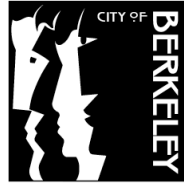


**REVISED AGENDA**  
**(ADDED CONTINUED ITEM FROM NOVEMBER 12, 2019)**



**BERKELEY CITY COUNCIL MEETING**

**Tuesday, November 19, 2019**  
**6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

*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. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. 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 by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.*

## 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.” 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 October 15, 2019 (special closed and regular), October 21, 2019 (special), October 22, 2019 (special closed and special), and October 29, 2019 (special closed and regular).

**Financial Implications:** None

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

### 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 19, 2019

**From: City Manager**

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

**Financial Implications:** Various Funds - \$800,000

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

## Consent Calendar

**3. Revenue Grant Agreements: Funding Support from the State of California to Conduct the State Childhood Lead Poisoning Prevention Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant agreement to the State of California, to accept the grant, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Childhood Lead Poisoning Prevention Program (CLPPP) Agreement, which includes services to detect, manage and prevent childhood lead poisoning and promote healthy environments and behaviors in the projected amount of \$94,821 per fiscal year FY2021 through FY2023 for a total of \$284,463.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**4. Authorizing City Manager To Provide a 2.5 Hour Minimum Overtime Pay For Emergency Call Back Employees In The Information Technology Department**  
**From: City Manager**

**Recommendation:** Adopt a Resolution Authorizing Information Technology Employees with Service Employees International Union, Local 1021 Community Services And Part Time Recreation Leaders Association (“SEIU” or “SEIU Local 1021 CSU & PTRLA) to receive 2.5 hours of overtime compensation for emergency call back involving remote work. The City has already negotiated a 2.5 hour rate with SEIU Local 1021 CSU & PTRLA in a new MOU indicated as 13.5.1.

**Financial Implications:** See report

Contact: LaTanya Bellow, Human Resources, (510) 981-6800

**5. Donations from Friends of Berkeley Tuolumne Camp and Berkeley Echo Lake Camp Association for Echo Lake Camp Scholarships and Programs**

**From: City Manager**

**Recommendation:** Adopt a Resolution accepting a cash donation of \$7,050 from the Friends of Berkeley Tuolumne Camp (FOBTC), and a cash donation of \$4,725 from the Berkeley Echo Lake Camp Association (BELCA), for support of Echo Lake Camp scholarships and programs.

**Financial Implications:** Camp Fund Donation - \$11,775

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

**6. Priority Development Area Nomination – North Berkeley BART Station**

**From: City Manager