | \$ 51,350.80 | \$ 51,351.80 | \$ 51,352.80 |

|                            | YEAR | YEAR         | YEAR         | YEAR         | YEAR                 | YEAR         |
|----------------------------|------|--------------|--------------|--------------|----------------------|--------------|
|                            | 10   | 11           | 12           | 13           | 14                   | 15           |
| FEBRUARY                   | 1    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| MARCH                      | 2    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| APRIL                      | 3    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| MAY                        | 4    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| JUNE                       | 5    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| JULY                       | 6    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| AUGUST                     | 7    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| SEPTEMBER                  | 8    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| OCTOBER                    | 9    | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| NOVEMBER                   | 10   | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| DECEMBER                   | 11   | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| JANUARY                    | 12   | \$ 4,364.22  | \$ 4,364.22  | \$ 4,364.22  | \$ 4,451.50          | \$ 4,451.50  |
| <b>ANNUAL TOTAL:</b>       |      | \$ 52,380.61 | \$ 52,381.61 | \$ 52,382.61 | \$ 53,431.03         | \$ 53,432.03 |
| <b>FIFTEEN YEAR TOTAL:</b> |      |              |              |              | <b>\$ 770,578.33</b> |              |

LEASE START MONTH: FEBRUARY

LEASE START DAY: 1ST

LEASE START YEAR: 2021

LEASE TERMINATION DATE: JANUARY 31, 2036

Calculations include a 2.0% rate increase every three years.

**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 until at least 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 washbasins 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 handbills 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 loudspeakers or other mediums that irritate or have the tendency to irritate other tenants within the Retail Space or their customers or invitees.

**EXHIBIT E  
TO  
LEASE**

Fund Transfer and Cooperative Agreement

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

FUNDING AND COOPERATIVE AGREEMENT: BERKELEY BIKE STATION

WHEREAS, on December 8, 2008 by Authorization No. 28 12/8/08, Council authorized Contract No. 8550 with Bay Area Rapid Transit District (BART) for \$60,000 annually for a sum not to exceed \$300,000 to provide operations funding through June 30, 2014 for a Downtown Berkeley Bike Station Expansion; and

WHEREAS, on May 26, 2015 by Resolution 67,032-N.S., Council authorized Contract No. 9965 with BART for \$60,000 annually for a sum not to exceed \$120,000 to provide operations funding through June 30, 2016 for the Downtown Berkeley Bike Station; and

WHEREAS, on July 25, 2017 by Resolution 68,127-N.S., Council authorized Contract No. 10829 with BART for \$60,000 annually for a sum not to exceed \$120,000 to provide operations funding through June 30, 2018 for the Downtown Berkeley Bike Station; and

WHEREAS, the funding under the contract approved in July 2017 was expended to operate the Bike Station in FY 2017 and FY 2018; and

WHEREAS, provision of secure bicycle parking in the Downtown Berkeley Bike Station supports multiple policies in the Berkeley Bicycle Plan; Berkeley Climate Action Plan Goal #5: Accelerate Implementation of the City's Bicycle & Pedestrian Plans; Berkeley General Plan Policy T-43 that calls for expansion of the supply of secure bicycle parking near transit hubs and in commercial areas; and the multiple Downtown Area Plan transportation policy measures; and

WHEREAS, executing a cooperative agreement with BART to provide funding for an additional three years of operation of the Downtown Bike Station at its new Center Street Garage location will enable the provision of continued secure bicycle parking services in Downtown Berkeley; and

WHEREAS, funding of \$75,000 for the first year is subject to appropriation in the FY 2022 Budget from Capital Improvement Fund 501 via the Second Amendment to the Annual Appropriations Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a three-year cooperative agreement with BART, in an amount not to exceed \$225,000 for the continued operation of the Downtown Berkeley Bike Station at its location in the Center Street Garage through June 30, 2023. A record copy of the contract and any amendments is to be on file in the Office of the City Clerk.



## FUND TRANSFER AND COOPERATIVE AGREEMENT

THIS AGREEMENT (“Agreement”) is made as of the \_\_\_\_\_ day of \_\_\_\_\_ 2021, by and between the SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (“BART” or “District”) and the CITY OF BERKELEY, CALIFORNIA (“City”).

### RECITALS

THIS AGREEMENT is made with reference to the following facts:

- A. On August 20, 2010, BART and the City entered into a Fund Transfer and Cooperative Agreement for a new bicycle station facility (“Bike Station”) near the Downtown Berkeley BART Station. The City agreed to contribute funding to support the operating costs of the Bike Station for a five-year period beginning July 1, 2009 and ending July 1, 2014.
- B. On June 23, 2015, BART and the City entered into a Fund Transfer and Cooperative Agreement for continued operation of the Bike Station near the Downtown Berkeley BART Station. The City agreed to continue to contribute funding to support the operating costs of the Bike Station for a two-year period beginning July 1, 2014 and ending June 30, 2016 for a total not to exceed \$120,000.
- C. On January 19, 2018, BART and the City entered into a Fund Transfer and Cooperative Agreement for continued operation of the Bike Station near the Downtown Berkeley BART Station. The City agreed to continue to contribute funding to support the operating costs of the Bike Station for a two-year period beginning July 1, 2016 and ending June 30, 2018 for a total not to exceed \$120,000, including \$60,000 for FY17 and up to \$60,000 for FY18, prorated based on the number of months before the planned move of the Bike Station to the new Center Street Garage at the end of FY18.
- D. Per the 2010, 2015, and 2018 Cooperative Agreements, BART managed the Bike Station facility with approximately 4,000 rentable square feet of space at 2208 Shattuck Avenue, Berkeley, California since July 1, 2009. The Bike Station on Shattuck Avenue provided parking for 283 bicycles (170 in the attended area and 113 in the adjacent self-serve area). In addition, the Shattuck Bike Station provided ancillary services for bicycle commuters, including bicycle maintenance and repair, bicycle rentals, sale of bicycle accessories, and community bicycle education classes.

- E. Performance evaluations and measures of the Bike Station operations has found that the Shattuck Avenue location of the Bike Station was utilized to substantial capacity and was financially feasible.
- F. The Bike Station was relocated in December 2018 from 2208 Shattuck Avenue to a newly constructed space owned by the City of Berkeley at 2023 Center Street (the "Premises") in the new Center Street Garage. This new Bike Station facility has parking for 326 bikes (282 in the valet area and 48 in the self-park area) and space built for ancillary services for bicycle commuters, including bicycle maintenance and repair, bicycle rentals, and sale of bicycle accessories.
- G. In December of 2018, BART entered into a two-year Lease with the City of Berkeley for the Premises at 2023 Center Street. BART and the City intend to extend this Lease agreement to coincide with the duration of this Fund Transfer and Cooperative Agreement.
- H. BART entered, as of August 1, 2013, into a Management Services Agreement (BART Agreement No. 6M6063) (the "MSA") with an operator ("Operator"), whereby Operator, among other things, manages and operates the Bike Station facilities at the Premises, in addition to providing similar bicycle operation services at eight other BART stations. The initial MSA was extended through October 31, 2021 and BART subsequently competitively bid and awarded a new five-year MSA through October 31, 2026. The annual compensation under the new MSA is approximately \$570,000 and 20-25% of the compensation is allocable to the staffing and management of the Berkeley Bike Stations.
- I. BART has committed to partially fund the Lease and operating expenses incurred under the MSA for FY21 through FY23, as set forth below.
- J. City has agreed to provide \$75,000 per year for a total amount not to exceed \$225,000 in funding for the Bike Station's FY21 through FY23 operating expenses as set forth below in this Agreement. It is not the intent of the City or BART that City be a co-party to the MSA, and nothing contained in this Agreement is to be construed as any other business relationship between the parties other than the contractual relationship as expressly set forth herein.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises and obligations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. BART Responsibilities. For FY21 through FY23, BART agrees to fund all Bike Station expenses in excess of the City's contribution. BART further agrees to

manage and assume responsibility for the Bike Station including performing its obligations under the Lease and managing the MSA.

2. City Responsibilities. City will commit \$75,000 per year for three years commencing July 1, 2020, for a total not to exceed \$225,000, to provide funding for the Bike Station, as evidenced by the attached draft resolution of the Berkeley City Council, a copy of which was appended hereto as **Exhibit A** at the time of execution and the final version of which will be incorporated herein by this reference following approval by the Berkeley City Council. BART will submit an annual invoice to City for payment no later than April 30 of each year. City will pay BART within 90 days of receipt of an acceptable invoice.
3. Bicycle Retail and Other Ancillary Services; Separation of Public and Private Interests. The Bike Station will provide certain retail services to bicycle commuters, including service and repair of bicycles and sale of bicycle accessories. The retail bicycle services at the Bike Station will operate from the Bicycle Retail Area of the Premises to be leased to BART. Operator is required to ensure that any retail activities are approved by BART and do not detract from the core function of the Bike Station as a secure bicycle parking facility.
4. Operations of the Bike Station. As described herein and in the Lease, initial core hours of operation for the Bicycle Valet and Bicycle Retail Areas of the Bike Station, including bicycle maintenance and repair services, retail sale of bicycle commuter parts and accessories, bicycle rentals, and coffee retail sales will be from 7 am to 7pm Monday through Friday, year-round, excluding holidays as stipulated in the MSA. Bike Station valet and retail service may include seasonal operations on Saturdays at the discretion of the Operator, subject to BART and City agreement. The BikeLink Space will be available 24 hours a day, 7 days a week. Changes to hours of operation are subject to BART and City agreement.
5. Termination. BART or City may, in their sole discretion, notwithstanding the Lease, choose to close the Bike Station at the Premises after June 30, 2021, if sufficient funding is not secured for operating costs beyond that date. To avoid closure, BART will seek, but does not guarantee, BART Board approval of funding to subsidize future years' expenses at the Premises. City will also seek, but does not guarantee, continued funding for future years' expenses at the Premises.
6. Fixtures of the Bike Station after Termination or upon Relocation from the Premises. If the Bike Station is closed per the Termination provisions of this Agreement, BART will move at its sole costs and expense all Bike Station personal property funded by the Safe Routes to Transit Grant No. 20.15 (bicycle parking racks, security devices, lighting, or any other moveable physical improvements which were not permanently affixed to the Premises) to another location, to support transit use subject to applicable grant requirements. Prior to

considering other locations, if feasible, BART will use best efforts to move the personal property for use at a relocated Berkeley Bike Station.

7. BART Indemnity. BART hereby agrees to indemnify, defend, protect and hold harmless City, its officers, agents, volunteers and employees (individually and collectively, "Indemnitees") from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and costs (collectively "Claims"), which Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of or allegedly caused by BART's performance of or failure to perform any services under this Agreement.

If any action or proceeding is brought against Indemnitees by reason of any of the matters against which BART has agreed to indemnify Indemnitees as provided above, BART, upon notice from City, shall defend Indemnitees at BART's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to indemnification in order to be so indemnified. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

8. City Indemnity. City hereby agrees to indemnify, defend, protect and hold harmless BART, its officers, directors, agents, volunteers and employees (individually and collectively, "Indemnitees") from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and costs (collectively "Claims"), which Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise occurring as a result of or allegedly caused by City's performance of or failure to perform any services under this Agreement.

If any action or proceeding is brought against Indemnitees by reason of any of the matters against which City has agreed to indemnify Indemnitees as provided above, City, upon notice from BART, shall defend Indemnitees at City's expense by counsel acceptable to BART, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to indemnification in order to be so indemnified. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

9. Nondiscrimination. BART shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. BART shall carry out

applicable requirements of 49 CFR Part 26 in the award and administration of U.S. Department of Transportation-assisted contracts. Failure by BART to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as is deemed appropriate.

In connection with the performance of services under this Agreement, BART shall not, on the grounds of race, religious creed, color, national origin, ancestry, handicap, medical condition, marital status, sex, sexual orientation or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Federal, State or local laws.

For purposes of this Section 14, "sexual orientation" shall mean a preference for heterosexuality, homosexuality or bisexuality; or having a history of, or being identified with, any such preference.

10. Assignment. Neither BART nor City shall assign any rights nor transfer any obligations under this Agreement without the prior written consent of the other and any such unauthorized assignment or transfer shall be void.
11. BART and City Warranties. BART and City make no warranties, representations or agreements, either express or implied, beyond such as are explicitly stated herein.
12. BART Representative. Except when approval or other action is required to be given or taken by the Board of Directors of BART, Heath Maddox, or such person or persons as he shall designate in writing from time to time, shall represent and act for BART.
13. Notices. All communications relating to the day-to-day activities of the Bike Station shall be exchanged between BART's designated representative and City's representative. All other notices and communications deemed by either party to be necessary or desirable to be given to the other party shall be in writing and may be given by personal delivery to a representative of the parties or by mailing the same, postage prepaid, or transmitting it by commercial courier, addressed as follows:

To BART: San Francisco Bay Area Rapid Transit District  
Customer Access Department  
2150 Webster Street, 8<sup>th</sup> Floor  
Oakland, CA 94612  
Attention: Heath Maddox

To City: City of Berkeley  
Public Works Department, Transportation Division  
1947 Center Street, 4<sup>th</sup> Floor

Berkeley, CA 94704

Attention: Farid Javandel

The address to which mailings are to be made may be changed from time-to-time by notice mailed as described above. Any notice given by mail shall be deemed given on the day after that on which it is deposited in the United States Mail as provided above, and if given by commercial courier as of the date accepted by the addressee.

14. Binding on Successors. All the terms, provisions, and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors, assigns, and legal representatives.
15. Applicable Law. This Agreement, its interpretation, and all work performed hereunder, shall be governed by the laws of the State of California applicable to contracts to be performed within the State, without reference to conflicts of law principles.
16. Modification. This Agreement may be modified or amended only by written instrument signed by both BART and City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized representatives as of the day and year first above written.

**SAN FRANCISCO BAY AREA RAPID  
TRANSIT DISTRICT**

**CITY OF BERKELEY**

By: Val Menotti

By: Dee Williams Ridley

DocuSigned by:

*Val Menotti*

8B4A09E2E1D54A3...

Title: Chief Planning & Development  
Officer, Planning & Development

Title: City Manager

Approved As To Form:

By: Crystal Matson

By: Sara Stephens

DocuSigned by:

*Crystal Matson*

18E837040587403...

Title: Attorney, Office of the General  
Counsel

Title:

**EXHIBIT A**

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

## FUNDING AND COOPERATIVE AGREEMENT: BERKELEY BIKE STATION

WHEREAS, on December 8, 2008 by Authorization No. 28 12/8/08, Council authorized Contract No. 8550 with Bay Area Rapid Transit District (BART) for \$60,000 annually for a sum not to exceed \$300,000 to provide operations funding through June 30, 2014 for a Downtown Berkeley Bike Station Expansion; and

WHEREAS, on May 26, 2015 by Resolution 67,032-N.S., Council authorized Contract No. 9965 with BART for \$60,000 annually for a sum not to exceed \$120,000 to provide operations funding through June 30, 2016 for the Downtown Berkeley Bike Station; and

WHEREAS, on July 25, 2017 by Resolution 68,127-N.S., Council authorized Contract No. 10829 with BART for \$60,000 annually for a sum not to exceed \$120,000 to provide operations funding through June 30, 2018 for the Downtown Berkeley Bike Station; and

WHEREAS, the funding under the contract approved in July 2017 was expended to operate the Bike Station in FY 2017 and FY 2018; and

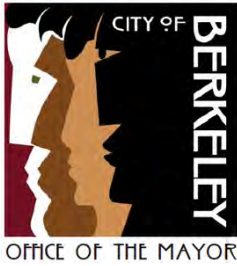
WHEREAS, provision of secure bicycle parking in the Downtown Berkeley Bike Station supports multiple policies in the Berkeley Bicycle Plan; Berkeley Climate Action Plan Goal #5: Accelerate Implementation of the City's Bicycle & Pedestrian Plans; Berkeley General Plan Policy T-43 that calls for expansion of the supply of secure bicycle parking near transit hubs and in commercial areas; and the multiple Downtown Area Plan transportation policy measures; and

WHEREAS, executing a cooperative agreement with BART to provide funding for an additional three years of operation of the Downtown Bike Station at its new Center Street Garage location will enable the provision of continued secure bicycle parking services in Downtown Berkeley; and

WHEREAS, funding of \$75,000 for the first year is subject to appropriation in the FY 2022 Budget from Capital Improvement Fund 501 via the Second Amendment to the Annual Appropriations Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a three-year cooperative agreement with BART, in an amount not to exceed \$225,000 for the continued operation of the Downtown Berkeley Bike Station at its location in the Center Street Garage through June 30, 2023. A record copy of the contract and any amendments is to be on file in the Office of the City Clerk.





CONSENT CALENDAR  
January 25, 2022

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín (Author), Councilmember Ben Bartlett (Co-Sponsor), Councilmember Rashi Kesarwani (Co-Sponsor)

Subject: Resolution Requesting State Cannabis Cultivation Tax Reform

RECOMMENDATION

Adopt a Resolution requesting State cannabis cultivation tax reform.

BACKGROUND

California voters in 2016 passed Proposition 64, which legalized cannabis for non-medical adult use, and created a framework for regulating the cannabis industry. Within this regulatory framework, Proposition 64 establishes two commercial cannabis taxes: an excise tax upon the retail sale of cannabis and cannabis products, and a cultivation tax on all harvested cannabis. The current regulatory structure is overly complex and imposes notably high taxation rates. As a result, local cannabis businesses within the City of Berkeley and elsewhere have struggled.

This resolution seeks to address these challenges by urging the Governor and State Legislature to eliminate the cultivation tax and adjust state regulations to ensure the success of legal commercial cannabis activities.

Despite the City of Berkeley embracing legalization and permitting the operation of commercial cannabis businesses within the City, the industry continues to be burdened by high taxation rates imposed at the state level. Starting January 1, 2022, California's cultivation tax rate will be \$10.08 for flower per dry-weight, \$3.00 for leaves/trim per dry-weight ounce, and \$1.41 for fresh cannabis plant per ounce. These rates, compounded with the already high 15% excise tax, are placing undue barriers on legal cannabis businesses and perpetuating the illicit cannabis market.

The Legislature in both 2018 and 2019 considered bills to temporarily eliminate the cultivation tax, citing severe under-collection of expected tax revenue and an ever-present illicit market as grounds for reevaluating the current tax structure. However, both measures failed to pass during the legislative process.

Given the enduring and increased challenges legal cannabis operators face from overly-complex and high taxation rates, this resolution urges Governor Newsom and the California Legislature to eliminate the cultivation tax and to establish a regulated environment for commercial cannabis activities, including reasonable taxation, that does not impose such barriers as to perpetuate the illicit market for cannabis

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The environmental impact of allowing illegal cannabis to proliferate is widely known. It involves illegal logging of national and state forest and park land, poisoning creeks, streams and entire riparian ecosystems. Locally, it can involve harmful chemicals being illegally dumped, utility theft, and unpermitted work leading to faulty wiring, residential and structure fires, and explosions.

FINANCIAL IMPLICATIONS

None.

CONTACT PERSON

Jesse Arreguín, Mayor, (510) 981-7100

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

REQUESTING STATE CANNABIS CULTIVATION TAX REFORM

WHEREAS, California voters passed Proposition 64 in 2016, establishing two commercial cannabis taxes that, effective January 1, 2018, imposed an excise tax upon the retail sale of cannabis or cannabis products at a rate of fifteen percent (15%), and a cultivation tax on all harvested cannabis that enters the commercial market at a rate of nine dollars and twenty-five cents (\$9.25) for dry-weight flower per ounce, and two dollars and seventy-five cents (\$2.75) per dry-weight leaves/trim per ounce; and

WHEREAS, the City of Berkeley embraced legalization and established a regulatory framework to permit commercial cannabis businesses, including cultivation, has been burdened by the onerous nature of State regulations, rapidly expanding illicit cultivation, and the economic instability of the legal market has impacted the jurisdiction's ability to provide other core mandated services; and

WHEREAS, Proposition 64 required that the Bureau of Cannabis Control convene a committee to advise the licensing authorities on the development of standards and regulations, including best practices and guidelines that protect public health and safety while ensuring commercial cannabis regulations do not impose barriers that perpetuate, rather than reduce and eliminate, the illicit market for cannabis. This committee came to be known as the Cannabis Advisory Committee (CAC); and

WHEREAS, in 2018, and again in 2019, the California Legislature considered, but did not approve, bills to temporarily eliminate the cultivation tax. California State Treasurer Fiona Ma, sponsor of Assembly Bill 286 (Bonta, 2019) argued that "given that we now have seen a year of severe under-collection of expected tax revenue and that the black market still exists, it is understood that excessive taxation is an obstacle to establishing a fully viable legal market. Compliant businesses are at a significant disadvantage, and this high tax rate incentivizes businesses to stay underground." Treasurer Ma characterized the bill as "imperative to temporarily lessen California's total tax on cannabis, and give these businesses and the State enough time to fully implement Prop 64."; and

WHEREAS, in 2019, Harinder Kapur, Senior Assistant Attorney General, testified to the California Legislature stating that upwards of 80 percent of California's cannabis businesses remained in the illicit market; and

WHEREAS, in November 2019, the California Department of Tax and Fee Administration announced that effective January 1, 2020, per statutory mandate, the cultivation tax would increase to account for inflation, leading the CAC to express concern in its 2019 Annual Report that the increase in taxation, "...come[s] at a time when the complex regulatory framework, coupled with high taxation, pose[s] significant challenges to the licensed cannabis market," noting a report published by Arcview Market Research, that these two factors could disadvantage the licensed market by as much as 77 percent on pricing compared to well- established illicit market operations; and

WHEREAS, in 2020, the Legislature again considered a bill to eliminate the cultivation tax, but, due to emergency orders and economic uncertainty caused by the COVID-19 pandemic, held the bill in Committee, and instead approved Assembly Bill 1872 (Committee on Budget, Chapter 93, Statutes of 2020) which suspended for one year the California Department of Tax and Fee Administration's authority to adjust the cannabis cultivation tax for inflation; and

WHEREAS, on November 17, 2021, the California Department of Tax and Fee Administration announced that effective January 1, 2022, the cultivation tax would increase from nine dollars and sixty-five cents (\$9.65) to ten dollars and eight cents (\$10.08) for flower per dry-weight ounce; from two dollars and eighty-seven cents (\$2.87) to three dollars (\$3.00) for leaves/trim per dry-weight ounce; and, from one dollar and thirty-five cents (\$1.35) to one dollar and forty-one cents (\$1.41) for fresh cannabis plant per ounce; and

WHEREAS, a November 2021 sales report from BDS Analytics shows that legal sales in California fell by more than eleven percent (11.4%) to \$293.1 million when compared to last year and are down nearly eight percent (7.7%) from August 2021, additionally showing that cannabis flower sales fell twenty-three percent (23%), while concentrates, the second-largest product category, declined eight percent (8%); and

WHEREAS, the licensed cannabis market is currently experiencing a price collapse and that the average wholesale price for dried cannabis flower has fallen to approximately five hundred dollars (\$500) a pound, and that the average wholesale price for dry leaves and trim has fallen to thirty dollars (\$30) a pound making the current tax rate for dry flower equivalent to fifty-one percent (51%) of gross receipts and the current tax rate for dry leaves and trim equivalent to one hundred fifty-three percent (153%) of gross receipts; and

WHEREAS, the ongoing consequences of high state taxes combined with over-regulation has continued to economically challenge legal cannabis businesses and disincentivize the permitting and licensing of new cannabis businesses by local jurisdictions, including the City of Berkeley; and

WHEREAS, local jurisdictions, including the City of Berkeley, have experienced increased challenges collecting cultivation taxes, regulating commercial cannabis cultivators, and addressing illicit cultivation; and

WHEREAS, in November 2016, Proposition 64 was enacted to, "...accomplish [...] taxation on the growth and sale of cannabis in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults."

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that it strongly urges Governor Newsom and the California Legislature to immediately eliminate the State cultivation tax and to establish a regulated environment for commercial cannabis activities, including reasonable taxation, that do not impose such barriers as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis.





Office of the Mayor

CONSENT CALENDAR  
January 25, 2022

To: Members of the City Council  
From: Mayor Jesse Arreguín  
Subject: 2022 Seating Arrangement during City Council Meetings

RECOMMENDATION

Rescind Resolution No. 69,647–N.S and adopt a Resolution changing the seating arrangement of the Mayor and City Councilmembers on the dais for calendar year 2022, to accommodate the Vice-Mayor, as follows (From left to right, facing the dais): Kesarwani, Bartlett, Hahn, Harrison, Arreguin, Wengraf, Droste, Robinson, Taplin.

BACKGROUND

The Mayor makes recommendations on the seating arrangement of the Berkeley City Councilmembers. In 2020, the City Council approved Resolution No. 69,647–N.S which changed the order of the dais to accommodate the newly-elected councilmember and newly-appointed Vice-Mayor. Mayor Arreguín is recommending a change to the current seating arrangement for calendar year 2022 (from left to right, facing the dais) as follows: Kesarwani, Bartlett, Hahn, Harrison, Arreguin, Wengraf, Droste, Robinson, Taplin to accommodate the Vice-Mayor, Councilmember Harrison.

City Council meetings are currently being conducted by videoconference in accordance with California Government Code Section 54953(e) and the state declared emergency due to the ongoing COVID-19 pandemic. This Resolution will be in place until a new Resolution supersedes it, and it is anticipated that physical meetings will return sometime in 2022.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No identifiable environmental effects from taking this action

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution

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

2022 CITY COUNCIL SEATING ARRANGEMENT ON THE DAIS

WHEREAS, the Mayor makes recommendations on the seating arrangement of the Berkeley City Councilmembers; and

WHEREAS, in 2020, the City Council adopted Resolution No. 69,647–N.S. which changed the seating arrangement to accommodate the newly-elected councilmember and newly-appointed Vice-Mayor; and

WHEREAS, Mayor Arreguín is recommending a change to the current seating arrangement for calendar year 2022 to accommodate the Vice-Mayor (from left to right, facing the dais) as follows: Kesarwani, Bartlett, Hahn, Harrison, Arreguin, Wengraf, Droste, Robinson, Taplin.

NOW THEREFORE, BE IT RESOLVED that Resolution No. 69,647–N.S. is hereby rescinded; and

BE IT FURTHER RESOLVED that the Berkeley City Council does hereby set the seating order on the dais for City Council Meetings during calendar year 2022 as follows (from left to right, facing the dais): Kesarwani, Bartlett, Hahn, Harrison, Arreguin, Wengraf, Droste, Robinson, Taplin; and

BE IT FURTHER AND FINALLY RESOLVED that this Resolution will be in place until a new Resolution supersedes it.





Office of the Mayor

CONSENT CALENDAR  
January 25, 2022

To: Members of the City Council  
From: Mayor Jesse Arreguín  
Subject: 2022 City Council Committee and Regional Body Appointments

RECOMMENDATION

Adopt a Resolution approving the appointment of Council representatives to City Council Standing Policy Committees, Partnership Committees, Regional Bodies and Liaisons to City Boards and Commissions for a term ending on December 31, 2022 or until new appointments are made.

BACKGROUND

There are a number of City Council appointments to various Partnership Committees, Regional Bodies and Liaisons to City Boards and Commissions. Every two years after the General Municipal Election, the Mayor makes recommendations on new Council representatives to these committees.

The Berkeley City Council Rules of Procedure and Order also require the Mayor to recommend and the full Council approve appointments to Standing Council Policy Committees by January 31st of each year.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

No identifiable environmental effects from taking this action

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution

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

APPROVING APPOINTMENTS TO STANDING CITY COUNCIL POLICY COMMITTEES, PARTNERSHIP COMMITTEES, LIASIONS TO BOARDS AND COMMISSIONS AND REGIONAL BODIES FOR 2022

WHEREAS, the City Council has numerous appointments to various Partnership Committees, Regional Bodies and Liaisons to City Boards and Commissions, and makes new appointments every two years following the General Municipal Election; and

WHEREAS, the Berkeley City Council Rules of Procedure and Order also require the Mayor to recommend and the full Council approve appointments to Standing Council Policy Committees by January 31st of each year.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it officially makes the following appointments for the period ending December 31, 2022 or until new appointments are approved:

**City Council Standing Policy Committees:**

Agenda & Rules Committee

Appoint Mayor Arreguín, Councilmember Hahn and Councilmember Wengraf  
Appoint Councilmember Harrison as Alternate

Budget & Finance Committee

Appoint Mayor Arreguin, Councilmember Droste and Councilmember Harrison  
Appoint Councilmember Kesarwani as Alternate

Facilities, Infrastructure, Transportation, Environment & Sustainability Committee

Appoint Councilmember Harrison, Councilmember Robinson and Councilmember Taplin  
Appoint Councilmember Droste as Alternate

Public Safety Committee

Appoint Councilmember Taplin, Councilmember Kesarwani and Councilmember Wengraf  
Appoint Councilmember Hahn as Alternate

Land Use, Housing & Economic Development Committee

Appoint Councilmember Droste, Councilmember Bartlett and Councilmember Robinson  
Appoint Mayor Arreguin as Alternate

Health, Life Enrichment, Equity & Community Committee

Appoint Councilmember Bartlett, Councilmember Hahn and Councilmember Kesarwani

Appoint Councilmember Taplin as Alternate

**Partnership Committees:**

4x4 Joint Task Force Committee on Housing: Rent Board/City Council

Appoint Mayor Arreguín, Councilmember Harrison, Councilmember Robinson and Councilmember Taplin

3x3 Committee of the Berkeley City Council and the Berkeley Housing Authority

Appoint Mayor Arreguin, Councilmember Harrison and Councilmember Kesarwani

2x2 Committee of the City Council and the Board of Education

Appoint Councilmember Hahn and Councilmember Droste

Appoint Mayor Arreguin as Alternate

**Regional Committees:**

Alameda County Transportation Commission

Appoint Councilmember Robinson

Appoint Mayor Arreguin as Alternate

Alameda County Waste Management Authority

Appoint Councilmember Wengraf

Appoint Councilmember Hahn as Alternate

Delegate to Association of Bay Area Governments General Assembly

Appoint Councilmember Bartlett

Appoint Councilmember Droste as Alternate

Joint Powers Authority - East Bay Community Energy Authority

Appoint Councilmember Harrison

Appoint Councilmember Hahn as Alternate

Joint Powers Agreement - East Bay Regional Sports Fields

Appoint Councilmember Kesarwani

Appoint Councilmember Taplin as Alternate

Joint Powers Authority - Lead Abatement

Appoint Councilmember Wengraf

Appoint Councilmember Droste as Alternate

League of California Cities - East Bay Division

Appoint Councilmember Hahn

Appoint Councilmember Taplin as Alternate

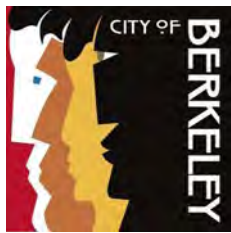
Oakland Airport Noise Forum  
Appoint Councilmember Robinson

**Council Liaisons to City Boards and Commissions:**

Board of Library Trustees  
Appoint Councilmember Hahn

Community Health Commission  
Appoint Councilmember Kesarwani

Mental Health Commission  
Appoint Councilmember Taplin



Sophie Hahn  
City Council District 5  
510-981-7140  
shahn@cityofberkeley.inf

CONSENT CALENDAR  
January 25, 2022

To: Honorable Members of the City Council  
From: Councilmember Hahn (Author), Councilmember Taplin (Co-Sponsor),  
Councilmember Harrison (Co-Sponsor), Councilmember Wengraf (Co-Sponsor)  
Subject: Referring the Civic Arts Commission’s *affordable housing for artists in Berkeley* Report and other Artist Live, Work and Live-Work opportunities to the Housing Element Update

RECOMMENDATION

1. Refer the Civic Arts Commission’s report entitled *affordable housing for artists in Berkeley* to the City Manager, Planning Commission, and Housing Advisory Commission to review, consider, and incorporate recommendations, to the greatest extent possible, into the Housing Element update and related planning and zoning processes.
2. Refer to the City Manager, Planning Commission, and Housing Advisory Commission consideration of the feasibility and impacts of allowing ground floor affordable live, work, and live-work space for artists in certain commercial, manufacturing, and mixed-use buildings/areas, both new-build and existing, and exploration of other opportunities for living, work and live-work space for artists.

SUMMARY/CURRENT SITUATION:

Affordable living and work-space for artists is a pressing issue for our community, with artists increasingly priced out and unable to live and work in Berkeley. Affordable housing for artists has been identified in numerous planning documents as a key need. Most recently, the Civic Arts Commission generated a report entitled *affordable housing for artists in Berkeley* that reported data about the unique housing and space needs of artists, based on a survey and focus groups with diverse artists and cultural workers. (See Attachment 1: *affordable housing for artists in Berkeley*). The report was presented at the [December 8, 2021 Civic Arts Commission meeting](#), and generated important discussion around housing and work-space affordability for artists.

Berkeley is currently engaged in an in-depth process to update the City's Housing Element. The results of the update will shape the development of housing in Berkeley for much of the next decade. A key component of the Housing Element is to identify sites that can accommodate future housing needs across income levels and other demographic factors. The Housing Element also involves the development of a variety of approaches to meet community housing and affordability needs such as zoning updates and new affordable housing requirements and programs.

With the [Housing Element update process already in progress](#), it is important for the recently completed *affordable housing for artists in berkeley* report to be referred and the report's findings and recommendations to be incorporated into the Housing Element Update, as feasible.

In addition to the findings and recommendations of the *affordable housing for artists* report, an informal group of artists has been discussing the possibility of allowing ground-floor commercial space to be substituted for affordable artist work- or live-work space in new-buildings, or in existing buildings via conversions in some locations or building types. Because there are many elements to consider, including impacts to the retail environment, feasibility and costs, quality of work- and living-space for artists, relationship to affordable housing and community benefit requirements in new-build, locations and buildings types where artist ground floor live-, work- and live-work space may be feasible, and more, this idea is referred more generally to the City Manager, Planning Commission, and Housing Advisory Commission (HAC).

Exploration of other potential means to create, convert and/or reserve affordable living, work, and live-work space for artists is also referred, allowing the City Manager, Planning Commission, and HAC to broaden their analysis and consultation to consider all opportunities to create affordable living and work-spaces for artists.

To the extent feasible opportunities for affordable artist living and live-work space may be identified from the *affordable housing for artists in berkeley* report or through additional exploration, concepts should be incorporated into the Housing Element Update.

#### BACKGROUND:

The City's 2018-2027 Arts and Culture Plan Update identifies affordable artist housing as the first of five strategic goals:

**Goal 1 Increase Access to Affordable Housing and Affordable Spaces for Artists and Arts Organizations**

Support the long-term sustainability of the arts and culture sector by expanding the availability of affordable housing and spaces for both artists and arts organizations.

The Plan Update also includes the following introductory remarks:

“Berkeley is home to a vibrant and diverse community that strongly values its rich cultural fabric. Characterized by its collective nature, the city is famous for its distinguished university, beautiful natural setting, and its remarkable history as a home for progressive movements. Arts and culture permeate civic life in Berkeley through numerous acclaimed theaters, performing arts spaces, as well as the city’s many artists. Over 150 arts and culture nonprofits operate in Berkeley and together they contribute to a dynamic, continually evolving arts and culture community that interacts closely with other sectors of the city’s economy. The nonprofits that make up the arts community are particularly diverse in terms of their size and their creative disciplines.

Along with the cultural richness the arts infuse into the community, the arts sector is also a significant economic driver, generating an estimated \$165 million in total economic activity. In 2017, Berkeley Mayor Jesse Arreguin stated that “in addition to fostering civic pride, a flourishing arts scene [brings] new visitors to our city and more revenue to local businesses.” Currently, as the San Francisco Bay Area is experiencing substantial economic growth, rising real estate and living costs have created an especially challenging environment for the arts community in Berkeley. Some artists and arts organizations are leaving the city because they can no longer afford to live and work here.”

Most recently, the Civic Arts Commission generated a report entitled *affordable housing for artists in berkeley* that reported data about the unique housing and space needs of artists, based on a survey and focus groups with diverse artists and cultural workers. (See Attachment 1: *affordable housing for artists in berkeley*). The report was presented at the [December 8, 2021 Civic Arts Commission meeting](#), and generated important discussion around housing and work-space affordability for artists.

Discussions of affordability in the arts ecosystem are often anecdotal, with few studies to provide comprehensive data to inform potential solutions. To provide more comprehensive information, the Civic Arts Commission requested and received a report with findings based on a survey and focus groups. The study consulted a diverse group of Berkeley artists and cultural workers and provides systematic data around the unique housing and space needs of artists. The report explicitly seeks to position Berkeley’s arts community for inclusion in

the City's affordable housing efforts and to help improve the safety of local arts spaces while avoiding further displacement.

The study was initially conceptualized in 2019 in response to concerns around housing and art space affordability among artists and arts organizations in Berkeley, and was motivated by two events.

First, the 2018 Arts and Culture Plan Update for the City of Berkeley identified -- as a primary goal -- the need to increase access to affordable housing and spaces for artists, cultural workers, and arts organizations. The cultural plan specified a number of action steps towards this goal, including undertaking a data-informed assessment of current art space affordability challenges and displacement risks in Berkeley, as well as the development of strategies to protect and create affordable spaces for Berkeley artists, cultural workers, and arts organizations based on the assessment's findings.

Second, in November 2018, the voters of Berkeley approved two bond measures totaling \$135 million to fund affordable housing in Berkeley. Berkeley City Council subsequently began the development of an affordable housing framework (Housing for a Diverse, Equitable and Creative Berkeley) to guide Berkeley's affordable housing policies, programs, and projects through 2030. This framework explored a wide array of affordable housing for artists and other creative workers. In July 2019, the Council referred this policy document to various Commissions for further development. However, the pandemic caused this work to be temporarily put on hold.

The survey and subsequent report on its findings was completed and released by the Civic Arts Commission in November 2021. It made several key findings and recommendations that relate to zoning and planning decisions which may potentially be made as part of the ongoing Housing Element Update.

Some key findings of the report include recommendations that the City of Berkeley:

1. Create policies that prioritize artists for new affordable housing

Artists are an important part of the fabric of Berkeley as a city. As such, they should be part of ongoing conversations about Berkeley's housing plan. The survey results demonstrate that artists -- as a group -- have low income, a high rent burden, and have traditionally been left out of ongoing affordable housing. In order to mitigate further displacement and allow artists to continue to work and thrive in Berkeley, the City could consider creating a priority category for artists who meet income qualification to access affordable housing."



2. Designate some of Berkeley's upcoming affordable housing funding from Measure O for units specific to artists

"On July 24, 2019, Berkeley's Civic Arts Commission approved an amendment recommendation for Measure O that called for "significantly increas[ing] the supply of affordable housing and live/work housing for artists, artisans, and cultural workers" through adding to the zoning ordinance, incentivizing developers to build market-rate housing that includes affordable live/work units for creative workers, and incorporate live/work spaces for artists and cultural workers into large-scale affordable housing projects."

3. Consult artists when designing new policies for live/work spaces

Across the Bay Area, responses to the Ghostship fire emphasized increased attention to artist DIY live/work spaces. These spaces were often the only options for artists to access live/work spaces that met their needs. Yet, artists have always worked to transform neighborhoods through their work and creative use of space. As Berkeley works to address affordability issues for all of its residents, consulting and involving artists in the planning process can help bring about a much-needed, new, and fresh perspective on issues such as rezoning, repurposing ground floor spaces, and requiring community benefit proposals for new development.

4. Develop artist-specific resources and technical assistance to bring artists into the existing affordable housing pipeline

Due to the nature of their work, artists often have a unique income structure that makes applying for affordable housing more difficult. In addition, the survey shows that artists have needs for certain types of spaces that might be difficult to identify. Funding technical assistance to support artists to translate their needs and apply for the existing affordable housing pipeline could be an important step in helping artists leave inadequate living situations.

Because the report and findings include important information about the housing and space needs of artists, the *affordable housing for artists in berkeley* study is being referred to the Housing Element Update and to the Planning Commission and HAC for immediate consideration.

In addition to the findings and recommendations of the *affordable housing for artists* report, an informal task force of artists has been discussing the possibility of allowing ground-floor commercial space to be substituted for affordable artist work- or live-work space in new-buildings, or in existing buildings via conversions, in some locations or building types.

Because there are many elements to consider, including impacts to the retail environment, feasibility and costs, quality of work- and living-space for artists, relationship to affordable housing and community benefit requirements in new-build, locations and buildings types where artist ground floor live-, work- and live-work space may be feasible, and more, this idea is referred more generally to the City Manager, Planning Commission, and Housing Advisory Commission (HAC).

The presence of artists living and working around the clock has been documented as an important factor in creating more livable, animated urban areas. At the same time, retail vacancies have risen steadily in recent years as more purchasing has migrated online. The COVID-19 pandemic has accelerated this trend and led to even greater amounts of empty space, even in Berkeley's most popular commercial areas. Removing barriers to use or re-use of vacant retail/commercial spaces may be a means to provide affordable live/work spaces for artists while also activating storefronts.

To explore the possibilities of using retail/commercial space to house working artists, an informal task force including members of the Civic Arts Commission, affordable housing advocates, artists, and developers was convened. The goal of the group's work was to increase active uses of often-vacant ground floor space and provide a new low-impact supply of affordable live/work spaces for artists.

Some of the ideas generated by this informal group include:

1. Allowing affordable live/work housing for artists in lieu of ground floor retail or commercial use in specific locations (for example, away from main commercial nodes, or on side-streets) or corridors, including the San Pablo and University Avenue corridors and/or in other appropriate locations.
2. Developing a clear set of allowable uses and criteria for tenant eligibility including the responsibility to maintain a lively street presence.

In addition to consulting with the arts community, including members of the informal task force, the City Manager, Planning Commission and HAC should consult with business and commercial property owners to fully understand the opportunities and challenges of allowing live-work in lieu of retail, and to identify the circumstances, requirements,

locations and other factors that could make affordable live-work ground floor uses work both for artists, and for the health and vitality of commercial districts.

#### ALTERNATIVES CONSIDERED

By referring the *affordable housing for artists in berkeley* report and its findings and other affordable living and work-space considerations to be developed simultaneous with and/or as part of the Housing Element, we can ensure that artists' unique housing, work-space and affordability needs are considered during the Update process, and incorporated as feasible in the Housing Element and other zoning and planning processes.

#### FISCAL & STAFF IMPACTS

Staff and the Commissions are already engaged in in-depth discussion of housing needs, zoning changes, and programs to meet housing and affordability needs communitywide. Adding more explicit consideration of the specific needs of artists, drawing from studies already completed and with input from the Arts Commission and arts community, will add important information to existing discussions. Additional formal study or consulting help is not envisioned.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

This referral asks only for concepts to be studied and incorporated into a planning process already underway, and does not entail environmental or climate impacts.

#### CONTACT PERSON

Councilmember Sophie Hahn, [shahn@cityofberkeley.info](mailto:shahn@cityofberkeley.info); 510-682-5905

#### Attachments

1. *affordable housing for artists in berkeley*

# affordable housing for artists in Berkeley

## a baseline survey

Anh Thang Dao-Shah, ph.d.& Asif Majid, ph.d  
creative equity research partners  
December 2021

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## executive summary

This project aims to respond to concerns around housing and art space affordability among artists and arts organizations in Berkeley by answering two key questions:

- 1) What are the trends around local affordability issues that can be addressed through targeted resources and policy solutions?
- 2) What pre-existing housing disparities impact what artists seek in possible affordable housing solutions?

As in other parts of the Bay Area, narratives of concern around affordability in the arts ecosystem in the past decade are often anecdotal. The sector lacks comprehensive data that could inform system change solutions. To that end, this report is based on a survey and focus groups with a diverse group of artists and cultural workers in Berkeley to provide systematic data around the unique housing and space needs of artists. It seeks to better position Berkeley's arts community to participate in the City's current affordable housing efforts and help improve the safety of local arts spaces, without causing further artist displacement.

### *key findings*

#### **Artists are highly educated, yet have low income**

Berkeley's artists and artists/cultural workers who responded to the survey are highly educated (88% have a Bachelor's degree or higher). Yet, 60% of that same group has lower, very low, or extremely low income.

#### **Artists and cultural workers have multiple forms of employment**

Only 32% of all respondents reported that they are employed full time. Others indicated that they cobble together different types of part-time and short-term contract work, as well as self-employment, in order to make ends meet.

#### **Artists are rent burdened**

Artists and artists/cultural workers disproportionately rent their living space (71%). Of those who rent, 77% are rent burdened or severely rent burdened, based on the California's Department of Housing and Community Development definitions.

#### **Artists have a unique need for flexible live/work spaces**

Responding artists and artists/cultural workers indicated, at a rate of 82%, that they do their creative work in their living space. Of those respondents, over half (56%) practice artistic disciplines that require extra ventilation.

### *recommendations*

- **create policies that prioritize artists for new affordable housing**
- **designate some of Berkeley's upcoming affordable housing funding from measure O for units specific to artists**
- **consult artists when designing new policies for live/work spaces**
- **develop artist-specific resources and technical assistance to bring artists into the existing affordable housing pipeline**
- **pilot a guaranteed basic income program for qualifying artists**

## introduction

### *why this project?*

This project was initially conceptualized in 2019 in response to concerns around housing and art space affordability among artists and arts organizations in Berkeley. It was motivated by two events.

First, the [2018 Arts and Culture Plan Update for the City of Berkeley](#) identified -- as a primary goal -- the need to increase access to affordable housing and spaces for artists, cultural workers, and arts organizations. The cultural plan specified a number of action steps towards this goal, including undertaking a data-informed assessment of current art space affordability challenges and displacement risks in Berkeley, as well as the development of strategies to protect and create affordable spaces for Berkeley artists, cultural workers, and arts organizations based on the assessment's findings.

Second, in November 2018, the voters of Berkeley approved two bond measures totaling \$135 million to fund affordable housing in Berkeley. Berkeley City Council subsequently began the development of an affordable housing framework ([Housing for a Diverse, Equitable and Creative Berkeley](#)) to guide Berkeley's affordable housing policies, programs, and projects through 2030. This framework explored wide array of affordable housing for artists and other creative workers. In July 2019, the Council referred this policy document to various Commissions for further development. However, the pandemic caused this work to be temporarily put on hold.

As elsewhere in the Bay Area, concerns around the arts ecosystem's affordability over the past decade are mostly anecdotal, arising when a major artist or arts organization imminently faces the loss of their living and work space. These stories, while important, inadequately inform systems change solutions aimed at addressing structural concerns.

To that end, this project's goal is to develop an assessment that provides systematic data around the unique housing and space needs of artists and cultural workers. This will better position the arts community to participate in Berkeley's ongoing affordable housing efforts and help improve art space safety in Berkeley without causing further displacement of artists. Two key questions guided this project from the beginning:

- 1) What are the trends around local affordability issues that can be addressed through targeted resources and policy solutions?**
- 2) What pre-existing disparities could impact possible affordable housing solutions for artists?**

This second question is key to ensure the solutions we suggest do not unintentionally impact some groups more than others.

In April 2020, the COVID-19 pandemic brought a pause to the assessment project and

raised new affordability questions, as the arts community dealt with the consequences of regular lockdowns. While some local, state, and federal measures -- such as the eviction moratorium and extension of unemployment benefits to independent contractors -- helped prevent widespread displacement during the pandemic's height, the new normal brought new concerns as artists and cultural organizations continue to struggle with canceled events, lower venue capacity, and overall uncertainty.

These questions brought new urgency to the project, as well as the need to methodologically pivot and narrow the project's focus. Instead of focusing on both housing needs of artists and space needs of arts organizations as originally envisioned, this project focused on understanding the affordable housing and workspace needs of individual artists and cultural workers to ensure timely recommendations that would allow for participation in ongoing affordable housing efforts. This shift also allowed for the inclusion of additional questions that sought to understand both the short-term impact of the pandemic and the ongoing challenges that would inform long-term strategies to address affordability issues in Berkeley.

### *methodology and data limitations*

In order to collect data directly from artists and cultural workers during the ongoing pandemic, an online survey was issued in September 2021 through the Berkeley Civic Arts Program. The survey was open for four weeks and was accompanied by a robust outreach strategy, including outreach and reminder emails through the Civic Arts Program's and City of Berkeley's mailing lists and social media channels, the direct networks of a number of arts organizations represented by members of an ad-hoc advisory group, and posting on other community-serving digital platforms like Nextdoor. A list of all survey questions is found in Appendix B.

In addition to quantitative data, this project relies on the insights of artists, cultural leaders, and the City's affordable housing experts to provide context to the affordability crisis and housing needs. Research staff conducted three focus group meetings with 21 community stakeholders, who formed an ad-hoc community advisory group.

Members of the advisory group were selected to provide different perspectives on the historic and current landscape of arts and culture in Berkeley with a specific focus on housing needs for artists and cultural workers. With research staff, the advisory group helped design survey questions, reviewed preliminary findings, and brainstormed potential solutions. A list of the advisory group participants is provided in Appendix A.

Any survey of artists must contend with the fact that there is no baseline dataset regarding the number of artists in a given community, due to the various ways artists can be defined. The most common way to define a professional group is to use IRS data that classifies someone's profession based on the income they earn from their main profession. Artists' main sources of income, however, often do not come from artwork; income sources are diverse and cross-sectoral. The same can be said for cultural workers. Plus, an artist's level of engagement with an art practice is not limited to paid opportunities. Income is thus an inadequate defining criterion. Through this survey's

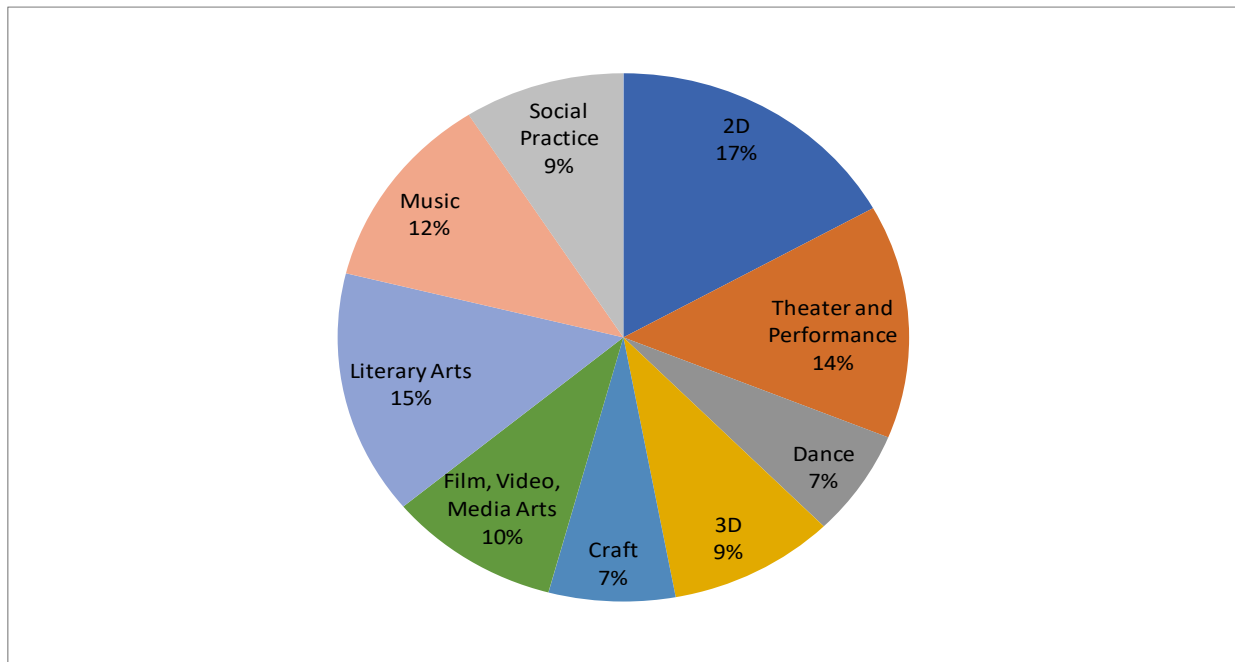


grassroots and community-centered approach, this project provides a snapshot of the needs of the arts and culture sector and should be understood as baseline data that should be supplemented with ongoing and long-term data collection and analysis.

## survey results

### who responded?

A total of 163 artists and cultural workers responded to the survey. This constitutes 0.14% of Berkeley's population, based on data from the 2020 census. For comparison, in a similar study in 2015 in San Francisco, which involved a six-week survey and multiple in-person outreach events, 560 artists and cultural workers responded to the survey. That constituted 0.07% of San Francisco's population, based on 2010 census data. In other words, the Berkeley survey had double the response rate.



Of the Berkeley survey respondents, **48% identified as artists, 15% identified as cultural workers, and 37% identified as both artists and cultural workers.** In total, 32% of respondents do not currently reside in Berkeley, while 39% have lived in Berkeley for more than 10 years.

**31%** of respondents identified as LGBTQIA+

**62%** of respondents identified as female

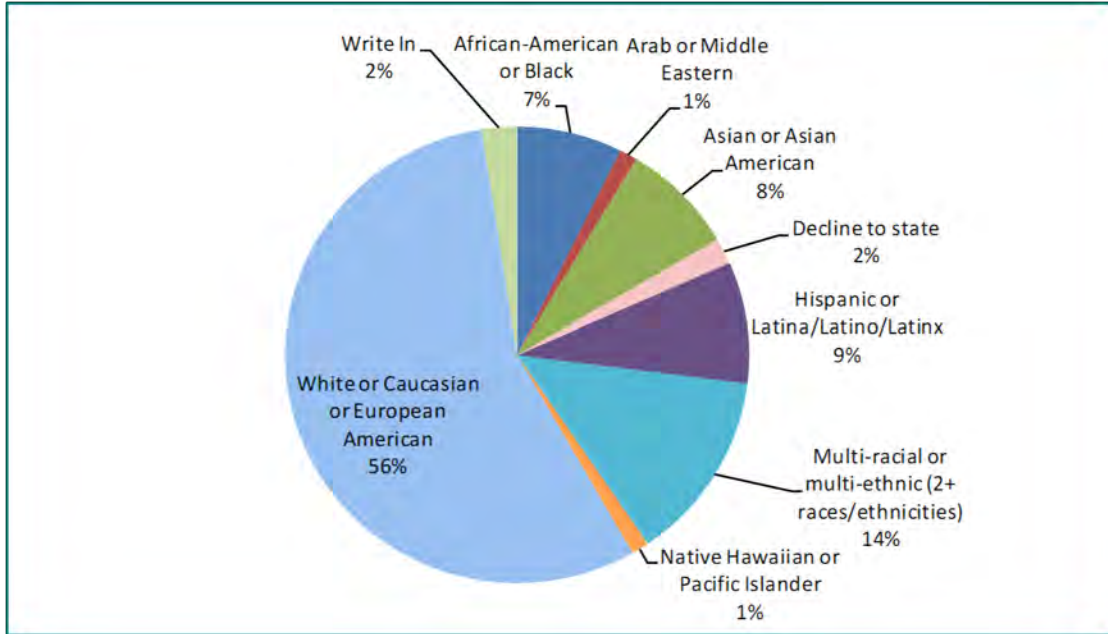


Figure 2: Race and ethnicity of survey respondents

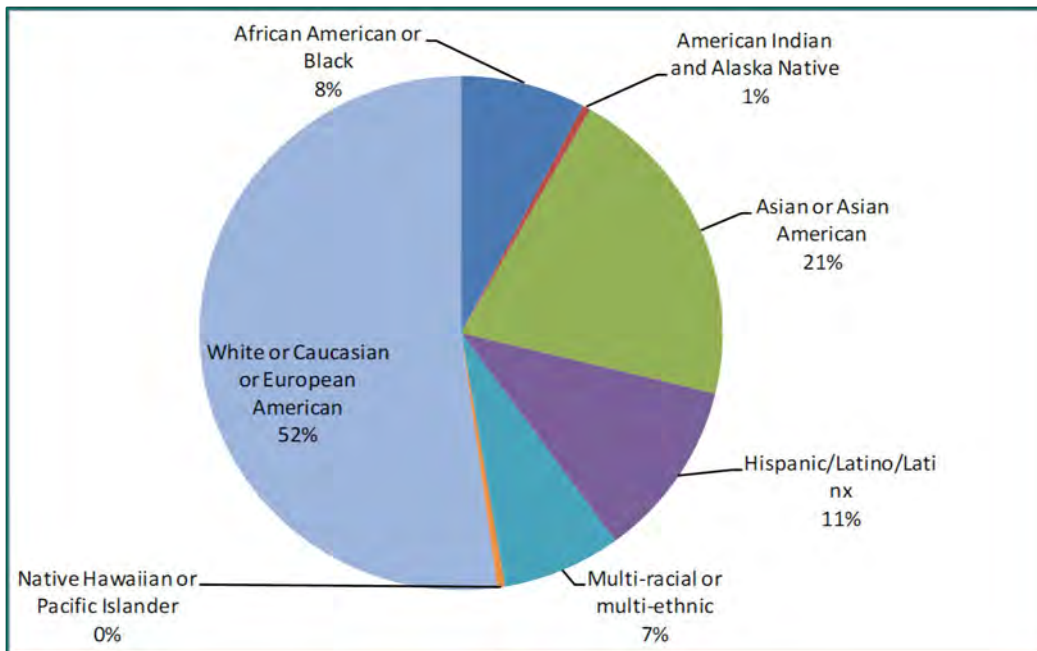


Figure 3: Race and ethnicity of City of Berkeley residents

## key findings

### *Artist respondents are highly educated, yet have low income*

Of those respondents who identified as artists or as both artists and cultural workers, 88% reported having a Bachelor's degree or higher. Of that same group, 60% reported an annual household income of \$69,000 or less. According to the [California Department of Housing and Community Development, in Alameda County for a single individual in 2019](#) (when this project and survey were first developed), annual household income of \$26,050 or below constitutes extremely low income, between \$26,051-\$43,400 is defined as very low income, and between \$43,401-\$69,000 is defined as lower income. Per these categories, 60% of those who identified as artists or both artists and cultural workers have lower, very low, or extremely low income. [In 2021, the upper threshold for the lower income category has risen to \\$76,750](#), meaning that artists are now even further behind financially than they were two years ago.

While low income is prevalent across the group, this rate is significantly higher among BIPOC respondents. Of respondents who identified as non-White, 72%, reported having lower, very low, or extremely low income, compared to 55% among those who identified as White or Caucasian. Due to the small number of participants, we are unable to make comparison between different groups who identify as non-White.

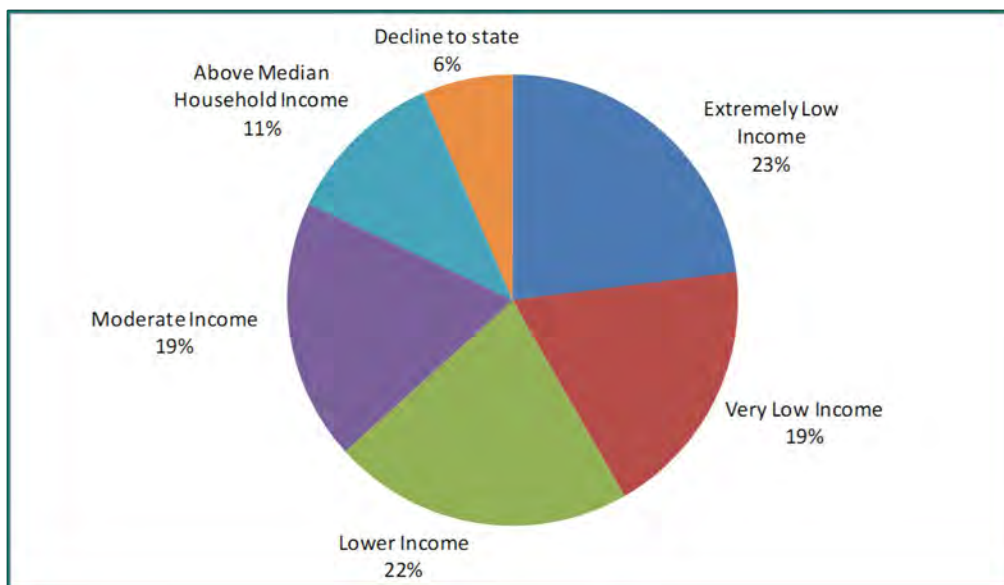


Figure 4a: Income categories for all artist respondents

| <i>Income Category</i> | <i>Income Range</i> | <i>Percentage of Artist Respondents</i> |
|------------------------|---------------------|-----------------------------------------|
| Extremely Low          | ≤ \$26,050          | 21%                                     |
| Very Low               | \$26,051-\$43,400   | 16%                                     |
| Low                    | \$43,401-\$69,000   | 23%                                     |

|                  |                   |     |
|------------------|-------------------|-----|
| Median           | \$69,001-\$78,200 | 17% |
| Moderate         | \$78,201-\$93,850 | 18% |
| Decline to State | n/a               | 5%  |

Figure 4b: Income ranges for artist respondents

### Artists and cultural workers have multiple forms of employment

Only 32% of all respondents reported that they are employed full-time. Others indicate that they engage in a patchwork of different types of part-time and short-term contract work, as well as self-employment, in order to make ends meet. Examples of employment that respondents are undertaking include: being a self-employed artist for one’s own or another’s art practice, being employed part time/doing regular work for pay as either a cultural worker or otherwise, doing contract work as a cultural worker or something other than a cultural worker, and undertaking unreported work for cash.

### Artist respondents report being rent burdened, but are not immediately concerned with losing their housing

Among respondents who identify as artists and as both artists and cultural workers, 71% of respondents rent. Of those who rent, 77% are rent burdened or severely rent burdened. According to the [US Department of Housing and Urban Development](#), a household or individual that spends more than 30% of their monthly household income on rent is rent burdened. Severely rent burdened households or individuals spend more than 50% of their monthly household income on rent.

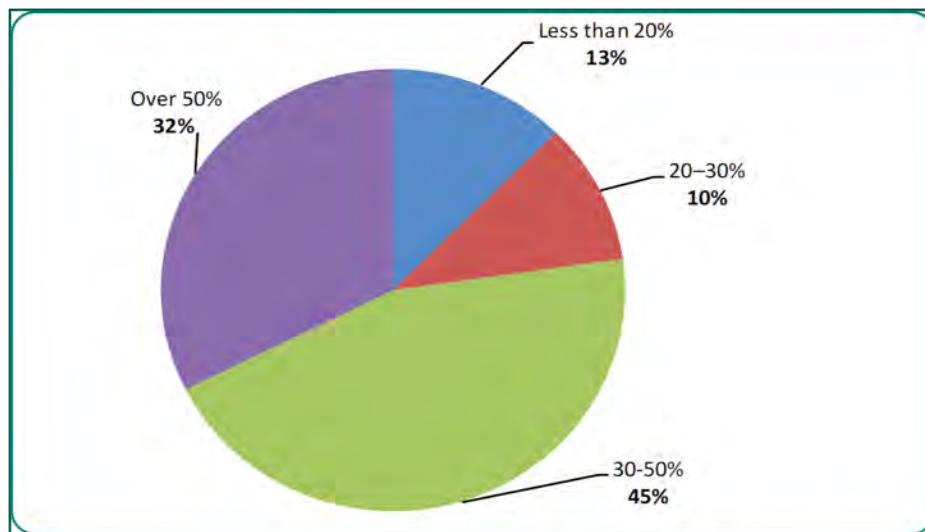


Figure 5: Respondents’ percentage of monthly household income spent on rent

While studies have shown that rent burden and extremely low income decrease the health and overall wellbeing of all those impacted, for artists this burden can

fundamentally change the way they engage with their artistic practice. Qualitative comments provided by the respondents highlighted having to scale back on their practice in order to earn the income they need to pay rent. This means they are unable to focus on developing their creative practice. As one respondent, a musician, explained:

The cost of living in the Bay Area fundamentally changes how I am able to grow in my craft. Since we are all hustling to pay rent at this level, rehearsals must be paid, limited and without a "post gig hang" - something I find central to collaborating with others. This limits how much performing I can do with others, which limits how much I can grow, experiment and contribute in my craft.

Over the long term, the lack of opportunities for artists to devote time and energy to their practice can lead to the abandonment of artistic practice altogether.

Despite respondents' high rent burden and low income, those identifying as artists and as artists/cultural workers do not indicate concerns around losing their housing in the near future.

Only 9% of respondents reported that they were evicted due to no-fault causes in the last 2 years. No-fault eviction is defined as evictions that take place when leases are not renewed without the tenant having violated any regulations as long as a notice to move out is sent to the tenant within the required time period. Landlords might choose to evict tenants who are paying rent on time and complying with regulations due to owner move in or the need to retrofit a building. In the last decade, as the affordability crisis has intensified throughout the Bay Area, no-fault eviction has often been used to let go of long-term tenants who are protected from rent increases to bring in new tenants who are charged at market rate. In the survey issued to San Francisco artists, about 30% of respondents reported that their leases were not going to be renewed due to no fault of their own.

Only 6% of respondents had to rely on the eviction moratorium during the pandemic. In total, only 9% of respondents are uncertain or very uncertain that they will be able to retain housing after the moratorium ends (20% were neither certain nor uncertain). Though seemingly at odds with other findings, this sentiment could be attributed to three factors.

First, Berkeley has strong renter protection policies. Qualitative survey responses show that many respondents who rent are aware of and rely on rent control, which helps keep their rent affordable. This is especially true with respondents who have resided in Berkeley for more than five years. Not concerned with immediate loss of housing does not mean that existing housing needs are met, however. As one respondent explained:

The only reason I am able to remain in the Bay Area is because I have been in the same unit for a decade and we have rent control - the other apartments in my building go for over twice what we're paying. [...] If I ever wanted to leave this apartment (and I do), I would have to leave the area entirely, because I can't afford anything else.

The gap between existing housing and respondents' needs is especially acute for those working in artistic disciplines that have specific space requirements like extra ventilation.

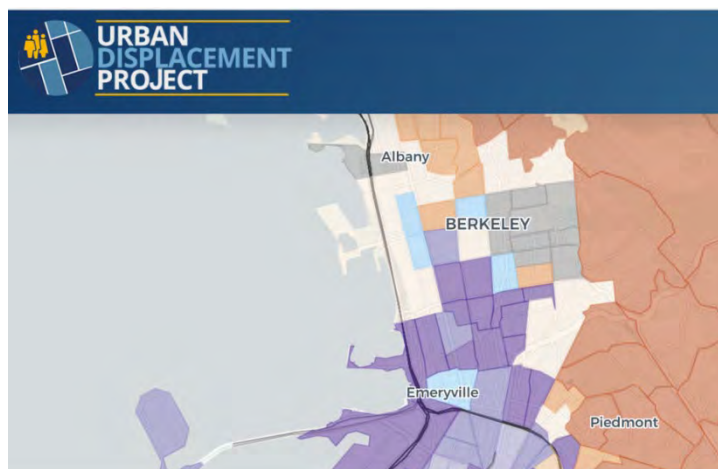
Second, the fact that the majority of respondents engage in multiple forms of employment means that they have multiple sources of income beyond their artistic practices to rely on for rental needs. However, as discussed above, in the long-term, the high burden of rent and reliance on other means of employment to make ends meet will impact artists' abilities to sustain their art. As one artist wrote:

*My housing is over 2/3 of my income, leaving little to nothing for anything over basic living expenses.*

Lastly, the timing of the survey suggests that those who are currently still residing in Berkeley are the ones who managed to weather the wave of displacement that took place in the last decade through the two factors described above and we have not captured the concerns of those who already had to leave as displacement was taking place. According to the [Urban Displacement Project](#), by 2018, almost all of Berkeley, except the immediate area surrounding University of California, Berkeley was experiencing ongoing and advanced gentrification, with a few areas already becoming exclusive and three areas in North Berkeley marked as low income and susceptible to displacement. South Berkeley area between Ashby Avenue and Emeryville border was in an advance gentrification stage with displacement having taken place between 2000 and 2018.

For comparison, the study in San Francisco took place in 2015, in the middle of the biggest wave of gentrification in the broader Bay Area. In that study, more than 1/3 of respondents expressed immediate concerns about loss of housing due to rent increase, end of lease term or fear of no-fault eviction.

Notably, South Berkeley also had high percentage of BIPOC population (between 50% and 70%). This data confirms that, like in the rest of the Bay Area, BIPOC communities are more susceptible to early displacement and the survey respondents' demographic reflects these changes in the population.



## *Artists have a unique need for flexible, live/work space*

Of responding artists and artists/cultural workers, 82% reported that they make their art where they live, with 56% of this group requiring extra ventilation for their art.

This finding reflects the way that affordability challenges can fundamentally change an artist's practice. For artists needing extra ventilation, this could mean a choice between maintaining their own health and practicing their art, particularly if there is no adequate separation between where artists sleep, cook, and eat and where artworks are being stored, produced, or left to dry. The need for flexible and affordable live/work space has pushed artists to make choices to live in dangerous conditions that can have fatal consequences. As one artist respondent explained:

It's really hard to find space to train that is affordable. I need at least 20' ceilings, ideally 30'. There were many affordable live/work warehouse conversions with this kind of ceiling height pre-Ghostship but many of these affordable spaces were affordable due to slumlord and very DIY situations, which often meant common housing needs like sealed roofs, consistent mail/package delivery, heating, bedroom windows/egress, were not guaranteed. The tragedy at Ghostship has led cities around the Bay Area to tighten up their policies around DIY spaces to prevent similar situations. However, without intentional creation of spaces that meet the needs of practicing artists, such policies do not solve the root cause problem that have caused artists to seek out those spaces in the first place.



## recommendations

### *Create policies that prioritize artists for new affordable housing*

Artists are an important part of the fabric of Berkeley as a city. As such, they should be part of ongoing conversations about Berkeley's housing plan. The survey results demonstrate that artists -- as a group -- have low income, a high rent burden, and have traditionally been left out of ongoing affordable housing. In order to mitigate further displacement and allow artists to continue to work and thrive in Berkeley, the City could consider creating a priority category for artists who meet income qualification to access affordable housing. Such a priority category would require working with the arts community to create an inclusive definition of what it means to be an artist. It should also take into consideration and center artists from Black, Indigenous, and People of Color (BIPOC) communities, as well as LGBTQ+ communities who have already been displaced. In doing so, artists will have an opportunity to return to Berkeley and enrich the city's social and artistic fabric.

### *Designate some of Berkeley's upcoming affordable housing funding from measure o for units specific to artists*

On July 24, 2019, Berkeley's Civic Arts Commission approved an amendment recommendation for Measure O that called for "significantly increas[ing] the supply of affordable housing and live/work housing for artists, artisans, and cultural workers" through adding to the zoning ordinance, incentivizing developers to build market-rate housing that includes affordable live/work units for creative workers, and incorporate live/work spaces for artists and cultural workers into large-scale affordable housing projects. Other proposals included the development of a community land trust and transforming underused retail spaces and City-owned buildings into artist live/work spaces. These recommendations should be revisited and implemented, as they align with the range of qualitative responses that came through the survey. Respondents also suggesting the development of: 1) co-ops; 2) a separate affordable housing lottery specifically for those artists and cultural workers from BIPOC and other underserved communities; and 3) relationships between the City and land trusts to purchase buildings that serve as artist housing. These suggestions point to the importance of re-evaluating how zoning and other policies further disenfranchise artists and cultural workers.

### *Consult artists when designing new policies for live/work spaces*

Across the Bay Area, responses to the Ghostship fire emphasized increased attention to artist DIY live/work spaces. These spaces were often the only options for artists to access live/work spaces that met their needs. Yet, artists have always worked to transform neighborhoods through their work and creative use of space. As Berkeley works to address affordability issues for all of its residents, consulting and involving

artists in the planning process can help bring about a much-needed, new, and fresh perspective on issues such as rezoning, repurposing ground floor spaces, and requiring community benefit proposals for new development.

### ***Develop artist-specific resources and technical assistance to bring artists into the existing affordable housing pipeline***

Due to the nature of their work, artists often have a unique income structure that makes applying for affordable housing more difficult. In addition, the survey shows that artists have needs for certain types of spaces that might be difficult to identify. Funding technical assistance to support artists to translate their needs and apply for the existing affordable housing pipeline could be an important step in helping artists leave inadequate living situations. The advisory group also recommended creating a one-stop shop that features affordable housing for artists (perhaps akin to a specialized version of [San Francisco's DAHLIA housing portal](#)), which would create a platform where artists could share information about available housing and get connected to resources like financial technical assistance. A space geared towards artists' housing needs might be especially beneficial for artists who are looking for affinity housing along the lines of race and sexual identity, which allows them to stay more connected with their own communities.

### ***Pilot a guaranteed basic income program for qualifying artists***

Acknowledging the disproportionate impact of the pandemic on a community that was already struggling due to ongoing affordability challenges, multiple cities such as [San Francisco](#) and [Minneapolis](#) have launched pilot programs providing artists from marginalized communities who meet income requirements with a monthly stipend that would help cover their basic needs. Stipends are unrestricted, so they can be spent on rent and food while artists continue their artistic practice. Due to the existing racial wealth gap, which was reflected in the survey results, such a pilot should prioritize BIPOC artists. These types of programs are gaining national attention because the arts and culture are often cited as key strategies for economic recovery. Practicing artists are essential for such recovery. The advisory group agreed that a basic income program would address two key findings in this report -- respondents' extremely low income and high rent burden -- both of which have already forced artists to significantly modify or abandon their art practices.

## further research

While the survey and focus groups discussed in this report have provided a much-needed snapshot into the space needs of artists in Berkeley, limited data does not allow us to paint a comprehensive picture. The following research and data collection is recommended, in order to complement this report.

### *Work with arts organizations to understand the income levels and housing needs of cultural workers*

Only 15% of the respondents to the survey identified exclusively as cultural workers, meaning that there was not a statistically significant sample from which to draw conclusions about the needs of cultural workers. Further research, specifically on the housing needs and income levels of cultural workers, is needed.

### *Conduct a disparity study*

Currently, Berkeley does not have comprehensive race and ethnicity data for seekers of affordable housing. Therefore, it is impossible to determine whether or not the artists who responded to this survey are demographically representative of the population that qualifies for affordable housing. A disparity study will ensure that changes in policy will not disproportionately impact certain groups.

### *Continue to collect data on artists*

The lack of baseline data on artists -- even as simple as the total number of artists and disciplines practiced in a given community -- prevents us from understanding the extent of the issues that artists face. More long-term data collection and analysis of artists in Berkeley will allow the city to identify trends, as well as possible challenges that can be mitigated by timely policy changes.

## appendices

### *a: community advisory group members*

Kim Anno, Berkeley Civic Arts Commission  
Delores Nochi Cooper, Berkeley Juneteenth Festival  
Bruce Coughran, Indra's Net Theater  
Hadley Dynak, Berkeley Cultural Trust  
Misty Garrett, City of Berkeley  
Ashlee George, Capoeira Arts Foundation and BrasArte  
Mayumi Hamanaka, Kala Art Institute  
Archana Horsting, Kala Art Institute  
Mildred Howard, Independent Artist  
Beatriz Leyva-Cutler, BAHIA  
Amanda Montez, City of Berkeley  
Mirah Moriarty & Rodrigo Esteva, Dance Monks  
PC Muñoz, Freight & Salvage and BCT E&I Committee  
Natalia Neira, La Pena Cultural Center and BCT E&I Committee  
Daniel Nevers, Berkeley Art Center  
Nancy Ng, Luna Dance Institute  
Kathryn Reasoner, Vital Arts  
Leigh Rondon, Shotgun Theater  
Irene Sazer, Independent Artist (Civic Arts Grantee)  
Sean Vaughn Scott, Black Repertory Group Theater  
Rebecca Selin, Gamelan Sekar Jaya  
Terry Taplin, Berkeley City Council and former Berkeley Civic Arts Commissioner  
Rory Terrell, Local Artists Berkeley  
Tyese Wortham, CAST  
Chingchi Yu, Independent Artist (Civic Arts Grantee)

## ***b: survey questions***

### **Messaging**

Are you an artist or cultural worker struggling to find affordable housing for you and your family?

Artists and cultural workers in Berkeley and throughout the Bay Area are facing an affordability crisis that prevents them from focusing on their creative work. Through the recently completed cultural planning process, the City of Berkeley identified as a primary goal the need to protect and increase access to affordable housing for artists and cultural workers.

Currently, there is little to no data on the affordable housing concerns of Berkeley artists and cultural workers. Your responses to this survey will help the City of Berkeley create programs and policies tailored to the housing needs that are specific to Berkeley's arts sector, including affordable housing and live-work spaces.

Thank you for helping keep Berkeley affordable for artists and cultural workers.

---

### **Survey Questions**

1. Are you an artist or cultural worker?
  - a. Artist [proceed to question 2]
  - b. Cultural Worker (staff member at an arts culture organization) [Proceed to Question 4]
  - c. Both
  
2. If you are an artist, how would you describe your artistic practice/artwork? Select all that apply:
  - a. 2D (Painting, Printmaking, Drawing, Photography, etc.)
  - b. 3D (Sculpture, Installation)
  - c. Theater/Performance
  - d. Dance
  - e. Craft
  - f. Film, Video, and/or Media Arts
  - g. Literary (Creative Writing, Poetry, etc.)
  - h. Music
  - i. Social Practice
  - j. Write in\_\_\_\_\_
  
3. Do you work with a medium that requires extra space and/or ventilation? This may include metal welding, spray paint, etc.
  - a. Yes
  - b. No

4. If you are a cultural worker, do you work at a Berkeley-based arts and culture nonprofit organization?
  - a. Yes
  - b. No
  
5. What is your primary language?
  - a. English
  - b. Spanish
  - c. Chinese (Mandarin and Cantonese)
  - d. Tagalog
  - e. Vietnamese
  - f. Persian
  - g. Portuguese
  - h. Punjabi
  - i. Swahili
  - j. Write In: \_\_\_\_\_
  - k. Decline to State
  
6. What is your race/ethnicity?
  - a. African-American or Black
  - b. American Indian or Alaska Native or Indigenous or First Nations
  - c. Arab or Middle Eastern
  - d. Asian or Asian American
  - e. Hispanic or Latina/Latino/Latinx
  - f. Native Hawaiian or Pacific Islander
  - g. White or Caucasian or European American
  - h. Multi-racial or multi- ethnic (2+ races/ethnicities)
  - i. Write In \_\_\_\_\_
  - j. Decline to State
  
7. What best describes your gender identity?
  - a. Female (cisgender)
  - b. Female (transgender)
  - c. Male (cisgender)
  - d. Male (transgender)
  - e. Gender-fluid/Genderqueer/Gender-expansive/Non-binary
  - f. Write In \_\_\_\_\_
  - g. Decline to State
  
8. How do you describe your sexual orientation or sexual identity?
  - a. LGBTQ+
  - b. Heterosexual/straight
  - c. Write in \_\_\_\_\_
  - d. Decline to State
  
9. Do you identify as a person with a disability?

- a. Yes
  - b. No
10. Please select the highest degree or level of school you have COMPLETED. If currently enrolled, mark the previous grade or highest degree already received.
- a. Less than high school
  - b. High school diploma/GED
  - c. Associate's degree
  - d. Bachelor's degree
  - e. Master's degree
  - f. Doctorate degree
11. How many people live in your household, including yourself?
- a. One [Proceed to Question 14]
  - b. Two
  - c. Three
  - d. Four
  - e. Five
  - f. More than five: Write In \_\_\_\_\_
12. Do you have any children under the age of 18?
- a. Yes
  - b. No [Proceed to Question 14]
13. If yes, how many children currently live with you?
- a. One
  - b. Two
  - c. Three
  - d. More than three
  - e. Write in: \_\_\_\_\_
14. What is your total household income?
- a. Less than \$26,050
  - b. \$26,051-\$43,400
  - c. \$43,401-\$69,000
  - d. \$69,001-\$98,549
  - e. More than \$98,550
  - f. Decline to state
15. If you are an artist, do you make 50% or more of your income from your artistic practice?
- a. Yes
  - b. No
  - c. I don't know
  - d. I am not an artist

16. What is your current employment status? Check all that apply:
  - a. Self employed artist for your own art practice
  - b. Self-employed, but not for your own art practice
  - c. Employed full time as a cultural worker
  - d. Employed full time as something other than a cultural worker
  - e. Employed part time/doing regular work for pay as a cultural worker
  - f. Employed part time/doing regular work for pay as something other than a cultural worker
  - g. Contract work as a cultural worker (for example: I receive a 1099 from a nonprofit arts organization organization)
  - h. Contract work as something other than a cultural worker (for example: I receive a 1099 from a separate non-arts organization or business)
  - i. Unreported work for cash
  - j. Not employed
  
17. How easy is it to predict your total income from month to month?
  - a. Very easy
  - b. Moderately easy
  - c. Neither easy nor difficult
  - d. Moderately difficult
  - e. Very difficult
  
18. How certain are you that your total income will return to pre-pandemic levels, over the next 6 months?
  - a. Very certain
  - b. Moderately certain
  - c. Neither certain or uncertain
  - d. Moderately uncertain
  - e. Very uncertain
  
19. What percentage of your average monthly income do you spend on housing costs?
  - a. Less than 20%
  - b. 20%-30%
  - c. 30%-40%
  - d. 40%-50%
  - e. More than 50%
  - f. I don't know
  
20. What is the zip code where you work?
  
21. What is the zip code where you live?
  
22. How long have you lived in Berkeley?
  - a. I do not live in Berkeley
  - b. Less than a year



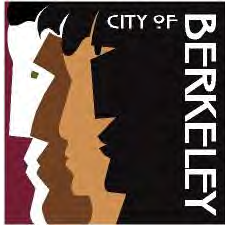
- c. 1 - 3 years
  - d. 3 - 5 years
  - e. 5 - 10 years
  - f. More than 10 years
  - g. How long? \_\_\_\_\_
23. How long do you expect to remain in Berkeley?
- a. I do not live in Berkeley
  - b. Less than a year
  - c. 1 - 3 years
  - d. 3 - 5 years
  - e. 5 - 10 years
  - f. More than 10 years
  - g. How long? \_\_\_\_\_
24. Do you own or lease your living space?
- a. Lease [proceed to question 25]
  - b. Own [proceed to question 28]
25. What is your lease term?
- a. Month to month
  - b. 1 year
  - c. 2-3 years
  - d. More than 3 years
26. How many square feet is your space?
27. How much do you pay in rent per month?
28. Have you been displaced due to a “no-fault” or “no-cause” eviction in the past 2 years? (A “no-fault” or “no-cause” eviction is an eviction that is no fault of the tenant, but is allowed under the law.)
- a. Yes
  - b. No
  - c. I don't know
29. If you were displaced, did you have to move away from Berkeley?
- a. Yes
  - b. No
30. If you were not displaced, did you have to rely on the eviction moratorium that Berkeley has implemented over the past 12 months?
- a. Yes
  - b. No
  - c. I didn't know that evictions had been halted over the past 12 months.

31. How certain are you that you will be able to retain your housing when the eviction moratorium ends?
- Very certain
  - Moderately certain
  - Neither certain or uncertain
  - Moderately uncertain
  - Very uncertain
32. Do you use your living space for housing and your creative practice?
- Yes [proceed to question 37]
  - No [proceed to question 32]
33. If you have a work space that is separate from your living space, do you own or lease your work space?
- Lease [proceed to question 34]
  - Own [proceed to question 36]
34. What is the lease term for your work space?
- Month to month
  - 1 year
  - 2-3 years
  - More than 3 years
35. How much do you pay in rent per month for your work space?  
Write in \_\_\_\_\_
36. How many square feet is your work space?  
Write In \_\_\_\_\_
37. Have you been displaced from your work space due to a “no-fault” or “no-cause” eviction in the past 2 years? (A “no-fault” or “no-cause” eviction is an eviction that is no fault of the tenant, but is allowed under the law.)
- Yes
  - No
  - I don't know
38. If you were displaced, did you have to move your work space away from Berkeley?
- Yes
  - No
39. Do you share your work space?
- Yes
  - No

40. What are some challenges you've faced in the past when trying to access or find affordable housing?
41. Please share any ideas you have on how to ensure equitable participation of BIPOC artists and cultural producers from other historically underserved communities, as well as recommendations for local organizations that should be consulted.
42. Do you have anything else to share with us?

-----END OF SURVEY-----





Kate Harrison  
Councilmember District 4

## REVISED AGENDA MATERIAL for Supplemental Packet 2

**Meeting Date:** November 30, 2021

**Item Number:** 27

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

**Submitted by:** Councilmember Harrison

The supplemental includes updates to the ALPR Use Policy as follows:

- Removes reference to Government Code Section 34090 consistent with SB 34 (providing for a local government to set ALPR retention limits).
- Clarifies that the definition of the State Stolen System includes the DMV's SVS database.
- Clarifies the type of data that is considered confidential pursuant to recent State Supreme Court rulings.
- Fixes inconsistency under the "Invasion of Privacy" section.
- Adds missing reference to state and federal law under "Use Based on a Protected Characteristic" section.
- Clarifies IT's role in maintaining accuracy and functionality of ALPR equipment.
- Further clarifies distinction between ALPR Read Images and ALPR Hits.
- Strikes extraneous language regarding Sworn Officer stolen vehicle verification procedures.
- Clarifies that ALPR data may only be shared with law enforcement or prosecutorial agencies as permitted by the Policy.
- Adds specific references to BMC sections under the auditing and oversight section.
- Adds other non-substantive changes.

## Surveillance Use Policy – Automatic License Plate Readers

### 1302.1 PURPOSE

This Surveillance Use Policy is legally-enforceable pursuant to BMC 2.99.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images for Parking Enforcement Operations and Parking Occupancy Analysis while recognizing the established privacy rights of the public.

### 1302.2 DEFINITIONS

“Alleged Parking Violation” means an alleged violation of time limits in parking areas designated by state and local law, or a violation of time limits and/or non-permit parking in the City’s RPP zones.

“ALPR Read Image” means images of license plates, vehicles, wheels or any other incidentally captured image.

“ALPR Read” means computer-readable data captured by an ALPR Reader, including ALPR Read Image and associated ALPR Read Metadata. ALPR Reads are transient means to create potential government records, to include Parking Occupancy Analysis data and Enforced Citations, ~~and therefore shall not be considered a government record itself pursuant to Government Code § 34090.6.~~

“ALPR Hit” means an Alleged Parking Violation or State Stolen ~~or Wanted~~ System alert resulting from computer generated analysis of ALPR Reads by the Genetec ALPR System resulting in an apparent:

- (1) match between an ALPR Read and ALPR Read Metadata stored in the Genetec ALPR System, to include the State Stolen ~~or Wanted~~ System; or
- (2) incongruence between an ALPR Read and permit information stored in the Passport Parking Management System.

“ALPR Read Metadata” means any image-based or other metadata, including but not limited to, global positioning system coordinates, block face information, tire position information, digitized license plates in alphanumeric characters, and timestamps.

“Automated License Plate Reader” or “ALPR” means one or more Genetec AutoVu mobile cameras affixed to Parking Enforcement Scooters and combined with computer software and algorithms to read and convert images of license plates, the characters they contain, and associated ALPR Read Metadata related to Parking Enforcement Operations or Parking Occupancy Analysis into computer-readable data.

“Deploy” or “Deployment” means any operation or use of ALPR Readers affixed to Parking Enforcement Scooters.

“Enforced ALPR Hit” means an Alleged Parking Violation confirmed by a Parking Enforcement Officer that results in the transmission of associated ALPR Read Image and ALPR Read Metadata to the Passport Parking Management System for storage in a database as a government record for the purpose of citation processing.

“Genetec ALPR System” means the computerized Genetec server and database that stores and pushes ALPR Read Metadata generated by ALPR Readers.

“Residential Parking Permits” or “RPP” means an annual, visitor, merchant or in-home care parking permit, typically represented by a vehicle’s license plate, and associated with the City’s Residential Parking Permit program across designated zones.

“Parking Enforcement Scooter” means the GO-4 three-wheeled parking enforcement vehicle.

“Parking Enforcement Officers” means employees of the City who work weekly rotations on Parking Enforcement Operations beats throughout the City and are properly trained to operate ALPRs and access the Genetec ALPR System.

“Parking Enforcement Operations” means Parking Enforcement Officer enforcement of parking regulations associated with local ordinances, the California Vehicle Code, and State Stolen ~~or Wanted~~ System enforcement through Parking Enforcement Scooter-based automated (ALPR) and non-automated means.

“Personally Identifiable Information” or “PII” means information:

- (1) that directly identifies an individual (e.g., name, address, vehicle registration number, or other identifying number or code, telephone number, email address, etc.) or
- (2) by which the City or other agency intends to identify specific individuals in conjunction with other data elements, i.e., indirect identification.

“Parking Occupancy Analysis” means ongoing computational or algorithmic analyses performed by Passport Parking Management System or the City of Berkeley on ALPR Read Metadata regarding the occupancy of total parking spaces across commercial districts as part of goBerkeley, the City’s data-driven, demand-responsive parking management program. ALPR Read Metadata data associated with Parking Occupancy Analysis shall not include any license plate or other PII information.

“Parking Permit Application” means an application submitted to the City for RPP or other permit that may include but is not limited to PII such as names, address, photo identification, vehicle registration (license plate and vehicle identification number), phone number and email address.

“Passport Automatic Occupancy Data Collection System” means the server and database whereby the Passport Parking Management System vendor, on behalf of the City, downloads, stores and transfers Parking Occupancy Analysis ALPR Read

Metadata stripped of any and all PII before being transferred to the goBerkeley program.

“Passport Parking Management System” means the servers and databases maintained by Passport Labs Incorporated, containing the database of the license plate numbers and other PII associated with Parking Permit Applications and Residential Parking Permits, and including historic parking citation data, to include Enforced Hits.

“PocketPEO” means a mobile device providing handheld ticket issuance and ALPR data reference capabilities.

“State Stolen ~~or Wanted~~ System” means information from the California Law Enforcement Telecommunications System's (CLETS) Department of Motor Vehicles (DMV) Stolen Vehicle System (SVS) database providing data regarding stolen vehicles, ~~and the Federal Bureau of Investigation's National Crime Information Center (NCIC) database of and wanted vehicles.~~

### 1302.3 AUTHORIZED AND PROHIBITED USES

Use of an ALPR is restricted to the purposes outlined below.

All data and images gathered by the ALPR are for official use by the Berkeley Police Department for Parking Enforcement Operations and may be retroactively queried in limited circumstances only as specified by this policy.

In addition, ALPR data may be used by the Finance, Information Technology (IT), Customer Service, and Public Works Departments only as specified ~~herein~~ this policy, and consistent with Parking Enforcement Operations and Parking Occupancy Analysis. ~~Since such data may contain confidential information, it is not~~ Data that is considered confidential under recent state Supreme Court rulings is not open to public review, ~~except as specified.~~

Berkeley Police Department members or other Departments shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Anyone who engages in an impermissible use of the Genetec ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

(a) An ALPR shall only be Deployed and used for Parking Enforcement Operations, and Parking Occupancy Analysis.

(b) ALPR data strictly obtained from Parking Enforcement Operations retained pursuant to this use policy, including data and metadata associated with ALPR Reads and Hits, may be used to support a specific criminal investigation only pursuant to a valid court order, subpoena, or a search warrant.



(c) The following uses of the Genetec ALPR System are specifically prohibited:

(1) Invasion of Privacy

~~Except when done pursuant to a court order, subpoena, or a search warrant, i~~It is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

(2) Harassment or Intimidation

It is a violation of this Policy to use the Genetec ALPR system to harass and/or intimidate any individual or group.

(3) Use Based on a Protected Characteristic.

It is a violation of this Policy to use the ALPRs or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by state and federal law.

(4) Personal Use

It is a violation of this Policy to use the Genetec ALPR System or associated ALPR Read data or the State Stolen ~~or Wanted~~-System hot lists for any personal purpose.

(5) First Amendment Rights

It is a violation of this Policy to use ALPRs or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

(6) Criminal Enforcement

It is a violation of this Policy to use or Deploy ALPRs to scan or canvass license plates in connection with any crime scene, patrol operation, or investigation.

(7) Use of Hot Lists

It is a violation of this Policy to use the Genetec ALPR System in conjunction with any hot list other than the State Stolen ~~or Wanted~~-System.

### 1302.4 DATA COLLECTION AND RETENTION

The Investigations Division Captain, or their designee, is responsible for ensuring proper collection and retention of ALPR data. Technical support and assistance shall be provided by the City of Berkeley's IT department and associated Genetec ALPR system providers/vendors as identified below.

IT's role will be limited to providing initial infrastructure set-up and accessing or viewing individual records or reports (potentially including PII or CLETS information as authorized by the Chief of Police), limited to the purposes of testing the accuracy of the equipment. Genetec ALPR System data provided to Parking Control Officers may also contain confidential CLETS information and is not open to public review.

ALPR information gathered and retained by the Berkeley Police Department may only be used and shared with prosecutors or other law enforcement agencies pursuant to a valid court order, subpoena, or a search warrant and as limited by this policy.

(a) ALPR Read Images

ALPR Read Images ~~and Metadata~~ resulting from ALPR Reads stored locally on Parking Control Officer Vehicle laptops and PocketPEO shall be purged at least nightly.

In no case shall ALPR Read Images resulting from ALPR Reads be transmitted to or stored in the Genetec ALPR System.

(b) ALPR Reads Not Resulting in ALPR Hits

All ALPR Read Metadata from ALPR Reads transmitted and stored in the Genetec ALPR System shall be purged within five (5) days consistent with the City's 72-Hour Rule (BMC Section 14.36.050).

In no case shall ALPR Read Metadata in the form of license plate data or other PII be transmitted to or stored in the Passport Automatic Occupancy Data Collection System.

(c) ALPR Hits

All ALPR ~~Read Images, Metadata,~~ and Hits resulting from ALPR Reads stored locally on Parking Control Officer Vehicle laptops and PocketPEO shall be purged at least nightly.

In no case shall data associated with ALPR Hits be transmitted to or stored in the Genetec ALPR System, nor shall license plate data or other PII included as part of ALPR Read Metadata be transmitted to or stored by the City for Parking Occupancy Analysis (goBerkeley), to include the Passport Automatic Occupancy Data Collection System or as City Department records.

(d) Unenforced ALPR Hits

All erroneous and unenforced ALPR Hit data and Read Metadata shall be purged locally at least nightly.

(e) Enforced ALPR Hits

Only ALPR Read Images and Metadata associated with Enforced ALPR Hits shall be downloaded to the Passport Parking Management servers with a minimum retention period of one year ~~(Government Code § 34090.6)~~ and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless

it has become, or it is reasonable to believe it will become, evidence in a criminal action pursuant to a valid court order, subpoena, or a search warrant or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

### 1302.5 DATA ACCESS

(a) Only properly trained Parking Control Officers and information technology personnel are allowed access to the Genetec ALPR system or to collect ALPR information.

(b) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training, which shall include complying with this use policy.

(c) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.

~~(cd)~~ If a Sworn officer is called to verify a stolen vehicle, if practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR Hit.

~~(e) Police will not take any police action that restricts the freedom of any individual based solely on an ALPR Hit unless it has been validated as described above in (d).~~

~~(1) Police need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.~~

~~(2) Prior to initiation of a stop of a vehicle or other intervention based on an ALPR Hit, Department members shall undertake the following:~~

~~(i) Verification of status on State Stolen or Wanted System.~~

~~An officer must receive confirmation from a Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).~~

~~(ii) Visual verification of license plate number.~~

(d) Sworn Officers shall visually verify that the license plate of interest matches identically with the ALPR Read Image of the license plate number captured (ALPR Read) by the ALPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as an ALPR Hit in a specific State Stolen ~~or Wanted~~ System list are required to make a reasonable effort to

confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

### **1302.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third-Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to impacts that may violate the First and Fourth Amendments and other potentially disparate or adverse impacts on any communities or groups.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for the purpose of federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).

### **1302.7 PUBLIC ACCESS**

Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requester in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.

### **1302.8 THIRD-PARTY DATA-SHARING**

(a) Non-law enforcement requests for access to stored ALPR data related to parking management shall be processed according to this policy, and the Records Maintenance and Release Policy in accordance with applicable law.

(b) The ALPR data may be shared only with other law enforcement or prosecutorial agencies ~~for official law enforcement purposes or~~ as permitted by this policy and under no circumstances: ALPR data is subject to the provisions of BPD Policy 415, and hence may not be shared with federal immigration enforcement officials.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided by this policy and in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Aggregated ALPR data not related to specific criminal investigations authorized by a court order, subpoena, or search warrant shall not be released to any local, state or

federal agency or entity without the express written consent of the City Manager and only in accordance with this Use Policy.

Third-party data-sharing shall be subject to non-privileged and non-confidential City Council notification pursuant to BMC 2.99.020 (2) (a).

### **1302.9 TRAINING AND ALPR ADMINISTRATOR**

Training for the operation of ALPR technology shall be provided by BPD personnel. All BPD employees who utilize ALPR technology shall be provided a copy of this Surveillance Use Policy.

(1) The Investigations Division Captain shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

(i) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the Genetec ALPR system or to collect ALPR information.

(ii) Ensuring that training requirements are completed for authorized users. The Administrator shall ensure that members receive department-approved training for those authorized to use or access ALPRs (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

(iii) A description of how the Genetec ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

(iv) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52 and this Use Policy.

(v) The title and name of the current designee in overseeing the ALPR operation.

(vi) Ensuring this policy and related procedures are conspicuously posted on the City's website.

### **1302.10 AUDITING AND OVERSIGHT**

Genetec ALPR System audits will be conducted by the Professional Standards Bureau's (PSD) Audit and Inspections Sergeant pursuant to Municipal Code Section BMC 2.99.020 4. k. on a regular basis, at least biannually.

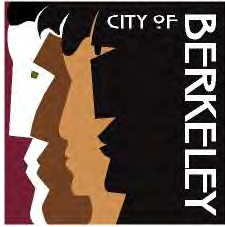
(1) Any unauthorized access or data breach shall be reported immediately to the City Manager.

(2) The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and

any associated documentation shall be placed into the annual report filed with the City Council pursuant to [BMC Section 2.99.020 2. d.](#), published on the City of Berkeley website in an appropriate location, and retained by PSD.

### **1302.11 MAINTENANCE**

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under their command to administer the day-to-day operation of the ALPR equipment and data.



Kate Harrison  
Councilmember District 4

## REVISED AGENDA MATERIAL for Supplemental Packet 1

**Meeting Date:** November 30, 2021

**Item Number:** 27

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

**Submitted by:** Councilmembers Harrison and Hahn

Amends Resolution to adopt a Surveillance Technology Use Policy for Automatic License Plate Readers as required by the Surveillance Technology Ordinance.

To date, Council deferred adoption of a Surveillance Use Policy pursuant to Sections 2.99.020 and 2.99.050 of the Ordinance for Automatic License Plate Readers, including in order to draft a policy with enhanced civil liberties protections. Berkeley Police Department Administrative Order #001-2016, prepared in 2016 before adoption of the Surveillance Ordinance, has served as a de facto ALPR policy, however Administrative Order #001-2016 is out of date and does not satisfy the specific requirements of the Surveillance Ordinance. Adoption of an earlier proposed update to the use policy for ALPRs was deferred by Council as it did not contain sufficient information about data retention and sharing and protection of civil liberties.

The attached Use Policy supersedes Administrative Order #001-2016 and satisfies the requirements of the Ordinance, including providing a legally-enforceable Surveillance Use Policy and enhanced civil liberties protections.

### Use Policy Overview:

- Provides key definitions.
- Authorizes ALPR for Parking Enforcement Operations and Parking Occupancy Analysis.
- Enumerates specifically prohibited uses of ALPR that may impact civil liberties.
- Incorporates key provisions from BPD's previously proposed Policy 1302.

- Addresses the Police Review Commission's concerns, as expressed in their September 11, 2019 letter to Council pursuant to Section 2.99.030, about the previously proposed Use Policy 1302.
- Specifies appropriate data retention periods for ALPR reads and hits.
- Specifies that personally identifiable ALPR data will not be sent to goBerkeley (as confirmed by Transportation Division staff) as part of Parking Occupancy Analysis.
- Specifies that ALPR data obtained from Parking Enforcement Operations, including data and metadata associated with ALPR Reads and Hits, may be used to support a specific criminal investigation only pursuant to a valid court order, subpoena, or a search warrant.
- Restates the City's policy of not sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement.
- Specifies that third-party data-sharing shall be subject to non-privileged and non-confidential City Council notification pursuant to BMC 2.99.020.



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

A RESOLUTION ACCEPTING THE ANNUAL SURVEILLANCE TECHNOLOGY REPORT FOR AUTOMATIC LICENSE PLATE READERS, GPS TRACKERS, BODY WORN CAMERAS, AND THE STREET LEVEL IMAGERY PROJECT AND ADOPTING A SURVEILLANCE TECHNOLOGY USE POLICY FOR AUTOMATIC LICENSE PLATE READERS

WHEREAS, on March 27, 2018, the City Council adopted Ordinance 7,592-N.S., which is known as the Surveillance Technology Use and Community Safety Ordinance (“Ordinance”); and

WHEREAS, Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance at the first regular City Council meeting in November; and

WHEREAS, the Surveillance Technology Reports satisfy the requirements of the Ordinance; and

WHEREAS, Council deferred adoption of a Surveillance Use Policy pursuant to Sections 2.99.020 and 2.99.050 of the Ordinance for Automatic License Plate Readers in order to draft a policy with enhanced civil liberties protections, and heretofore Berkeley Police Department Administrative Order #001-2016, prepared in 2016 before passage of the Surveillance Ordinance, has served as a de facto ALPR policy; and

WHEREAS, the attached Use Policy supersedes Administrative Order #001-2016 and satisfies the requirements of the Ordinance, including providing a legally-enforceable Surveillance Use Policy and enhanced civil liberties protections.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby accepts the Surveillance Technology Reports for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project and adopts a Surveillance Technology Use Policy for Automatic License Plate Readers.

Attachment

1. Surveillance Use Policy – Automatic License Plate Readers

## Surveillance Use Policy – Automatic License Plate Readers

### 1302.1 PURPOSE

This Surveillance Use Policy is legally-enforceable pursuant to BMC 2.99.

The policy of the Berkeley Police Department is to utilize ALPR technology to capture and store digital license plate data and images for Parking Enforcement Operations and Parking Occupancy Analysis while recognizing the established privacy rights of the public.

### 1302.2 DEFINITIONS

“Alleged Parking Violation” means an alleged violation of time limits in parking areas designated by state and local law, or a violation of time limits and/or non-permit parking in the City’s RPP zones.

“ALPR Read Image” means images of license plates, vehicles, wheels or any other incidentally captured image.

“ALPR Read” means computer-readable data captured by an ALPR Reader, including ALPR Read Image and associated ALPR Read Metadata. ALPR Reads are transient means to create potential government records, to include Parking Occupancy Analysis data and Enforced Citations, and therefore shall not be considered a government record itself pursuant to Government Code § 34090.6.

“ALPR Hit” means an Alleged Parking Violation or State Stolen or Wanted System alert resulting from computer generated analysis of ALPR Reads by the Genetec ALPR System resulting in an apparent:

- (1) match between an ALPR Read and ALPR Read Metadata stored in the Genetec ALPR System, to include the State Stolen or Wanted System; or
- (2) incongruence between an ALPR Read and permit information stored in the Passport Parking Management System.

“ALPR Read Metadata” means any image-based or other metadata, including but not limited to, global positioning system coordinates, block face information, tire position information, digitized license plates in alphanumeric characters, and timestamps.

“Automated License Plate Reader” or “ALPR” means one or more Genetec AutoVu mobile cameras affixed to Parking Enforcement Scooters and combined with computer software and algorithms to read and convert images of license plates, the characters they contain, and associated ALPR Read Metadata related to Parking Enforcement Operations or Parking Occupancy Analysis into computer-readable data.

“Deploy” or “Deployment” means any operation or use of ALPR Readers affixed to Parking Enforcement Scooters.

“Enforced ALPR Hit” means an Alleged Parking Violation confirmed by a Parking Enforcement Officer that results in the transmission of associated ALPR Read Image and ALPR Read Metadata to the Passport Parking Management System for storage in a database as a government record for the purpose of citation processing.

“Genetec ALPR System” means the computerized Genetec server and database that stores and pushes ALPR Read Metadata generated by ALPR Readers.

“Residential Parking Permits” or “RPP” means an annual, visitor, merchant or in-home care parking permit, typically represented by a vehicle’s license plate, and associated with the City’s Residential Parking Permit program across designated zones.

“Parking Enforcement Scooter” means the GO-4 three-wheeled parking enforcement vehicle.

“Parking Enforcement Officers” means employees of the City who work weekly rotations on Parking Enforcement Operations beats throughout the City and are properly trained to operate ALPRs and access the Genetec ALPR System.

“Parking Enforcement Operations” means Parking Enforcement Officer enforcement of parking regulations associated with local ordinances, the California Vehicle Code, and State Stolen or Wanted System enforcement through Parking Enforcement Scooter-based automated (ALPR) and non-automated means.

“Personally Identifiable Information” or “PII” means information:

(1) that directly identifies an individual (e.g., name, address, vehicle registration number, or other identifying number or code, telephone number, email address, etc.) or

(2) by which the City or other agency intends to identify specific individuals in conjunction with other data elements, i.e., indirect identification.

“Parking Occupancy Analysis” means ongoing computational or algorithmic analyses performed by Passport Parking Management System or the City of Berkeley on ALPR Read Metadata regarding the occupancy of total parking spaces across commercial districts as part of goBerkeley, the City’s data-driven, demand-responsive parking management program. ALPR Read Metadata data associated with Parking Occupancy Analysis shall not include any license plate or other PII information.

“Parking Permit Application” means an application submitted to the City for RPP or other permit that may include but is not limited to PII such as names, address, photo identification, vehicle registration (license plate and vehicle identification number), phone number and email address.

“Passport Automatic Occupancy Data Collection System” means the server and database whereby the Passport Parking Management System vendor, on behalf of the City, downloads, stores and transfers Parking Occupancy Analysis ALPR Read

Metadata stripped of any and all PII before being transferred to the goBerkeley program.

“Passport Parking Management System” means the servers and databases maintained by Passport Labs Incorporated, containing the database of the license plate numbers and other PII associated with Parking Permit Applications and Residential Parking Permits, and including historic parking citation data, to include Enforced Hits.

“PocketPEO” means a mobile device providing handheld ticket issuance and ALPR data reference capabilities.

“State Stolen or Wanted System” means information from the California Law Enforcement Telecommunications System's (CLETS) Department of Motor Vehicles (DMV) Stolen Vehicle System (SVS) database providing data regarding stolen vehicles, and the Federal Bureau of Investigation's National Crime Information Center (NCIC) database of wanted vehicles.

### **1302.3 AUTHORIZED AND PROHIBITED USES**

Use of an ALPR is restricted to the purposes outlined below.

All data and images gathered by the ALPR are for official use by the Berkeley Police Department for Parking Enforcement Operations and may be retroactively queried in limited circumstances only as specified by this policy.

In addition, ALPR data may be used by the Finance, Information Technology (IT), Customer Service, and Public Works Departments as specified herein and consistent with Parking Enforcement Operations and Parking Occupancy Analysis. Since such data may contain confidential information, it is not open to public review, except as specified.

Berkeley Police Department members or other Departments shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Anyone who engages in an impermissible use of the Genetec ALPR system or associated scan files or hot lists may be subject to administrative sanctions, up to and including termination, pursuant to and consistent with the relevant collective bargaining agreements and Department policies.

(a) An ALPR shall only be Deployed and used for Parking Enforcement Operations, and Parking Occupancy Analysis.

(b) ALPR data strictly obtained from Parking Enforcement Operations, including data and metadata associated with ALPR Reads and Hits, may be used to support a specific criminal investigation only pursuant to a valid court order, subpoena, or a search warrant.

(c) The following uses of the Genetec ALPR System are specifically prohibited:

(1) Invasion of Privacy

Except when done pursuant to a court order, subpoena, or a search warrant, it is a violation of this Policy to utilize the ALPR to record license plates except those of vehicles that are exposed to public view (e.g., vehicles on a public road or street, or that are on private property but whose license plate(s) are visible from a public road, street, or a place to which members of the public have access, such as the parking lot of a shop or other business establishment).

(2) Harassment or Intimidation

It is a violation of this Policy to use the Genetec ALPR system to harass and/or intimidate any individual or group.

(3) Use Based on a Protected Characteristic.

It is a violation of this Policy to use the ALPRs or associated scan files or hot lists solely because of a person's, or group's race, gender, religion, political affiliation, nationality, ethnicity, sexual orientation, disability, or other classification protected by

(4) Personal Use

It is a violation of this Policy to use the Genetec ALPR System or associated ALPR Read data or State Stolen or Wanted System lists for any personal purpose.

(5) First Amendment Rights

It is a violation of this Policy to use ALPRs or associated scan files or hot lists for the purpose or known effect of infringing upon First Amendment rights.

(6) Criminal Enforcement

It is a violation of this Policy to use or Deploy ALPRs to scan or canvass license plates in connection with any crime scene, patrol operation, or investigation.

(7) Use of Hot Lists

It is a violation of this Policy to use the Genetec ALPR System in conjunction with any hot list other than the State Stolen or Wanted System.

**1302.4 DATA COLLECTION AND RETENTION**

The Investigations Division Captain, or their designee, is responsible for ensuring proper collection and retention of ALPR data. Technical support and assistance shall be provided by the City of Berkeley's IT department and associated Genetec ALPR system providers/vendors as identified below.

IT staff will not have the ability to access or view individual records or reports, as they may contain PII information they are not authorized to receive. Genetec ALPR System

data provided to Parking Control Officers may also contain confidential CLETS information and is not open to public review. IT's role will be limited to providing initial infrastructure set-up, unless particular IT staff members have been cleared by DOJ background checks and authorized by the Chief of Police to receive PII or CLETS information.

ALPR information gathered and retained by the Berkeley Police Department may only be used and shared with prosecutors or other law enforcement agencies pursuant to a valid court order, subpoena, or a search warrant and as limited by this policy.

(a) ALPR Reads

ALPR Read Images and Metadata resulting from ALPR Reads stored locally on Parking Control Officer Vehicle laptops and PocketPEO shall be purged at least nightly.

In no case shall ALPR Read Images resulting from ALPR Reads be transmitted to or stored in the Genetec ALPR System.

(b) ALPR Reads Not Resulting in ALPR Hits

All ALPR Read Metadata from ALPR Reads transmitted and stored in the Genetec ALPR System shall be purged within five (5) days consistent with the City's 72-Hour Rule (BMC Section 14.36.050).

In no case shall ALPR Read Metadata in the form of license plate data or other PII be transmitted to or stored in the Passport Automatic Occupancy Data Collection System.

(c) ALPR Hits

All ALPR Read Images, Metadata, and Hits resulting from ALPR Reads stored locally on Parking Control Officer Vehicle laptops and PocketPEO shall be purged at least nightly.

In no case shall data associated with ALPR Hits be transmitted to or stored in the Genetec ALPR System, or license plate data or other PII included as part of ALPR Read Metadata be transmitted to or stored by the City for Parking Occupancy Analysis, to include the Passport Automatic Occupancy Data Collection System or as City Department records.

(d) Unenforced ALPR Hits

All erroneous and unenforced ALPR Hit data and Read Metadata shall be purged locally at least nightly.

(e) Enforced ALPR Hits

Only ALPR Read Images and Metadata associated with Enforced ALPR Hits shall be downloaded to the Passport Parking Management servers with a minimum retention period of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless

it has become, or it is reasonable to believe it will become, evidence in a criminal action pursuant to a valid court order, subpoena, or a search warrant or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

### **1302.5 DATA ACCESS**

- (a) Only properly trained parking control officers and information technology personnel are allowed access to the Genetec ALPR system or to collect ALPR information.
- (b) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (c) No ALPR operator may access California Law Enforcement Telecommunications System (CLETS) data unless otherwise authorized to do so.
- (d) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR Hit.
- (e) Police will not take any police action that restricts the freedom of any individual based solely on an ALPR Hit unless it has been validated.
  - (1) Police need to have reasonable suspicion and/or probable cause to make an enforcement stop of any vehicle. For example, if a vehicle is entered into the system because of its association with a wanted individual, Officers should attempt to visually match the driver to the description of the wanted subject prior to making the stop or should have another legal basis for making the stop.
  - (2) Prior to initiation of a stop of a vehicle or other intervention based on an ALPR Hit, Department members shall undertake the following:
    - (i) Verification of status on State Stolen or Wanted System.

An officer must receive confirmation from a Police Department Communications Dispatcher or other department computer device, that the license plate is still stolen, wanted, or otherwise of interest before proceeding (absent exigent circumstances).

- (ii) Visual verification of license plate number.

Officers shall visually verify that the license plate of interest matches identically with the ALPR Read Image of the license plate number captured (ALPR Read) by the ALPR, including both the alphanumeric characters of the license plate, state of issue, and vehicle descriptors before proceeding. Department members alerted to the fact that an observed motor vehicle's license plate is entered as an ALPR Hit in a specific State Stolen or Wanted System list are required to make a reasonable effort to confirm that a wanted person is actually in the vehicle and/or that a reasonable basis exists before a Department member would have a lawful basis to stop the vehicle.

### **1302.6 CIVIL LIBERTIES AND RIGHTS PROTECTION:**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. The procedures described within this policy (Data Access, Data Protection, Data Retention, Public Access and Third Party Data Sharing) protect against the unauthorized use of ALPR data. These policies ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to impacts that may violate the First and Fourth Amendments and other potentially disparate or adverse impacts on any communities or groups.

The Berkeley Police Department does not permit the sharing of ALPR data gathered by the City or its contractors/subcontractors for purpose of federal immigration enforcement, pursuant to the California Values Act (Government Code § 7282.5; Government Code § 7284.2 et seq) – these federal immigration agencies include Immigrations and Customs Enforcement (ICE) and Customs and Border Patrol (CPB).

### **1302.7 PUBLIC ACCESS**

(a) Non-law enforcement requests for access to stored ALPR data shall be processed according to the Records Maintenance and Release Policy in accordance with applicable law.

(b) Non-law enforcement requests for information regarding a specific vehicle's license plate may be honored when the requester is the registered owner of the vehicle in question, and when providing such information will not invade the privacy of a third party. The requester in such cases must provide acceptable proof of his or her identity and of ownership of the vehicle in question.

### **1302.8 THIRD-PARTY DATA-SHARING**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as permitted by this policy. ALPR data is subject to the provisions of BPD Policy 415, and hence may not be shared with federal immigration enforcement officials.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

Aggregated ALPR data not related to specific criminal investigations authorized by a court order, subpoena, or search warrant shall not be released to any local, state or federal agency or entity without the express written consent of the City Manager.



Third-party data-sharing shall be subject to non-privileged and non-confidential City Council notification pursuant to BMC 2.99.020 (2) (a).

### **1302.9 TRAINING AND ALPR ADMINISTRATOR**

Training for the operation of ALPR technology shall be provided by BPD personnel. All BPD employees who utilize ALPR technology shall be provided a copy of this Surveillance Use Policy.

(1) The Investigations Division Captain shall be responsible for compliance with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

(i) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the Genetec ALPR system or to collect ALPR information.

(ii) Ensuring that training requirements are completed for authorized users. The Administrator shall ensure that members receive department-approved training for those authorized to use or access ALPRs (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

(iii) A description of how the Genetec ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

(iv) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.

(v) The title and name of the current designee in overseeing the ALPR operation.

(vi) Ensuring this policy and related procedures are conspicuously posted on the City's website.

### **1302.10 AUDITING AND OVERSIGHT**

Genetec ALPR System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant pursuant to Municipal Code Section 2.99 on a regular basis, at least biannually.

(1) Any unauthorized access or data breach shall be reported immediately to the City Manager.

(2) The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to Section 2.99, published on the City of Berkeley website in an appropriate location, and retained by PSD.

### **1302.11 MAINTENANCE**

Any installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Investigations Division Captain. The Investigations Division Captain will assign members under their command to administer the day-to-day operation of the ALPR equipment and data.



Office of the City Manager

ACTION CALENDAR

January 25, 2022

*(Continued from December 14, 2021)*

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jennifer Louis, Interim Chief of Police  
LaTanya Bellow, Interim Deputy City Manager

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

RECOMMENDATION

Adopt a Resolution accepting the Surveillance Technology Report for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project Pursuant to Chapter 2.99 of the Berkeley Municipal Code.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with adopting the attached resolution.

CURRENT SITUATION AND ITS EFFECTS

On March 27, 2018, the City Council adopted Ordinance 7,592-N.S., adding Chapter 2.99 to the Berkeley Municipal Code, which is also known as the Surveillance Technology Use and Community Safety Ordinance (“Ordinance”). The purpose of the Ordinance is to provide transparency surrounding the use of surveillance technology, as defined by Section 2.99.020 in the Ordinance, and to ensure that decisions surrounding the acquisition and use of surveillance technology consider the impacts that such technology may have on civil rights and civil liberties. Further, the Ordinance requires that the City evaluate all costs associated with the acquisition of surveillance technology and regularly report on their use.

The Ordinance imposes various reporting requirements on the City Manager and staff. The purpose of this staff report and attached resolution is to satisfy the annual reporting requirement as outlined in Section 2.99.070.

One of the reporting categories of the surveillance technology use is whether complaints have been received by the community about the various technologies. To date Berkeley Police Department Internal Affairs Bureau (IAB) has not received any external personnel complaints surrounding the use of Automatic License Plate Readers,

(Continued from December 14, 2021)

GPS Trackers, or Body Worn Cameras. External complaints from community members can be made in writing, via email, in person or via telephone. Complaints can be received with direct communication to Internal Affairs from the complainant and/or be received by any member of the Department and then forwarded through the chain of command. If a community member initiates a complaint against a subject employee and during the investigation it is determined the subject employee violated policy regarding the misuse of technology, an additional complaint is initiated by the Chief of Police.

Community members also have the right to initiate complaints against employees of BPD by reporting directly to the Police Accountability Board (PAB). The Director of Police Accountability notifies the Chief of Police when an investigation into a complaint is initiated by the PAB, which would prompt a parallel IAB investigation.

Attached to this staff report are Surveillance Technology Reports for Automatic License Plater Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project.

#### BACKGROUND

On March 27, 2018, the City Council adopted Ordinance 7,592-N.S., adding Chapter 2.99 to the Berkeley Municipal Code, which is also known as the Surveillance Technology Use and Community Safety Ordinance. Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance at the first regular City Council meeting in November.

For each of the four technologies, the Surveillance Technology Reports were prepared to satisfy the specific, section-by-section requirements of the Ordinance, and are attached to this report.

The Surveillance Technology Use Policy for ALPR technology is still outstanding due Council questions about policy language, scheduling and directed focus during COVID-19. This item will be returned to the Council agenda in early 2022.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

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

#### RATIONALE FOR RECOMMENDATION

City Council is being requested to adopt the attached resolution for the City to be in compliance with the Ordinance.

#### ALTERNATIVE ACTIONS CONSIDERED

City Council could decide not to adopt the resolution.

(Continued from December 14, 2021)

CONTACT PERSON

LaTanya Bellow, Interim Director of Information Technology (510) 981-6541

Jennifer Louis, Acting Chief of Police, (510) 981-5700

LaTanya Bellow, Interim Deputy City Manager, (510) 981-7012

ATTACHMENTS

1. Resolution
2. Body Worn Cameras
  - a) Surveillance Technology Report: Body Worn Cameras
  - b) Retention Schedule
3. Global Positioning System (GPS) Tracking Devices  
Surveillance Technology Report
4. Automated License Plate Readers  
Surveillance Technology Report: Automated License Plate Readers
5. Street Level Imagery Project  
Surveillance Technology Report: Street Level Imagery Project

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

A RESOLUTION ACCEPTING THE SURVEILLANCE TECHNOLOGY REPORT FOR AUTOMATIC LICENSE PLATE READERS, GPS TRACKERS, BODY WORN CAMERAS, AND THE STREET LEVEL IMAGERY PROJECT

WHEREAS, on March 27, 2018, the City Council adopted Ordinance 7,592-N.S., which is known as the Surveillance Technology Use and Community Safety Ordinance (“Ordinance”); and

WHEREAS, Section 2.99.070 of the Ordinance requires that the City Manager must submit to the City Council a Surveillance Technology Report as defined by Section 2.99.020(2) of the Ordinance at the first regular City Council meeting in November; and

WHEREAS, the Surveillance Technology Reports satisfy the requirements of the Ordinance.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby accepts the Surveillance Technology Reports for Automatic License Plate Readers, GPS Trackers, Body Worn Cameras, and the Street Level Imagery Project.

**Surveillance Technology Report: Body Worn Cameras**

**October 1, 2020 – Sept. 30, 2021**

|                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Description</p> | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Body Worn Cameras are used to capture video recordings of contacts between department personnel and the public, to provide an objective record of these events. These recording are used in support of criminal prosecutions, to limit civil liability, increase transparency and enhance professionalism and accountability in the delivery of police services to the community. Body Worn Camera (BWC) files are shared with the Alameda County District Attorney’s office in support of prosecution for crime, and may be shared with other law enforcement agencies to support criminal investigations.</p> <p><b>Policy regarding activation of the Body Worn Camera BPD Policy 425.7</b></p> <p>Members shall activate the BWC as required by this policy in (a)-(f) below, and may activate the BWC at any time the member believes it would be appropriate or valuable to record an incident within the limits of privacy described herein.</p> <p>The BWC shall be activated in any of the following situations:</p> <ul style="list-style-type: none"> <li>(a) All in-person enforcement and investigative contacts including pedestrian stops and field interview (FI) situations.</li> <li>(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.</li> <li>(c) Self-initiated field contacts in which a member would normally notify the Communications Center.</li> <li>(d) Any search activity, including the service of search or arrest warrants; probation, parole, or consent searches where the member is seeking evidence of an offense, or conducting a safety sweep or community caretaking sweep of the premises. Once a location has been secured and the member is not interacting with detainees or arrestees, the member may mute their BWC when conducting a search for evidence.</li> <li>(e) Any other contact that the member determines has become adversarial after the initial contact in a situation where the member would not otherwise activate BWC recording.</li> <li>(f) Transporting any detained or arrested person and where a member facilitates entry into or out of a vehicle, or any time the member expects to have physical contact with that person.</li> </ul> <p><b>What data is captured by this technology:</b></p> <p>BWC use is limited to enforcement and investigative activities involving members of the public. The BWC recordings will capture video and audio evidence for use in criminal investigations, administrative reviews, training, civil litigation, and other proceedings protected by confidentiality laws and department policy. Improper use or release of BWC</p> |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                     | <p>recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded and is prohibited.</p> <p><b>How the data is stored:</b><br/>                 BWC videos are stored on a secure server. All BWC data will be uploaded and stored on Axon Cloud Services, Evidence.com. Axon complies with the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union and Switzerland to the United States (collectively, "Privacy Shield"). Axon has certified to the U.S. Department of Commerce that it adheres to the Privacy Shield Principles.</p> <p><b>Retention period of data:</b><br/>                 See attached retention schedule.</p> <p>Summary of Body Worn Camera Videos Uploaded Oct. 1, 2020 to Sept. 30, 2021:</p> <table data-bbox="592 783 1024 884"> <tr> <td>Total Number of Videos</td> <td>62,283</td> </tr> <tr> <td>Total Hours of Videos</td> <td>16,310</td> </tr> <tr> <td>Total GB of BWC Videos</td> <td>29,017</td> </tr> </table> <p>Summary of Digital Evidence Uploaded, Oct. 1, 2020 to Sept. 30, 2021:</p> <table data-bbox="586 997 1105 1266"> <thead> <tr> <th>Type</th> <th>File Count</th> <th>Size (GBs)</th> </tr> </thead> <tbody> <tr> <td>Audio</td> <td>1,150</td> <td>11.72</td> </tr> <tr> <td>Document</td> <td>737</td> <td>2.38</td> </tr> <tr> <td>Image</td> <td>67,672</td> <td>331.36</td> </tr> <tr> <td>Other</td> <td>1,292</td> <td>157.71</td> </tr> <tr> <td>Video*</td> <td>67,865</td> <td>30,086.75</td> </tr> <tr> <td><b>Total</b></td> <td><b>138,716</b></td> <td><b>30,589.92</b></td> </tr> </tbody> </table> <p>* Includes all uploaded BWC videos and all other videos booked into the evidence management system. Other videos include iPhone videos uploaded, security camera video, copies of BWC videos (for redaction, etc.), and any other videos.</p> | Total Number of Videos | 62,283 | Total Hours of Videos | 16,310 | Total GB of BWC Videos | 29,017 | Type | File Count | Size (GBs) | Audio | 1,150 | 11.72 | Document | 737 | 2.38 | Image | 67,672 | 331.36 | Other | 1,292 | 157.71 | Video* | 67,865 | 30,086.75 | <b>Total</b> | <b>138,716</b> | <b>30,589.92</b> |
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| Total Number of Videos              | 62,283                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Total Hours of Videos               | 16,310                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Total GB of BWC Videos              | 29,017                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Type                                | File Count                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Size (GBs)             |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Audio                               | 1,150                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 11.72                  |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Document                            | 737                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 2.38                   |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Image                               | 67,672                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 331.36                 |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Other                               | 1,292                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 157.71                 |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| Video*                              | 67,865                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 30,086.75              |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| <b>Total</b>                        | <b>138,716</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>30,589.92</b>       |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| <p><b>Geographic Deployment</b></p> | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Body Worn Cameras are worn by all BPD uniformed officers city-wide at all times; BWCs are not deployed based on geographic considerations.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| <p><b>Complaints</b></p>            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no complaints about the deployment and use of Body Worn Cameras.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |
| <p><b>Audits and Violations</b></p> | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                        |        |                       |        |                        |        |      |            |            |       |       |       |          |     |      |       |        |        |       |       |        |        |        |           |              |                |                  |



|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|               | File meta-data are routinely reviewed by our BWC manager, to ensure required metadata fields are completed. There have been no complaints with regards to violations of the Surveillance Use Policy.                                                                                                                                                                                                                                                                                                                                   |
| Data Breaches | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to BWC data.</p>                                                                                                                                                                                       |
| Effectiveness | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>Body Worn Cameras have proven effective in supporting criminal prosecutions, as video footage is available for all criminal prosecutions. Body Worn Cameras have been effective for training purposes, as footage can be reviewed in incident de-briefs. Body Worn Cameras have been extremely effective in support of Internal Affairs investigations and Use of Force Review.</p> |
| Costs         | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual cost for the Body Worn Cameras, including cameras, replacement cameras, software, and Axon's secure digital evidence management system is approximately \$204,000 per year over a five-year, \$1,218,000 contract. There is one full-time employee assigned to the BWC program, an Applications Programmer Analyst II, at a cost of \$168,940 per year, including benefits.</p>                                  |

| NAME                        | RETENTION DURATION     |
|-----------------------------|------------------------|
| Uncategorized               | Until manually deleted |
| 187 / Felony Sex Assault    | Until manually deleted |
| Civil / City / Non-Evidence | 1 year                 |
| Collision                   | 2 years                |
| Consent / Aid               | 108 weeks              |
| Detention / Warrant Only    | 108 weeks              |
| Felony Evidence             | 5 years                |
| Litigation                  | Until manually deleted |
| Misdemeanor Evidence        | 2 years                |
| Officer Injury              | Until manually deleted |
| OIS / Critical Incident     | Until manually deleted |
| Pending Review              | Until manually deleted |
| Personnel / VSA             | 3 years                |
| Personnel Complaint         | Until manually deleted |
| Traffic Stop                | 108 weeks              |
| Training                    | 60 days                |
| Use of Force                | 108 weeks              |
| z_Saved                     | Until manually deleted |

## Surveillance Technology Report: Global Positioning System Tracking Devices

October 1, 2019 – Sept. 30, 2020

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| Description | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Global Positioning System Trackers are used to track the movements of vehicles, bicycles, other items, and/or individuals.</p> <p><b>What data is captured by this technology:</b><br/>A GPS Tracker data record consists of date, time, latitude, longitude, map address, and tracker identification label. The data does not contain any images, names of subjects, vehicle information or other identifying information on individuals.</p> <p><b>How the data is stored:</b><br/>The data from the GPS tracker is encrypted by the vendor. The data is only accessible through a secure website to BPD personnel who have been granted security access.</p> <p><b>Retention period of data:</b><br/>Tracker data received from the vendor shall be kept in accordance with applicable laws, BPD policies that do not conflict with applicable law or court order, and/or as specified in a search warrant.</p> <p>For the date range of 10-01-19 through 09-30-20 the Global Positioning System (GPS) “Electronic Stake Out” (ESO) devices were deployed on “bait” bicycles 52 times, resulting in 34 arrests, 4 eluded capture, 1 person was detained and not arrested, and in 13 deployments the bicycle was not stolen. This program was suspended in mid-March due to the COVID-19 pandemic.</p> <p>GPS “Slap-N-Track” (SNT) devices were used in three separate investigations during this reporting period:</p> <ol style="list-style-type: none"> <li>(1) An investigation of an individual for Sexual Exploitation, Child Pornography, and Distribution of Child Pornography. This suspect currently has a Federal warrant.</li> <li>(2) An investigation of a serial kidnap rape suspect. The suspect was arrested and charged.</li> <li>(3) An investigation into multiple suspects involved in a “Rolex” robbery series that involved the cities of Berkeley, Piedmont, and Orinda. Two devices were used on two different suspect vehicles during this investigation. Four suspects from the above cases were arrested and charged for their involvement in these robberies.</li> </ol> |
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|                       | Data may be shared with the District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence; other law enforcement personnel as a part of an active criminal investigation; and other third parties, pursuant to a court order.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Geographic Deployment | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>GPS ESO-equipped bikes were deployed primarily in commercial districts across the city where bikes are frequently stolen.</p> <p>GPS SNT devices are deployed with judicial pre-approval, based on suspect location, rather than geographical consideration.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Complaints            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There were no complaints made regarding GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Audits and Violations | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There were no audits and no known violations relating to GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Data Breaches         | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There were no known data breaches relating to GPS Trackers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Effectiveness         | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>GPS Trackers continue to be very effective in apprehending bicycle thieves, many of whom are repeat offenders who've committed not only bike thefts, but other crimes as well, such as burglaries, auto burglaries, and vehicle thefts. SNT trackers are effective in that they provide invaluable information on suspect vehicle location during the investigation of complex cases where suspects may be moving around the Bay Area and beyond.</p> <p>GPS Trackers greatly reduce costs associated with surveillance operations. A bike may be left for days. Surveillance operations generally involve four or more officers for the entire duration of an operation. A moving surveillance is extremely resource-intensive, requiring multiple officers in multiple vehicles for extended periods of time. Using both types of GPS trackers eliminates the need for officers' immediate presence until officers are ready to apprehend the suspect(s).</p> <p>The program was suspended in mid-March due to the COVID-19 pandemic. This program will likely resume once the pre-COVID bail schedule is re-established.</p> |
| Costs                 | Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

The annual cost for the GPS Trackers' data service is \$1,920. Further information regarding costs is contained in Policy 1301a, the Surveillance Acquisition Report.

There are staff time costs associated with preparing and placing SNT trackers. The investigator must prepare a search warrant and obtain a judge's approval, and a small number of officers must place the tracker on the suspect's car. The total number of hours is a fraction of the time it would take to do a full surveillance operation involving numerous officers.

There are staff time costs associated with preparing ESO trackers and placing ESO tracker-equipped bikes for bait bike operations. These are on the order of two-four hours per operation. The total number of hours is extremely small, given the large number of operations, and resulting arrests.

## Surveillance Technology Report: Automated License Plate Readers

October 1, 2019 – Sept. 30, 2020

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|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Description | <p>A description of all non-privileged and non-confidential information about use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report shall include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</p> <p>Automated License Plate Readers (ALPRs) are used by Parking Enforcement Bureau vehicles for time zone parking and scofflaw enforcement. The City's Transportation Division uses anonymized information for purposes of supporting the City's Go Berkeley parking management program. ALPR use replaced the practice of physically "chalking" tires, which is no longer allowed by the courts.</p> <p><b>What data is captured by this technology:</b><br/>ALPR technology functions by automatically capturing an image of a vehicle's license plate, transforming that image into alphanumeric characters using optical character recognition software, and storing that information, along with relevant metadata (e.g. geo-location and temporal information, as well as data about the ALPR).</p> <p><b>How the data is stored:</b><br/>The data is stored on a secure server by the vendor.</p> <p><b>Retention period of data:</b><br/>Collected images and metadata of hits are stored no more than 365 days. Metadata of reads are not stored more than 30 days.</p> <p style="text-align: center;"><b>Summary of ALPR Time Zone Enforcement Data</b></p> <p style="text-align: center;">Read Data<br/>There was an average of 12,059 "Reads" per working day<br/>(Based on one month's data: 9/1/20/-9/30/20)</p> <p style="text-align: center;">Hit Data<br/>There were 44,068 "Hits"<br/>14,945 "Enforced Hits" resulted in citation issuance.<br/>2,569 "Not Enforced" valid, enforceable hits resulted in no citation issued,<br/>based on PEO discretion.</p> <p>26,554 Hits were not acted upon for a variety of reasons including but not limited to:</p> <ol style="list-style-type: none"> <li>1) Customer comes out to move a vehicle. PEO's are directed not to issue that citation.</li> <li>2) Officer gets to the dashboard and sees a permit not visible from a previous location.</li> <li>3) Officer does a vehicle evaluation and confirms that the vehicle moved from the hit location (e.g. across the street within GPS range).</li> <li>4) Stolen car.</li> <li>5) Similar Plates.</li> <li>6) 600-700 GIG cars- 100 revel scooters.</li> </ol> |
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|                                     | <p>7) Officers leave their LPR “on” collecting time zone enforcement data, but leave the area being enforced to drive to another location on another assignment, such as a traffic post at a collision scene. These hits are not enforced.</p> <p>Genetec is the vendor for the ALPR Time Zone enforcement system. A “read” indicates the ALPR system successfully read a license plate. The information that is generated when a plate is viewed by the ALPR camera is the license plate number, state and geographical (GPS) location it was viewed. A “hit” indicates the ALPR system detected a possible violation, which prompts the Parking Enforcement Officer to further assess the vehicle. At “hit” is when the “read” information is recognized as a license plate that matches, or does not match an entry in a list such as permit list or the stolen vehicle “hot list”. In many cases, hits are “rejected” or “not enforced”, meaning no enforcement action is taken, because the Parking Enforcement Officer determines the vehicle has an appropriate placard or permit, or there is other information or assignment which precludes citation.</p> <p style="text-align: center;"><b>Summary of ALPR Booting Scofflaw Enforcement Data</b></p> <p style="text-align: center;">0 vehicles booted from 10/1/19-9/23/20.</p> <p>The Berkeley Police Department no longer maintains the ALPR Booting Scofflaw Enforcement Program. The contract to provide this service became cost prohibitive and the city opted not to renew the contract with the vendor. The city returned to having each PEO working a beat again become responsible for recognizing when a license plate has accumulated five or more unpaid parking tickets.</p> <p>All BPD ALPR data may only be shared with other law enforcement or prosecutorial agencies for official law enforcement purposes, or as otherwise permitted by law. All ALPR data is subject to the provisions of BPD Policy 415 - Immigration Law, and therefore may not be shared with federal immigration enforcement officials.</p> |
| <p><b>Geographic Deployment</b></p> | <p>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</p> <p>Only Parking Enforcement Vehicles are equipped with ALPRs. ALPRs are deployed based on areas where there are parking time restrictions. ALPRs are not deployed based on geographic considerations not related to parking and scofflaw enforcement.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>Complaints</b></p>            | <p>A summary of each complaint, if any, received by the City about the Surveillance Technology.</p> <p>There have been no complaints about to the deployment and use of Automated License Plate Readers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p><b>Audits and Violations</b></p> | <p>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</p> <p>There have been no complaints of violations of the ALPR Surveillance Use Policy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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| <p>Data Breaches</p> | <p>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</p> <p>There have been no known data breaches or other unauthorized access to Automated License Plate Reader data.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>Effectiveness</p> | <p>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</p> <p>ALPRs have proven effective in parking enforcement for time zone enforcement; the prior utilization of manually chalking car tires for time zone enforcement has been disallowed by court decision.</p> <p>ALPRs have proven effective in supporting enforcement upon vehicles which have five or more unpaid citations. The ALPR's ability to read and check license plates while being driven greatly increases efficiency, allowing an operator to cover larger areas more quickly without having to stop except to confirm a hit.</p>                                                                                                                                                    |
| <p>Costs</p>         | <p>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</p> <p>The annual system maintenance cost for Genetec is \$47,000. This cost is borne by the Transportation Division, which also purchased the ALPR units used in Time Zone Enforcement.</p> <p>Two new Genetec ALPR units were purchased during the period covered by this report. The two new units were purchased in order to equip the final two parking vehicles that did not have ALPR units attached to them.</p> <p>Genetec ALPR units are installed on 23 Parking Enforcement vehicles. Parking Enforcement personnel perform a variety of parking enforcement activities, and are not limited solely to time zone enforcement. Therefore, personnel costs specifically attributable to time zone enforcement are not tracked.</p> |



## Surveillance Technology Report: Street Level Imagery Project

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|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Description</b></p>           | <p><b>A description of all non-privileged and non-confidential information about the use of the Surveillance Technology, including but not limited to the quantity of data gathered and sharing of data, if any, with outside entities. If sharing has occurred, the report will include general, non-privileged and non-confidential information about recipient entities, including the names of the entities and purposes for such sharing.</b></p> <p>Street level imagery will be utilized exclusively by authorized City staff for infrastructure asset management and planning activities. The street level imagery of City infrastructure assets in the Public Right of Way that is provided to the City will not consist of information that is capable of being associated with any individual or group.</p> |
| <p><b>Geographic Deployment</b></p> | <p><b>Where applicable, non-privileged and non-confidential information about where the surveillance technology was deployed geographically.</b></p> <p>Street level imagery was collected by driving through the entire community over a three week period. It is accessible to the City through a proprietary third-party application, Street SmartTM.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>Complaints</b></p>            | <p><b>A summary of each complaint, if any, received by the City about the Surveillance Technology.</b></p> <p>There have been no complaints about the deployment and use of Street SmartTM.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p><b>Audits and Violations</b></p> | <p><b>The results of any non-privileged internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response.</b></p> <p>There have been no complaints with regards to violations of the Surveillance Use Policy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>Data Breaches</b></p>         | <p><b>Non-privileged and non-confidential information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.</b></p> <p>There have been no known data breaches or other unauthorized access to Cyclomedia Street Level Imagery data.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                    |



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| <p><b>Effectiveness</b></p> | <p><b>Information that helps the community assess whether the Surveillance Technology has been effective in achieving its identified outcomes.</b></p> <p>Staff considered hiring contractors to use GPS in the field to create and update the infrastructure asset GIS data. This method is costly and time consuming. Cyclomedia’s unique and patented processing techniques allow positionally-accurate GIS data to be collected in a cost-effective way and over a shorter period of time than a “boots on the ground” GPS field survey.</p> <p>The Imagery is being used to extract the following Citywide Infrastructure assets to create accurate and current Geographic Information Systems (GIS) data inventories:</p> <ul style="list-style-type: none"> <li>• Bus pads / stops</li> <li>• Maintenance Access Holes</li> <li>• Pavement Striping</li> <li>• Curb paint color</li> <li>• Parking meters</li> <li>• Pedestrian Signal</li> <li>• Pavement marking</li> <li>• Storm drains</li> <li>• Signs</li> <li>• Street trees</li> <li>• Traffic lights</li> </ul> <p>The street level imagery captured is also being used to:</p> <p>Create a street sign GIS layer with condition assessment to support compliance with the Manual on Uniform Traffic Control Devices Code and provide an accurate inventory of City signs. The existing sign inventory is contained in a spreadsheet that does not have accurate location data.</p> <p>Create a curb color layer with condition assessment to indicate where there are red, yellow, blue, white and green colors. This is critical to support Public Safety.</p> <p>Create pavement striping and paint symbol layers to support Transportation Planning and Vision Zero.</p> <p><b><u>Benefits Projected:</u></b></p> <p>The data from the street level imagery is being integrated into the City’s work order and asset management system for planning activities and to document repair and maintenance.</p> <p>Planners can use the street level imagery provided to the City to take measurements remotely, such as sidewalk width and public right of way impacts at proposed development locations.</p> <p>City staff can use the street level imagery to plan the location of road markings for pedestrian crossings, bike lanes or other striping.</p> |
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|                       | <p>City staff can remotely take accurate measurements of infrastructure assets to adequately plan for repair and replacement.</p> <p>City staff can use the street level imagery to enhance community engagement. The street level imagery can be used to identify and depict the impact of development such as an intersection restriping plan in order to article before and after conditions.</p> |                                            |                                                                                                                                |                                                                                                                                |
| <b>Costs</b>          | <p><b>Total annual costs for the Surveillance Technology, including personnel and other ongoing costs.</b></p>                                                                                                                                                                                                                                                                                       |                                            |                                                                                                                                |                                                                                                                                |
|                       | <p>The total cost of the system is \$232,401 and is itemized below.</p>                                                                                                                                                                                                                                                                                                                              |                                            |                                                                                                                                |                                                                                                                                |
|                       | <b>Year No.</b>                                                                                                                                                                                                                                                                                                                                                                                      | <b>Description</b>                         | <b>Cost</b>                                                                                                                    | <b>Notes</b>                                                                                                                   |
|                       | 1                                                                                                                                                                                                                                                                                                                                                                                                    | Licenses                                   | \$48,000                                                                                                                       | Resolution No: 69,482-N.S. 30JUN20                                                                                             |
|                       | 1                                                                                                                                                                                                                                                                                                                                                                                                    | Professional Services for asset extraction | \$139,401                                                                                                                      | Resolution No: 69,482-N.S. 30JUN20                                                                                             |
|                       | 2                                                                                                                                                                                                                                                                                                                                                                                                    | Licenses and Support – One-Time            | \$45,000                                                                                                                       | Pending Council approval after imagery and data extraction work is completed<br>Licensing Costs included in IT Cost allocation |
| 3                     | License and Support – Ongoing Annual Costs                                                                                                                                                                                                                                                                                                                                                           | \$3,000                                    | Pending Council approval after imagery and data extraction work is completed<br>Licensing Costs included in IT Cost allocation |                                                                                                                                |
| <b>Total Year 1-3</b> |                                                                                                                                                                                                                                                                                                                                                                                                      | <b>\$235,401</b>                           |                                                                                                                                |                                                                                                                                |



Office of the City Manager

ACTION CALENDAR

January 25, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Deputy City Manager

Subject: COVID-19 Response 2021 Summary Report

INTRODUCTION

This report provides an update on the City's COVID-19 pandemic response efforts for the period from October 2020 through October 2021. It builds upon a previous report covering the first nine months of the pandemic.

CURRENT SITUATION AND ITS EFFECTS

To continue to document and communicate the City's response to COVID-19, staff compiled the attached summary report. The attached report contains a detailed update on the City's response to COVID-19 from October 2020 through October 2021. Documenting the City's response supports transparency and helps identify and codify key lessons learned that will help Berkeley remain a resilient, safe, connected, and prepared city—a Strategic Plan goal.

BACKGROUND

The *COVID-19 Response 2020 Summary Report*<sup>1</sup> was presented to Council on October 27, 2020 and covered the period from the initial activation of the Emergency Operations Center (EOC) in January 2020 through September 2020. As part of the 2020 Summary Report, the City Manager also responded to a Short-term Referral, "Lessons Learned in Organizational Management During Crisis".<sup>2</sup>

From the beginning of 2020, the City has been working to respond to the COVID-19 pandemic. These efforts ramped up significantly in March 2020, when the City issued its first Shelter-In-Place Order to address the community spread of COVID-19 and fully activated the EOC. The initial mobilization of staff involved over 550 employees from every department, including the City Auditor's Office, the Library, and the Rent Stabilization Board. Over time, the number of staff directly involved in emergency operations has varied with need, but to date the EOC remains active. Key areas of the

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/10\\_Oct/City\\_Council\\_\\_10-27-2020\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/10_Oct/City_Council__10-27-2020_-_Regular_Meeting_Agenda.aspx)

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/06\\_June/Documents/2020-06-16\\_Item\\_24\\_Lessons\\_Learned\\_in\\_Organizational.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/06_June/Documents/2020-06-16_Item_24_Lessons_Learned_in_Organizational.aspx)

City's response to COVID-19 in the period from October 2020 through October 2021, included:

- COVID-19 testing,
- COVID-19 vaccines,
- Work with vulnerable populations,
- Disease containment,
- Supporting schools and childcare centers,
- Public information and outreach,
- Community support, and
- Cost recovery.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The *COVID-19 Response 2021 Summary Report* was created and distributed electronically, avoiding waste associated with paper use.

#### POSSIBLE FUTURE ACTION

City Council may direct staff to develop another update on COVID-19 response, as time progresses. It is uncertain how long the COVID-19 pandemic will require an active response from the City. Staff are planning for some response activities continuing through 2022, and eventually being absorbed into daily department operations. The bulk of ongoing pandemic related response, even after the EOC is demobilized, will be led by the new COVID-19 Response Unit in the Department of Health, Housing and Community Services. This unit is discussed further in the attached report.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

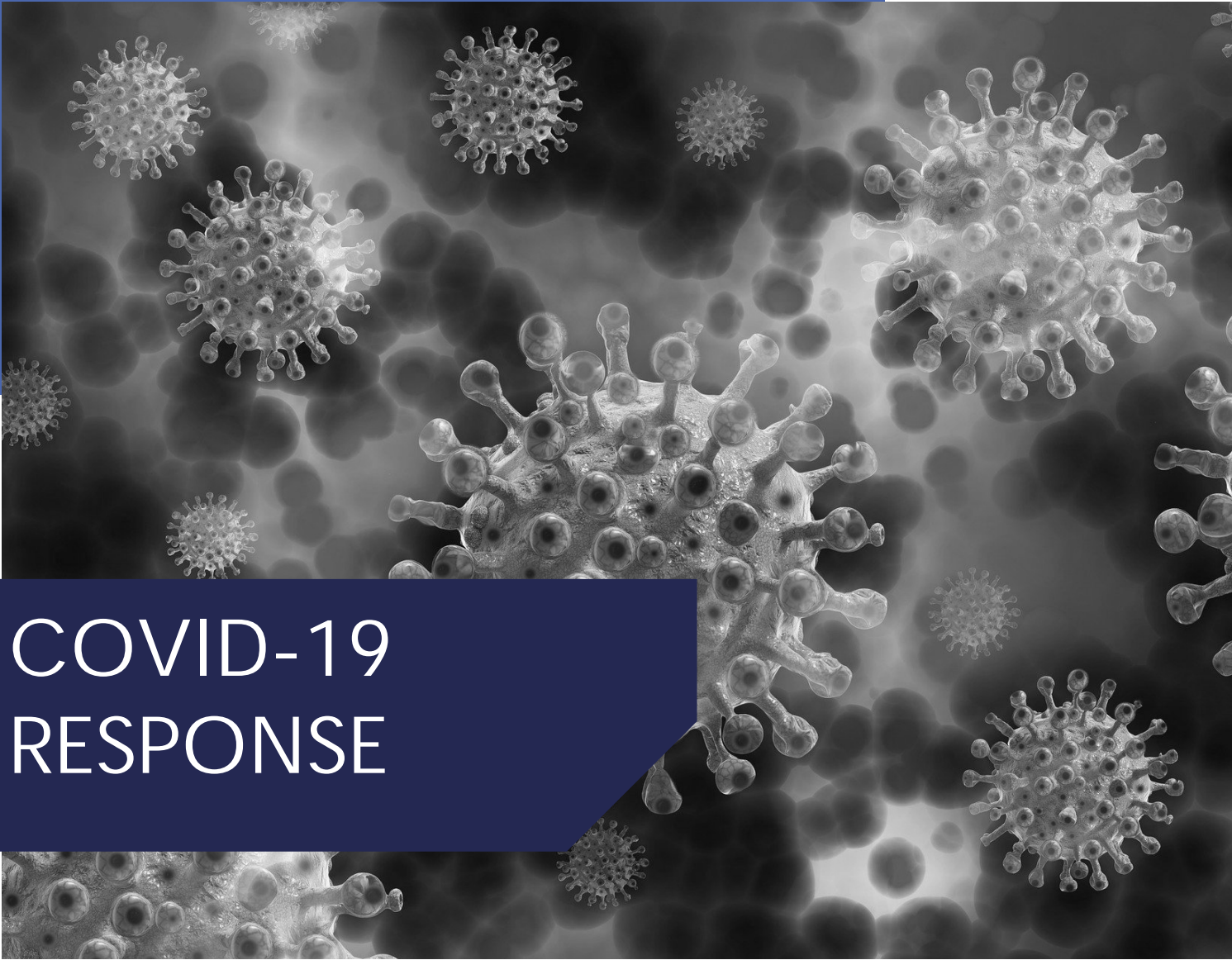
The City would need to identify additional sources of funding if the pandemic requires response activities beyond those covered by the grants funding the new COVID-19 Response Unit.

#### CONTACT PERSON

Paul Buddenhagen, Deputy City Manager, City Manager's Office, 510-981-7014

Attachments:

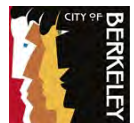
1: COVID-19 Response 2021 Summary Report



# COVID-19 RESPONSE

## 2021 Summary Report

January 2022 | Prepared by the Emergency Operations Center



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# INTRODUCTION

In October 2020 the City of Berkeley provided a summary report describing its response to COVID-19 from January 2020 through September 2020. The COVID-19 pandemic and the City's response continues to date. This report provides an update on the City's pandemic response from October 2020 through October 2021.

The previous summary report included background and contextual information (e.g., emergency operations, impacts of the pandemic on organization, etc.) This report picks up where the initial report left off, focusing on major themes of the City's response since fall 2020:

- COVID-19 Testing,
- COVID-19 Vaccines,
- Work with Vulnerable Populations,
- Disease Containment,
- Supporting Schools and Childcare Centers,
- Public Information and Outreach,
- Community Support,
- Rental Housing Support, and
- Cost Recovery.

Most of these major themes were initially reported on in 2020 and continue to be important elements of the City's response in 2021. Similar to the initial summary report, this report also explores lessons learned by the organization during our response to this pandemic.

## Report Dedication

I would like to extend my gratitude, for early and ongoing support throughout this pandemic, to our City Council -- positions show below from reporting period:

Mayor Jesse Arreguín

Vice Mayor Lori Droste, District 8

Rashi Kesarwani, District 1

Terry Taplin, District 2

Ben Bartlett, District 3

Kate Harrison, District 4

Sophie Hahn, District 5

Susan Wengraf, District 6

Rigel Robinson, District 7

Berkeley's City Council has provided tremendous vision and leadership from the beginning of the emergency, including supporting residential and commercial tenants, amplifying communications to Berkeley residents and providing financial support to struggling local businesses. Additionally, I am grateful for the continued sacrifice, flexibility, and hard work of our City staff. We are all struggling to recover from the collective trauma brought by this extended and extraordinary emergency. Despite our current Omicron surge, our community's high vaccination rate and steadfast commitment to following safety protocols and science bodes well, and I have hope that we will emerge stronger from this crisis before too much longer. Although COVID-19 is likely to be with us going forward, our City has shown its resilience as we learn together how to safely live alongside this virus.

Throughout the past two years, first responders and essential service workers have continued their work, from the beginning of the pandemic when scientists were still working to understand the virus, throughout the shelter-in-place, and when COVID-19 surged in winter of 2020. Police officers and firefighters have continued to respond to calls to keep our community safe. Essential service workers maintained our infrastructure, our facilities, and collected our refuse and recycling. Even more City staff put aside their normal duties to work in new jobs in unfamiliar environments in support of the Emergency Operations Center's pandemic response. Additionally, staff from every corner of the city continued to work to keep moving on council priorities. Lastly, I would like to thank all of the staff, generous volunteers and people of Berkeley who gave their time and resources to keep our community safe by:

- maintaining accessible testing services,
- rolling out the COVID-19 vaccine in Berkeley,
- delivering meals and COVID-19 vaccine to our most vulnerable community members, including seniors in their homes and others living in shelters and encampments,
- slowing COVID-19's spread by contacting individuals who have tested positive for COVID-19 and providing them with education and support so they could isolate safely.

**Dee Williams-Ridley**  
City Manager

January 20, 2021

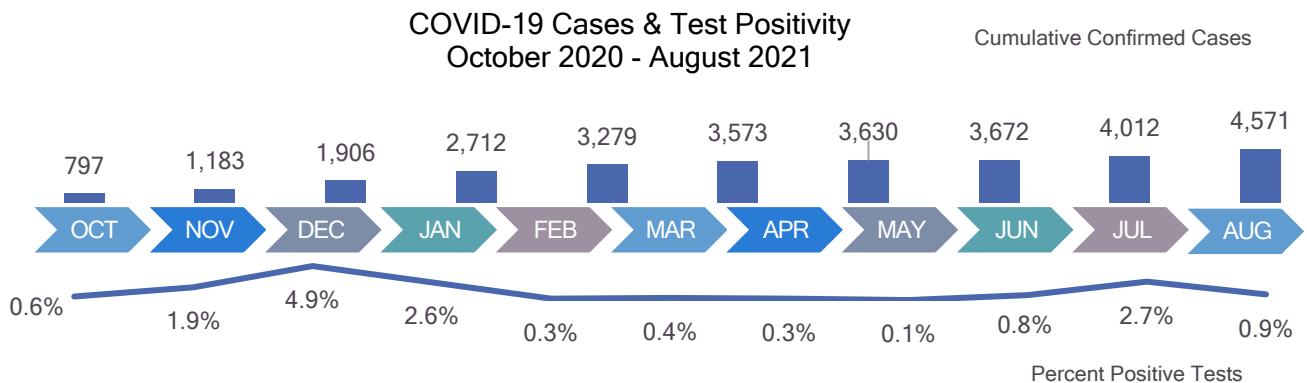
# BERKELEY RESPONDS

## Overview

The City has been responding to the COVID-19 pandemic for more than two years. This section of the report highlights some of the ongoing work from fall of 2020 through the present day. The below timeline provides data that drove key decisions and milestones described in the following sections. The timeline depicts Berkeley's cumulative confirmed cases for the last day and percent positive tests<sup>1</sup> for the last week of each month.<sup>2</sup> In other words, the timeline shows:

- how the number of overall cases grew month-by-month (i.e., from 797 in October 2020 to 4,571 in August 2021), and
- how the percentage of positive COVID tests varied each month of the year.

This graphic illustrates the surge in winter 2020, when cases increased significantly and many more COVID tests were positive.



<sup>1</sup> Percent positive helps us understand how widespread COVID is in our community, as well as whether our testing is aligned with the level of transmission.

<sup>2</sup> Case counts and percent positive test information from <https://www.cityofberkeley.info/covid19-data/>; source material <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/CaIREDIE.aspx>, <https://data.cityofberkeley.info/Health/COVID-19-Confirmed-Cases/xn6j-b766>, and <https://data.cityofberkeley.info/Health/COVID-19-All-Tests-Resulted-Weekly/mc9x-5kpz>.

## Major Themes of the Response

In October 2020, the City was nearly a full year into its response to the pandemic. As the City's COVID-19 response continued from October 2020 through October 2021, staff from every department, including the City Auditor's Office, the Library and the Rent Stabilization Board, continued their work to address and help mitigate the myriad impacts of the COVID-19 pandemic to public health and safety, our small businesses and economy, our schools, and our social well-being. Some particular efforts stand out as major themes of this second year of the response:

- COVID-19 Testing,
- COVID-19 Vaccines,
- Work with Vulnerable Populations,
- Disease Containment,
- School and Childcare Support,
- Public Information and Outreach,
- Community Support,
- and
- Cost Recovery.

The work, of course, goes beyond these major themes. It is ongoing and will continue.

## COVID-19 Testing

### Overview

As the pandemic entered into its second year, COVID-19 testing continued to be an important tool to constrain disease spread so that schools, businesses and indoor public spaces could remain open. The City continued its work to ensure that reliable COVID-19 testing with fast results was widely available and has worked diligently to maintain equitable testing availability. To further integrate COVID-19 response activities into daily operations, the Department of Health, Housing, and Community Services (HHCS) hired additional staff members to work on COVID-19 testing and vaccine operations full time. These staff started in summer 2021 and will continue to implement these COVID-19 response activities even after the Emergency Operations Center (EOC)<sup>3</sup> demobilizes.

### Key Activities & Decisions

OCT 2020

- Entering into new agreement with Curative, Inc., testing all essential workers, particularly as schools reopened.
- Transitioning Curative, Inc. testing location from North Berkeley Bay Area Rapid Transit (BART) to a semi-permanent kiosk at Berkeley Adult School.
- Conducting testing at outdoor encampments, via Lifelong Medical.
- Creating a testing team for schools, consisting of public health officials and Berkeley Unified School District (BUSD) nurses, to support return to in-person instruction.

NOV 2020

- Expanding operations at Optum testing site at Martin Luther King Jr. Youth Services Center/Young Adult Project (YAP) from 165 to 330 tests per day.
- Soliciting the State for a testing bus, in close coordination with Alameda County. This semi-mobile option could be deployed to pre-planned locations and had capacity to test 500+ people daily.

DEC 2020-  
JAN 2021

- Supporting Berkeley schools with the establishment of on-campus testing programs by: providing information and resources, sharing lists of

<sup>3</sup> The Emergency Operations Center (EOC) is a coordination and support structure helping City departments during an emergency by providing a flexible organization structure to adapt to quickly changing needs, supporting decision-making and resource management, and collecting, analyzing, and disseminating information.

recommended testing providers and hosting an introductory workshop for interested schools to explore a testing partnership with Curative.

- Preparing for and then launching mobile testing bus operations, through OptumServ partnership with the State. Initial locations included Allston Way, Harold Way, Meyer Sound, and Berkeley Bowl & Berkeley Bowl West.

FEB-APR  
2021

- Averaging 1,000 daily tests conducted in Berkeley.
- Establishing North County/Berkeley testing schedule, which included Safer Ground<sup>4</sup> sites and a variety of mobile bus testing sites.
- Decreasing Curative site operations from six to five days per week.
- Multicultural Institute, Bay Area Community Services (BACS), Dorothy Day House increasing their testing capacity as independent sites by using self-administered Color Lab tests.

MAY-JUN  
2021

- Planning for Optum testing site change from the Martin Luther King Jr. Youth Services Center to the West Berkeley Service Center.

JUL-AUG  
2021

- Onboarding new HHCS staff to manage Berkeley's COVID-19 testing efforts through HHCS's COVID-19 Phase II Response Structure.
- Expanding Optum site operating hours to 12 hours per day, five days per week to meet increased demand due to the Delta variant.
- Recruiting and activating additional disaster service workers (DSW) from Parks, Recreation and Waterfront into the Emergency Operations Center to support expanded hours of operation at the Optum test site.
- Coordinating with Alameda County to allocate 10,000 rapid test kits to BUSD.

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<sup>4</sup> Safer Ground is part of Project Roomkey, a statewide program to secure hotel rooms to provide isolation housing for those experiencing homelessness. In Alameda County, Project Roomkey consists of two programs: Operation Comfort (serving those who are homeless and have been exposed to, are experiencing symptoms of, or have COVID-19) and Operation Safer Ground (serving those who are homeless and over 65 years old or otherwise at high risk for COVID-19).



SEPT 2021

- Expanding Optum testing buses' operating hours to 7:00 a.m.-7:00 p.m.
- Working with the State to activate the California Department of Public Health (CDPH) strike team to respond to a COVID-19 outbreak at a shelter. This team has since responded to five shelters.
- Assisting shelters with registration for Color self-testing. Shelters included: Berkeley Food and Housing Project, Building Opportunities for Self-Sufficiency (BOSS) Shelters, and Abode Rodeway Inn.

OCT 2021

- CDPH announced extending contract with LHI/Optum through October 2022. This extends the operations of the LHI/Optum test site at West Berkeley Service Center.
- Renewing contract to continue testing at the Berkeley Adult School through January 2022.

## COVID-19 Vaccines

### Overview

COVID-19 vaccine rollout began in the fall of 2020. At first, vaccines were difficult to get and supply was limited. Staff in the EOC worked incredibly rapidly to partner with Curative to stand up the first mass vaccination site in the East Bay. Additionally, staff worked hard to make sure that vaccines were equitably available through multiple strategies. Vaccination was tremendously complex—initial vaccines had cold-storage requirements with little flexibility. Vaccines had to be delivered in a two-dose regimen, which required scheduling follow-up shots at precise time intervals that were different for each vaccine. Along with this, vaccines had to be administered per CDPH’s eligibility phases. As a result, the City’s initial vaccine distribution was conducted through closed points of dispensing (i.e., vaccine clinics which are only opened to a target population).

As eligibility for the COVID-19 vaccine has continued to expand, Berkeley’s vaccine rollout continues to be guided by the City’s data-driven equity framework. By late spring 2021, vaccine became widely available. In summer 2021, HHCS hired two additional staff members to continue to manage and coordinate the City’s vaccination rollout, with a key focus on providing vaccine to vulnerable populations, as well as preparing for boosters and pediatric authorization of vaccine.

As of October 31, 2021, Berkeley has a particularly high average vaccination rate, with 89% percent of residents aged 12 and older vaccinated. Vaccination has become one of the most important and effective ways to prevent COVID-19 spread, hospitalization, and death.

10,000+ doses of COVID-19 vaccine administered through mobile clinics.

25 different mobile clinic sites, with some repeat locations

50+ DSWs activated to support the COVID-19 vaccine rollout

### Key Activities & Decisions

OCT 2020

- Pre-planning to develop equity goals and receive, track, and administer COVID-19 vaccine when available.
- Coordinating with the State on vaccine rollout.
- Purchasing vaccine point of dispensing (POD) supplies.

NOV 2020

- Addressing citywide preparedness for vaccine which includes determining POD location, layout and traffic flow (foot versus car), supplies for PODs, and creating materials to provide just in time training to staff.
- Creating and submitting a Berkeley Vaccination Plan using the required CDPH template.
- Creating an External Partner Taskforce with healthcare partners and other sector stakeholders to coordinate all aspects of the state vaccine rollout including providing logistics and clinical guidance for providers as well as identifying considerations for mass vaccine administration.
- Staffing a COVID-19 Vaccine Management and Cold Chain<sup>5</sup> Coordinator position to support the vaccine distribution efforts.
- Registering for the State’s vaccine management platform (COVIDReadi) and inviting CDPH-approved COVID Vaccine Providers to participate in the vaccine allocation system.
- Finalizing back-up generator location for Ultra Low Temp (ULT) Freezer for COVID-19 vaccine cold chain storage in partnership with the Public Works Department.
- Demonstrating storage capacity and providing plans to the California Department of Public Health (CDPH) to ensure that Berkeley would receive vaccine from the State.

DEC 2020

- Purchasing COVax ULT Freezer to ensure capacity for vaccine cold chain storage.
- Finalizing plans with First Responder staff for COVID Vaccine Closed POD Site.
- Activating DSWs, and providing just in time training to staff who will be working and administering vaccine at the first COVID-19 vaccination POD at the Center St. Garage.
- Training staff to use the mandatory state vaccine allocation systems for tracking and administering vaccine including COVIDReadi, MyTurn, JotForm, and the California Immunization Registry (CAIR).

<sup>5</sup> Some vaccines require ultra-cold storage. Per the Centers for Disease Control (CDC), “A cold chain is a temperature-controlled supply chain that includes all vaccine-related equipment and procedures.” <https://www.cdc.gov/vaccines/hcp/admin/storage/toolkit/storage-handling-toolkit.pdf>

- Administering Berkeley's first COVID-19 vaccine doses on December 28, 2020, to Berkeley medical providers.

JAN 2021

- Administering over 1,000 first doses of Moderna vaccine through appointment-only, closed PODs as part of Phase 1a vaccine rollout (for frontline healthcare workers and those working in clinical settings).
- Deploying first mobile clinic to provide vaccinations onsite at a local dialysis clinic.
- Partnering with Safeway and One Medical to support Phase 1b vaccine rollout (for people age 75 and older).
- Developing a Vaccine FAQ (frequently asked questions) resource.
- Planning vaccine distribution with CalVax-approved community healthcare providers.
- Coordinating with local nonprofit BANANAS to provide vaccine information to family daycare providers.
- Shifting from drive-through closed POD at Center Street Garage to walk-up closed POD clinic at 830 University to provide a more positive clinic experience for patients and staff. Patients who visited the clinic at the end of January were receiving their second doses from first doses in December.
- Coordinating with CDPH regarding the pharmacy partnership program, a CDC-facilitated program to use local Walgreens and CVS pharmacies to provide onsite vaccinations at skilled nursing facilities.
- Worked with skilled nursing facilities to fill any vaccination gaps left by the federal pharmacy partnership program in collaboration with Alameda County. The federal pharmacy partnership program was a CDC-facilitated program in collaboration with Walgreens and CVS to vaccinate skilled nursing facility patients and staff. The City had worked closely with Alameda County to ensure all SNF patients and staff were vaccinated through a mobile vaccine clinic, especially if they didn't sign up for the federal program.
- Pre-planning to operate a mass vaccination site at Golden Gate Fields in Albany, California.

FEB 2021

- Opening and operating Alameda County's first mass vaccination site at Golden Gate Fields with capacity for 1,000+ vaccinations/day. Continuing

logistical work (e.g., volunteer staffing, second dose appointments, and general communication flow).

- Opening the West Berkeley Service Center in partnership with Safeway to provide 300 doses of COVID-19 vaccine per day. This clinic vaccinated 600 community members who were 65+.
- Working with the Federal Emergency Management Agency (FEMA) and the California Office of Emergency Services (Cal OES) to administer 1,000 doses of COVID-19 vaccine at the Ed Roberts Campus in South Berkeley. This location was chosen as a partnership between the Center for Independent Living, FEMA, Cal OES, and Alameda County to bring the COVID-19 vaccine directly to more vulnerable community members.
- Piloting a mobile COVID-19 vaccine clinic behind the Ann Chandler Public Health Clinic at 830 University. This pilot would serve as the mobile clinic model for upcoming mobile clinics at shelters and Safer Ground sites.
- Scheduling mobile vaccine clinics at shelters and Safer Ground sites.
- Completing City-facilitated second dose clinics at the Ann Chandler Public Health Clinic (830 University Avenue) for individuals who received their first doses in late January and early February.



MAR 2021

- Pre-planning for Johnson & Johnson vaccine rollout; this vaccine, in contrast to Moderna and Pfizer vaccines, has a longer shelf-life, requires less refrigeration, and is only one dose.
- Pre-planning to provide vaccines at low-income and senior apartment complexes in Berkeley. This included conducting outreach with Meals-On-Wheels recipients as well as staff at senior apartment complexes to gather information about vaccination rates. This information was used to determine the most effective mobile clinic operation, including potential second dose needs.
- Coordinating with and assisting BUSD leadership with booking vaccination appointments for teachers and personnel, which was a key part of the broader initiative to reopen Berkeley schools.

- Administering vaccinations to residents and staff at respite<sup>6</sup> sites.
  - Focusing mobile clinics on an equity approach, serving unhoused and vulnerable populations at:
    - People’s Park (through Lifelong Medical),
    - Harrison Street,
    - Dorothy Day House,
    - Ann Chandler Public Health Clinic (830 University Avenue),
    - Oregon Park Apartments,
    - Ebenezer Baptist Church,
    - Rodeway Inn,
    - U.S. Renal Care,
    - BOSS,
    - Pathways STAIR Center,
    - 2<sup>nd</sup> Street and Page Street, and
    - Berkeley Food and Housing Project (Dwight Way).
  - Signing a memorandum of understanding (MOU) with Blue Shield, a third-party administrator, to facilitate vaccine allocation.
  - Maintaining daily/ongoing static vaccination clinics at Bayer Corporation in partnership with Safeway, and Curative at Golden Gate Fields.
  - Facilitating second dose clinics in partnership with Safeway at West Berkeley Service Center as well as the Ed Roberts Campus in partnership with FEMA/Cal OES.
- 
- Operating equity-focused mobile vaccination clinics at sites including:
    - Meyer Sound (off Ashby Avenue),
    - Mount Zion Baptist Church,
    - Ashby Lumber,
    - Multi-Cultural Institute,
    - Resources for Community Development (RCD) affordable housing, and
    - BOSS/Harrison House.



APR 2021

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<sup>6</sup> A respite site is a place where people needing to isolate or quarantine can go and be in a non-congregate setting. Initially this was explored for first responders as well as those living in congregate settings and the unhoused.

- Identifying equity gaps in vaccine rollout using epidemiological data, such as COVID-19 case rates and vaccination rates in census tracts. Visualizing these data sets in maps helped refine targeted areas for additional vaccine services.

MAY 2021

- Increasing vaccine access to community members by providing drop-in vaccine appointments at Bayer and Golden Gate Fields.
- Facilitating a mobile clinic with McGee Baptist Church.
- Working with the State to get approvals for a new vaccine provider (Carbon Health) to begin administering COVID-19 vaccine at neighborhood locations.
- Beginning mobile clinics through Carbon Health in Berkeley on Tuesday, May 11.
- Conducting in-home vaccinations for homebound community members.
- Coordinating with BUSD to pre-plan vaccine delivery for teenagers. Began to administer vaccine to teenagers once the authorizations from federal and state agencies were finalized. Over the first week of this authorization, over 3,000 12 to 15 year olds received their first dose.
- Temporarily demobilizing the mass vaccination site at Bayer. 2,000+ people were vaccinated at the site. The City of Berkeley, Bayer, and Safeway agreed to reactivate the site if there was enough demand or further vaccine eligibility.

JUN 2021

- 67 percent of Berkeley residents age 16 and older are fully vaccinated.
- Planning to relocate Golden Gate Fields vaccine operations to Berkeley Adult School. Nearly 100,000 doses were delivered through the City's mass vaccination site at Golden Gate fields.
- Presenting to Berkeley Youth Commission on vaccines.
- Providing second dose appointments for middle school students.
- Creating new COVID-19 Unit in Department of Health, Housing, and Community Services (HHCS), to coordinate vaccine and testing efforts.
- Beginning to onboard new HHCS staff to manage COVID-19 vaccine efforts through HHCS's COVID-19 Phase II Response Structure. This response structure will continue to coordinate COVID-19 key response activities even after the EOC activation demobilizes.



JUL-AUG  
2021

- 61 percent of participants and 77 percent of staff and volunteers at shelters in Berkeley are fully vaccinated.
- Holding vaccine clinics at Longfellow Middle School, behind City Hall, and at La Peña Cultural Center.
- Working with Berkeley City College to set up vaccine clinic. First vaccine clinic taking place at Berkeley City College on August 24.
- Curative concludes its vaccine operations at the Berkeley Adult School. From June 27-July 31, Curative administered 677 doses of COVID-19 vaccine.
- Pre-planning for administration of boosters.
- Pre-planning for vaccination of children age 5-11.
- Ann Chandler Public Health Clinic begins administering COVID-19 vaccine as a part of the broader HHCS Immunization Program.



SEPT 2021

- Continuing planning for school-based clinics ahead of the Pfizer vaccine authorization for children ages 5-11.
- Managing logistics for neighborhood-based clinics, including behind City Hall and a clinic on Adeline Street.



OCT 2021

- Reporting City of Berkeley's vaccination rate for residents 12 years or older is 95%, or 103,766 individuals fully vaccinated. Engaging with community-based partners to reach unvaccinated residents through education and outreach efforts.
- Restarting the drive-up clinic at Bayer Corporation, in partnership with Safeway, to provide community vaccinations. Safeway administered 176 doses.
- Preparing for pediatric vaccine rollout once the vaccine is authorized for 5-11 year old residents.



## Work with Vulnerable Populations

### Overview

With many unknowns about COVID-19, the public health response continued to focus on strategies to limit COVID-19 transmission, particularly in our most vulnerable populations. Our most vulnerable populations included people who are unhoused and/or who live in “congregate” settings, such as long-term care facilities, skilled nursing facilities, or shelters. Our goal was to prevent and mitigate the spread of disease using a multi-layered approach.

The City created accessible COVID-19 vaccination opportunities through Berkeley, Alameda County, and Federal partners, including mobile clinics targeted to vulnerable populations.

Additionally, the City continued to:

- Provide protective supplies such as sanitizer and personal protective equipment (PPE).
- Provide education around Health Officer orders and public health guidelines.
- Make COVID-19 testing available.
- Respond to outbreaks in congregate settings during the 2020 winter surge and beyond.

### Outreach Team Supply Distribution

Since October 2020, Berkeley outreach teams have distributed:

- 13,042 masks
- 10,660 meals via Double Helping Hands
- 7,403 pairs of gloves
- 2,923 hand sanitizer bottles
- 512 packages of disinfectant wipes

Support to vulnerable populations also has included providing respite spaces for individuals who are at risk of contracting severe illness through City and County programs. This work happened through regular coordination meetings with multiple partners including Berkeley shelter providers, transitional program operators, and Alameda County.

### Key Activities & Decisions

OCT 2020

- Collaborating with Dorothy Day House to open a clean air emergency shelter at Old City Hall with appropriate COVID-19 procedures during a sustained poor air quality index (AQI) event.
- Holding flu shot clinics at Berkeley shelters and a drive-through flu shot clinic for Berkeley seniors. Flu prevention is especially important during the

COVID-19 pandemic, as it reduces impacts on healthcare systems during traditional flu season (October through April).

- Shelters: Maintaining 24/7 operations and COVID-19 protocols at Berkeley shelters (continued through June 2021). 24/7 operations helped to provide safe spaces for unhoused people during the day, as many public spaces were closed due to the pandemic. 24/7 operations also reduced COVID spread by eliminating concentrated mixing of people typically seen in a nighttime-only shelter operation.
- Providing 450 meals to encampments each week (continued through May 2021).



NOV 2020

- Safer Ground: Transitioning COVID-vulnerable residents of Safer Ground hotels to permanent housing resources, as County-committed funding ended at the end of calendar year 2020.
- Shelters: Opened winter shelter operations at Old City Hall, expanding operating hours to 24/7. Winter shelter operations shifted from an inclement weather shelter model (approximately 45 nights/year) to 24/7 operations for 137 full days through April 15, 2021.
- Managing outbreak in large congregate setting with approximately 300 positive cases. Coordinating closely with CDPH and Alameda County.



DEC 2020

- Safer Ground: The Safer Ground site at the Quality Inn closes at the end of December 2020. Safer Ground participants who were not housed by this point were transferred from the Quality Inn to the Rodeway Inn to continue in the program.
- Respite Sites: Moving two recreational vehicles (RVs) from 1281 University Avenue to 701 Harrison Street to decompress the University Avenue site's small lot. This shift resulted in 6 RVs at 1281 University Avenue and 12 at 701 Harrison Street.



JAN 2021

- Safer Ground: Continuing to work with Rodeway Inn participants to find permanent housing.
- Respite Sites: Supporting additional electricity installation at 701 Harrison Street site.

- Strategizing approach for vaccines with the unhoused population.

FEB 2021

- Safer Ground: County Rodeway Inn contract is extended until June 2021, allowing for continued operations.
- Distributing blankets, beanies, and gloves.

MAR-APR  
2021

- Respite Sites: Connecting 5 trailers to power source at 701 Harrison Street; increasing water accessibility at both sites; working on new referrals to fill vacancies at 701 Harrison Street.
- Developing and piloting plan to vaccinate people who are homebound.
- Completing encampment vaccinations, through Lifelong Medical.
- From October 2020 to April 2021, outreach teams distributed 10,660 Double Helping Hands meals.

MAY 2021

- Safer Ground: Continuing to move Rodeway Inn participants into permanent housing before County contract ends on June 30, 2021.

JUN 2021

- Safer Ground: Exiting last person from use of Rodeway Inn under County program in partnership with Berkeley Food and Housing Project; preparing for new program at Rodeway Inn to be operated by Abode Services.
- Respite Sites: Occupancy levels remain at or near program capacity; since October 1, 2020, 12 additional people have participated in the program.

JUL 2021

- Safer Ground: Safer Ground at the Rodeway Inn reopens on July 9 with operations managed by Abode Services. Participants referred by Operation Dignity and Lifelong Medical Street Health Teams.
- Shelters: Making determination to continue 24/7 operations at shelters via BOSS, Berkeley Food and Housing Project, Dorothy Day House, and YEAH! through September 30 2021; participating in a training with Berkeley shelters informing them of COVID-19 Delta variant and the need to maintain COVID-19 protocols.
- Distributing PPE, supplies, and water to unhoused Berkeley residents.

AUG 2021

- Safer Ground: Reaching capacity at Rodeway Inn, with 40 households (a total of 45 people).
- Continuing to provide PPE and supplies to unhoused Berkeley residents.

SEP 2021

- Safer Ground: Holding a weekly self-swab (i.e., COVID-19 testing) clinic at Rodeway Inn.
- Safer Ground: Since the program's reopening on July 9, Abode has served 47 residents at the Rodeway Inn. To date, all Safer Ground programs have served a total of 181 participants since beginning in July 2020.
- Respite Sites: Continuing to process referrals from homeless outreach teams and City partners to fill vacancies. To date, all respite site programs have served 39 vulnerable people from 35 households.
- Shelters: Making determination to continue 24/7 operations at shelters through June 30, 2022.

## Disease Containment

### Overview

Disease containment through contact tracing and case investigation continues to be an integral part of the COVID-19 response. When people test positive for COVID-19, it is called a case. Case investigation begins with members of the disease containment team reaching out and asking a series of questions to learn more about how they may have contracted the disease, to provide isolation instructions and to check whether the person needs assistance with food or other resources during their isolation time. Interviews range from 30-60 minutes and require a high level of emotional intelligence to provide comfort to anxious individuals.

Additionally, disease containment staff provide guidance to schools and businesses when a COVID-19 case is identified at a worksite. The team also responds to outbreaks, or multiple cases reported from an exposure. This response involves interviewing additional “contacts” of the case, and ensuring that additional resources (i.e. testing, vaccine, or isolation) can be provided to affected individuals.

### Disease Containment by the Numbers

**2,800** covid positive people interviewed since October 2020

**81** food deliveries arranged

**19** referrals to the Alameda County Responsibility to Community Health (ARCH) program

**15** State employees supported Berkeley’s response to the 2020 winter surge

### Key Activities & Decisions

OCT- NOV  
2020

- Providing consultation to cases and contacts; screening for additional resource needs.
- Responding to a large outbreak of 344 cases in a congregate setting by providing extensive guidance and working with Alameda County and CDPH counterparts.
- Onboarding six new redirected State employee contact tracers and case investigators to support Berkeley’s response.
- Training 10+ UC Berkeley contact tracers and case investigators to use the State’s COVID-19 case tracking software.

DEC 2020-  
JAN 2021

- Identifying and interviewing cases, including at skilled nursing facilities. Some facilities had 50+ cases.

- Coordinating COVID-19 vaccination at congregate settings with recent cases.



FEB-MAR  
2021

- Responding to multiple cases in congregate settings in South Berkeley.
- Providing COVID-19 vaccine resources through targeted outreach to affected populations, including monolingual Spanish speakers.
- Referring eligible patients to the Alameda County Responsibility to Community Health (ARCH) program, which provided financial assistance to self-isolating county residents.



APR-JULY  
2021

- Using State software to streamline processes for school and worksite exposures.
- Updating the COVID-19 Liaison Toolkit with current COVID-19 safety protocols.



AUG-SEPT  
2021

- Responding to a surge in cases from the COVID-19 Delta variant: 51 total worksite and school exposures, including eight outbreaks, generating over 1,100 records requiring follow-up.
- Providing over 100 consultations to schools, UC Berkeley, acute care facilities, and skilled nursing facilities.
- Refining procedures to respond to COVID-19 outbreaks in shelters.
- Refining response procedures and policies to begin pre-planning for a 2021-2022 winter surge.



OCT 2021

- Responded to 157 worksite/school exposures and 12 outbreaks. These exposures and outbreaks generated over 5,000 records requiring follow up.

## Supporting Schools and Childcare Centers

### Overview

The City of Berkeley's Schools Team works closely with public and private schools and the childcare and youth provider communities to promote safety in youth settings during the COVID-19 pandemic. Under the leadership of Berkeley's Deputy Health Officer, the Schools Team includes a School/Childcare Liaison and a specialized group within the EOC's Disease Containment Unit. The Schools Team provides technical assistance and policy guidance to child- and youth-serving programs. From October 2020 through October 2021, this work included helping schools address the challenges associated with reopening, and preventing and managing COVID-19 once they resumed in-person learning. The Schools Team also supports Berkeley's childcare, extracurricular, and camp programs.

### City of Berkeley's COVID-19 Liaison Toolkit

The Schools Team developed the City of Berkeley's COVID-19 Liaison Toolkit, available [online](#), as a resource to support child- and youth-serving programs. The Toolkit includes a written guide which walks school, childcare, and youth activity providers through their role in COVID-19 response, along with a number of supportive tools and templates developed by the Schools Teams and others to help streamline this work.

### Technical Assistance

The Schools Team offered multiple 90-minute virtual learning sessions for Berkeley childcare, schools and youth providers. Participation peaked in January 2021 when CDPH made major updates to its guidance. In early 2021, the Schools Team held a special session specifically for BUSD principals and BUSD COVID-19 Liaisons. In addition, the Schools Team continued providing individualized technical assistance to schools, childcare, and youth providers via phone calls and email, and issued regular policy updates, including information clarifying the requirements of local and State guidance.

### Case Response

Cases in youth settings require additional response from childcare facilities as well as City disease containment staff. Cases in these settings frequently involve prolonged exposures to large numbers of contacts and present a high risk for outbreaks without mitigation measures, early identification, and intervention. City staff have been specifically trained to understand

additional responses and complex regulations in youth settings, and have provided additional support and guidance to families and facilities when cases and outbreaks have occurred in youth settings. There have been 99 youth setting exposure events since August 16, 2021. Due to their congregate nature, cases in youth settings have many more contacts than community cases, ranging from 38 to 110 contacts that must be interviewed.

### Key Activities & Decisions

OCT 2020

- City of Berkeley Health Officer Order issued October 2, 2020, allowing elementary schools in Berkeley to reopen for the first time since the start of the COVID-19 pandemic.
- Reviewing public and private school safety plans per CDPH mandate.

### Support to Schools

**14** reopening plans reviewed, including plans covering all BUSD sites

**29** in-person site visits performed to Berkeley K-12 schools

**31** Zoom learning sessions for childcare, schools and youth providers with 61-134 attendees at each

NOV 2020

- Health Officer Order issued November 5, 2020 permits middle and high schools to reopen.
- Performing in-person site visits to Berkeley private schools to guide and promote adherence to COVID-19 policies and ensure all safety measures are correctly implemented.

DEC 2020

- Reaching out to 114 childcare providers about availability of COVID-19 related supplies in response to Berkeley City Council approval of the *Proposed Lifeline for Family Child Care Providers, Amendment: FY 2021 Annual Appropriations Ordinance*.<sup>7</sup>
- 67 of childcare providers (59%) express interest in receiving supplies; the City purchases and distributes air purifiers, child and adult masks, hand sanitizer, disinfectant cleaner, all-purpose cleaner, personal disinfectant, non-latex gloves, diapers, baby wipes, and site-specific requests such as tents for outdoor activities.

<sup>7</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2020/12\\_Dec/Documents/2020-12-15\\_Supp\\_2\\_Reports\\_Item\\_43\\_Supp\\_Hahn\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2020/12_Dec/Documents/2020-12-15_Supp_2_Reports_Item_43_Supp_Hahn_pdf.aspx)



JAN -FEB  
2021

- Facilitating Zoom learning sessions for childcare, schools, and youth providers.
- Providing technical assistance to schools that have reopened.

MAR-APR  
2021

- BUSD begins phased reopening; Schools Team visits 16 BUSD schools (11 elementary, 3 middle, and two high schools) to support implementation of COVID-19 safety protocols.
- Hosting meeting at Washington Elementary for all BUSD principals to answer their questions regarding COVID-19 safety protocols in schools.

MAY 2021

- Partnering with schools and COVID-19 vaccine providers to host school-based clinics at Longfellow Middle School.
- Recruiting Berkeley Public Schools Fund volunteers to support the vaccine rollout for 12-15 year olds.
- Continuing to host Zoom learning sessions.

JUN-AUG  
2021

- Completing full revision of COVID-19 Liaison Guide for schools, including an updated testing protocol, symptom checks, and template messages for schools to send staff, faculty, and parents regarding COVID-19 exposures.
- Hosting Zoom learning sessions regarding the updated COVID-19 Liaison Guide, to answer questions prior to school starting.

SEP-OCT  
2021

- Pre-planning for authorization of COVID-19 vaccine for 5-11 year olds, in collaboration with new HHCS staff in the COVID-19 Response Unit.
- Continuing to provide technical assistance to schools and to respond to cases.

## Public Information and Outreach

### Overview

The EOC's Joint Information Center consisted of the City's two communications staff, an OSII, the 311 manager and one temporarily assigned Library staff member. In 2021, the primary focus of the EOC's Joint Information Center (JIC)<sup>8</sup> was to get Berkeley vaccinated. The JIC sought to create clear, simple messaging and instructions that the public could use to find and sign up for first and second vaccine doses. In doing so, the JIC's communications covered virtually every customer-facing aspect of vaccine delivery.

### Vaccine Messaging

JIC staff worked with public health and other government agencies around the region to coordinate and focus regional messaging around vaccination.

### Vaccine Notification Strategy

The JIC created and designed a sign-up form, vaccine notification emails and a messaging plan that emphasized transparency to build trust. The City widely promoted and used a single email notification list to alert people about available vaccine. The City used this list weeks, and sometimes months, before other jurisdictions were able to direct their communities to available vaccine. By June 2021, this vaccine communication strategy generated nearly 4 million points of contact with community members. The team repeatedly got emails from members of the public expressing confidence that they would be alerted to available vaccine when it was their turn.

### Vaccine Second-Dose Customer Support

The five-person Joint Information Center team created an onsite and offsite workflow to address customer needs for every aspect of second dose delivery, including:

- A dedicated second dose webpage with clear guidance that became one of the City's most popular web pages of all time.

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<sup>8</sup> The Joint Information Center (JIC) is responsible for coordinating communications, information gathering and dissemination, and direct response to queries.

- Professional, HIPAA<sup>9</sup>-secure emails that were custom coded to individually reach thousands of people for second dose appointments.
- Answering thousands of customer support emails.
- Working with Curative to create dedicated second dose website links (a first for the company) and onsite signup for second doses.
- Onsite signage about how to get second doses and business cards that provided links and instructions for any who missed appointments.

Through this communication effort, the City of Berkeley helped vaccinate the region.

### *Key Activities & Decisions*

OCT 2020

- Providing community messaging on playground reopening, safely celebrating Halloween, and school reopening.
- Publishing a Spanish-language testing webpage and community messages about safely celebrating Halloween and Día de los Muertos.

NOV 2020

- Coordinating with U.C. Berkeley regarding Cal Football messaging in relation to health orders and contact tracing.
- Providing community messaging on celebrating the holidays safely, including canceling or altering Thanksgiving plans.
- Publishing a Spanish-language holiday safety message.
- Recruiting property owners to work with Alameda County to help provide housing to homeless residents.
- Posting Mayor Arreguín’s “Mask On to Move On” campaign items (i.e., posters at groceries and on city buildings, banners at parks and on street poles).

DEC 2020

- Revamping City’s COVID-19 website, creating webpage for school COVID-19 toolkit, receiving approximately 13 thousand “hits” per day on the main COVID-19 page.

<sup>9</sup> Per the CDC, “The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal law that required the creation of national standards to protect sensitive patient health information from being disclosed without the patient’s consent or knowledge.”

<https://www.cdc.gov/php/publications/topic/hipaa.html#:~:text=The%20Health%20Insurance%20Portability%20and,the%20patient's%20consent%20or%20knowledge.>

- Publishing COVID Risk Reduction Order, a regional order that aligns with the State.

JAN -FEB  
2021

- Publishing vaccine webpage.
- Creating and managing a community vaccination notification list.
- Responding to 1,000+ questions and queries about vaccines.
- Helping people schedule second doses (i.e., emails to 3,000 people) and refining second dose communications with partner organizations.

MAR-APR  
2021

- Expanding the website to include additional vaccine information, a Back-to-School page for parents, and a resource about “What’s Open, What’s Closed.”
- Working with regional Public Information Officers on a joint message about spring break safety.
- Developing procedures and providing significant communications and coordination support to facilitate onsite signup for vaccine second doses; connecting with people who were previously not signed up for a second dose.
- Deploying weekly messages about vaccine opportunities.
- Sending a community message about the city’s move to the “orange tier”. The State’s tier system used colors to correspond to different levels of restrictions and ability to reopen various spaces, businesses, and activities.

MAY 2021

- Developing a webpage with information about safe events and gatherings.
- Creating messaging about “Beyond the Blueprint,” the State’s June 15 reopening plan.

JUN-AUG  
2021

- Providing internal and external messaging around the June 15 reopening.
- Sending a community message about the city’s move to the yellow tier.
- Continuing to deploy weekly messages about vaccine availability.
- Posting signage in City buildings explaining safety protocols.
- Publishing a joint regional statement encouraging full in-person instruction for all schools in the fall.



- Reinstating Mayor Arreguín's COVID-19 Town Halls. While a regular feature throughout much of the pandemic, town halls at this time had shifted away from a COVID-specific focus.
- Issuing a Community Message about metrics for lifting the mask mandate.
- Creating a booster information section on the vaccine webpage and issuing a Community Message regarding boosters.
- Coordinating with EOC regarding anticipated pediatric vaccine rollout.

## Community Support

### Overview

As the pandemic continues, the City of Berkeley has redoubled its efforts to support the community. From providing a “path to permanence” for businesses to continue the outdoor arrangements they piloted early in the pandemic, to innovative programs like Berkeley Bucks (a shop local e-gift card program), and aiding in additional grants opportunities for both small businesses and arts organizations, the City and its partners are working hard to ensure the community remains vibrant and recovers successfully.

Besides supporting business and the arts, the City also worked to support tenants and landlords. Throughout the pandemic, some households have lost employment and/or experienced reduced employment. In some cases, this has impacted households’ ability to pay rent. The City of Berkeley’s Rent Board Housing Counselors have been providing tenants and landlords with COVID-related assistance, including in relation to local and State eviction moratoria and referrals to rent relief programs. The Rent Board hosted [online seminars](#) on specific legal changes related to COVID-19, and maintains information on a [COVID-19 webpage](#).

### Key Activities & Decisions



- Working with businesses in the outdoor commerce program to develop strategies to winterize outdoor spaces.
- Launching a holiday shopping campaign focused on safe shopping (e.g., order online, curbside pickup), including a gift guide and a website listing businesses.
- Planning for launch of the Resilience Loan Program (RLP), funded by the CARES Act (the federal Coronavirus Aid, Relief, and Economic Security Act), with 0 percent interest loans, up to \$25,000 to Berkeley businesses. Applications opened online in November and closed in December. This program works in tandem with the City’s existing Revolving Loan Fund (RLF).
- Updating the Commerce Guide with information about winterizing outdoor space for COVID-safe commerce.
- Planning launch of COVID-19 Business Damage Mitigation Fund with the Downtown Berkeley Association.

DEC 2020

- Holding a meeting with 90+ participants representing merchants, Downtown Berkeley Association, and City leadership to provide guidance regarding the stay-at-home order, City resources, and additional COVID-19 related topics.
- Working with clients to complete outdoor commerce applications and to transition legacy permits.
- Launching Berkeley Holidays Campaign.
- Designing Outdoor Commerce Grant Support program.

JAN 2021

- Launching a program to complete outdoor commerce grant applications and working through related policy questions.
- Working with businesses in relation to Berkeley's shift into the purple tier. The State tier system indicated levels of restriction and ability to reopen.

FEB 2021

- Reviewing 50 applicants for outdoor commerce grants.
- Working with businesses regarding a potential shift from the purple tier to the red tier.
- Providing updated vaccine clinic information to Berkeley businesses including grocery stores, manufacturing, and other high-risk environments.

MAR-APR  
2021

- Sharing information through the Office of Economic Development newsletter on how to respond to the easing of restrictions.
- Hosting peer-to-peer sharing sessions focused on various environments (e.g., office-based businesses, arts sector organizations, etc.) on how to safely return to work and reopen.

MAY-JUN  
2021

- Working with the North Shattuck Association to do outreach about outdoor commerce grants.
- Hosting a "special events" focused peer-to-peer sharing session.
- Creating a "Path to Permanence" for outdoor commerce, including waiving fees as long as there is a local emergency. City Council approved the Path to Permanence.



JUL-SEPT  
2021

- Working with the JIC team to create and disseminate supporting materials for the new Health Order focused on helping impacted food and drink businesses to comply with new vaccine verification requirements (i.e., showing proof of vaccination for indoor consumption).
- Continuing to work with the North Shattuck Association on outdoor grant applications.



OCT 2021

- Developing criteria and an application process for Berkeley Arts Recovery Grants for Organizations and Festivals, funded through a one-time allocation by City Council of American Rescue Plan Act dollars. Grant awards will range from \$3,000-\$33,000 and will be based upon scoring criteria that centers cultural equity.



## Cost Recovery

### Overview

In the October 2020 COVID-19 Response Summary Report, “cost recovery” referred to the City’s work to seek reimbursement for its COVID response costs through the Federal Emergency Management Agency’s Public Assistance Program (FEMA PA). Since that time, the financial landscape around COVID response has evolved significantly for Berkeley and the nation.

### Funding the COVID Response with Federal Dollars

Considerable funding has been made available to Berkeley through the CARES Act, the American Rescue Plan Act, and other federal programs. The Cost Recovery team has supported City leaders to strategically apply COVID costs to various funding streams as they become available. Understanding the costs that are eligible under each program helps the City to maximize each allocation, reduce additional drawdowns on the General Fund, and replenish City reserves.

### Reimbursing Response Costs

FEMA’s rules for reimbursement have been in constant flux throughout the COVID disaster.<sup>10</sup> In September 2021, nearly two years into the pandemic, FEMA published its most recent rules for COVID response reimbursement. This policy drastically reduces the types of COVID response work and costs that the agency will reimburse. Although it is labeled as “interim” it is believed to be final.

For Berkeley, the most critical change to FEMA’s rules involves reimbursement of staff time. In prior disasters, FEMA reimbursed straight time<sup>11</sup> labor costs for staff who were reassigned away from their normal duties to work on the disaster response. After over 20 months without clarity, the September 2021 FEMA policy confirms that the agency will only reimburse overtime worked by existing staff. This policy change renders more than \$1 million of the City’s diligently tracked and recorded COVID personnel response costs ineligible for FEMA reimbursement.

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<sup>10</sup> FEMA support becomes available when the federal government declares a disaster.  
<https://www.fema.gov/disaster>

<sup>11</sup> Straight time refers to the hours an employee works in a typical day.


FEMA’s choice to drastically narrow reimbursable costs is disappointing, but having final rules enables staff to work more efficiently to prepare documentation for reimbursement requests. Staff continues to submit reimbursement requests, the earliest in February 2021. As of November 2021, FEMA has not provided feedback, approval, or denial for any of Berkeley’s reimbursement request. Due to FEMA’s understaffing and massive backlogs, staff expects COVID reimbursement efforts to last for at least a year, if not more, after FEMA considers the pandemic’s emergency period to be over.

### **FEMA PA: Using COVID to Prepare for Berkeley’s Next Disaster**

As opportunities for COVID cost reimbursement decline, the Cost Recovery team is pivoting its focus to assessing and improving City policies and procedures for disaster cost recovery. So far, the City has received ongoing guidance and support from its cost recovery contractor as it updated policies for tracking expenses and personnel time, disaster purchasing, and document retention. Moving forward, staff aims to develop a disaster recovery “playbook” to help guide departments’ actions in future disasters.

The City continues to amass experience and expertise in navigating the FEMA PA program. During the August 2021 Caldor Fire in El Dorado County that affected Echo Lake Camp, City staff were able to quickly convene and prepare for necessary cost recovery using knowledge and experience from past disasters.

#### *Key Activities & Decisions*

- 
- Continuing development of applications for FEMA reimbursement. This includes identifying what is reimbursable, developing arguments for reimbursement, and developing a strategy for collecting documentation.
  - Identifying department-level COVID-19 purchases and collecting related data to establish eligibility for reimbursement.
  - Completing Citywide Benefit Rate Worksheet for use in Public Assistance Applications for personnel time reimbursement.
  - Transitioning personnel time tracking away from legacy (older) software to a new software system.




FEB-MAR  
2021

- Submitting first FEMA PA reimbursement application for communications costs.
- Strategizing about the best way to leverage American Rescue Plan funding.



APR 2021

- Submitting FEMA PA reimbursement application for shower program.
- Coordinating with HHCS to identify staffing costs to apply to Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) grant.
- Developing a strategy to allocate CARES Act - Coronavirus Relief Fund allocation to expenses not eligible for reimbursement under FEMA, in order to maximize the City's reimbursement potential.



MAY-SEP  
2021

- Submitting largest FEMA grant request (by the City) to date.

## Organizational Impacts

Mobilizing any emergency response is a daunting endeavor that requires employees to come together and set aside their fears in order to protect the health and welfare of the community. For the COVID-19 pandemic, especially in the early days, employees—and the world at large – had to navigate many uncertainties and unknowns: How pervasive is the virus? How does it spread? What happens if I get the virus? Will I get members of my family sick? How do I balance the demands of being a disaster service worker with the responsibilities in my personal life? For more than two years, City employees and community members have grappled with these concerns and challenges. Even as scientists have answered many of our initial questions, much uncertainty remains about COVID-19's long-term impacts on our health, our economy, and our future.

Employees in every department have experienced challenges as they maintain high quality services for the community while also responding to the pandemic and following Health Officer Order protocols. They have juggled job duties, remote schooling for their children, and caring for ill family members. Many have struggled without sufficient internet bandwidth or access to ergonomics when working from home.

In the face of these pandemic challenges, the City organization can be proud of many accomplishments. Starting in early 2020, every department deployed employees to support the COVID-19 response as Disaster Service Workers (DSWs), whether in the EOC or in another function within their department. This staffing situation created difficult and complex questions. Departments had to prioritize their own operations to maintain their most essential functions with fewer staff. At the same time, departments had to reenvision program delivery under COVID-19, quickly pivoting their operations to continue services while keeping employees and community members safe.

The cost of this ongoing reorganization and uncertainty has been extreme. Two years of consistent overtime and weekend work under this pandemic have created an environment of physical and emotional burnout for many of our employees. As we move into a “new normal,” in which COVID is a part of our daily lives, the City will need to integrate the COVID response into its daily work. This necessarily means that the City will need to set aside other efforts and priorities.

On the next page there is a brief description of some of the many lessons learned by the City organization during the second year of the pandemic. These lessons learned are followed by sections briefly describing some of the organizational impacts experienced by different departments.

## Lessons Learned in Year Two of Pandemic Response

As the pandemic stretched into its second year, the introduction of vaccines and discovery of new variants changed the landscape of fighting COVID-19. Similarly, the City began its transition into the “new normal,” in which COVID-19 is a part of its everyday work, and our day-to-day existence as a community. This has been an extraordinarily long period of active emergency response with near-constant uncertainty for City staff, our community, and our world. In this ongoing—and yet incomplete—period of transition, the City has come to recognize key lessons that inform its service to the community now and in the future:

**The City can mobilize effectively across departments.** The pandemic required departments to work together to quickly address big problems. Working in the EOC structure helped staff from different departments to better connect with one another, breaking down barriers even when most collaborations were conducted remotely. While the EOC structure is the best way to manage a complex emergency, it is not built for long-term use. However, the cross-department collaborations built in the EOC will be a strong base for improved connections moving forward.

**Partner communications are critical.** During the COVID-19 response, working closely with our partner agencies—other health jurisdictions around the region and local partners like U.C. Berkeley and BUSD and community-based organizations—was critical to providing our community with consistent information and instructions. It helped reinforce the City’s focus on equity by ensuring that traditionally hard-to-reach members of our community received critical information. Especially in times of great uncertainty, continuing to work closely with our partner agencies will ensure clear and reliable communication and strengthen community trust.

**The City has an agile workforce—and employee stamina is wearing thin.** City staff flexed to meet the needs of this pandemic. For two years, staff worked long hours and weekends, performing as Disaster Service Workers while also trying to maintain normal job functions. Typically, disaster service work lasts days or weeks. The extraordinary length of this response has had a tremendous impact on the organization.

**The City can achieve amazing results when activities are focused.** When COVID-19 emerged, the City had to suspend many day-to-day operations, programs, and projects to focus on saving lives and protecting our community from this virus. The City had to reevaluate its daily operations to prioritize the most essential services—those critical operations that save lives and are legally required. Moving forward, the City will bring this focused approach to daily operations. This means continuing to think big, take risks, and try new things while being willing to abandon efforts that aren’t working.

**The City now has extensive disaster experience it can apply to future disasters.** COVID-19 has provided an opportunity to test the City’s staff, emergency plans, and practices over a very long, dynamic, and ongoing emergency. Some COVID-19 efforts can even be used as models for future disasters. For example, the City’s vaccine distribution strategy mirrors the work that will be necessary to distribute water, food, or cleanup supplies after an earthquake. Also, when the Caldor Fire ripped through El Dorado County in fall 2021, threatening Berkeley’s Echo Lake Camp, the City was already prepared to document damages to facilitate FEMA cost reimbursement.

**COVID-19 is here to stay.** As our community enters year three of the pandemic, new variants continue to demonstrate the interconnectedness of our world. COVID-19 has made permanent changes to the way that everyone works and lives. For the City organization, this means integrating COVID-19 response into daily operations. Even when there is a formal end to the City’s Proclamation of Local Emergency for COVID-19, some COVID-19 work will continue: vaccinations and boosters; testing, tracing, isolation and quarantine; new and updated Health Officer orders, along with ongoing communications and education.

## City Attorney

Over the past year, the City Attorney's Office continued to provide a wide range of high caliber legal services, from defending cases and claims to addressing redistricting. Additionally, during this time, the City Attorney's Office has developed practices to maintain and enhance productivity and office cohesion.

The contributions of the City Attorney's Office from October 2020 through October 2021 are summarized in the following table:

| CITY ATTORNEY'S OFFICE CONTRIBUTIONS TO COVID-19 RESPONSE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>HEALTH OFFICER ORDERS</b> <ul style="list-style-type: none"> <li>Continuing to develop and review various Health Officer Orders, including orders requiring face coverings in indoor settings and vaccination verification for entry into certain businesses. Where necessary, the City Attorney's Office has coordinated with other Bay Area jurisdictions on developing Health Officer orders.</li> <li>Continuing to advise staff and members of the public regarding implementation and enforcement of Health Officer Orders.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>ORDINANCES AND REGULATIONS</b> <ul style="list-style-type: none"> <li>Assisting in the drafting and revision of the City's vaccination mandate for City employees and advising and participating in related negotiations and discussions with employee bargaining units.</li> <li>Developing and drafting City ordinances for the protection of tenants as part of COVID-19 response.</li> <li>Developing and drafting grocery worker hazard pay ordinance.</li> <li>Providing ongoing legal support to the Office of Economic Development regarding business impacts and local initiatives, such as outdoor commerce and Health Officer Orders.</li> <li>Continuing to advise staff regarding the COVID-19 Emergency Response Ordinance, including related issues of lease termination or renegotiation for small businesses.</li> <li>Continuing to advise the EOC Joint Information Center (JIC) regarding public communications about the COVID-19 Emergency Response Ordinance.</li> </ul> |

CITY ATTORNEY'S OFFICE CONTRIBUTIONS TO COVID-19 RESPONSE  
FINANCIAL COST AND RECOVERY



## CITY ATTORNEY'S OFFICE CONTRIBUTIONS TO COVID-19 RESPONSE

- Continuing to review, revise, and draft various contracts and memorandums of understanding related to COVID-19 Case Investigation and Contact Tracing, COVID-19 vaccine rollout, and providing guidance regarding implementation of other sources of COVID-19 related funding.
- Continuing to review and verify 214 FEMA forms for cost recovery.

## GENERAL

- Continuing to advise staff regarding:
  - Contracting, privacy, and other legal issues,
  - Implementation of the Healthy Streets Program,
  - The Respites Sites Program,
  - Best practices for compliance with the Brown Act and Public Records Act during COVID-related City office closures, and
  - Response to Public Records Act requests related to the City's COVID-19 response.
- Continuing to advise the Health Officer regarding:
  - The publication of COVID-19 demographic data,
  - City Health Officer scope of powers in responding to COVID-19, and
  - Genomic tracing of City test specimens.
- Continuing to research emergency proclamation legal authority and requirements and continuing to draft the COVID-19 emergency proclamation and subsequent reauthorization Council resolutions.
- Researching and drafting a resolution authorizing continued use of teleconferencing for City Council and commission meetings following passage of Assembly Bill 361.
- Monitoring and providing advice regarding State legislation and the Governor's executive orders affecting open meetings and the City's response to COVID-19.
- Researching protections for small business owners who personally guaranteed the business' rent obligation.

## OBSERVATIONS AND LESSONS LEARNED

- The City Attorney's Office has successfully developed office practices and policies to maintain and improve productivity and office cohesion. Particularly successful practices include:
  - Successful utilization of teleconferencing technologies,

**CITY ATTORNEY'S OFFICE CONTRIBUTIONS TO COVID-19 RESPONSE**

- Regular and recurring check-in teleconference calls, either officewide or between staff with related work assignments, and
  - Regular sharing of daily work plans and workflow updates.
- The City Attorney's Office has found that telework practices during COVID-19 have largely preserved office productivity and, in some cases, have led to greater efficiency and productivity by staff. Decreased commute times have enabled attorneys to quickly respond to urgent matters and, where needed, effectively work outside of regular business hours. The City Attorney's Office is exploring ways to continue to incorporate telework while ensuring that all in-person office needs are met.
- While COVID-19 has presented challenges, teleconferencing of public meetings has allowed the City Attorney's Office significant flexibility by enabling the office to easily make multiple staff members available, and allow staff to quickly transition between consecutive or concurrent public meetings.

## City Auditor

The City Auditor's Office, which includes both performance and payroll audit, has worked alongside the EOC to assist with payroll-related data and analysis. This work with EOC included creating reports and participating in cost recovery activities. Payroll Audit staff provided the data necessary to substantiate personnel costs associated with COVID-related efforts to recover federal dollars for the funding of these efforts.

## City Clerk

The City Clerk Department adjusted a variety of operations and programs to ensure better safety and effectiveness given the effects of the COVID-19 pandemic. Some specific efforts included implementing vote-by-mail for the November 2020 general election, launching an Independent Redistricting Commission, preparing for a return to in-person work and Council meetings, and participating in ongoing cost recovery work.

### *November 2020 Election*

The City Clerk Department coordinated with the Alameda County Registrar of Voters and other City departments to identify locations for the Voting Assistance Centers and the Ballot Drop Boxes that were implemented for the vote-by-mail general election. Staff assisted voters by providing information on where and how to vote, as well as providing assistance to candidates and campaign committees regarding compliance issues and required filings for the election.

### *Independent Redistricting Commission*

The Commission was launched in January of 2021 with a random selection process for the district commissioners that was broadcast and streamed to the public. City Clerk staff is providing administrative support to the Commission for the duration of the process. To date, the Commission has held 20 meetings and engaged in a robust public outreach campaign to educate the public about the process and encourage community participation.



### *Return to In-Person Work*

City Clerk staff have been reporting to work at the Civic Center Building since the start of the pandemic. Following City protocols, the department used a work from home rotation to increase social distancing in the office. With the November 2022 election, continuing support for City Council meetings, and in-person public service by appointment, the City Clerk Department maintained a high level of customer service. The department currently allows one

day per week of work from home for eligible employees and is ready for a full return to work status.

#### *Return to In-Person Council Meetings*

The City Clerk Department has refined and adjusted the virtual meeting processes throughout the pandemic. With the passage of new State laws regarding virtual meetings for legislative bodies, the Department is working with internal and external partners to plan for the return to in-person meetings under a hybrid (in-person and virtual) platform.

#### *Ongoing Cost Recovery*

The City Clerk Department has one employee, from its staff of ten, who has provided integral support to the EOC's Cost Recovery team. This employee is dedicated part-time to gathering critical data and documentation to support FEMA reimbursement requests.

## City Manager's Office

In addition to providing policy and strategic direction to City departments, the City Manager's Office contains a variety of units, including Animal Services, the Budget Office, Neighborhood Services, Code Enforcement, Berkeley's 2020 Vision, and the Office of Economic Development. It also leads the City's work on the 2020 U.S. Census.

### *Budget Office*

A small but important unit, the Budget Office has continued to fully deploy one of its most senior staff to the EOC while also acting as the Budget Manager and maintaining all normal operational work. In addition to last year's work, which remains ongoing, this staff person has served as a key member of the City's Cost Recovery Team, supporting development of reimbursement applications for FEMA.

Since fall 2020, the Budget Office prepared initially for a two-year budget but then quickly pivoted to a one-year budget in order to more flexibly respond to the changing economic recovery landscape. This pivot required complex and swift revisions to a variety of calculations, analyses, and processes. At the same time, the longtime Budget Manager retired. However, the Budget Office, under the leadership of one of its most senior staff, acting in the role of Budget Manager, was able to guide the organization through the budget process within a tight time frame with economic uncertainties. This process resulted in a fiscal year 2022 Proposed Budget and accompanying book that was well received by the City Council and the public. The process used for the one-year budget allowed the City to fully incorporate changes when it learned it would be receiving American Rescue Plan Act funds. These funds helped the City to address pandemic-related revenue losses and to fund programs to help with pandemic-related recovery. Shortly after Council's adoption of the fiscal year 2022 budget, the Budget Office began work on the next two-year budget, which will be the first one built in the City's new financial system.

During COVID-19, the majority of Budget Office employees have continued to work from home, maintaining efficiency and productivity gains stemming from the elimination of commute time.

## Neighborhood Services

In addition to its work in Code Enforcement, Special Events, and Animal Services, the Neighborhood Services Division was reorganized over the past year to place a greater emphasis on responding to street and encampment homelessness.

- *Homeless Response Team*

Neighborhood Services will lead the Council's new Homeless Response Team, created by a Measure P allocation in the fiscal year 2022 budget. For the first nearly year and a half of the pandemic, the City adhered to CDC guidance to avoid closing encampments, even those that had become very dangerous and unhealthy, as much as possible, to mitigate the spread of the virus. As the City's vaccination rates rose and case rates fell through the summer, the City Manager felt it was appropriate to begin balancing the health threat posed by the virus against multiple other public health and safety risks, and resumed enforcement action in August 2021.

The Homeless Response Team was launched concurrently and now serves as the City's primary point of contact for assessing and responding to street and vehicular homelessness, prioritizing health and safety impacts and avoiding criminal citation or arrest wherever possible.

The division now includes the City's Homeless Outreach Team (formerly the HOTT within Berkeley Mental Health), which serves as the HRT's initial point of response to encampment homelessness across the City. In an effort to better align with existing homeless programming in the Health, Housing and Community Services (HHCS) department, the City's Homelessness Services Coordinator was also moved from HHCS to Neighborhood Services. This move will help develop systems of care and support for those living on the streets, thereby preventing the need for enforcement action at dangerous and impactful encampments wherever possible. Neighborhood Services, in partnership with multiple City departments and Dorothy Day House, recently opened both the Horizon Transitional Village Shelter Program and the Safe Parking and Respite Kickstart (SPARK) program, which provide 50 beds and 40 parking spots for recreational vehicles (RVs) at 742 Grayson Street. In addition, Neighborhood Services has already partnered with several departments to perform several successful encampment resolutions at some of the city's most unsafe and unhealthy encampments. During these encampment resolutions, encampments are closed after all encampment residents are offered shelter, transportation, and other resources. Neighborhood Services also partners

with the Public Works Department to provide twice-weekly garbage service to encampments and areas near encampments that are frequent targets for illegal dumping.

- *Animal Services*

The opening of businesses and the resumption of normal activities in June and July 2021 had a major impact on the operations of Animal Services. The robust foster program that existed during ‘shelter in place’ very quickly diminished as fosters and potential fosters returned to work and school. With the opening of the Animal Shelter to the public during this same time period, the number of incoming animals began to increase and is now at pre-COVID levels.

Also beginning in June and July of 2021, requests for field services began to increase and are now at pre-COVID levels. With one Animal Control Officer position frozen, response times are slower than pre-COVID.

Since reopening the shelter to the public, Animal Services has had about 200 active volunteers, down from between 400-500 active volunteers pre-COVID. New volunteer orientations have started again, limited to 15 people per orientation with two orientations per month. The vaccination mandate was announced in mid-September. To date, over 130 volunteers have submitted proof of vaccination. Beginning November 15th, only vaccinated volunteers will be permitted to continue volunteering.

- *Code Enforcement*

The Neighborhood Services Code Enforcement Unit’s (NSCEU) Supervisor has been coordinating closely with the EOC to enforce all non-food related COVID-19 Health Order Violations in the City of Berkeley. In 2020 (through 2021), NSCEU Officers were also asked to respond to, investigate, and enforce the City Health Order violations per the EOC and City Leadership. Enforcement of the City Health Order created significant challenges as staff struggled to balance both baseline work and emergency response activities. This new area of responsibility significantly increased the NSCEU’s workload, initially in development of this new citywide response effort and then in response to added calls for service for an array of Health Officer Order violations. Although NSCEU partnered with the Planning Department’s Code Enforcement Officer to help with enforcement, early estimates are that COVID-19 enforcement has created more than one full-time equivalent



(FTE) of work. Further, NSCEU continues to operate without administrative office services support, which challenges the unit's efficiency.

At the pandemic's height, NSCEU workload doubled: an estimated five to seven new COVID-19 related cases were generated per week, in addition to the five to seven new regular NSCEU cases generated per week. Prior to the introduction and distribution of the vaccine, COVID-19-related open cases grew to 100+ cases for NSCEU. Consequently, the unit's response time increased for all other NSCEU work. NSCEU's goal of addressing all complaints within 10 days of receiving them has not been met. Although time to address incoming complaints has decreased as the pandemic has worn on, NSCEU is still addressing complaints that are two months old. Additionally, NSCEU assists the City's Building and Safety inspectors, HHCS inspectors, and Public Works with investigation and enforcement of reported violations.

- *Special Events*

During 2020, Special Events created Outdoor Commerce permits as a mechanism to support businesses and schools that wanted to move outdoors. The team also permitted the expansions of existing outdoor uses to accommodate social distancing requirements for schools, businesses, and farmers markets. The special events team consists of one full-time employee assigned from Neighborhood Services and 8-10 staff from other departments. Staffing was challenging in some areas as a few team members had been reassigned to other duties and others were not yet back to work, balancing their children's distance learning needs from home. So far in calendar year 2021, Special Events has permitted 60 events, with an estimated 10-20 more events by year's end. Staff anticipated a surge in businesses, schools, and brick-and-mortar businesses requesting outdoor space for canceled indoor events; staff expect to see that trend continue through calendar year 2022. If pandemic restrictions continue to decrease, the team expects a return to pre-pandemic levels in event season 2022 (approximately 125-150 events annually), including with the return of all events that had been canceled or postponed during 2020-21. Staffing should return to pre-pandemic levels, prepared to support all special event organizers as they continue to host events throughout Berkeley. Special Events staff recognizes the many efforts by businesses and organizers to rethink outdoor programming and support their innovation moving forward.

### *Public Information Officer*

The work of the Public Information Officer was primarily to support the City's COVID-19 response as well as other urgent citywide communication needs. The cost of providing this kind of support was extreme. This effort required everyone putting in long daily and weekend hours. It required putting all other City work on the margin, affecting all other operations, including delaying high-profile projects such as the launch of the City's new website. This effort also created an environment of physical and emotional burnout.

### *Office of Economic Development*

Staff in the Office of Economic Development (OED) have continued to be fully engaged in supporting local businesses impacted by the COVID-19 pandemic. Besides their active involvement in the EOC described elsewhere in this report, much of OED's activities relate to direct financial assistance, business communications, economic impact assessments, marketing/promotion, and regulatory relief:

- Implementation of the "Business & Arts Continuity Grants" program, an emergency relief grant program to help mitigate COVID-19 related financial losses. This program, made possible by funds from City Council and private donations, resulted in the award of 763 grants totaling over \$2.6 million to help stabilize the local economy. OED led creation and administration of the program, as well as distribution of funds from the Berkeley Relief Fund.
- Development and implementation of the business damage mitigation fund and the outdoor commerce grant support program, providing direct financial assistance through \$800-\$2,000 individual grants.
- Continuation of increased frequency of citywide business communications to ensure businesses were aware of the latest COVID-19 response and recovery information and resources. This included continuation of well-attended sector-specific outreach and forums such as "Listening Sessions" with business leaders to inform development of



reopening protocols and facilitate peer-to-peer sharing of information and experiences.

- Convened, with Berkeley Chamber of Commerce (Berkeley Chamber), regular “Business Forums on Outbreak Responses.”
- Convened, through the Civic Arts Program, regular meetings with Berkeley arts organizations to share information and resources relating to COVID-19, such as federal aid opportunities and Health Orders.
- Developed, with Berkeley Chamber, an online [COVID-19 Resource Hub<sup>12</sup>](#) with information on topics spanning from Financial Resources, to Working from Home, to Reopening Your Business.
- Issued multiple industry-specific [surveys<sup>13</sup>](#) to better understand how businesses are coping with the ongoing challenges of COVID-19, what kinds of support businesses need, and potential trends to anticipate.
- Deployed a #BerkeleyHolidays campaign in December 2020 to promote safe, citywide holiday-themed events and local online shopping opportunities.
- Created a “path to permanence” for outdoor dining and commerce to allow expanded outdoor commercial activity (e.g., sidewalk seating, parklets, street closures for outdoor commerce), resulting in over 3 dozen permitted businesses, an expanded range of allowable outdoor activities, and a streamlined permit process, as well as a variety of related [educational materials<sup>14</sup>](#) for interested businesses.



Moving forward, OED anticipates continuing and expanding this work through:

- Applying over \$2 million in American Rescue Plan Act funds towards supporting sustainable recovery of Berkeley’s deeply-impacted sectors (e.g., arts, tourism, small businesses), and

<sup>12</sup> <https://www.berkeleychamber.com/covid19resources.html>

<sup>13</sup>

[https://www.cityofberkeley.info/uploadedFiles/Manager/Economic\\_Development/2020\\_Q4Dashboard\\_OED%20presentation%20for%20council%20FINAL.pdf](https://www.cityofberkeley.info/uploadedFiles/Manager/Economic_Development/2020_Q4Dashboard_OED%20presentation%20for%20council%20FINAL.pdf)

<sup>14</sup> <https://www.cityofberkeley.info/covid19-outdoor-commerce/#permanence>

- Providing grants through the [Berkeley Art Works Projects](#)<sup>15</sup> to artists, performers, and community members to create temporary public art projects throughout Berkeley that bolster collective resilience and recovery from the effects of COVID-19.

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<sup>15</sup> [https://www.cityofberkeley.info/City\\_Manager/Civic\\_Arts/Berkeley\\_Art\\_Works\\_Projects.aspx](https://www.cityofberkeley.info/City_Manager/Civic_Arts/Berkeley_Art_Works_Projects.aspx)

## Finance

Throughout the pandemic, the Finance Department has successfully maintained continuity of its operations and provision of the best information on the City's current and long-term fiscal condition. All divisions in the department, General Services, Treasury, and Financial Systems, have worked together and innovated to keep staff safe while managing the revenues and procurement that enable the services the City provides the community. The Fiscal Analysis Working Group, established to closely monitor the pandemic's impact on City revenues, continues its work monitoring remittances to the City, other jurisdictions' revenue reports, and County and State agency forecasts. The Working Group has helped the City better understand the changing economic environment and maintain accurate revenue projections.

### *General Services*

General Services is still prioritizing purchases, solicitations, and contract processing related to the COVID response. The volume of urgent requests has subsided dramatically, however, some expediting is still needed. Staff attended purchasing related webinars, including FEMA training, throughout the pandemic, and assisted departments with posting bids and requests for proposals (RFPs) as expeditiously as possible.

Bid openings continue to be held outside in order to allow for public access while maintaining social distancing requirements. RFPs are submitted electronically. General Services Staff are all able to work remotely, or in the office on alternating days.

### *Treasury*

During the pandemic, the Treasury Division was able to maintain its daily operations while modifying processes to minimize staff interaction and promote physical distancing. This involved developing a scheduling system which eliminated queuing and minimized wait times. Throughout the organization, the Treasury Division has continued to help a variety of departments and work units to set up remote payments, expedite phone-in credit card payment processing, and deploy online and automatic payment solutions. These innovations now offer supportive alternatives alongside the increasing number of in-person options becoming available again.

### *Financial Systems*

The Financial Systems Group has continued its work ensuring that Finance operations run efficiently while maintaining employee safety. Staff in this group continue to work remotely and support a variety of initiatives responding to the effects of the pandemic, including the Finance Customer Service Counter (CSC) customer triage phone line; working to enable more Business License taxes to be paid through an online portal; and working to allow more types of online payments to minimize in-person payment activities and increase customer convenience.

### *Revenue Collection*

The Revenue Collection Division enhanced its operations to best serve its customers when City offices were closed to the general public. As much as possible, in-person traffic was diverted to communicating via web, email, and phone, as described below:

- **Web:** Revenue Collection encouraged customers to take advantage of existing online portals to conduct business, e.g., applying for and renewing Residential Preferential Parking (RPP) program permits, paying for or contesting parking citations, and renewing their business license for Rental of Real Property.
- **Email:** Some documents, like change of business information, could be submitted electronically where they once needed to be mailed in with a wet signature. Additional emails were created to better address customer needs, i.e., a dedicated mail box to accept property tax tips.
- **Phone:** Finance Customer Service Counter (CSC) staff manned a customer triage phone line which directed customers to the correct staff for assistance and to accept payments. In-person appointments were available on a limited case-by-case basis.
- **In-Person:** New payment drop boxes were introduced on the outside of 1947 Center Street building, allowing customers to drop off documents and payments free of contact 24/7. As City offices reopened, the CSC had a soft opening with limited hours. Masks are provided to customers that do not have them, minimal seating is available to maximize social distancing, and no forms are left in the lobby—rather, they are given to customers as needed. Slowly, the CSC expanded its office hours to pre-COVID hours and is able to assist customers that walk in. Staff continues to adhere to COVID-19 guidelines: masks on at all times, 6-feet of social distancing, as well as sanitizing hands and the office. Phone calls have declined, but the CSC staff continues to process payments over the phone when needed.

The Division continues to enhance its operations by expanding its online business license portal to allow the majority of license types to renew online; this will allow over 80% of Berkeley businesses to renew online and receive a copy of their business license and receipt immediately. Additionally, the Customer Service Counter will be implementing a new queuing software in December 2021 which will allow customers to make appointments online and see estimated wait times at the Counter to maximize social distancing practices.

### *Accounting*

The Accounting Division worked with external financial auditors to enable the FY 2021 audit to be performed remotely as much as possible. While accommodations needed to be made for in-person review of certain sensitive documentation, the division has provided other documentation electronically, and arranged for staff interviews and other meetings to occur online. This resulted in a timely delivery of the City's financial statements.

## Fire

The Fire Department continues to respond and provide emergency medical service and transport to members of the community with symptoms of COVID-19. Meeting this challenge has required a redoubling of efforts to maintain a supply of Personal Protective Equipment (PPE) to reduce workplace exposures, which has been especially challenging given the supply chain issues that have manifested during the pandemic.



To maintain operational continuity, the Department has been performing weekly serial testing of all members to catch infections early, with rapid contact tracing to reduce staffing impacts that result from large clusters of quarantined employees. This additional work has been performed by our diligent and committed Designated Infection Control Officers (DICO). Our DICOs remain a critical link in the response to each employee exposure both in terms of providing support to the employee and ensuring the employee can return to work in as timely a fashion as is safe and allowable under Health Officer guidance.

Some highlights of the Department's pandemic-related activities include:



- Mass Vaccination Site:** The Fire Department, in partnership with the EOC and private partners, planned, built and ran the Bay Area's first and only continuously operated mass vaccination site. This was a public-private partnership between the City of Berkeley, the County of Alameda, Curative, Inc., and Golden Gate Fields. The Department worked with the City's Public Health Officer and other EOC staff and the Alameda County EOC to develop and maintain a consistent flow of vaccine, building from an initial offering of 350 vaccines daily to nearly 2,000 vaccines per day. The site provided 100,000 doses of the Moderna and Pfizer vaccines to the jurisdictions of the City of Berkeley, Alameda County, and when availability permitted, the San Francisco Bay Region.



- Measure FF Wildland-Urban Interface Implementation:** Berkeley voters approved Measure FF, which will bring sweeping improvements to the service delivered by the Department over the coming years. At the same time FF passed, the Department moved all staff officers (i.e., personnel working 40-hour, Monday-Friday shifts) to fire stations to help reduce forced overtime and keep stations open. This left a very few in Fire Administration to maintain the Department's normal operations, to contribute to the ongoing COVID response, and to begin planning and implementation FF programs and projects.

Council directed the Department during the FY22 budget process to think creatively to begin FF work, with a focus around wildland urban interface (WUI) planning and vegetation management. To that end, the Department hired eight retired annuitants of various ranks to begin to tackle this monumental project. They are building the

vegetation management program, working on community education modules, drafting the scope of work for a Community Wildfire Protection Plan (CWPP), re-starting the Safe Passages program, performing vegetation management inspections, and helping the



Department research and document best work practices that will be transitioned to permanent FTEs when staffing allows. The annuitants' presence and commitment to this work has been invaluable.

## Health, Housing and Community Services

Throughout the pandemic, the Health, Housing and Community Services (HHCS) Department has played a significant role in COVID-19 response, both within the EOC and as part of its departmental operations. Over 2021, HHCS has designed and implemented a strategy for addressing COVID-19 as response needs change, managed a significant influx of new funding, and hired and trained a variety of new staff to perform pandemic-related work.

As the EOC moves closer to demobilization, more of these ongoing COVID response efforts have and will continue to shift to HHCS. To that end, since July 2021, the bulk of COVID-19 response work has shifted from the EOC to a team of HHCS staff in liaison with the EOC Coordinator. This shift, called “Phase II”, included:

- Formalizing COVID-19 Response Principles and Strategies,
- Developing a new departmental organizational structure,
- Creating new operational roles, and
- Structuring a process for management of this work.

With these principles, strategies, roles, structures, and process in place, HHCS successfully:

- Planned and implemented vaccine booster rollout,
- Increased testing and vaccinations at shelters and for the unhoused,
- Planned and implemented pediatric vaccination rollout,
- Supported the schools in COVID-management overall and addressing outbreaks,
- Provided low-income individuals and families with rental and basic needs assistance to keep them in their homes,
- Developed a vaccine incentive program for the unhoused population, and
- Much more, as detailed in the thematic section of this report.

Additionally, the Housing & Community Services Division of HHCS is managing approximately \$13 million in new COVID-relief funds. These funds are primarily distributed to community agencies, along with HOME<sup>16</sup> COVID funds.

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<sup>16</sup> HOME Investment Partnerships Program (HOME). HOME COVID funds are supplemental federal HOME program funds for housing development.

## Human Resources

In response to COVID-19 last year, the Human Resources Department (HR) pivoted to quickly integrate evolving Health Officer Orders, public health regulations, and new laws into City operations, providing supportive citywide policies, trainings, and procedures. These include:

- Administrative Regulation 2.24 Supplemental Paid Sick Leave (new);
- COVID-19 Supplemental Paid Sick Leave Employee Guidance FAQs (new);
- Administrative Regulation 2.25 Mandatory COVID-19 Employee Vaccination Policy (new);
- COVID-19 Vaccination Policy & Face Covering FAQs (new);
- Safe Reopening Plan for Departments “Welcoming Back the Public” (new);
- Confidential Employee Vaccination Verification Data Collection;
- COVID-19 Prevention Program (revision pending);
- Guidance on Domestic/International Travel;
- Guidance on Post-Exposure;
- Guidance on Safety Protocols While at Work;
- Worker Engagement Trainings; and
- COVID-19 Trainings.

This work required several meet-and-confers<sup>17</sup> with labor groups regarding safety and alternate work schedules to reduce potential COVID-19 exposure. The Department incurred increased costs to address the legal issues surrounding employees and COVID-19, including a review of policies, new laws, meet-and-confers regarding Disaster Service Worker work, and alternate work schedules. HR also implemented a citywide hiring freeze.

HR focused on ensuring clear communication of these new policies and procedures to staff by:

- Engaging in 34 vaccine policy meet-and-confers with labor groups since August 2021;
- Meeting with labor groups to provide bimonthly updates;

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<sup>17</sup> For employees covered by a labor agreement, whenever there is a change proposed that would affect that agreement, both parties meet and discuss the proposed change. This is known as “meet-and-confer”.

- Updating the COVID-19 Employee Information webpage with new policies and procedures;
- Developing scripts for managers and supervisors to share information regarding the safety and efficacy of vaccines with employees;
- Coordinating the citywide “Welcoming Back the Public” committee to support the creation of departmental Safe Reopening Plans;
- Conducting a citywide COVID-19 Vaccine Safety and Efficacy Townhall webinar with the Public Health Officer;
- Sharing regular updates via the internal email listserv (“Everyone Emails”), employee newsletter (“Berkeley Matters”), intranet (“iCoBweb”), and the HR Department’s digital signage/kiosk;
- Providing citywide communication around COVID-19 positive cases, exceeding Cal/OSHA<sup>18</sup> requirements for such reporting; and
- Delivering onsite vaccination policy outreach/education efforts for field-based staff.

While striving to meet the human resources needs of the COVID-19 response, HR continued with its baseline work and support to City departments. From February to July 2021 HR engaged with and successfully concluded labor negotiations with all eight labor groups. HR continues to meet and confer with Labor on negotiation-related issues. Additionally, HR is staffing projects to move HR and payroll operations to a modern software solution, with rollout expected in the first part of 2022.

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<sup>18</sup> California Department of Industrial Relations, Division of Occupational Safety and Health.

## Information Technology

The Department of Information Technology (DoIT) continues to support City of Berkeley remote and in office employees during the COVID-19 emergency order. The Help Desk is open 8:00 a.m. - 5:00 p.m. Monday-Friday, with walk-in appointments available to book through the Service Now Help Desk portal (SNOW), by phone and employees are encouraged to use the SNOW service portal for routing service requests.

DoIT Enterprise and Business Application employees continue to work fulltime from home to comply with COVID-19 safety protocols due to cramped cubicles spaced less than five feet apart.

311 Customer Service Services and COVID-19 Information Services continues to support the Public Health division answering COVID-19 inquiries and concerns from the community and businesses. The 311 Customer Service Call Center is open 8:00 a.m. -5:00 p.m. Monday-Friday serving the community, businesses, students and visitor through multiple service channels.

### *Telecommuting*

DoIT supports over 700 employees to securely work from home. In addition to continuing previously reported support activities, in the past reporting period, DoIT worked on:

- Rolling out enhanced MS Teams features (e.g., channels) City-wide to replace Skype.
- Purchasing an enterprise license for Zoom and piloting its use with the City Manager's Office - Office of Economic Development.
- Monitoring network access performance and stability.
- Configuring and deploying 559 laptops for remote work.
- Setting up and distributing 450 iPhones and iPads for remote work.
- Publishing over 30 knowledge base (i.e., user guide) articles relating to remote work.

### *Cyber Security*

The cyber security environment continues to evolve as to type and complexity of attacks, and with respect in volume of attacks. Already a growing threat, ransomware exploded, with attacks becoming more frequent and costlier. The volume of ransomware attacks rose

another 185 percent over 2020 in the first half of 2021. Given the continued and increased cyber security risks, particularly with many employees working remotely, DoIT continues to employ a variety of strategies to mitigate those risks. However, many DoIT cyber security initiatives have been slowed or are temporarily on hold due to staffing shortages and partial funding pushed to fiscal year 2023. Security projects during the report period include:

- Launch of the Data Safety program, and
- Migration of City iPhones and iPads to InTune to support access to MS Team by personal devices and enhanced security.

### *Technical Support*

The Help Desk call volume and ticket volume continue to increase with employees working from home having intensified network, set-up, and password questions. Processing at-home service calls can often take longer to trouble-shoot, factoring in home-networks and the inability for IT to remote into the laptops. Service requests for laptops, iPhones and iPads continue to increase with staff working from home. Help Desk walk-in appointments are available to book through the SNOW service portal Monday through Friday. DoIT Help Desk is currently staffed at 50%, due to a variety of factors, including resignations and medical leave. Recruitment for Help Desk staff is in process.

DoIT is currently strategizing and planning technical and Help Desk needs to support the return of City employees to the office in 2022.

DoIT continues to work on software solutions to assist with documenting COVID-19. Some examples include:

- Forms and survey solutions for the EOC, the Health, Housing, and Community Services Department, and the Human Resources Department for COVID-19.
- Updates to COVID-19 Statistics Report on City's website.
- Built vaccination status form in the Jot-Form platform.
- Train HR on Jot-Form vaccination data retrieval.
- Assisted staff on how to fill out jot-form and provided support for technical issues on Jot-form platform.

### 311 Customer Service

311 Customer Service Call Center is open Monday-Friday, serving as an essential service 311 remained open during COVID-19 shelter in place. Community and businesses requests for services and information remain on par with non-COVID years. In FY2021, 311 processed 119,971 incoming interactions. To maintain proper Cal/OSHA distancing and safety protocols 311 is working with five staff in the office answering phones and five staff working from home processing cases, inquiries, and messages. Service levels have declined for incoming phone traffic: the answer rate reduced from 85% to 75-80%, with hold times increasing from 24 to 30-minute wait time. Yet, non-phone related requests for service have had a positive upsurge with same day response times to inquiries and concerns.

The public has significantly responded to the [COVID19@cityofberkeley.info](mailto:COVID19@cityofberkeley.info) email box stood up May 1, 2020 to respond to COVID-19 inquires, concerns, enforcement complaints and rerouted email from Public Health division and the Public Health Officer. With the assistance from a public grant, 311 hired a staff person to focus primarily on COVID-19 email and COVID-19 Vaccine information, working closely with City of Berkeley Communications division. To date COVID-19 Information services has handled the following number of email communications:

- May 2020 - December 2020, correspondence processed: 7,247
- January 2021 - October 2021, correspondence processed: 14,602

311 continues to work as an essential service during COVID-19 with EOC and EOC/JIC and supports the EOC with weather-related EOC incidents.



## Library

Throughout the course of the pandemic, the Berkeley Public Library (Library) has experienced operational impacts, launched innovative new programs and services, and prepared for reopening and beyond.

### *Operational Impacts*

One significant operational impact related to the pandemic is staffing. At the end of 2019, the Library was in the process of recruiting a significant number of positions but plans had to change with the Shelter-in-Place order and subsequent hiring freeze. Despite having approximately 25 vacancies, the Library deployed almost 40% of all its staff positions to the City's EOC at the start of the pandemic.

The Library lost additional staff at the end of 2020 and into 2021, sometimes due to changes brought about by the pandemic, other times relating to regular retirements or unrelated conditions. These staffing limitations informed the speed and the extent to which the Library has been able to reopen for indoor service to the community. The Library is continuing its recruitment efforts, but given the substantial level of need coupled with a fixed capacity to recruit, this will take time.

### *Innovative New Programs and Services*

Staff not actively involved in the EOC successfully innovated throughout the pandemic:

- Expanding the e-Library collections, e-resources and online user experience;
- Working on creating pandemic-specific policies, procedures and communications for our staff and patrons;
- Offering Outdoor Pickup of Library items, just 3 months after the pandemic and shelter-in-place began for 8 hours a day, 6 days a week (much longer service hours than other neighboring library systems), and
- Pivoting to offer virtual services such as:
  - An extremely well-utilized reference call hotline,
  - A program for personalized reading recommendations an expanded books-by-mail program, and
  - Virtual programming.

The Library continued to offer extensive online programs into 2021, which were very well-received. Online access enabled the Library to expand its reach and facilitated rich participation of guests and panelists in varied events, including:

- Rainbow Sign Panel Discussion, exploring the history and significance of Berkeley's iconic Black Cultural Center;
- Teen Author Events, supporting the community's commitment to diverse subjects and genres;
- Children's Storytimes;
- Book clubs; and
- Educational Programs, ranging from ESL, to tech support, to Business Bootcamp.

Despite the popularity of online programs, feedback from the public suggested that people were excited for a return of in-person programs. Children's Librarian Michael Kwende pioneered the beginning of children's storytimes in Bateman Mall park near the Claremont branch, with other library locations soon following suit. Tarea Hall Pittman South launched a series of popular how-to programs outside in front of the Tool Lending Library, covering topics like bike repair, cooking, and gardening, and also hosted some outdoor vaccine clinics. Libraries have hosted outdoor dance performances, supporting the safe celebration of events like Latinx/Hispanic Heritage month.



### *Reopening and Beyond*

Two staff teams worked to plan for reopening buildings to the public, with the extensive help and support of City partners. These teams used guiding values to inform how the Library reopened buildings, by focusing on:

- Centering of staff and patron safety,
- Ensuring sustainability with current staffing levels,

- Offering a variety of valued services across locations,
- Supporting equity by providing access to services needed by marginalized communities, and
- Emphasizing access by maintaining the ability to serve people outside if they cannot come into the building.



While preparing for full reopening, in spring 2021, the Library launched a pilot program to lend laptop computers and mobile Wi-Fi hotspots to Library patrons for home use. This project enabled those without access to computers to connect to the internet to access resources. Through a grant from the Library Foundation, the Library purchased 50 Chromebook laptops and Wi-Fi hotspots to loan to patrons in sets that enabled them to access the kinds of tools they otherwise would have needed to come to the Library to access.

Part of the team's work applied the principle of equity and involved outreach to those in the community most in need of these resources, such as seniors, students, parents, lower-income households, and people experiencing housing insecurity. The team created a list of users that would be guaranteed access to these resources before they became available to the general public. The pilot has been extremely successful and the Library is working with the Foundation to expand the program.

The Library phased and staggered the reopening of its buildings to the public for additional services, starting with indoor express services at the North Library location in May. By August, all locations had some indoor services available.

A critical question facing the Library now is when to introduce indoor, in-person programming, given the approach of winter and the reality that the pandemic will continue for the foreseeable future. Patrons continually express the desire for a return to indoor programming and the Library is centering this feedback, while also considering staff bandwidth and capacity limits, staffing levels and service hours.

## Parks, Recreation and Waterfront

The Parks, Recreation and Waterfront (PRW) Department has continued to both directly mobilize employees and adapt much of its operational work in response to the pandemic. The below sections describe the operational impacts on each of PRW's divisions.

### *Administrative Division*

The Administrative Division continues to contribute to the COVID-19 response in a variety of ways, including:

- Implementing department policies and procedures for remote work.
- Continuing to support
  - Department staff with purchases relating to COVID-19 (e.g., sanitizer, disinfectant, masks, plastic screens, caution tape, signage, handwashing stations, portable toilets, laptops for remote work).
  - The EOC with time tracking and cost recovery efforts.
- Processing COVID cases and exposures.

### *Capital Projects Division*

The Capital Projects Division has been processing projects and completing projects as scheduled. The Division has hosted multiple ribbon cuttings and groundbreakings in a COVID-safe manner, and continued to implement and enforce Health Officer standards related to construction.

### *Parks Division*

The Parks Division has been focusing on making public spaces safe and clean during the pandemic, including continuing practices initiated in the first year of the pandemic, such as:

- Changing assigned cleanup routes to focus on areas with an increased number of people sleeping and living in parks.
- More frequently checking and emptying garbage cans which were filling more quickly with increased usage of parks and the waterfront.<sup>19</sup>

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<sup>19</sup> Garbage cans in Aquatic Park and the Waterfront are not serviced by Zero Waste.

### *Recreation Division*

In the Recreation Division, COVID-related operational impacts included, adjusting and continuing operational responses from the initial year of the pandemic such as:

- Providing building supervision staff for COVID-19 Testing and Vaccination Sites.
- Implementing Summer Childcare/Camp/Afterschool Program from June 2020 through the present, following all Health Officer Orders with all operations exclusively outdoors. This also involved developing a COVID-19 Summer Camp/Afterschool Program staff manual and training program.
- Working with BUSD staff to provide priority scholarships to Berkeley's Excellent Academic Road to Success (BEARS) afterschool program participants.
- Implementing COVID-19 protocols for the Summer Lunch Program that was available at multiple locations throughout the City, such as grab-and-go lunches.
- Implementing Aquatics Programming in compliance with Health Officer Order restrictions.
- Providing information to the public about Health Officer Orders. Park monitors have been providing public health information, handing out face coverings, monitoring activity in parks, and tracking face covering usage.
- Making sure groups with field permits are complying with Health Officer Orders.
- Running modified special events such as "Movies in the Park", the Harvest Festival, Mother's Day celebration, and Halloween events.

### *Waterfront Division*

During the past year, in response to COVID-19, the Waterfront Division has:

- Implemented a payment deferral policy for slipholders and live-aboards experiencing financial hardship due to the impacts of COVID-19.
- Added security cameras throughout berther parking lots to address increased crime since the initial Shelter-in-Place Order was issued.

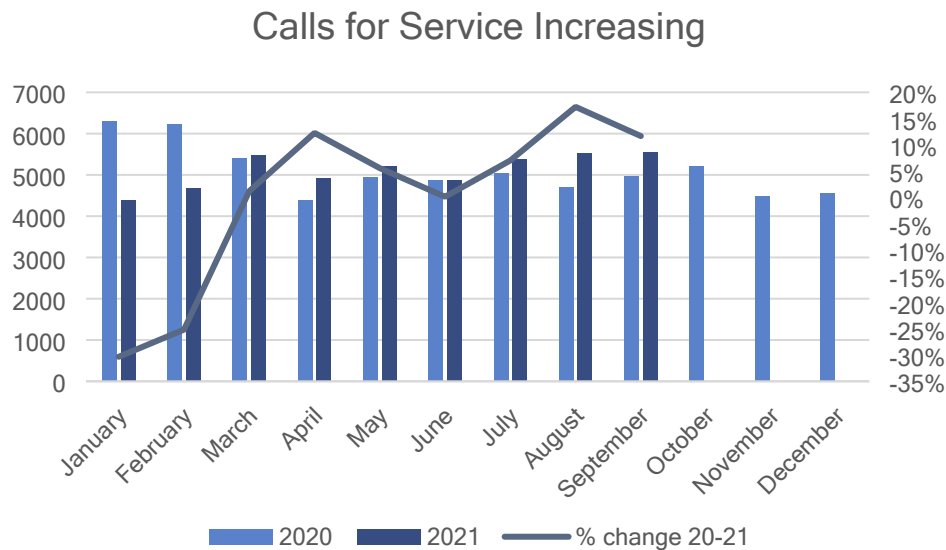
## Planning and Development

Since October 2020, the Planning and Development Department has continued to pivot its operations to comply with the pandemic's social distancing requirements. Chiefly, the Department has made all permitting services available online and has reopened City offices for in-person visits. The Planning Department continues to maintain a hybrid system, providing both in-person and online services to a range of customers. Additionally, Planning Department staff worked closely with Finance and Information Technology Departments, in conjunction with a technology consultant and third-party vendors, to further expand online services to include:

- Submitting new building permit applications,
- Paying all building permit fees online (expanding to all zoning permit fees in 2022),
- Scheduling specific appointments at the Permit Service Center (PSC) online, avoiding lines and wait times,
- Using appointment scheduling software to provide advance appointments for in-person services and to manage walk-in customers by assigning a specified time to meet with a PSC staff member, minimizing wait times inside the PSC, and
- Accepting new Land Use project applications and offering other services online, many of which previously required in-office visits.

## Police

As described in the previous report, the COVID-19 lockdown period changed the way the Police Department responded to calls, the way it handled arrests and how other essential functions were performed by department staff, some of whom worked remotely. A reduction in call volume<sup>20</sup> during the lockdown provided the opportunity to implement hybrid schedules to ensure safety protocols could be met while maintaining adequate resources to address public safety needs. The Police Department also explored utilizing technology to work remotely as well as to increase customer service delivery in a low- to no-contact manner. The Police Department was able to maintain continuity of service throughout the pandemic. Calls for service have continued to rise, as shown in the figure below, as conditions return to a new “normal”.



<sup>20</sup> Calls for service in calendar year 2020 were 60,799, down 20% from 2019. See [https://www.cityofberkeley.info/Clerk/City\\_Council/2021/10\\_Oct/Documents/2021-10-19\\_Item\\_01\\_BPD\\_Annual\\_Report\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-19_Item_01_BPD_Annual_Report_pdf.aspx)

## Public Works

The Public Works Department's work on the COVID-19 response activities continues to include both Disaster Service Worker (DSW) deployments to the EOC, as well as many operations within the Department.

Within the EOC, Public Works DSWs had roles in the Plans, Management, Logistics, and Operations Support Sections. The Public Works Traffic Maintenance Unit arranged traffic controls for many testing site operations and vaccination clinics.

Additional Public Works COVID-19 related activities included:

- Facilitating in-depth cleaning and disinfectant after employee COVID-19 exposure;
- Upgrading 224 building air filters at 28 separate City buildings to MERV 13<sup>21</sup>. These 28 City buildings include all fire stations, Civic Center and neighboring City buildings such as 1947 Center St and the Public Safety Building, as well as other field locations such as Animal Control, Corporation Yard, and the Mental Health Clinic, among others;
- Working closely with Neighborhood Services to stand up the Horizon Transitional Village Shelter Program and the Safe Parking and Respite Kickstart (SPARK) Program, which provide 50 beds and 40 parking spots for recreational vehicles (RVs), respectively, at 742 Grayson Street; and
- Working closely with both Neighborhood Services and the Police Department on encampment and recreational vehicle (RV) cleanups.

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<sup>21</sup> Minimum Efficiency Reporting Values (MERV) is a rating system that indicates the ability of a filter to capture particles. See <https://www.epa.gov/indoor-air-quality-iaq/what-merv-rating-1>. Per the CDC's website, "CDC recommends using the highest efficiency ventilation filters possible, without having detrimental effects on overall HVAC system performance. ASHRAE has similar guidance; however, they recommend a minimum filtration efficiency target of MERV 13, provided there are not substantial negative impacts on the HVAC system performance and occupant comfort." See <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html>.



## Rent Stabilization Board

During the entire COVID-19 State of Emergency period, demand for Rent Stabilization Board (RSB) services increased significantly. As the legal landscape on eviction restrictions continued to shift in 2021, numerous community members and stakeholders contacted the RSB with more questions than usual due to the increasingly complex intersection between rental housing law and the ever-changing public health crisis. The RSB's Public Information Unit remains the exclusive unit in the City that has handled all inquiries regarding anti-displacement measures—most notably, the COVID-19 Emergency Response Ordinance (B.M.C. 13.110) –to provide tenants with COVID-related eviction protections.

From October 2020 through September 2021, the RSB refined its service delivery to better harmonize onsite and remote work activities. In order to more nimbly respond to the needs of the public, most RSB staff have maintained a hybrid onsite/remote work schedule. The RSB has met the challenges and uncertainty of this period by prioritizing transparency, clarity and fluidity in all aspects of the Department's work.

In response to COVID-19, the RSB continued to work closely with other departments on a variety of activities, including:

- Collaborating with the City Attorney's Office regarding anti-displacement laws over which the RSB has traditionally had exclusive domain,
- Communicating with Council regarding proposed changes that serve to strengthen various anti-displacement proposals,
- Continuing to update and maintain current information regarding various State laws that affect rental housing, particularly related to eviction protections; and laws that allow for continued teleconferencing during a time when in-person meetings remain a risk, and
- Consulting with the IT Department to best utilize the City's network infrastructure in conjunction with a virtual phone system (Grasshopper) to maximize functionality while protecting staff's personal devices that were also used for remote work.

The RSB pivoted and innovated to address the many operational impacts stemming from the pandemic, including:

- Maintaining and regularly updating COVID-related information online, including a COVID-19 Fact Sheet and a centralized list of resources for Berkeley landlords and tenants,
- Conducting multiple webinars to educate and update the public on rental housing issues with an emphasis on COVID-related impacts,
- Installing an access control system at the RSB's public entrance to better regulate and comply with the maximum occupancy levels recommended by Cal/OSHA,
- Implementing a virtual phone system (Grasshopper) to allow staff to more effectively provide services remotely,
- Expanding contactless payment options by installing a secure drop box to enable drop off of check payments at any time,
- Continuing to provide remote hearings to allow greater flexibility to parties and enable staff to more effectively present exhibits in video format, and
- Conducting all public meetings remotely.

Other fiscal and personnel impacts include:

- Increased expenditures for hardware purchases needed to accommodate the hybrid work environment (14 laptops and 13 multimedia monitors), and ongoing subscription fees for online platforms (Zoom and Grasshopper).
- Four full-time employees have resigned during this period, which necessitated ongoing redistribution of work and management structure.
- Due to supply chain issues, multiple staff are still waiting on hardware (laptops, multimedia monitors) needed to effectively perform remote work.

## BERKELEY MOVES FORWARD

When the full EOC was mobilized in March 2020, the City's COVID work was an emergency response. The City worked across departments and together with partner agencies under the EOC structure. The structure ensured our ability to effectively monitor new information about the virus and its impacts to help City leaders make difficult decisions. The EOC structure also enabled the City to quickly ramp up new services to the community, such as providing COVID testing and vaccines, and setting up and maintaining respite sites for the unhoused. The EOC structure also helped the City to communicate consistent and accurate information with the community about the virus and how to stay safe.

Two years into the COVID-19 pandemic, the City's pandemic response has evolved. Departments are integrating COVID-19 norms into their day-to-day practices, structures, and policies. Many of our initial questions about COVID - *How does it spread? Who is at greatest risk?* - have been answered. Problems that were once emergencies, requiring new connections, contracts, and support from all levels of government, are now day-to-day practice. Working together, the City as a whole has used its experience to develop tools, processes, and connections that will help to manage the ongoing demands of this virus.

The City's response must continue to evolve: at this juncture, evolution means shifting the organization's work out of the EOC structure and into a sustainable, department-led effort. The City must be ready to continue service to our community in an equitable fashion, even after the emergency response demobilizes.

The Department of Health, Housing and Community Services (HHCS), oversees public health in Berkeley and has provided expert guidance and leadership to help the City navigate the pandemic. HHCS is also the natural home to lead and coordinate ongoing activities to respond to COVID-19 in the community. To that end, HHCS has created a new COVID-19 Response Unit within the Office of the Director. This included hiring additional staff using COVID-19 grant funding as well as integrating COVID-19 policies into health inspections going forward. HHCS will continue to support other City departments in managing COVID-19 for public-facing programs.

All departments, including HHCS, continue to normalize safety measures and precautions which support community and employee safety. Safety measures include continued staff and public masking in City facilities, the City's employee vaccination mandate, and ensuring the ongoing availability of personal protective equipment (PPE) and sanitization supplies. Community members see these measures in action when they come to City buildings to receive services, such as from the Permit Service Center, or when they work with City staff in the field, whether its receiving emergency services or participating in a recreation or childcare program.

As the City moves into this new phase of the pandemic, it must continue to respond to and mitigate health inequities that have been further illuminated by COVID-19. To address this, HHCS is implementing an equity-focused campaign to reduce disease spread and address additional health disparities in Berkeley. The approach will focus on providing targeted education and outreach materials, as well as access to treatment and prevention for Berkeley's most vulnerable populations including people of color, the elderly, and community members with disabilities.

As Berkeley transitions into this new phase, it is well-positioned to shift out of the emergency phase of the COVID-19 pandemic and to continue to build a healthy city. Our recovery from COVID-19 involves the full City team and all community members. The integration of COVID-19 into the City's daily work not only keeps all of us safe, but also provides a solid foundation to continue to improve community health and safety as we move into the future.

## APPENDIX: POEMS OF THE EOC

Throughout the pandemic, the Emergency Operations Center (EOC) Director, Deputy City Manager Paul Buddenhagen, would close the briefing meeting at the end of an operational period by reading a poem. These poems often reflected the mood of the EOC, providing solace, empathy, and sometimes, hope. The list of poems is included below.

- *What Have I Learned* by Gary Snyder
- *To Be of Use* by Marge Piercy
- *The Real Prayers Are No the Words, But the Attention that Comes First* by Mary Oliver
- *Perhaps the World Ends Here* by Joy Harjo
- *Opera Singer* by Ross Gay
- *Still I Rise* by Maya Angelou
- *The Writer* by Richard Wilbur
- *A Center* by Ha Jin
- *This Is Just to Say* by William Carlos Williams
- *Hummingbirds* by Mary Oliver
- *Mr. Grumpedump's Song* by Shel Silverstein
- *A Poet and His Baby Son* James Weldon Johnson
- *Mother to Son* by Langston Hughes
- *Using Black to Paint Light: Walking Through a Matisse Exhibit Thinking About the Arctic and Matthew Henderson* by Robin Coste Lewis
- *The Gift* by Li-Yong Lee
- *The Pandemic Halo* by Jim Moore
- *One Hundred Love Sonnets: XVII* by Pablo Neruda
- *Insomnia and the Seven Steps to Grace* by Joy Harjo
- *October* by Louise Glück
- *Kindness* by Naomi Shihab Nye
- *Those Winter Sundays* by Robert Hayden
- *Bear in Mind* by John Martin
- *Fire and Ice* by Robert Frost
- *Whatif* by Shel Silverstein
- *Happiness* by Raymond Carver
- *Faith is a Fine Invention and Hope is the Thing with Feathers* by Emily Dickinson
- *I Too* by Langston Hughes

- *From Blossoms* by Li-Young Lee
- *Ode to Herb Kent* by Jamila Woods
- *Poem in Praise of Menstruation* by Lucille Clifton
- *Invitation* by Mary Oliver
- *March* by James Wright
- *Bent to the Earth* by Blas Manuel De Luna
- *The Greatest Thing Since Sliced Bread is Unsliced Bread* by Paul Gillie



Office of the City Manager

INFORMATION CALENDAR

January 25, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: LPO NOD: 2212 Fifth Street/#LMIN2021-0001

INTRODUCTION

The attached Notice of Decision to disapprove a City Landmark designation is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.160, which states that “a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has denied a request to grant City Landmark or Structure of Merit status to the property at 2212 Fifth Street. This action is subject to a 15-day appeal period, which began on January 10, 2022.

BACKGROUND**Regulatory Procedures for City Council Certification of LPC decisions.**

BMC/LPO Section 3.24.190 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying Landmark, Structure of Merit or Historic District status. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by January 25, 2022. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

**LPC reviews and hearings for 2212 Fifth Street.**

Prior to taking final action to deny this Landmark application, the Commission was asked to consider the merits of the subject property and its potential historical significance on three separate occasions.

On June 3, 2021, Commissioner Finacom submitted materials to LPC that generally described the history and potential significance of the extant building and made a motion to formally initiate the property for Landmark or Structure of Merit (SOM) consideration. The initiation attempt failed when no other Commissioner seconded the motion.

On July 29, 2021, sixty (60) Berkeley residents signed and submitted a Landmark petition for this property along with a Landmark application prepared by Fran Cappelletti of Berkeley Architectural Heritage Association (BAHA). Pursuant to BMC Section 3.24.130, the requisite public hearing to consider the petition occurred on October 6, 2021. Substitute Commissioner Olson moved, and Commissioner Finacom seconded, an action to grant SOM status to the property upon recommendation from staff. The motion failed with a vote of 2-6-0-1 (Yes: Finacom, Olson; No: Adams, Enchill, Leuschner, Montgomery, Schwartz, Twu; Absent: Crandall). Those against the motion made the following statements prior to voting:

- Structure of Merit status would overstate the evident value of the building's design and significance.
- Rather than contributing to the neighborhood fabric and its surroundings, the extant structure is an anomaly within its built context.
- The building's design is far less compelling than the glassblock industrial buildings that are prominently featured in the immediate vicinity of the property.
- The Spear House at 1905 MLK Jr. Way has a primary association with the historical figure Charles Spear and, in part for this reason, was granted Landmark status in 2017; by comparison, the subject building has only a liminal association with Spear.

On November 3, 2021, the hearing continued and the Commission took final action to deny the Landmark application request upon finding the property lacking in the areas necessary to demonstrate historical significance (see Attachment 1, Findings for Denial). Vote to disapprove the designation request: 7-1-1-0 (Yes: Adams, Crandall, Johnson, Leuschner, Schwartz, Thagard, Twu; No: Finacom; Abstain: Enchill; Absent: none).



ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers. The denial of this request is not expected to result in negative impacts to the environment.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Jordan Klein, Director, Planning & Development Department, 510-981-7534  
Steven Buckley, Land Use Planning Manager, Planning & Development Department,  
510-981-7411  
Fatema Crane, Landmarks Preservation Commission Secretary, Planning &  
Development Department, 510-981-7410

Attachments:

1: Notice of Decision – #LMIN2021-0001 at 2212 Fifth Street



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N

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N O T I C E O F D E C I S I O N

**DATE OF BOARD DECISION: November 3, 2021**  
**DATE NOTICE MAILED: January 10, 2022**  
**APPEAL PERIOD EXPIRATION: January 25, 2022**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): January 26, 2022<sup>1</sup>**

## 2212 Fifth Street

**Landmark application (#LMSAP2021-0001) for consideration of City Landmark or Structure of Merit designation status for a residential property.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **DENIED** the following permit:

- City Landmark or Structure of Merit designation status, pursuant to Berkeley Municipal Code Section 3.24.110.A-B

**APPLICATION AUTHOR:** Fran Cappelletti, Berkeley Architectural Heritage Association, P. O. Box 1137, Berkeley, CA

**ZONING DISTRICT:** Mixed Use-Residential (MU-R) Zoning District

**ENVIRONMENTAL REVIEW STATUS:** Exempt from review pursuant to CEQA Guidelines Section 15061(b)(4).

**The application materials for this project are available online at:**  
<http://www.cityofberkeley.info/zoningapplications>

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### FINDINGS ARE ATTACHED TO THIS NOTICE

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<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
City Landmark designation status - #LMIN2021-0001  
2212 Fifth Street  
January 25, 2022  
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**COMMISSION VOTE: 7-1-1-0**

**YES:** ADAMS, CRANDALL, JOHNSON, LEUSCHNER, SCHWARTZ, THARGARD,  
TWU

**NO:** FINACOM

**ABSTAIN:** ENCHILL

**ABSENT:** None

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
  - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the Commission made under the provisions of Chapter 3.24.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

If you object to this decision, the following requirements and restrictions apply:

LANDMARKS PRESERVATION COMMISSION

NOTICE OF DECISION

City Landmark designation status - #LMIN2021-0001

2212 Fifth Street

January 25, 2022

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1. If you challenge this decision 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 Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION  
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**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or [fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info) or [lpc@cityofberkeley.info](mailto:lpc@cityofberkeley.info)

**ATTACHMENTS:**

1. Findings for Denial
2. Landmark application



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc: City Clerk  
Fran Cappelletti, BAHA, application author  
Steelwave/W-S WBLS East Owner IX LP, 999 Baker Way #200, San Mateo, CA,  
property owner

FINDINGS FOR DENIAL

NOVEMBER 4, 2021

## 2212 Fifth Street – The Montgomery-Spear House

### City of Berkeley Landmark Application #LMIN2021-0001

#### PROJECT DESCRIPTION

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City Landmark or Structure of Merit designation of the property at 2212 Fifth Street [APN 056-1958-004-00] – The Montgomery-Spear House

#### CEQA FINDINGS

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1. An action to deny and/or disapprove a project is exempt from environmental review pursuant to the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.), Guidelines Section 15061.b.4 for Review of Exemptions – rejection or disapproval.

#### LANDMARK PRESERVATION ORDINANCE FINDINGS

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2. Pursuant to Berkeley Municipal Code (BMC) Sections 3.24.110 and 3.24.150, the Landmarks Preservation Commission disapproves the request to grant City Landmark or Structure of Merit (SOM) status to the subject property. The Commission takes this action after due consideration of the application and the general designation criteria, and finding that this property lacks historical significance in a manner and to a degree that warrant designation as a Landmark or SOM.
3. Specific to the criteria for City Landmark designation under BMC Section 3.24110.A, the Commission finds that: the extant structure may be among the oldest in West Berkeley and yet it is not the most significant in Berkeley or the neighborhood where more distinctive and significant structures are located and have been granted designation status; the building lacks character-defining features of residential Italianate Victorian architectural design and is not an exemplar of the style; the property adds no exceptional value to the West Berkeley neighborhood fabric; for these reasons, it does not meet the designation criteria for *architectural merit*.
4. Related to the remaining criteria for SOM designation under BMC Section 3.24.110.B, the Commission finds that the property is not worthy of preservation regardless of its age because it lacks distinction for its design and historical associations. For these reasons, it does not contribute to the significance of existing resources and City Landmarks in the area. The building form is an anomaly in its built context and does not contribute to the continuity or aesthetic coherence of the neighborhood or street frontage.

City of Berkeley Ordinance #4694 N.S.  
LANDMARK APPLICATION

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**Montgomery-Spear House**  
2212 Fifth Street, Berkeley, CA 94710



Land Use Planning  
Received  
July 29, 2021



1. **Street Address:** 2212 Fifth Street  
**County:** Alameda  
**City:** Berkeley  
**Zip Code:** 94710
2. **Assessor's Parcel Number:** 56-1958-4  
**Tract:** Tract B, Berkeley Land and Town Improvement Association  
**Dimensions:** 50 feet x 125 feet  
**Cross Streets:** Bancroft Way, Allston Way
3. **Is property on the State Historic Resource Inventory?** Yes, Status Code 3S  
**Is property on the Berkeley Urban Conservation Survey?** Yes  
**Form #:** 19772
4. **Application for Landmark includes:**
  - a. **Building(s):** Yes **Garden:** No **Other Feature(s):** No
  - b. **Landscape or Open Space:** No
  - c. **Historic Site:** No
  - d. **District:** No
  - e. **Other:** Entire Property
5. **Historic Name of Property:** Spear House
6. **Date of Construction:** 1877  
**Factual:** Yes  
**Source:** Newspaper announcement, Berkeley Advocate, February 2, 1878.
7. **Architect:** Unknown
8. **Builder:** Berkeley Real Estate Union
9. **Style:** Italianate Victorian
10. **Original Owners:** Charles Montgomery  
**Original Use:** Single Family Residence
11. **Present Owners:** W-SW WBLS EAST OWNER IX LP  
**Present Occupant:** None
12. **Present Use:** Vacant  
**Current Zoning:** MUR
13. **Present Condition of Property:**  
**Exterior:** Fair to Poor, **Interior:** Unknown, **Grounds:** Fair to Poor  
**Has the property's exterior been altered?** Yes



## 14. DESCRIPTION

The house is an Italianate Victorian, built in 1877, comprising two stories of wood-frame construction. The exterior was later covered in pink asbestos shingles. The doorways and windows are currently boarded up, and a locked chain-link fence surrounds the property.

The roof eaves are closed, and the gables are trimmed with wide frieze board and gable-end returns.



*Daniella Thompson, 2006*

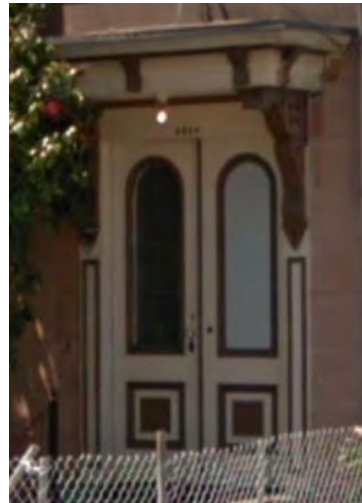


*Fran Cappelletti, 2021*

There is a front entrance with a bracketed porch overhang on the right side of the front façade. The doorway is covered with boards, but photos from 2016 show a double door with long arched glazed panels over square framed wood panels.



*Fran Cappelletti, 2021*



*Google Maps, 2016*

On the left side of the front façade, a two-story-high, three-faceted bay contains four tall, narrow, double-hung windows at each level. It is ornamented with a corbeled entablature. A single, wood frame, double-hung window is on the right side of the front façade.



*Fran Cappelletti, 2021*



On the north side of the main gable a wood framed two-over-two double-hung window appears to be on the upper floor and a boarded over window on the lower floor cannot be verified. There is one window on the first floor at the rear of the main gable. On the rear gable, two wood frame windows are on the north side and three more at the rear.

*Fran Cappelletti, 2021*



The rear gable upper floor window shows signs of change or replacement with some of the asbestos shingles removed above and below.

On the south side of the main gable, a wood frame double-hung window is on each floor. Wood frame windows are also on the east and south sides of the side gable on each floor. The lower floors are boarded over.





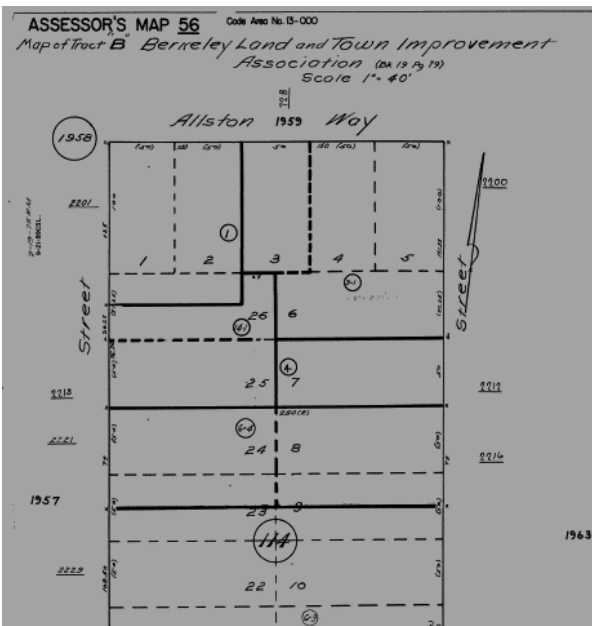
The building is massed with a large main gable facing the street, a cross gable facing south, and a lower two-story gable-roofed wing facing west. At the southwest corner, a one-story, hip-roofed addition is tucked between the west and south wings.

Existing roofing is composition shingle with a chimney projecting from the central roof.

Google Maps, 2021

Permit records indicate that the house was converted to two units around 1940, and a concrete foundation was added in 1953. A garage was added in 1945, but no longer exists.

The Montgomery-Spear House is located on the west side of Fifth Street, between Bancroft and Allston Ways in West Berkeley. The site is part of Tract B of the Berkeley Land and Town Improvement Association.



Northern portion of Block 1958, Alameda County Assessor



Google Maps, 2021

It is the only remaining residential property on the block, with parking lots to the north and west and industrial buildings and warehouses filling the rest. Nearby blocks are occupied by a

mix of retail, industrial and residential properties. Railroad tracks, Interstate 80 and San Francisco Bay are a few blocks to the West and University Avenue is two blocks north.

Directly across the Fifth street are residential and commercial properties, including the former West Berkeley Macaroni Factory, designated a City of Berkeley Landmark, Structure of Merit, in January 1991 and restored in 1994.<sup>1</sup>



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<sup>1</sup> Daniella Thompson, Simone Marengo gave Berkeley macaroni, Berkeley Daily Planet, September 7, 2007 at [http://berkeleyheritage.com/berkeley\\_landmarks/marengo.html](http://berkeleyheritage.com/berkeley_landmarks/marengo.html).

The Montgomery-Spear House dates to the early development of West Berkeley as it became part of a larger Berkeley. The 1880 Map of Berkeley, published by Carnall & Eyre, shows the site in a growing Town of Berkeley, near the Standard Soap Factory, railroad and wharves.



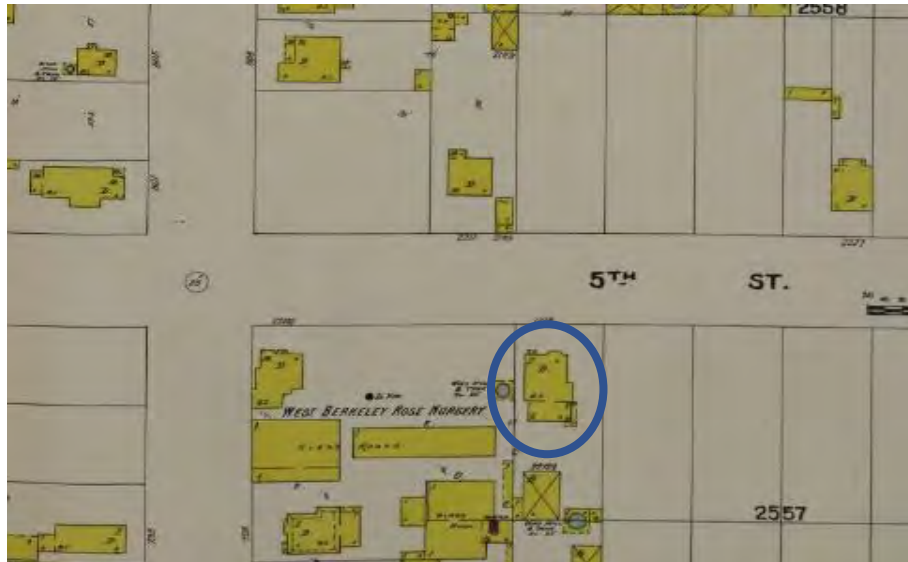
Map of Berkeley.  
Published by Carnall & Eyre, dealers in Berkeley Real Estate.  
Compiled by Joseph Smith, Oakland. From the records of Alameda Co., Cal.  
Lith. A. Waldstein, S.F. (1880)

A drawing of the view from that era shows another perspective.



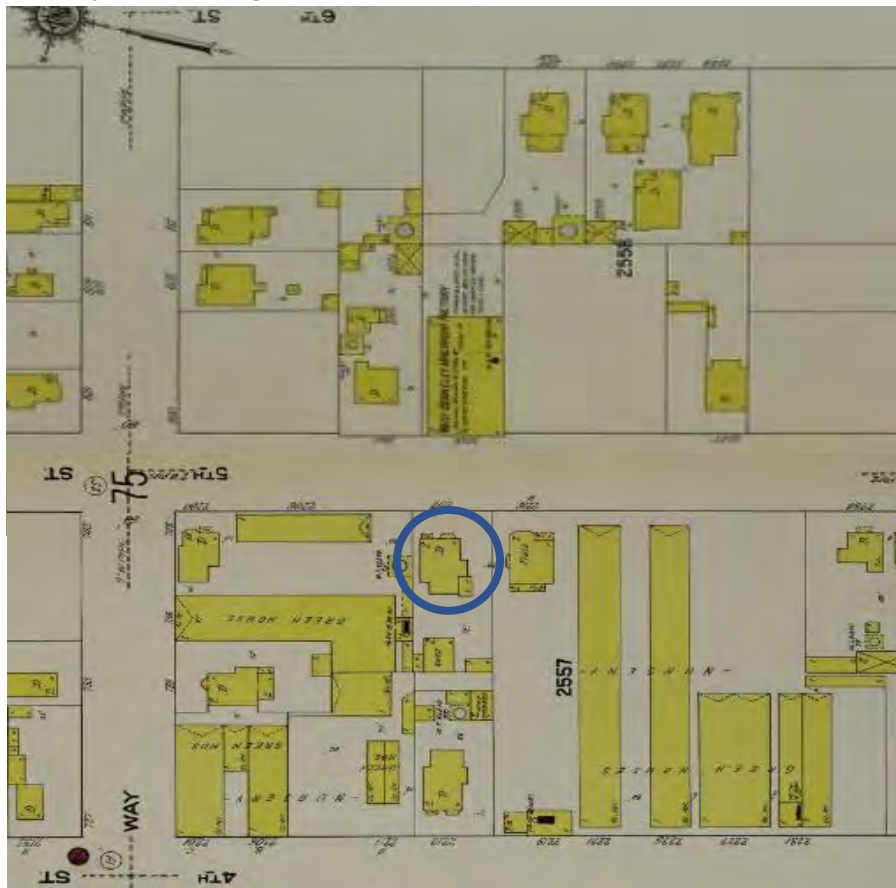
A view of the Standard Soap Works and surrounding area, West Berkeley (illustration by Van Wyck)

By 1903, the house remains the largest on 5th Street, between the West Berkeley Rose Nursery and empty lots, already a mix of residential and commercial uses.



Sanborn Fire Insurance Map from Oakland, Alameda County, California. Sanborn Map Company, Vol.3, 1903. Map. Retrieved from the Library of Congress, <[www.loc.gov/item/sanborn00727\\_004/](http://www.loc.gov/item/sanborn00727_004/)>.

By 1911, additional development included more housing and the West Berkeley Macaroni Factory, continuing a tradition of mixed use.



Sanborn Fire Insurance Map from Berkeley, Alameda County, California. Sanborn Map Company, ; Vol. 1, 1911. Map. Retrieved from the Library of Congress, <[www.loc.gov/item/sanborn00419\\_002/](http://www.loc.gov/item/sanborn00419_002/)>.

Decades later, as the following photo indicates, the Montgomery-Spear House and neighboring nursery remained. Industry expanded nearby, along with residential development.



2212 Fifth St. (left).  
(Ormsby Donogh  
files, BAHA archives)



Cared for and occupied for many years, it was left vacant, boarded up and fenced for the past several years. As images from the various years show, the general condition has declined while the primary features remain in place.



*Historic Resources Inventory, 1979*



*Daniella Thompson, 2006*



*2008*



*2016*



2018



2019

## Features to Be Preserved

The distinguishing features of the Montgomery-Spear House include the following:

Front, rear and south gables.

Entry with bracketed porch overhang.

Entrance Door.

Two-story angled bay window with corbeled entablature.

Front and side windows, subject to further review and evaluation.

## 15. History

### The Ohlone Period

Before the arrival of Europeans, the Native Americans living in today's Berkeley and the East Bay were part of a larger group that lived for thousands of years from the San Francisco Bay to Monterey. The Spanish referred to them as Costanoan or 'Indians of the coast' and they were later called Ohlone. Made up of distinct groups, they had similar languages and cultures. Physical evidence of their presence in Berkeley remains, most notably the famous and recognized Berkeley Shellmounds a few blocks from 2212 Fifth Street.

European arrival brought disease and displacement, with much of the population pulled into the local Missions by the early 1800s. Despite the many hardships and being labelled extinct, descendants remain throughout the San Francisco Bay Area, active in preserving their name, culture, and history.

### Rancho San Antonio

According to M.W. Wood's *History of Alameda County, California*, the Rancho San Antonio, a nearly 45-thousand-acre Spanish land grant, was made to Luis María Peralta by Spanish governor Pablo Vicente de Sol on August 16, 1820. Peralta had served forty years in the Spanish military. The grant included present-day Albany, Berkeley, Oakland, and northern San Leandro. In 1842, he divided the land among his four sons. One of them, Domingo, would receive all of what is present-day Albany and Berkeley and a small portion of northern Oakland. He built an adobe house in 1841 at the present-day site of 1304 Albina and it is a California point of historic interest.

According to the Peralta Family History<sup>2</sup>, annexation of California by the United States in 1848 and the Gold Rush of 1849 brought significant change. While the Peraltas and their fellow Californios were promised recognition and protection of their property rights, squatters on the land and theft of cattle became a problem as new settlers arrived from around the world. A further burden came with the 1851 U.S. Federal Land, which required the Californios to prove their land titles in court, requiring much time and expense. In 1852-1853, Domingo started selling parcels of his land, mostly to pay off debts. The parcels were defined on a map surveyed by Julius Kellersberger, hired to survey the northern part of Rancho San Antonio. Surveyed in 1853, the map covers

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<sup>2</sup> See <http://www.peraltahacienda.org> .

Albany, Berkeley, Emeryville, and part of Oakland. This view of the parcels shows the site of the building in No. 63.



*Map of the Ranchos of Vicente & Domingo Peralta. Containing 16970.68 Acres. Surveyed by Julius Kellersberger, 1853. Courtesy of Barry Lawrence Ruderman Antique Maps, Inc. <http://www.raremaps.com>*

## Ocean View

In 1850, early settlement included James Jacobs with his boat landing and Captain William Bowen's Inn. There soon followed John Everding and A.A. Rammelsburg's Pioneer Starch Works and Grist Mill and Heywood's lumber yard. Residents moved in, primarily foreign-born immigrants and second-generation Americans. Growth was not dramatic until the 1873 establishment of the new campus of the University of California.

In 1874, the area was part of the Berkeley Land and Town Improvement Association. This was organized by neighborhood leaders to facilitate the further development of Ocean View, with wharf and ferry services and industrial growth. This development, along with the University, led to new factories and a ten-fold increase in population.

For a comprehensive history of Ocean View, see *Victorian Berkeley: The Community of Ocean View*, Karen Jorgensen-Esmaili and The Berkeley Historical Society, 1981. With the joining of the two distinct communities as Berkeley in 1878, further growth followed, but the differences remained, and today's common label of West Berkeley was already established.

## Owners and Residents

### 1877–1878: Charles Montgomery

On 2 February 1878, the *Berkeley Advocate* announced that “the three fine houses built by the Berkeley Real Estate Union, and situated nearly opposite the [Standard] soap factory have been sold to a Chicagoan, who intends to make his home in Berkeley.” The man who bought the three houses was one Charles Montgomery, a speculator who never became a Berkeley resident.

### 1879–1881: Three Owners

By the following year, Montgomery sold the houses to three different men, speculators like himself, each turning over the properties within a year to other buyers. Tax assessment records show them successively as G.W. Hazelton, J.J. Perkins and F. Clay.

Pre-dating numbered addresses, John J. Perkins is listed as a resident on the west side of Fifth, between Allston and Bancroft, in the 1880 and 1881 Berkeley Directories. His occupation is noted as real estate.

### 1882–1887: Walter Minturn Heywood

Walter Minturn Heywood (1854–1924) was Zimri Brewer Heywood’s son by his fourth wife. A realtor, he assisted his elder half-brother, William Brewer Heywood, in administering their father’s estate. In addition, he acted as chief engineer of the West Berkeley Volunteer Fire Department. In the mid-1880s, he served in the State Assembly, representing Alameda’s 54<sup>th</sup> district.

### Approximately 1887 to 1905: Charles Henry Spear

A comprehensive history of Mr. Spear and the neighborhood is documented by Daniella Thompson in her article, *A Tale of Two Mystery Houses and One Politician*<sup>3</sup>, summarized below.

In 1889, the Berkeley directory first listed Berkeley’s town clerk, Charles H. Spear, as living at 2212 Fifth Street. He may have rented the house in 1887, after marrying Tillie Rose Guenette (1870–1952), daughter of pioneer West Berkeley blacksmith and wagon-maker Peter Guenette. Spear’s widowed mother Elizabeth lived with the couple, and the house was registered in her name when the Spears purchased it in 1890 or ’91. In its dozen years of existence up to that point, the house had eight successive owners, of whom the Spears were the very first to occupy the premises. Their three children were born here between 1887 and 1891.

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<sup>3</sup> [http://berkeleyheritage.com/eastbay\\_then-now/spear.html](http://berkeleyheritage.com/eastbay_then-now/spear.html)

Charles Henry Spear (1862–1928) was born in Sonora, Tuolumne County, to Bostonian parents. His father, Frederick Augustus Spear, ran a pharmacy there until 1864, when he was appointed druggist to the State Insane Asylum in Stockton. Eventually the Spears moved to Oakland, and in 1882 they arrived in West Berkeley, where Frederick opened a drugstore on the corner of University Avenue and Fifth Street. He died in 1885.

By 1892, Charles Spear was a notable enough figure to merit a biography in *The Bay of San Francisco* (Lewis Publishing Co.). He would be the subject of many others in the future, but this version is probably the most accurate:

Charles H. Spear was educated in the schools of Stockton until 1876, when on the removal of the family to Oakland, he went to work in San Francisco as messenger for the Western Union Telegraph Company, and some two years later as collector for the Wheeler & Wilson Sewing Machine Company with whom he remained nearly three years. In 1881 he worked for L. M. McKenney & Co., directory publishers, and in 1882 went to Sacramento, where he spent nearly two years as bookkeeper for the H. T. Holmes Lime Co. He was Assistant Postmaster of West Berkeley in 1884, and Postmaster in 1885, conducting also a drug, book and stationery store. In 1885, in partnership with John Rooney, under the style of Rooney & Spear, he also carried on a general store. In 1887 he bought out his partner, and in 1888 sold out all his trading interests. Meanwhile he had been elected Town Clerk, in 1886, entering on the discharge of his official duties in May of that year; and he has been re-elected to that office every year since.

Spear's seven-year stint as town clerk ended in May 1893. He went into the real estate business and the following year was elected Alameda County recorder. In February 1900, California governor Henry T. Gage appointed him port warden in San Francisco. The appointment reflected Spear's intensive involvement in Republican politics.

In addition to being a member of the Berkeley Republican Club's executive committee and a trustee of the West Berkeley Improvement Club, Spear also co-managed the 1900 congressional campaign of Alameda County assessor Henry P. Dalton, a friend and associate of former Oakland mayor Dr. George C. Pardee. (Dalton was plagued by scandals throughout that year and lost the election. In 1911 he would be convicted of bribery and imprisoned at San Quentin, a few cells away from Abe Ruef, who was serving 14 years in connection with the San Francisco graft cases.)

In 1902, Spear acted as chairman of the state's Republican campaign committee, which helped put Pardee in the governor's mansion. The reward was not long in coming: on 25 March 1903, Spear came into "possession of the honors and emoluments attaching to the office of president, State Board of Harbor Commissioners," as the *San Francisco Call* succinctly put it. Despite its title, the board's power was confined to the port of San Francisco, which was owned and managed by the state.

Charles and family, including his mother Elizabeth, were last listed at 2212 Fifth Street in Berkeley's 1905 Directory and they all moved to their new house at 1905 Grove Street that same year. Built in an elaborate Colonial Revival style, this new location was a showplace and the center of much political activity. This Charles H. Spear House was designated a City of Berkeley Landmark in 2017.

After his move from 2212 Fifth Street, midway through his four-year term, Spear had to confront the supreme challenge of dealing with the devastation wreaked by the 1906 earthquake and fire. He passed with flying colors, according to the report of Commander Charles J. Badger of the U.S. Navy, who was in charge of the flagship *Chicago* and of the Sixth Marine District of San Francisco. "Spear," wrote Badger, "immediately responded and his intimate knowledge of all the details of water-side affairs, his wide acquaintance with the local business community, his energetic endeavors to restore normal business conditions in the shipping district in the shortest possible time and his sound and loyal assistance merit the highest praise."

Only after Spear's term ended did it come to light that his administration was not without internal problems. In February 1907, the U.S. Treasury Department asked for the resignation of the port's deputy surveyor and its customs appraiser on grounds of bad bookkeeping. It was further revealed that "bickering is constant between various departments, the heads of which are barely on speaking terms with each other."

Having returned to the private sector, Spear busied himself with real estate investments. The family was now ensconced in a large and handsome new house at 1905 Grove Street. Built in an elaborate Colonial Revival style, it was a showplace and the center of much political activity.

In 1909, Spear was a mayoral candidate in the Berkeley elections but was soundly trounced by Beverly L. Hodghead of the Good Government League. This rivalry did not prevent Spear from joining mayor Hodghead in opposing a proposed annexation of Berkeley to Oakland. On 26 August 1910, the *Oakland Tribune* reported that "Charles H. Spear is opposed to consolidation because he does not wish to see the pure, ideal government of Berkeley swallowed up in the Babylonian wickedness of Oakland." The initiative went down to defeat at the ballot box on 15 September 1910, with Berkeley casting 4,009 to 1,402 votes to reject consolidation. West Berkeley was the only district that voted for annexation.

In 1923, Spear was a member of the campaign committee to institute a council-manager form of government, which Berkeley adopted that year. Also in 1923, Spear was reappointed president of the State Board of Harbor Commissioners, this time by governor Friend W. Richardson. He retired in 1925 after accepting the position of harbor manager in Los Angeles.

After suffering a heart attack in February 1927, Spear resigned from his Los Angeles job. Returning to Berkeley, he and Tillie lived in a suite at the Whitecotton (Shattuck) Hotel until his death on 7 March 1928. Two days later, he was buried with Masonic rite in Mountain View

cemetery. Among his honorary pall bearers were San Francisco mayor James Rolph, Jr. and former California governors Pardee and Richardson.

The Charles H. Spear House was designated a City of Berkeley Landmark on 6 July 2017. It is listed in the California State Historic Resources Inventory.

### **1906 to 1936: The Kelling and Hildebrand Families**

After the Spears moved on, the Kelling family moved in for the next few decades. They were a large family with siblings and their children residing here at various times, according to local directories. Tax assessments show Henry listed as owner for 1906 through 1910, followed by his sister Catherine who was granted the property after Henry died in 1911. For 1909 and 1910, records show Henry, Richard and Trinie at the address and Catherine had used the name Trinie, Trinidad and Terena over the course of her life.

Their parents were Henry and Mary, or Santos, Kelling. Henry was a native of Germany and Mary was born in Chile. They also had two more sons, John and Louis, and the family lived in San Francisco in the 1800s.

After Henry's death, Catherine and Richard lived at 2212 Fifth Street and Richard continued to live there after Catherine died in 1921. Richard was a bartender.

By 1923, residents included Richard, along with George and Rudolph Hildebrand, sons of George and Anita, who had been married to John Kelling.

Until at least 1928, Richard and the Hildebrands remained at 2212 Fifth Street, with the Hildebrands staying on into the middle 1930s.

In 1933 Mrs. Hildebrand received honorable mention in a Christmas Tree contest sponsored by the Oakland Tribune and their daughter Anita Hildebrand, 22 years old announce her wedding.

George and Anita remain remained listed in directories at 2212 Fifth until at least 1936.

### **1940s to 2006: Van Tuyl, Jimenez and Bernal**

A 1940 voter registration list and 1941 Directory show 2212 Fifth as the residence of Charles and Mary Van Tuyl. He was a laborer and she was reported as housewife.

By 1945, the property was owned by Merced and Sally Jimenez.

The Bernal family acquired the property in 1947, retaining ownership until 2006.<sup>4</sup>

Directory searches show the following:

Araceli S Cabrera, 1988

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<sup>4</sup> Minor, 26.



Sally Cabrera, 1990

Peter and Larry Cabrera, (Nasario, Jesus and Conceptio Bernal), 1993-1994

## 2006 to 2021: Herst Family Trust

The property was sold in 2006 to the Herst Family Trust, including Doug Herst, who inherited the family's Peerless Lighting company. This company had an impressive and long history in the neighborhood. More on Mr. Herst was posted in a BAHA news blog on the Measure R campaign by Daniella Thompson in 2010.

Doug Herst, who also contributed \$1,000, is a lighting industry veteran. His family founded [Peerless Lighting](#) in 1892, and Herst managed the company from 1965 until his retirement in 2006. Upon his retirement, Herst turned his attention to [property development in Berkeley](#). Currently he is chairman and CEO of Herst Ventures, Inc. and working with Darrell de Tienne on a planned work-live development called Peerless Greens. Like a number of other Yes on R contributors, Herst is a generous donor to the Berkeley Repertory Theatre—the Rep's 2009 annual report places him in the Presidents category (\$3,000–\$5,999).

Further details on this ambitious plan to rezone and redevelop blocks, including 2212 Fifth Street were described in the Berkeley Daily Planet on September 26, 2006. It included corporate, retail, condo and artist space, but also required rezoning and variances.<sup>5</sup>

The project did not move forward, but similar efforts in the neighborhood were part of Measure T in 2012 to amend the West Berkeley Plan ("Plan") and the Zoning Ordinance to allow more flexibility in development of large parcels in West Berkeley that are under the same ownership, if they are approved through the Master Use Permit ("MUP") process. It was an active campaign with editorials for an against.<sup>6</sup> The measure was defeated by 512 votes due to the large margin against it in West Berkeley.<sup>7</sup>

## 2021: Current Owner W-SW WBLs EAST OWNER IX LP

This mysterious alphabetic combination is a California Foreign Limited Partnership, with a mailing address in of all places, Chicago<sup>8</sup>. It is an ironic twist as the first owner was the absentee Charles Montgomery from Chicago and this mysterious entity from Chicago may be filling the

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<sup>5</sup> Richard Brenneman, Major West Berkeley Development Project Unveiled, The Berkeley Daily Planet, September 26-28, 2006, 1.

<sup>6</sup> Becky O'Malley, Following the Money Behind Berkeley Ballot Measures, The Berkeley Daily Planet, October 12, 2012.

<sup>7</sup> Rob Wrenn, 2012 Election in Berkeley: West Berkeley Voters Provide Measure T's Margin of Defeat, The Berkeley Daily Planet, November 23, 2012.

<sup>8</sup> <https://www.bizapedia.com/ca/w-sw-wbls-east-owner-ix-lp.html>. However, application document also shows a San Mateo, CA mailing address.

same role. Perhaps not so mysterious is Steelwave, LLC, the firm developing the block as part of or for W-SW WBL5 East Owner IX LP. As they describe themselves,

SteelWave, a privately held full-service creative life science, creative office and industrial real estate management, operating company and investment management firm. We create spaces focused on elevated and exceptional user experiences achieved through unparalleled design and detailed execution that conjure creativity, flexibility and invigorate collaboration. SteelWave and its predecessor companies, Legacy Partners Commercial and Lincoln Property West, have been active in commercial real estate for 49 years. We've built a reputation for successful execution by sourcing sound investments in our 7 key markets: Northern California, Southern California, Denver, Seattle, Portland, Texas and Phoenix. As a vertically integrated leader in the industry, we source, entitle, design, finance, develop, renovate, lease, manage and sell real estate investments on behalf of many well-known institutional clients.

Since its inception, the SteelWave team has acquired, developed or managed 6,000 multifamily units, 61.3M SF of industrial product and 38.45M SF of office product across our Western United States target markets at a combined cost of over \$11.8 billion.<sup>9</sup>

Related to this application, their plan is to replace the Montgomery-Spear House with a parking garage.

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<sup>9</sup> <https://www.steelwavellc.com/about/who-we-are/>

## 16. Significance

From Chapter 3.24 of the Landmarks Preservation Ordinance:

3.24.110 A. Landmarks and historic districts. General criteria which the commission shall use when considering structures, sites and areas for landmark or historic district designation are:

1. Architectural merit:

- a. Property that is the first, last, only or most significant architectural property of its type in the region;
- b. Properties that are prototypes of or outstanding examples of periods, styles, architectural movements or construction, or examples of the more notable works of the best surviving work in a region of an architect, designer or master builder; or
- c. Architectural examples worth preserving for the exceptional values they add as part of the neighborhood fabric.

2. Cultural value: Structures, sites and areas associated with the movement or evolution of religious, cultural, governmental, social and economic developments of the City;

3. Educational value: Structures worth preserving for their usefulness as an educational force;

4. Historic value: Preservation and enhancement of structures, sites and areas that embody and express the history of Berkeley/Alameda County/California/United States.

5. Any property which is listed on the National Register described in Section 470A of Title 16 of the United States Code.

Under **3.24.110 A.1. a.**, the Montgomery-Spear House qualifies. Such a conclusion is supported in writing by architectural historians<sup>10</sup>. It is one of the earliest structures in this part of West Berkeley and the last remaining here.

Under **3.24.110 A.1.b.**, the Montgomery-Spear House qualifies as a significant and meaningful example of a two-story Italianate Victorian. Specific features include the entry, two-story-high, three-faceted bay window, gables, overall massing and size. The property is an outstanding example from its period, style and architectural movement.

Under **3.24.110 A.2**, the Montgomery-Spear House qualifies for its cultural value and under **3.24.110 A.4** for its historic value.

Culturally and historically, it was the early home of civic leader Charles H. Spear. During his time at 2212 Fifth Street, he served as Berkeley Town Clerk, Alameda County Recorder, port warden in San Francisco and President of the State Board of Harbor Commissioners. Spear was

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<sup>10</sup> See Thompson article, 2007, Cultural Resources Assessment by Minor, 2019 and City of Berkeley Historic Evaluation by Preservation Architecture, 2020.

also active in political campaigns, from co-managing a Congressional campaign to serving as chairman of the state's Republican campaign committee.

By the time of the San Francisco Earthquake and Fire, the house was the home to the Kellings, an extended family with roots in the pioneer days of San Francisco. The Bernal's came later, staying the longest of all. Recent ownership by the Herst Family Trust, long-time owners of the nearby Peerless Lighting site, provides insight on the saga of development and the complicated debates over it in West Berkeley.

Such a history spans the entire timeline of the City of Berkeley, from the eve of its incorporation to the present day.



While the building has seen change in recent history, the overall appearance has not changed significantly and the building retains several important features, hidden and in plain sight, that can still be preserved.

**Historic Value:** City Yes Neighborhood Yes

**Architectural Value:** City Yes Neighborhood Yes

**17. Is the Property Endangered?** Yes

## 18. Photographs

Daniella Thompson (Exterior Views, 2006)

Fran Cappelletti (Exterior Views, 2021)

Ormsby Donogh files, BAHA Archive

Google Maps (2008 through 2021)

## 19. Bibliography

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State of California, Department of Parks and Recreation, Primary Record, 2212 Fifth Street, Berkeley, California, Preservation Architecture, November 23, 2020.

State of California, Department of Parks and Recreation, Historic Resources Inventory, Stephanie Manning, March 9, 1979.

A Tale of Two Mystery Houses and One Politician, Daniella Thompson, November 13, 2007, [http://berkeleyheritage.com/eastbay\\_then-now/spear.html](http://berkeleyheritage.com/eastbay_then-now/spear.html) .

Orchids and Industry Thrived side-by-side in Berkeley, Daniella Thompson, September 18, 2007. [http://berkeleyheritage.com/eastbay\\_then-now/carbone.html](http://berkeleyheritage.com/eastbay_then-now/carbone.html) .

Census and Directory Searches; Ancestry.com, San Francisco Public Library, Berkeley Architectural Heritage Association.

Following the Money Behind Berkeley Ballot Measures, The Berkeley Daily Planet, October 12, 2012 at <https://www.berkeleydailyplanet.com/issue/2012-10-12/article/40324?headline=Following-the-Money-Behind-Berkeley-Ballot-Measures--By-Becky-O-Malley>.

Simone Marengo gave Berkeley macaroni, Daniella Thompson, Berkeley Daily Planet, September 7, 2007 at [http://berkeleyheritage.com/berkeley\\_landmarks/marengo.html](http://berkeleyheritage.com/berkeley_landmarks/marengo.html) .

**20. Recorder: Fran Cappelletti**

**Date: July 29, 2021**

**Organization: Berkeley Architectural Heritage Association**





Office of the City Manager

INFORMATION CALENDAR

January 25, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: LPO NOD: 1120 Second Street/#LMSA2021-0001

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for new signage at the subject City Landmark site. This action is subject to a 15-day appeal period, which began on January 10, 2022.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Councilmember must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by January 25, 2022. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Jordan Klein, Director, Planning & Development Department, 510-981-7534  
Steven Buckley, Land Use Planning Manager, Planning & Development Department, 510-981-7411  
Fatema Crane, Landmarks Preservation Commission Secretary, Planning & Development Department, 510-981-7410

Attachments:

1: Notice of Decision – #LMSA2021-0001, 1120 Second Street/The City Landmark Municipal Incinerator structure.



ATTACHMENT 1, PART A



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N  
NOTICE OF DECISION

**DATE OF BOARD DECISION: October 7, 2021**  
**DATE NOTICE MAILED: January 10, 2022**  
**APPEAL PERIOD EXPIRATION: January 25, 2022**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): January 26, 2022<sup>1</sup>**

## 1120 Second Street – The City Landmark Municipal Incinerator Site

**Structural Alteration Permit (#LMSA2021-0001) to install new signage on a property that features a City Landmark structure.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

**PERMITS REQUIRED:**

- Structural Alteration Permit, pursuant to Berkeley Municipal Code Section 3.24.200

**APPLICANT:** Craig Yeszin, Tracy Sign Inc., 3771 West 11<sup>TH</sup> Street, Tracy CA

**ZONING DISTRICT:** Manufacturing (M)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15331 of the CEQA Guidelines (Historical Resource Rehabilitation).

**The application materials for this project are available online at:**

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<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSA2021-0001  
1120 Second Street – The City Landmark Municipal Incinerator Site  
January 25, 2022  
Page 2 of 4

<http://www.cityofberkeley.info/zoningapplications>

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**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

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**COMMISSION VOTE: 6-0-0-3**

**YES:** ADAMS, ENCHILL, FINACOM, JOHNSON, LEUSCHNER, MONTGOMERY

**NO:** NONE

**ABSTAIN:** NONE

**ABSENT:** CRANDALL, SCHWARTZ, TWU

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
  - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the Commission made under the provisions of Chapter 3.24.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the landmark designation will be final on the first business day

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSA2021-0001  
1120 Second Street – The City Landmark Municipal Incinerator Site  
January 25, 2022  
Page 3 of 4

following expiration of the appeal period.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision 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 Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSA2021-0001  
1120 Second Street – The City Landmark Municipal Incinerator Site  
January 25, 2022  
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**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3<sup>rd</sup> Fl., between 8 a.m. and 4 p.m., Monday through Friday, except Tuesday when the Center closes at 3PM.

**ATTACHMENTS:**

1. Findings and Conditions
2. Project Plans
3. Material Board



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc:

City Clerk  
Applicant: Craig Yeszin, Tracy Sign, Inc., 3771 West 11<sup>TH</sup> Street, Tracy, CA  
Property Owner: Public Storage, 701 Western Avenue, Glendale, CA

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FINDINGS AND CONDITIONS

# 1120 Second Street

## Signage Alteration Permit #LMSA2021-0001

To install new signage on a property that features the City Landmark Municipal Incinerator structure.

### CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 153331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

### SECRETARY OF THE INTERIOR’S STANDARDS FINDINGS

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Regarding the Secretary of the Interior’s Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The subject property features the historic incinerator building which was used as a slaughter house during its historic period; the property and building were subsequently converted to use as a self-storage facility in 1985. The proposed signage at this site will not change or affect the historic use because it no longer exists. The introduction of new signage on the non-historic buildings at this site will not change the distinctive materials, features, spaces or spatial relationships of the historic incinerator building.
2. The historic character of the property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided with installation of new signage on the non-historic buildings.
3. This property will continue to be recognized as a physical record of its time, place, and use as a result of the approved project. No changes that would create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will be undertaken.
4. No changes to this property that have acquired historic significance in their own right are proposed.

5. This project will not affect distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize this property.
6. No deteriorated historic features of this property will be affected by this proposal.
7. The Landmark building at this site would not undergo chemical or physical treatments as a result of this project proposal. Treatments that cause damage to historic materials are prohibited by the Conditions herein.
8. Any archeological resources at this site will be unaffected by the proposed work which includes no excavation.
9. Exterior alterations or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property, because no such alterations will occur on the historic incinerator building. The new work (e.g. new signage) will be differentiated from the old; the proposed contemporary design and materials of the signage will be compatible with the size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. The proposed signage would not be installed on the historic incinerator structure and, therefore, if it were installed and eventually removed, it would not impair the essential form and integrity of the incinerator building.

#### **LANDMARK PRESERVATION ORDINANCE FINDINGS**

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1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property, because:
  - A. The proposal to install new signage on the non-historic buildings at this site will not affect or alter the historic incinerator building. The proposed alterations will not change the features or character of the historic building.
  - B. The proposed signage is designed to seamlessly match the contemporary style and design of the non-historic buildings that were constructed in 1986 and 2007. The new signage would be installed on the non-historic buildings and would not be confused with the style and character of the historic building constructed in the Mission revival style in 1913.

**BERKELEY SIGN ORDINANCE COMPLIANCE FINDINGS**

2. This proposal is found to be permissible because it would comply with the requirements of Berkeley Sign Ordinance, BMC Title 20. Specifically, the proposal satisfies the requirements related to the total number of permitted signs on a parcel as well as the maximum area of signs, as follows:
- A. Number of Signs. This proposal includes a total number of three wall signs where BMC Section 20.32.030.B permits a total of one wall sign for each frontage for properties located in the Manufacturing district.
  - B. Maximum Area of Wall Signs. This proposal includes three wall signs, each would be well within the allowable area of 15% of the building face or 800 square feet per building face, and the total area of all signs (398 square feet) would not exceed 2,000 square feet, the maximum allowable total area for all signs on any premises in the Manufacturing district, as allowed by BMC Section 20.32.040.C.

**STANDARD CONDITIONS**

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

**1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

**2. Plans and Representations Become Conditions**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

**3. Subject to All Applicable Laws and Regulations**

The approved construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to installation, the applicant shall obtain Use Permit approval in accordance with BMC Section 23C.17 (Wireless Telecommunication). Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

**4. Exercise and Lapse of Permits (Section 23B.56.100)**

- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.

- A. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

## 5. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

## ADDITIONAL CONDITIONS

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The following additional conditions are attached to this Permit:

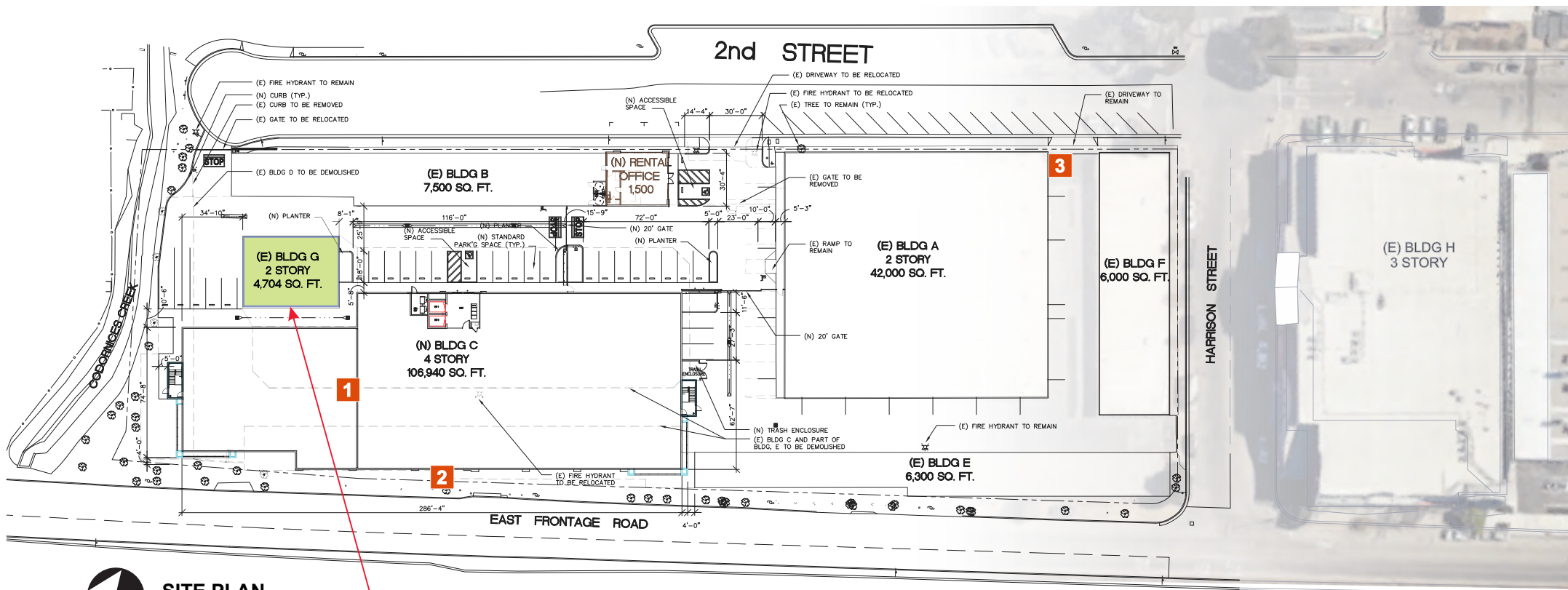
6. **Colors and Materials.** Prior to submittal of any building permit for this project, the applicant shall submit final colors and material information for review and approval by staff. All materials will be matte unless otherwise noted.
7. **Exterior Lighting.** All exterior lighting, including for signage, shall be downcast and not cause glare on the public right-of-way and adjacent parcels.
8. **Chemical Treatments.** With respect to historic resources located on this site or within the propose project area, any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.
9. **Signage Height.** Prior to submittal of any building permit for this project staff will review regulatory requirements related to signage height and confirm if there are any conflicts. If there are any regulatory conflicts staff will remedy them with the applicant and will not return to the full Commission for review.



Conceptual Artwork  
\*\*All Sizes are Estimated Until Technically Verified\*\*

Technical Artwork

Designed per Redlines



**SITE PLAN**  
SCALE: 1"=80'-0"

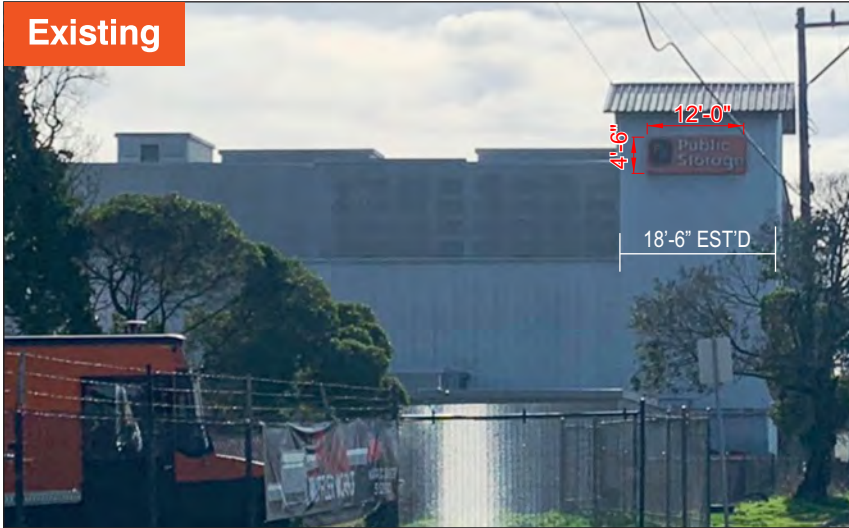
NOTE: BUILDING "E" IS DEEMED HISTORICAL AND IS NOT TO BE PAINTED OR MODIFIED

| MAIN ID WALL SIGNS |                        |                                                 |                  |                              |          |
|--------------------|------------------------|-------------------------------------------------|------------------|------------------------------|----------|
| SIGN #             | LOCATION               | CODE ALLOWANCE                                  | PROPOSED SQ. FT. | SIGN TYPE                    | COMMENTS |
| 1                  | NORTH ELEVATION BLDG C | 15% OF WALL NTE 800 SF<br>NTE 2000 SF AGGREGATE | 171.1 SF         | CHANNEL LTRS.<br>HALO ILLUM. |          |
| 2                  | WEST ELEVATION BLDG C  | 15% OF WALL NTE 800 SF<br>NTE 2000 SF AGGREGATE | 130.4 SF         | CHANNEL LTRS.<br>HALO ILLUM. |          |
| 3                  | SOUTH ELEVATION BLDG A | 15% OF WALL NTE 800 SF<br>NTE 2000 SF AGGREGATE | 97.2 SF          | CHANNEL LTRS.<br>HALO ILLUM. |          |

TOTAL BUILDING WALL SIGN AREA ALLOWED - NTE 2000 SF AGGREGATE  
 TOTAL BUILDING WALL SIGN AREA USED - 1068.6 SF  
 TOTAL NUMBER OF BUILDING SIGNS ALLOWED - (1) PER STREET FRONTAGE PER PARCEL = (3) PER PARCEL

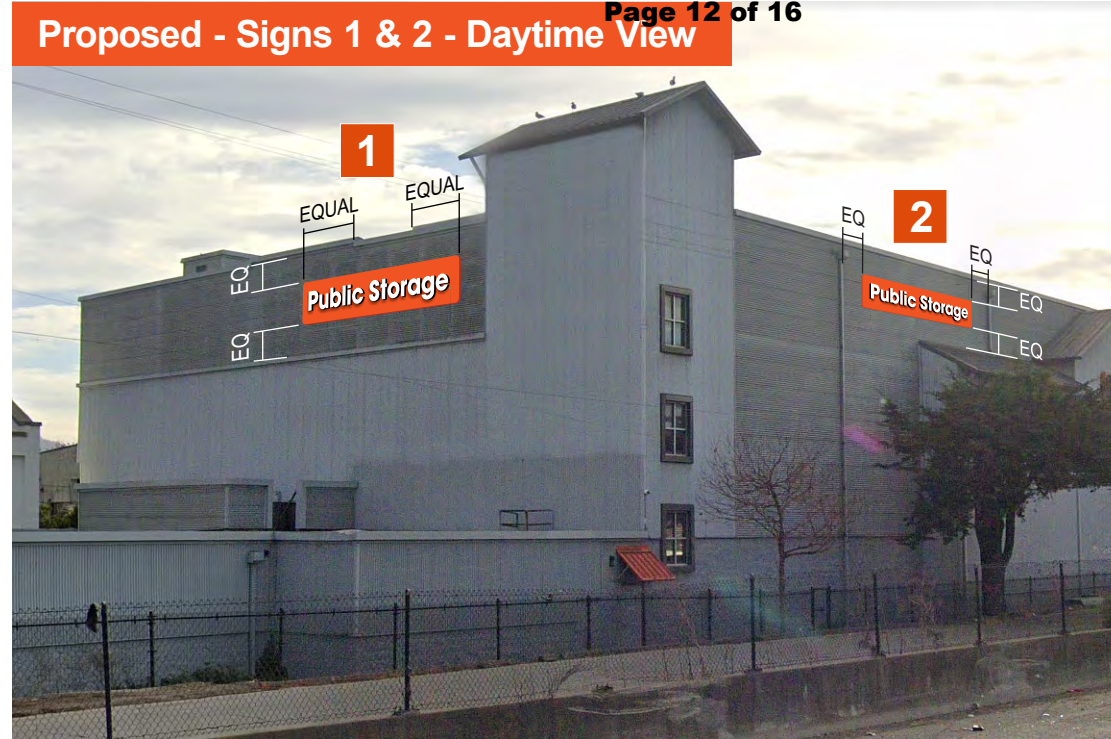
It is the intent and purpose of this color rendering to provide a basic color representation of your sign finish and color. However, digital media and printed colors will vary from actual paint finish and color. Existing painted surfaces will have a perceptible difference in shade and sheen from your sign finish. Providing a sample of the paint you wish to match or a Matthews paint color formula will minimize the differences.

|                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                 |                                  |                                                       |          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|----------------------------------|-------------------------------------------------------|----------|
| <p>image national signs<br/>...bringing your image to light!</p> <p>16265 Star Road Nampa, ID 83687 - toll free: 800.592.8058 - tele: 208.345.4020<br/>WWW.imagenational.com</p> | UNDERWRITERS LABORATORIES ELECTRIC SIGN<br>NAMPA PLANT - UL #433195-001<br>U.S. & P.R. - All signs conform to UL-48/2161 (labeled accordingly) & must comply with UL-41.1 install procedures. Canada - all signs must be CAS compliant. This sign(s) is intended to be installed in accordance with requirements of article 600 of the National Electrical Code and/or applicable local codes. This includes proper grounding and bonding of the sign. | Client: <b>PUBLIC STORAGE</b>                                   | Design Number: <b>TG-0475-20</b> | File Location: PBS-23086 BerkeleyCA-R14-070621-P 1120 | Page No. |
|                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Site: <b>SITE #23086<br/>1120 2nd St<br/>Berkeley, CA 94710</b> | Date: 7/6/21                     | Drawing type: TECHNICAL                               | 1 of 5   |
|                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Account Manager: HS                                             | Designer: TRH                    | Rev: 14 - Edit Night Views                            |          |



NORTH ELEVATION BLDG C - STORAGE  
REMOVE & DISCARD EXISTING OPEN FACE CL SIGN

**EXISTING SF: 66.25**

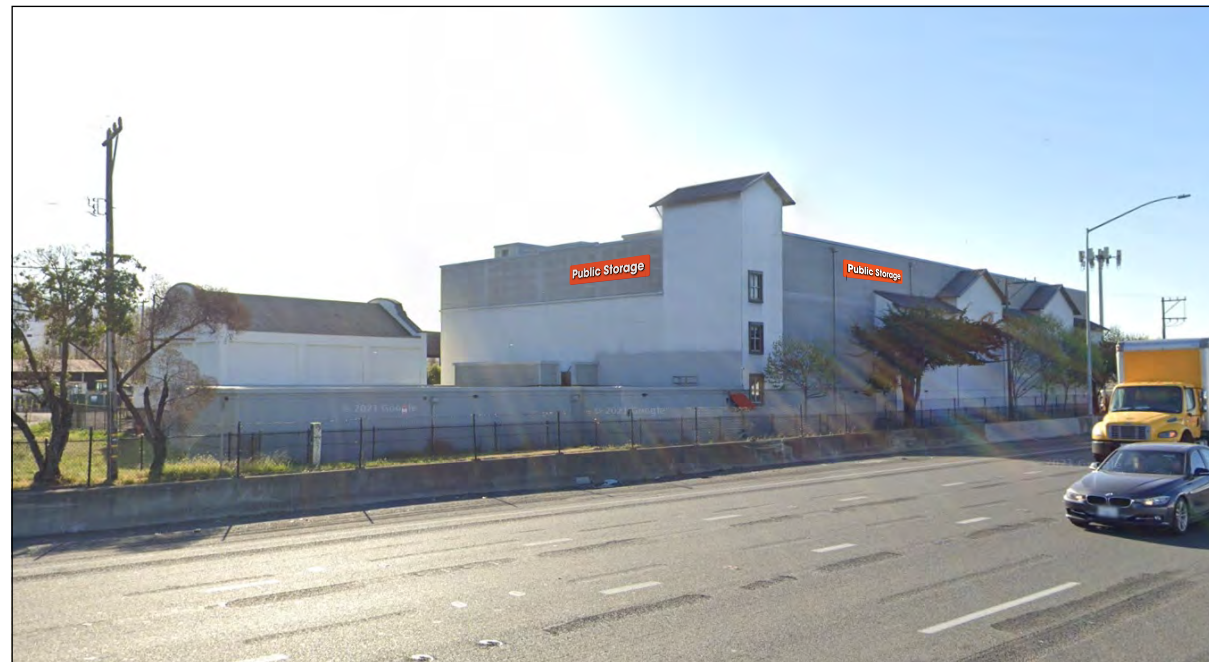


NORTHWEST CORNER ELEVATION BLDG C - STORAGE  
NEW REVERSE CHANNEL LED HALO-ILLUM'D LETTERS ON B/G PANELS

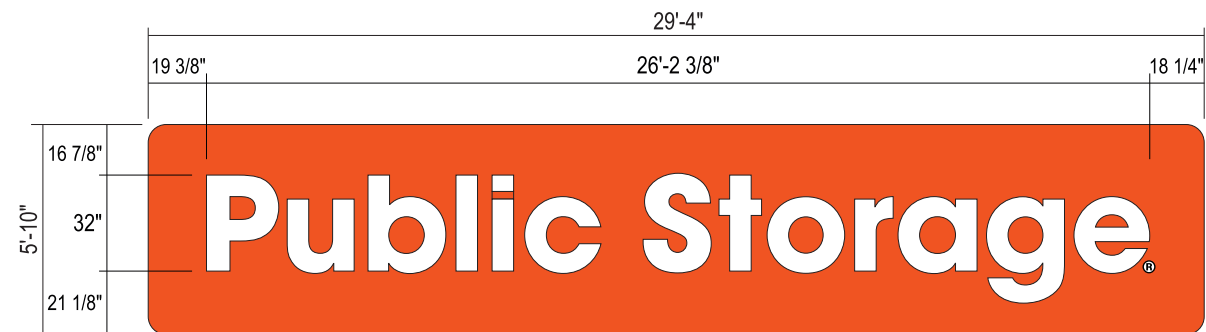
**ALLOWED SF: 2000 AGGREGATE**  
**PROPOSED SF: 171.1 SF (N. ELEV.) / 130.4 SF (W. ELEV.)**



HALO-ILLUMINATED REVERSE PAN CHANNEL LETTERS ON A B/G PANEL - SIMULATED NIGHT VIEW



APPROACH VIEW SHOWING LOCATION IN RELATION TO HISTORICAL BUILDING



**1** **CUSTOM** - HALO ILLUMINATED REVERSE CHANNEL LETTERS - B/G PANEL  
SCALE: 3/16"=1'-0"  
LETTER AREA (BOXED) - 93.0 SF  
PANEL AREA - 171.1 SF

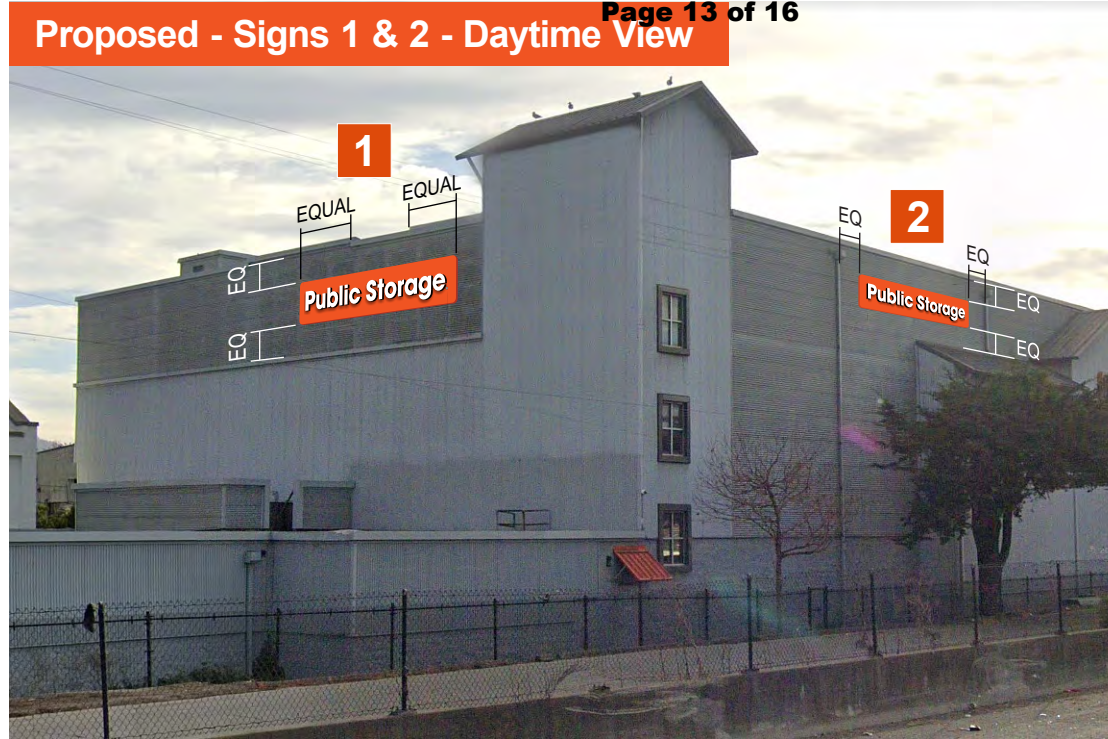
It is the intent and purpose of this color rendering to provide a basic color representation of your sign finish and color. However, digital media and printed colors will vary from actual paint finish and color. Existing painted surfaces will have a perceptible difference in shade and sheen from your sign finish. Providing a sample of the paint you wish to match or a Matthews paint color formula will minimize the differences.

|                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                    |                                                                                                                           |                                                                                                                                             |                                                 |  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|--|
| <p>image national signs<br/>...bringing your image to light!</p> <p>16265 Star Road Nampa, ID 83687 - toll free: 800.592.8058 - tele: 208.345.4020<br/><a href="http://WWW.imagenational.com">WWW.imagenational.com</a></p> | UNDERWRITERS LABORATORIES ELECTRIC SIGN<br>NAMPA PLANT - UL #433195-001<br><small>U.S. &amp; P.R. - All signs conform to UL-48/2161 (labeled accordingly) &amp; must comply with UL-41.1 install procedures. Canada - all signs must be CAS compliant. This sign(s) is intended to be installed in accordance with requirements of article 600 of the National Electrical Code and/or applicable local codes. This includes proper grounding and bonding of the sign.</small> | <b>Client:</b> PUBLIC STORAGE<br><br><b>Site:</b> SITE #23086<br>1120 2nd St<br>Berkeley, CA 94710 | <b>Design Number:</b> TG-0475-20<br><br><b>Date:</b> 7/6/21<br><br><b>Designer:</b> TRH<br><br><b>Account Manager:</b> HS | <b>File Location:</b> PBS-23086 BerkeleyCA-R14-070621-P 1120<br><br><b>Drawing type:</b> TECHNICAL<br><br><b>Rev:</b> 14 - Edit Night Views | <b>Page No.</b><br><br><b>2 of 5</b><br><br>338 |  |
|                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                    |                                                                                                                           |                                                                                                                                             |                                                 |  |
|                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                    |                                                                                                                           |                                                                                                                                             |                                                 |  |



WEST ELEVATION BLDG C - STORAGE  
REMOVE & DISCARD EXISTING OPEN FACE CL SIGN

**EXISTING SF: 66.25**

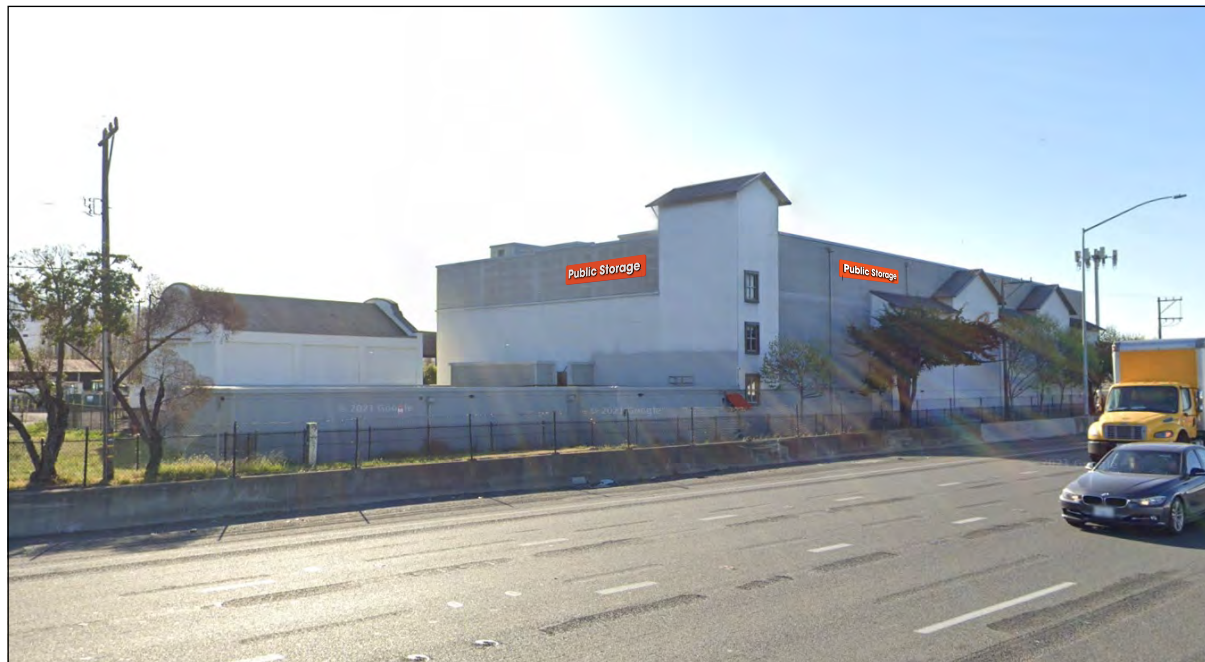


NORTHWEST CORNER ELEVATION BLDG C - STORAGE  
NEW REVERSE CHANNEL LED HALO-ILLUM'D LETTERS ON B/G PANELS

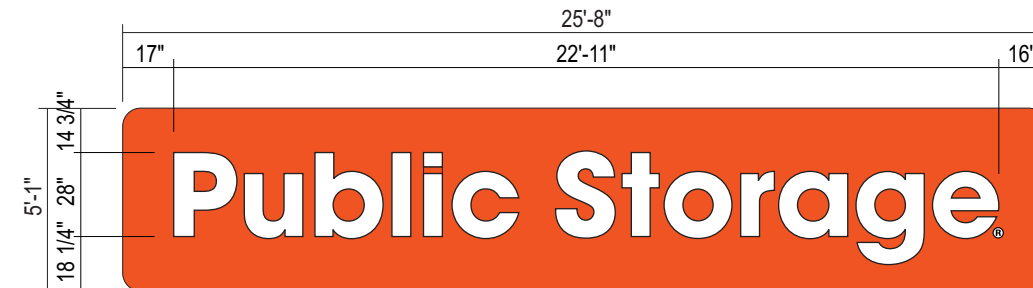
**ALLOWED SF: 2000 AGGREGATE**  
**PROPOSED SF: 171.1 SF (N. ELEV.) / 130.4 SF (W. ELEV.)**



HALO-ILLUMINATED REVERSE PAN CHANNEL LETTERS ON A B/G PANEL - SIMULATED NIGHT VIEW



APPROACH VIEW SHOWING LOCATION IN RELATION TO HISTORICAL BUILDING



**2** **CUSTOM** HALO ILLUMINATED REVERSE CHANNEL LETTERS - B/G PANEL  
SCALE: 3/16"=1'-0"  
LETTER AREA (BOXED) - 71.3 SF  
PANEL AREA - 130.4 SF

It is the intent and purpose of this color rendering to provide a basic color representation of your sign finish and color. However, digital media and printed colors will vary from actual paint finish and color. Existing painted surfaces will have a perceptible difference in shade and sheen from your sign finish. Providing a sample of the paint you wish to match or a Matthews paint color formula will minimize the differences.

|                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                |                                                                                                               |                                                                                                                                     |                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <p>image national signs<br/>...bringing your image to light!</p> <p>16265 Star Road Nampa, ID 83687 - toll free: 800.592.8058 - tele: 208.345.4020<br/><a href="http://WWW.imagenational.com">WWW.imagenational.com</a></p> | UNDERWRITERS LABORATORIES ELECTRIC SIGN<br>NAMPA PLANT - UL #433195-001<br><small>U.S. &amp; P.R. - All signs conform to UL-48/2161 (labeled accordingly) &amp; must comply with UL-41.1 install procedures. Canada - all signs must be CAS compliant. This sign(s) is intended to be installed in accordance with requirements of article 600 of the National Electrical Code and/or applicable local codes. This includes proper grounding and bonding of the sign.</small> | <b>Client:</b> PUBLIC STORAGE<br><b>Site:</b> SITE #23086<br>1120 2nd St<br>Berkeley, CA 94710 | <b>Design Number:</b> TG-0475-20<br><b>Date:</b> 7/6/21<br><b>Designer:</b> TRH<br><b>Account Manager:</b> HS | <b>File Location:</b> PBS-23086 BerkeleyCA-R14-070621-P 1120<br><b>Drawing type:</b> TECHNICAL<br><b>Rev:</b> 14 - Edit Night Views | <b>Page No.</b><br>3 of 5<br>339 |
|                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                |                                                                                                               |                                                                                                                                     |                                  |
|                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                |                                                                                                               |                                                                                                                                     |                                  |



Existing

CORNER OF 2ND ST & HARRISON ST BLDG F & A - STORAGE  
REMOVE & DISCARD EXISTING BANNER

EXISTING SF: 0



Proposed

CORNER OF 2ND ST & HARRISON ST BLDG F & A - STORAGE  
NEW REVERSE PAN CHANNEL HALO LED ILLUM'D LETTERS - PANEL SIGN

ALLOWED SF: 2000 SF AGGREGATE  
PROPOSED SF: 97.2

NOTE:  
Any deviations from location reference  
to call Image National on Site Direction.

NOTE: PAINTING BY OTHERS



APPROACH VIEW



**3** CUSTOM HALO ILLUMINATED REVERSE CHANNEL LETTERS - B/G PANEL  
SCALE: 1/4"=1'-0"  
LETTER AREA (BOXED) - 52.3 SF  
PANEL AREA - 97.2 SF

**Special Notes**  
TREES TO BE CLEARED OR THINNED FOR SIGN 3 VISIBILITY.  
COORDINATE WITH FACILITY MANAGER.

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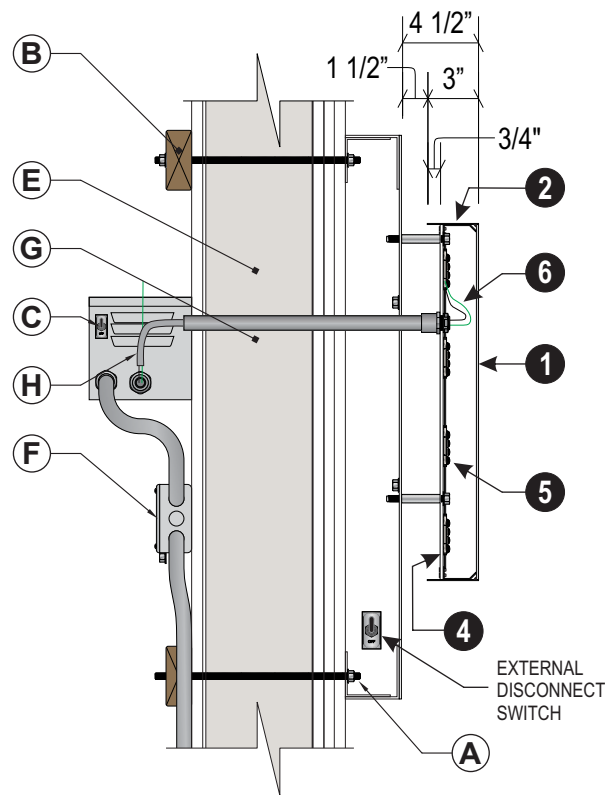
**UL** UNDERWRITERS LABORATORIES ELECTRIC SIGN  
NAMPA PLANT - UL #433195-001  
U.S. & P.R. - All signs conform to UL-48/2161 (labeled accordingly) & must comply with UL-41.1 install procedures. Canada - all signs must be CAS compliant. This sign(s) is intended to be installed in accordance with requirements of article 600 of the National Electrical Code and/or applicable local codes. This includes proper grounding and bonding of the sign.

**Client: PUBLIC STORAGE**  
**Site:** SITE #23086  
1120 2nd St  
Berkeley, CA 94710

**Design Number: TG-0475-20**  
**Date:** 7/6/21  
**Designer:** TRH  
**Account Manager:** HS

**File Location:** PBS-23086 BerkeleyCA-R14-070621-P 1120  
**Drawing type:** TECHNICAL  
**Rev:** 14 - Edit Night Views

**Page No.**  
**4 of 5**  
340



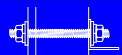
**HALO-ILLUMINATED LETTERS ON A B/G PANEL - SECTION DETAIL**  
SCALE: 1" = 1'-0"

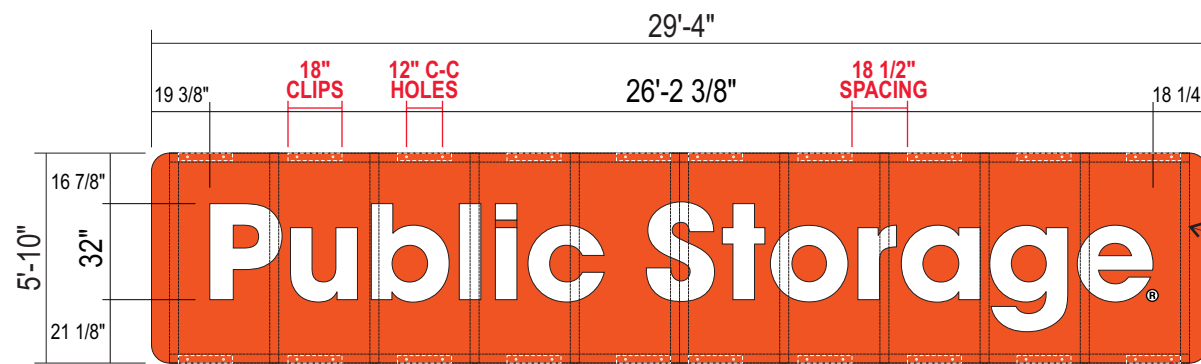
**INSTALL**

- A. Ø 3/8" Holes Through Panel Frame for Non-Corrosive Securement Using Appropriate Mounting Hardware
- B. Blocking as Required per Location
- C. Disconnect Switch at Transformer Can
- D. 1/4" Drain Holes Required in Letter Returns & Retainers
- E. 1/2" (MFG) Plastic Pass-Through
- F. 20 amp 120 V. Circuits Required (Supplied by Others Than Image National)
- G. 6'-0" x 1/2" Flexible Conduit for External Switch
- H. Grounded/Bonded Wire Connection from Letter to T-Can

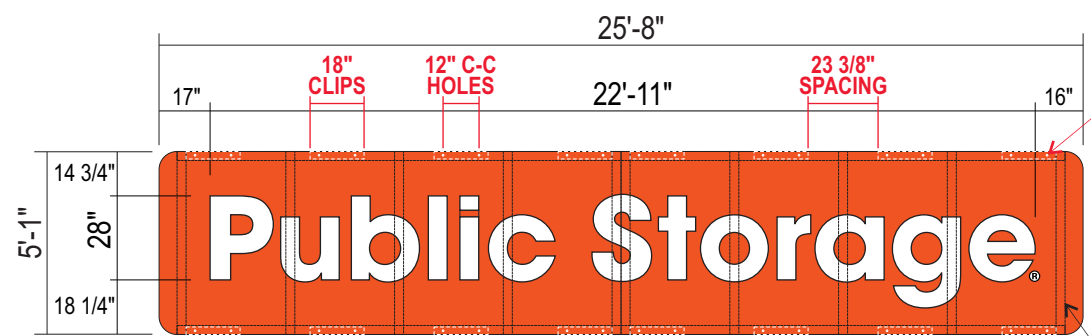
**NOTE:**  
ANY PENETRATIONS ABOVE ROOFLINE OR EXPOSED ARE REQUIRED TO BE INSTALLED USING SEALTIGHT AND WEATHER-PROOF BOXES. TO BE PROVIDED BY SIGN INSTALLER.

**APPROVED FASTENER SCHEDULE**

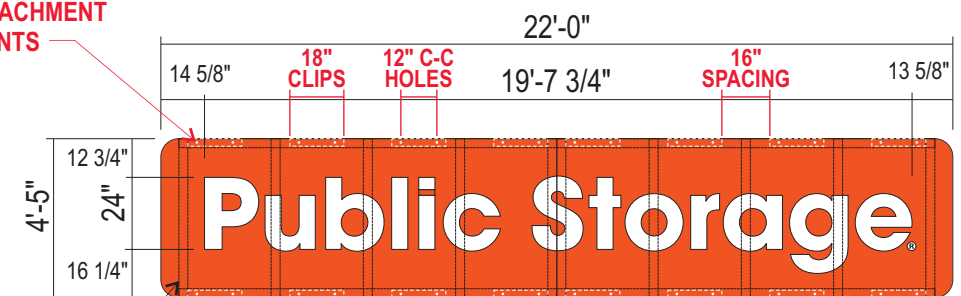
|                                                                                    |                          |                                                        |
|------------------------------------------------------------------------------------|--------------------------|--------------------------------------------------------|
|  | 1/4" - 3/8" THREADED ROD | FOR USE WITH WOOD, CONCRETE BLOCK OR EIFS WALL SYSTEMS |
|------------------------------------------------------------------------------------|--------------------------|--------------------------------------------------------|



**1 CUSTOM - HALO ILLUMINATED REVERSE CHANNEL LETTERS - B/G PANEL**  
SCALE: 3/16"=1'-0"  
PANEL AREA - 171.1 SF  
40 TOTAL ATTACHMENT POINTS



**2 CUSTOM HALO ILLUMINATED REVERSE CHANNEL LETTERS - B/G PANEL**  
SCALE: 3/16"=1'-0"  
PANEL AREA - 130.4 SF  
32 TOTAL ATTACHMENT POINTS



**3 CUSTOM HALO ILLUMINATED REVERSE CHANNEL LETTERS - B/G PANEL**  
SCALE: 3/16"=1'-0"  
PANEL AREA - 97.2 SF  
32 TOTAL ATTACHMENT POINTS

- PUBLIC STORAGE ORANGE  
PPG PUBLIC STORAGE ORANGE
- WHITE
- BLACK MAGIC  
PPG 101-7

**FRAMEWORK & ATTACHMENT POINTS**

- 2 1/2" x 18" LONG ALUM. ANGLE CLIPS W/ (2) ATTACHMENT HOLES PER CLIP
- HOLES SPACED 12" APART C-C
- CLIPS SPACED ≤24" O.C.

- LETTERS MOUNTED ON BACKGROUND PANEL, PAINTED PBS ORANGE
- B/G PANEL HAS .125 ALUMINUM FACE WITH 3" ALUM. ANGLE FRAME
- B/G PANEL IS MANUFACTURED IN SECTIONS (NOT HINGED)


|                                                                        |                                                                      |                                                                                        |
|------------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| <b>1 LETTER FACE:</b><br>MATERIAL: .125 ALUMINUM FACE<br>PAINTED WHITE | <b>2 RETURNS:</b><br>MATERIAL: 3" .063 ALUMINUM<br>PAINTED JET BLACK | <b>3 TRIM CAP:</b><br>N/A                                                              |
| <b>4 BACKS:</b><br>MATERIAL: .177 CLEAR POLYCARBONATE                  | <b>5 ILLUMINATION:</b><br>MATERIAL: GE WHITE L.E.D. ILLUMINATION     | <b>6 ELECTRICAL:</b><br>REMOTE.<br>2.2 AMPS (Sign 1) / 1.1 AMPS (Signs 2 & 3) @ 120 V. |

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 UNDERWRITERS LABORATORIES ELECTRIC SIGN  
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**Account Manager:** HS

**File Location:** PBS-23086 BerkeleyCA-R14-070621-P 1120

**Drawing type:** TECHNICAL

**Rev:** 14 - Edit Night Views

**Page No.**

**5 of 5**

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This Sample Board has been Prepared especially for...

**Public Storage**

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**CHANNEL LETTERS / FLAT CUT OUT / DIRECTIONAL SIGNS**



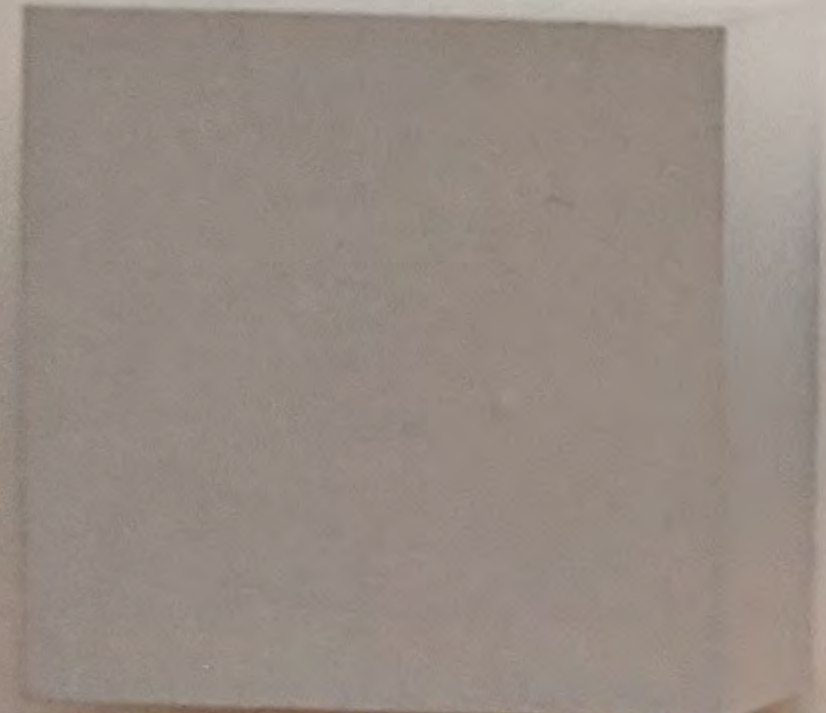
**TRIM CAP**  
1" BLACK JEWELITE®



**LETTER RETURNS**  
5" X 0.040" ALUMINUM COIL  
PRE-PAINTED BLACK



**LETTER FACES**  
0.150" WHITE PLASKOLITE®  
POLYCARBONATE



**FLAT CUT OUT LETTERS**  
3M™ REFLECTIVE WHITE VINYL OVER  
0.5" 7328 WHITE ACRYLIC



**ADDRESS NUMBER  
FLAT CUT OUT**  
0.5" CLEAR ACRYLIC  
PAINTED MP SP923 BLACK



**VEHICULAR DIRECTIONAL SIGNS**  
0.090" ALUMINUM SHEET  
PAINTED PPG BRP 1501: ACRYLIC URETHANE  
APPROVED PPG FORMULA TO MATCH Pantone 431  
"PUBLIC STORAGE DARK GRAY"



**MONUMENT BASES**  
0.063" ALUMINUM SHEET PAINTED  
PPG BRP 1501: ACRYLIC URETHANE  
PPG10241-1 "OFF WHITE"  
MEDIUM STUCCO FINISH



**RACEWAYS, PANELS,  
CABINET RETURNS**  
0.040" ALUMINUM SHEET PAINTED  
PPG BRP 1501: ACRYLIC URETHANE  
PS101 "PUBLIC STORAGE ORANGE"

**DOOR & WINDOW VINYL / FLEXIBLE FACES / BANNERS**



**WINDOW & DOOR VINYL**  
3M™ TRANSLUCENT VINYL 3109 ORANGE  
OVER 3M™ OPAQUE WHITE VINYL 180C-10  
3M™ MATTE OVERLAMINATE 3660M



**WINDOW VINYL**  
3M™ OPAQUE VINYL 7725-41 GRAY  
OVER 3M™ OPAQUE WHITE VINYL 180C-10  
3M™ MATTE OVERLAMINATE 3660M



**BANNERS**  
13 OZ ARLON® GLOSS BANNER  
SUBSTRATE W/ DIGITALLY  
PRINTED GRAPHICS  
C0 M83 Y100 K0



**FLEXIBLE MONUMENT  
& PYLON FACES**  
3M™ PANAGRAPHS™ III FLEXIBLE SUBSTRATE  
3M™ TRANSLUCENT VINYL 3109 ORANGE  
3M™ MATTE OVERLAMINATE 3660M  
REVERSE CUT TO WHITE LETTERS



**ILLUMINATED VEHICULAR  
DIRECTIONAL SIGNS**  
3M™ PANAGRAPHS™ III FLEXIBLE SUBSTRATE  
3M™ OPAQUE VINYL 7725-41 GRAY  
3M™ BLOCKOUT VINYL 3635-20B WHITE  
3M™ MATTE OVERLAMINATE 3660M  
REVERSE CUT TO WHITE LETTERS



Office of the City Manager

INFORMATION CALENDAR

January 25, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: LPO NOD: 1325 Arch Street/#LMIN2020-0008

INTRODUCTION

The attached Notice of Decision for a City Landmark is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.160, which states that “a copy of the Notice of Decision shall be filed with the City Clerk and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has granted City Landmark status to the property at 1325 Arch Street. This action is subject to a 15-day appeal period, which began on January 10, 2022.

BACKGROUND

BMC/LPO Section 3.24.190 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying Landmark, Structure of Merit or Historic District status. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Councilmember must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by September 22, 2020. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Jordan Klein, Director, Planning & Development Department, 510-981-7534  
Steven Buckley, Land Use Planning Manager, Planning & Development Department, 510-981-7411  
Fatema Crane, Landmarks Preservation Commission Secretary, Planning & Development Department, 510-981-7410

Attachments:

1: Notice of Decision – #LMIN2020-0008 at 1325 Arch Street





LANDMARKS  
PRESERVATION  
COMMISSION

---

NOTICE OF DECISION

**DATE OF BOARD DECISION: August 5, 2021**  
**DATE NOTICE MAILED: January 10, 2022**  
**APPEAL PERIOD EXPIRATION: January 25, 2022**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): January 26, 2022<sup>1</sup>**

**1325 Arch Street**  
**The Schneider/Kroeber House**

**Landmark application (#LMSAP2021-0008) for consideration of City Landmark or Structure of Merit designation status for a single-family residence – APN 060-2465-027-00.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

**PERMITS REQUIRED:**

- City Landmark designation status, pursuant to Berkeley Municipal Code Section 3.24.110.A

**INITIATED BY:** Landmarks Preservation Commission

**ZONING DISTRICT:** Single-Family Residential/Hillside Overlay (R-1/H)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

**The application materials for this project are available online at:**

---

<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
City Landmark designation status - #LMIN2021-0008  
1325 Arch Street – The Schneider/Kroeber House  
January 25, 2022  
Page 2 of 4

<http://www.cityofberkeley.info/zoningapplications>

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**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

---

**COMMISSION VOTE: 6-0-0-3**

**YES:** ADAMS, ENCHILL, FINACOM, JOHNSON, LEUSCHNER, MONTGOMERY

**NO:** None

**ABSTAIN:** None

**ABSENT:** CRANDALL, SCHWARTZ, TWU

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
  - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the Commission made under the provisions of Chapter 3.24.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the landmark designation will be final on the first business day

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
City Landmark designation status - #LMIN2021-0008  
1325 Arch Street – The Schneider/Kroeber House  
January 25, 2022  
Page 3 of 4

following expiration of the appeal period.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision 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 Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
City Landmark designation status - #LMIN2021-0008  
1325 Arch Street – The Schneider/Kroeber House  
January 25, 2022  
Page 4 of 4

**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or [fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info) or [lpc@cityofberkeley.info](mailto:lpc@cityofberkeley.info)

**ATTACHMENTS:**

1. Findings and Conditions
2. Landmark application



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc: City Clerk  
Property Owner: Golden Bear, LLC, 1325 Arch Street, Berkeley

## FINDINGS

AUGUST 5, 2021

**1325 Arch Street – The Schneider/Kroeber House****City of Berkeley Landmark Application #LMIN2020-0008**

## PROJECT DESCRIPTION

Landmark Designation of the property at 1325 Arch Street [APN 060-2465-027-00] – The Schneider/Kroeber House

## CEQA FINDINGS

1. The project is found to be exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15061.b.3 of the CEQA Guidelines (activities that can be seen with certainty to have no significant effect on the environment).

## LANDMARK PRESERVATION ORDINANCE FINDINGS

2. Pursuant to Berkeley Municipal Code (BMC) Section 3.24.110.A.1.b of the Landmarks Preservation Ordinance, and based on the evidence presented in the Landmark application, the Landmarks Preservation Commission of the City of Berkeley (Commission) finds that the subject property warrants designation as a City Landmark because it is an outstanding example of the First Bay Tradition architectural style and the Chalet sub-style of master architect Bernard Maybeck. The extant building was constructed in 1907 and retains its original character defining features, which reflect this style, such as: undisguised natural materials and wood siding; vertical building forms; steeply pitched, cross-gable roof and extensive eaves; wood doors, windows and trim; exposed framing elements, rafters, brackets and beams; combination of traditional craftsmanship and historic motifs; deck and porches that integrate the building interior with the natural surroundings; The property retains historical integrity, evident in its design, materials and workmanship. For these reasons, the building meets the *architectural merit* criterion and warrants designation.
3. Pursuant to BMC Section 3.24.110.A.2, the Commission further finds that the subject property warrants City Landmark designation for its association with the *movement and evolution of culture* as represented by the efforts of the Hillside Club to encourage the creation of buildings in Berkeley, like those of the First Bay Tradition, that employ natural materials and integrate with the environment and hillside terrain. The group was active during the property's historic period and their influence can be seen in the design of the subject building.
4. Consistent with BMC Section 3.24.110.A.4 criteria for *historic value*, the subject property is found to embody and express the history of Berkeley, the region, State, and Nation, through its association with the anthropologist Alfred Kroeber and his wife Theodora (née

Kracaw) Kroeber, and daughter, Ursula K. Le Guin. The Kroebers resided and worked at 1325 Arch Street from 1927 to 1979; this work had far-reaching impacts within the field of anthropology as well as controversial outcomes for indigenous people. Prominent and trail-blazing author Ursula Le Guin grew up there, in her own words, “from birth to maturity,” and identified her experiences living in the house as seminal to her way of thinking and her approach to writing.

## FEATURES TO BE PRESERVED, OR RESTORED WHERE POSSIBLE

### **PART 1: This designation shall apply to the subject property and the following distinguishing features shall be preserved:**

#### General Building Composition

- Swiss Chalet, Arts and Crafts architectural style
- Three-story height at front (west), two-story at rear (east)
- Overall massing and building forms
- Use of exclusively unpainted wood exterior materials
- Extensive, wide eaves
- Location, size and style of all doors and windows
- Location, dimensions and size of all decks and porches

#### Roof

- Cross-gable roof of 1907 building
- Gable roof of 1933 addition
- Dark-colored shingle roof

#### Finishes and Details Throughout

- Unpainted wood exterior: all board cladding, exposed beams, trim, decks, porches, stairs, doors, windows and sashes
- Wood siding patterns, including grooved/beveled board and board-and-batten, with corner boards and columns, and specified horizontal or vertical orientation throughout
- All-wood windows, including trim, sills and sashes; various fixed, awning and casement styles
- Decorative metal end caps on beams and brackets

#### West Elevation

- Three-story massing
- Gable wall
- Exposed rafters/beams
- Brackets and metal end caps
- Vertical corner boards and columns

- Overall arrangement and location of doors, windows and decks
- Third story: vertical board siding; three vertically-oriented windows and a door with a single lite, served by a right-aligned deck with a wood railing featuring a decorative cut-out pattern.
- Second story: Horizontal wood board siding, one horizontally-oriented casement window, and a double-door with four lites per door (two squares above two rectangles) and vertically-oriented window, all served by a right-aligned wrapping deck (extending to the south elevation) featuring a wood railing with a decorative cut-out pattern.
- First story: Horizontal wood board siding.
- *1933 rear building addition (beyond front façade):* vertical board siding throughout; a door with four lites, arranged horizontally, on the lower level; and a window with four lites, arranged in quadrants on the upper level.

#### East (Rear) Elevation

- Two-story height
- Overall arrangement and location of doors, windows and decks
- Beams with brackets and metal end caps (supporting decks and trellis, described below)
- Vertical corner boards and columns
- Second story: vertical board siding; a large three-part window; one small, nearly-square window with a high sill; deck with wood railing featuring decorative cut-out patterns.
- First Story: entry alcove featuring vertical siding and a Dutch-style main entry door with single pane of clear glass in upper portion; horizontal board siding, double-door with four lites per door (two squares above two rectangles), and a wood trellis (beneath the second story deck above).
- *1933 rear building addition:* gable wall; vertical board siding; right-aligned porch deck with wood cut-out railing and wood stairs<sup>1</sup>, a door with four lites (two square lites above two rectangular lites) and general arrangement and placement of windows. Note that current windows are not original to 1933.

#### South (Side) Elevation

- Gable wall
- Exposed rafters/beams
- Brackets and metal end caps
- Vertical corner boards and columns
- Overall arrangement and location of doors, windows and decks
- Third story: vertical siding throughout; two (small) single-pane windows; an enclosed sleeping porch featuring the original deck with wood railings with decorative cut out patterns combining classical baluster and apple motifs.
- Second story: horizontal siding with vertical siding at the entry enclosure wall and at the rear wing; two doors with four lites (two squares above two rectangles), served by a left-aligned wrapping wood deck (wrapping onto the west elevation) with wood cut-

<sup>1</sup> In 2021, the stairs had no railing but such a condition would be not required in order for the subject building to retain its historical significance.

out railing; one (small) single-light window with a scroll sawn wood cut decorative trim within entry wall enclosure; two-lite casement window at rear wing; entry porch low-wall (former flower box).

- First story (far west portion of building only): vertical board siding.
- *1933 rear building addition*: vertical board siding on the upper story, a window containing two casement windows on either end of a fixed, central pane, and one high-sill, two-light window on the upper story; horizontal board siding on lower story, one (small) two-light casement window (serving the kitchen), two two-lite casement windows, and one wood door with four lites (two squares above two rectangles) on the lower level.

#### North (Side) Elevation

- Two-story height at east increasing to three stories at west
- Gable wall
- Overall arrangement and location of doors, windows and decks
- Brackets and metal end caps
- Horizontal wood siding on lower stories, vertical on upper (third) story
- Vertical corner boards and columns
- Cement-clad chimney with terra cotta roof-tile accents
- Third story (uppermost): vertical siding; two single-lite wooden windows
- Second story: horizontal siding; one three-part awning-style wood window and one two-lite casement window
- First story (far west portion of building only): horizontal siding; one single-pane (awning?) window.
- Bay enclosure: vertical siding throughout; one wood door with glazed window, a Juliet balcony with wood railings featuring decorative cut out pattern combining classical baluster and apple motifs; two wood vents at lower story.
- *1933 rear building addition*: vertical board siding throughout; one stained glass window and one single-pane window at lower level.

#### Detached garage

- General location and small-scale, single-story structure

#### Features of the Site

- Rhyolite stone retaining walls at property line low rustic stone walls flanking steps/pathway ascending to front door

### **PART 2: Where possible, the following distinguishing features shall be restored:**

- Clear window glazing
- Decorative metal end caps on beams and brackets
- Exterior lighting fixtures consistent with the overall architectural character and historic period of the house.



Land Use Planning  
Received  
July 28, 2021

July 26, 2021

**To: Landmarks Preservation Commission**  
**Fr: Steven Finacom**  
**Re: SUPPLEMENT TO THE LANDMARK APPLICATION FOR 1325 ARCH STREET**

The items below list some small corrections as well as some factual additions of newly discovered material for the Landmark Application for 1925 Arch Street. None of the corrections or additions have any significant impact on the conclusions of the Application, except for the discovery of a record that lists Mary Schneider as owning the house in 1921, which clarifies and extends her documented period of ownership.

**Page 8, Question #6:** The property is on the State Historic Resources Inventory. The survey form was prepared by Gray Brechin.

**Page 33, last paragraph:** The two houses to the north were designed by Theodore Mueller, not Theodore Osmundson. (These houses were built and owned by the Kroebers.)

**Page 35/36:** Additional material on the neighbor to the south, Laura Adams Armer (1874-1963), who offered to sell the Kroebers her garden studio. Armer was a pioneering photographer and author of six books. She established a photography studio in San Francisco in the 19th century. She later married Sidney Armer, a prominent and financially successful commercial illustrator in California. Shortly after the turn of the century they moved to Berkeley and she relocated her photography darkroom to their Berkeley home, where it would remain. She became known for her photography of the Navajo people in the Southwest and, with their permission, made a pioneering movie—*“The Mountain Chant”*—about Navajo ritual and ceremony. Her book Waterless Mountain won the Newberry Medal for the best children’s book of the year in 1932.

**Page 48:** The watercolor of the house that was kept by Ursula Le Guin through her adult life is **Copyright Ursula K Le Guin Literary Trust, used with permission.** The artist is unknown.

**Pages 54/55:** Add to the application the fact that Mary Schneider was still listed as the owner of 1925 Arch in 1921. Source is a 1921 Block Book at BAHA.

As a result, **add to summary page 56** another bullet point: *“The house was still owned by Mary Schneider in 1921, which would make it likely the other residents before that date rented from the Schneiders.”*

Same for summary at top of **page 57**, add note that Mary Schneider was still the owner until 1921 at least.

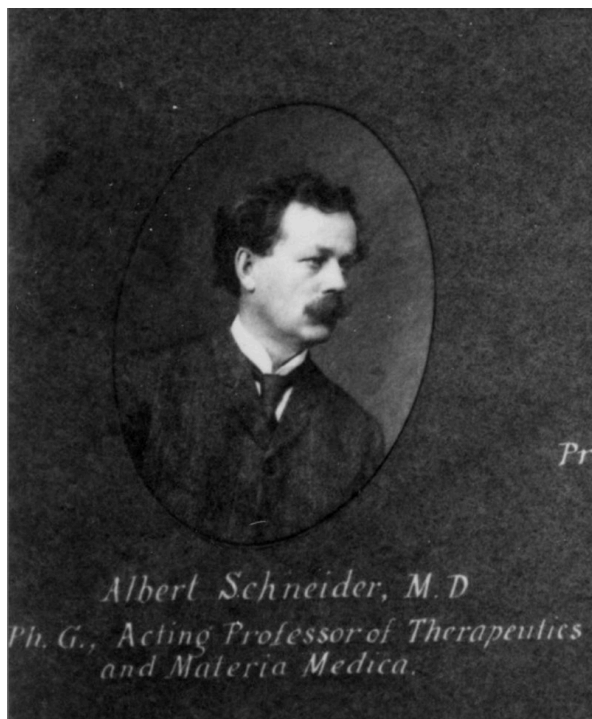
**Page 52** - 4th paragraph from the bottom. 2622 Dwight Way was near the corner of Benvenue and Dwight, not Regent and Dwight.

**Page 52** - The Braemar Hotel was in Daley's Scenic Park, north of the UC Berkeley campus and within walking distance of 1325 Arch.

**Page 53** - 2nd paragraph from bottom. 2626 Benvenue where Albert Schneider lived in 1917, was owned by a Mrs. Thomson in 1915. According to Anthony Bruce (Berkeley Architectural Heritage Association) she probably rented rooms in the house to individual borders.

**Page 111** - add third picture of Albert Schneider. This additional photograph of Albert Schneider has come to light. It shows Professor Schneider in 1905, within two years of when he and his wife would commission the design of 1325 Arch and have the house built.

It is from a set of photographs of the Dental Department of the University of California in 1905, contained in the UC San Francisco University Archives, School of Dentistry 130th Anniversary Collection.





Office of the City Manager

INFORMATION CALENDAR

January 25, 2022

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Director, Planning and Development Department

Subject: LPO NOD: 1960 University Avenue/#LMSA2021-0002

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that “a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting.”

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for new signage at the subject City Landmark site. This action is subject to a 15-day appeal period, which began on January 10, 2022.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Councilmember must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by January 25, 2022. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

There are no known fiscal impacts associated with this action.

CONTACT PERSON

Jordan Klein, Director, Planning & Development Department, 510-981-7534  
Steven Buckley, Land Use Planning Manager, Planning & Development Department, 510-981-7411  
Fatema Crane, Landmarks Preservation Commission Secretary, Planning & Development Department, 510-981-7410

Attachments:

1: Notice of Decision – #LMSA2021-0002, 1960 University Avenue/The City Landmark Bertin Properties.



L A N D M A R K S  
P R E S E R V A T I O N  
C O M M I S S I O N  
NOTICE OF DECISION

**DATE OF BOARD DECISION: October 7, 2021**  
**DATE NOTICE MAILED: January 10, 2022**  
**APPEAL PERIOD EXPIRATION: January 25, 2022**  
**EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): January 26, 2022<sup>1</sup>**

## 1960 University Avenue – The City Landmark Bertin Properties

**Structural Alteration Permit (#LMSA2021-0002) to install new signage on a property that features a City Landmark building.**

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

**PERMITS REQUIRED:**

- Structural Alteration Permit, pursuant to Berkeley Municipal Code Section 3.24.200

**APPLICANT:** Alexis Borabaugh, 1729 Delaware Street, Berkeley, CA

**ZONING DISTRICT:** Downtown Commercial Mixed Use (CD-MU)

**ENVIRONMENTAL REVIEW STATUS:** Categorically exempt pursuant to Section 15331 of the CEQA Guidelines (Historical Resource Rehabilitation).

**The application materials for this project are available online at:**

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<sup>1</sup> Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSA2021-0002  
1960 University Avenue – The City Landmark Bertin Properties  
January 25, 2022  
Page 2 of 4

<http://www.cityofberkeley.info/zoningapplications>

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**FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE**

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**COMMISSION VOTE: 7-0-1-1**

**YES:** ADAMS, ENCHILL, LEUSCHNER, MONTGOMERY, OLSON, SCHWARTZ,  
TWU

**NO:** NONE

**ABSTAIN:** FINACOM

**ABSENT:** CRANDALL

**TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):**

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
  - a. Pursuant to BMC Section 3.24.300.A, an appeal may be taken to the City Council by the application of the owners of the property or their authorized agents, or by the application of at least fifty residents of the City aggrieved or affected by any determination of the Commission made under the provisions of Chapter 3.24.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
  - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
  - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
  - c. The fee for all appeals by Applicants is \$2500.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSA2021-0002  
1960 University Avenue – The City Landmark Bertin Properties  
January 25, 2022  
Page 3 of 4

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

**NOTICE CONCERNING YOUR LEGAL RIGHTS:**

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If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision 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 Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must include the following information:
  - A. That this belief is a basis of your appeal.
  - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
  - C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

LANDMARKS PRESERVATION COMMISSION  
NOTICE OF DECISION  
Structural Alteration Permit - #LMSA2021-0002  
1960 University Avenue – The City Landmark Bertin Properties  
January 25, 2022  
Page 4 of 4

**PUBLIC COMMENT:**

Communications to Berkeley boards, commissions or committees 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 a City board, commission or committee, 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 secretary of the relevant board, commission or committee. 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 secretary to the relevant board, commission or committee for further information.

**FURTHER INFORMATION:**

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 1947 Center Street, 3<sup>rd</sup> Fl., between 8 a.m. and 4 p.m., Monday through Friday, except Tuesday when the Center closes at 3PM.

**ATTACHMENTS:**

1. Findings and Conditions
2. Project Plans



**ATTEST:** \_\_\_\_\_  
Fatema Crane, Secretary  
Landmarks Preservation Commission

Cc:

City Clerk  
Applicant: Alexis Borabaugh, 1729 Delaware Street, Berkeley, CA  
Property Owner: John Gordon, 2901 Rose Street, Berkeley, CA



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FINDINGS AND CONDITIONS

# 1960 University Avenue Bertin Properties

## Signage Alteration Permit #LMSA2021-0002

**Installation of a new painted wall sign and a new projecting sign on one storefront of a designated City Landmark building with multiple tenancies (APN 057 2024 021 01).**

### **FINDINGS REQUIRED UNDER CEQA**

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

### **FINDINGS RELATED TO THE SECRETARY OF THE INTERIOR’S STANDARDS**

Regarding the Secretary of the Interior’s Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The property has historically been used to support downtown commercial and office uses. The restaurant use was approved for this space in 2009 under #MODUP09-70000012 and is a commercial use that will continue to support downtown.
2. The scope of proposed work would not alter any significant features.
3. The signage will be contemporary and will not lead to any changes that would create a false sense of historical development. Aside from the proposed signage, the applicant does not propose to alter the existing building.
4. The proposed signage will not affect any changes to the property that have acquired historic significance in their own right.
5. The required alterations to the building to accommodate the proposed signage are minimal and will not affect any distinctive materials, features, finishes, and construction techniques, or examples of craftsmanship that characterize the property. Anchors in the historical façade shall be as discreet as possible and patched when signage is removed (see Condition of Approval #7).

6. No deteriorated historic features will be affected by this request and none are proposed to be replaced.
7. The applicant does not propose chemical or physical treatments. However, standard conditions of Structural Alteration Permit approval would require any chemical or physical treatments to be undertaken using the gentlest means possible (see Condition of Approval #7).
8. The project does not have the potential to affect any archaeological resources because the applicant proposes no excavation.
9. The required alterations to the building to accommodate the signage are minimal. The new work will be compatible with the old through its use of colors and materials and by conforming to the Sign Ordinance (BMC Section 20.24) and Downtown Design Guidelines.
10. The signage will be installed in such a manner that, if it were removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

#### **FINDINGS REQUIRED UNDER LANDMARK PRESERVATION ORDINANCE**

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1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically:

As described in the previous discussion of the Secretary's Standards for Rehabilitation, staff finds that the proposed signage will not adversely affect the exterior features of the landmark, the special character or special historical, architectural or aesthetic interest or value of its site and will preserve its distinguishing features. The signs would be installed without impairing the building, and their design would be compatible with the existing proportions, colors, and scale of the architecture.

## STANDARD CONDITIONS

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The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

### 1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

### 2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

### 3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Zoning Adjustments Board or Zoning Officer, Building and Safety Division, Public Works Department and other affected City divisions and departments.

### 4. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- B. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

### 5. Indemnification Agreement

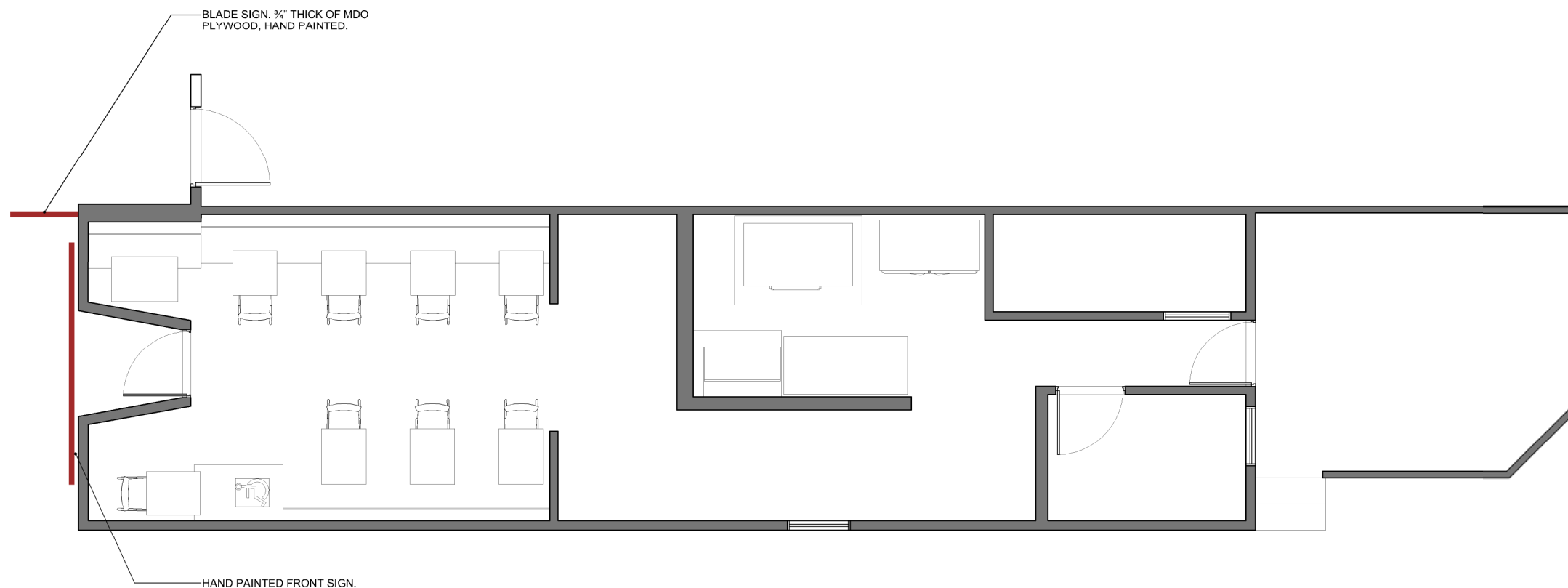
The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

### **ADDITIONAL CONDITIONS**

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The following additional conditions are attached to this Permit:

6. **Anchors** in the historical façade shall be as discreet as possible and patched when signage is removed.
7. **Any chemical or physical treatments** shall be undertaken using the gentlest means possible.
8. **Exterior lighting**, including for signage, shall be downcast and not cause glare on the public right-of-way and adjacent parcels.
9. **Colors.** Prior to staff sign-off of the building permit set of drawings, the applicant shall submit color and materials information for review and approval by historic preservation staff.
10. **Materials** shall be matte, unless otherwise noted.
11. **Prior to submittal of any building permit application**, the property owner shall submit sign applications to correct and to bring into compliance all existing and unpermitted signage at this location, in accordance with Berkeley Municipal Code (BMC) Title 20, the Sign Ordinance.



1 SIGN LOCATION - FLOOR PLAN

**NOTE:**  
 LOCATIONS SHOWN ON PLAN ARE  
 FOR GENERAL REFERENCE ONLY.  
 SEE ELEVATIONS & DETAILS FOR  
 SPECIFIC LOCATIONS & MOUNTING  
 INFO.

SEAL:

SIGNATURE:

CONTENT:  
SIGN PACKAGE

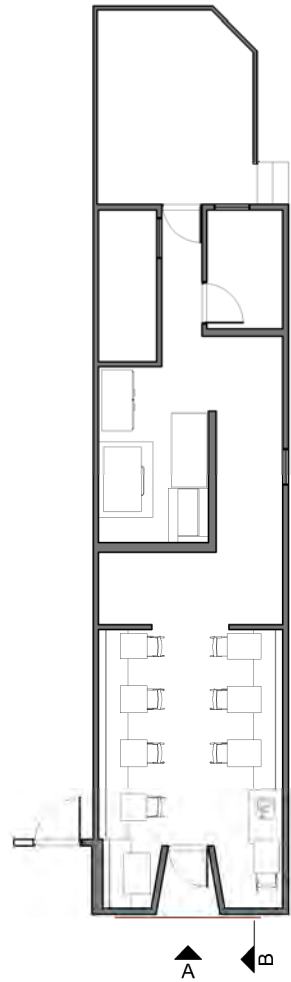
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SHEET NO:  
001

SCALE:

DATE:  
AUG 15, 2021

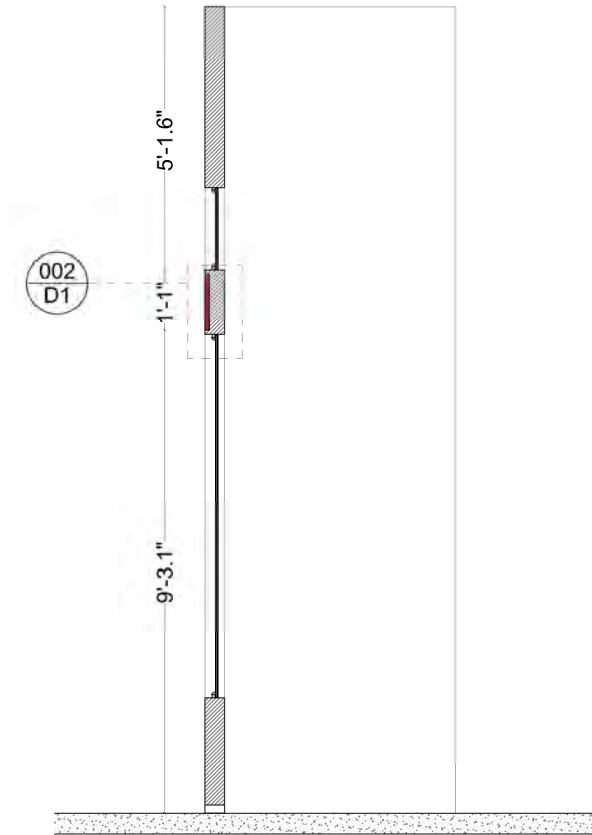




1 SIGN LOCATION - KEY PLAN



2 SIGN LOCATION - FRONT ELEVATION A



3 SIGN LOCATION - SECTION B



4 SIGN LOCATION - DETAIL 01

SEAL:

SIGNATURE:

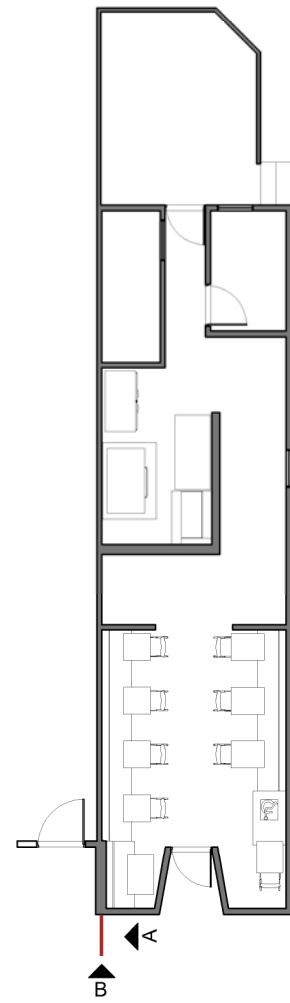
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FRONT SIGN

SHEET NO:  
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SCALE:

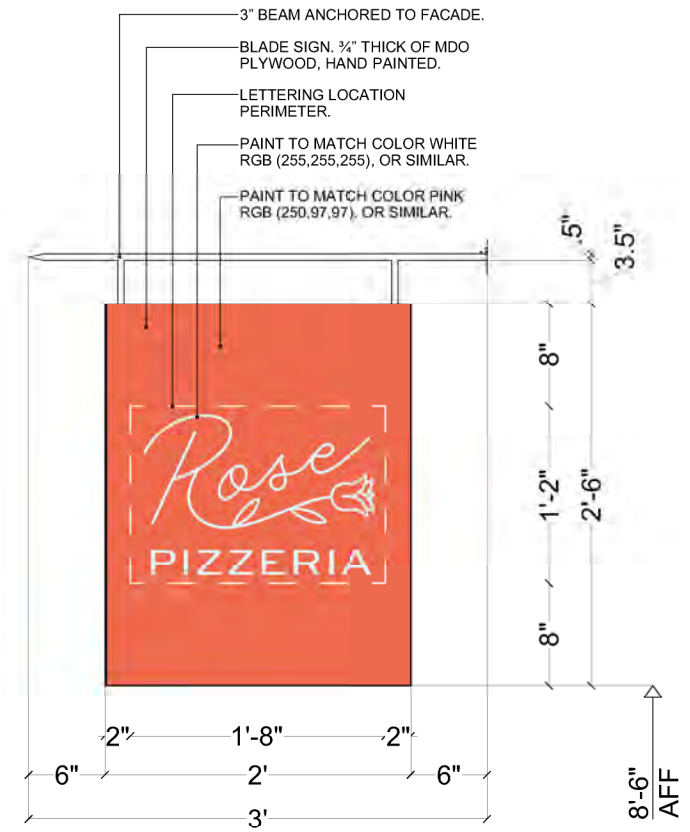
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AUG 16, 2021  
368



1 SIGN LOCATION - KEY PLAN



2 SIGN LOCATION - SIDE ELEVATION A



3 SIGN LOCATION - FRONT ELEVATION B

SEAL:

SIGNATURE:

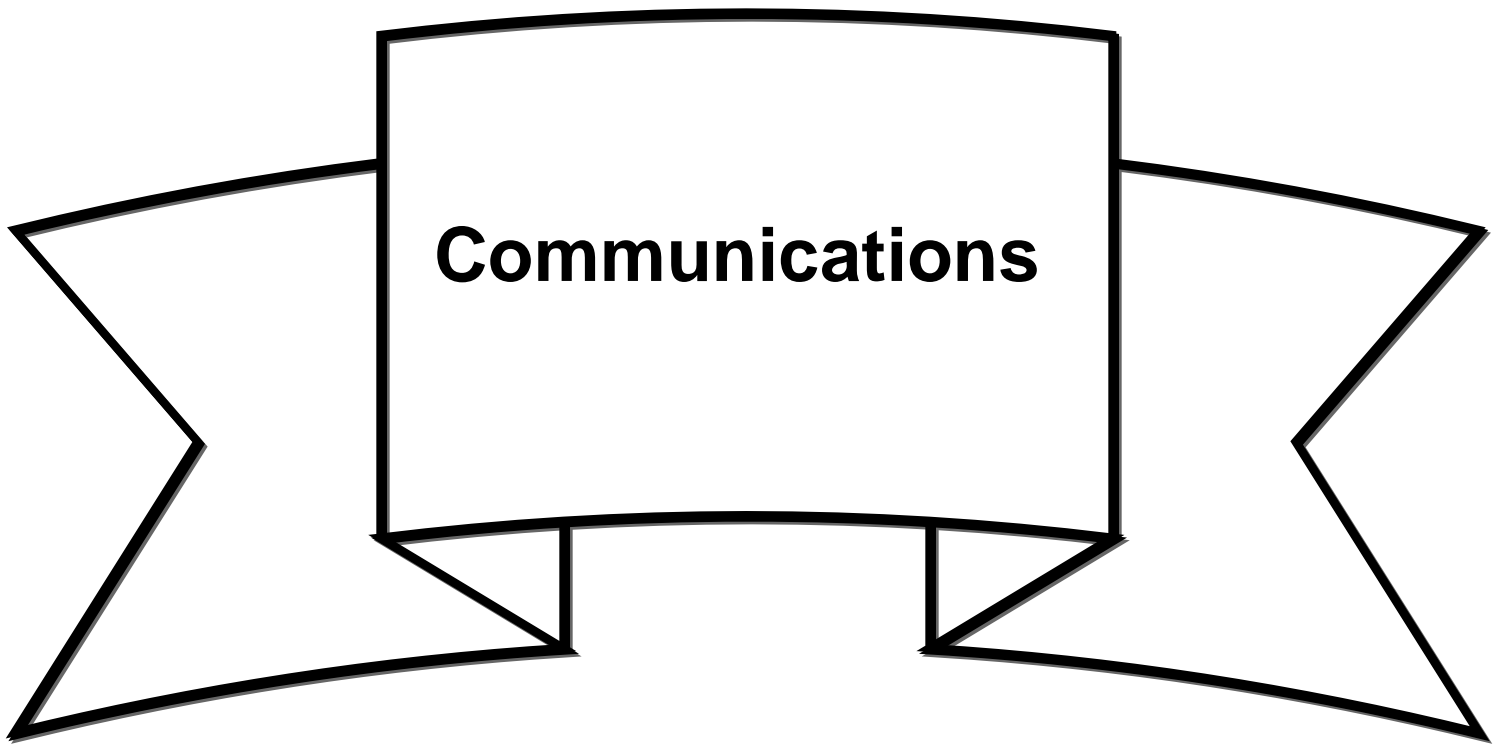
CONTENT:  
SIGN PACKAGE

SHEET TITLE:  
BLADE SIGN

SHEET NO:  
003

SCALE:

DATE:  
AUG 15 2021



All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:



1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF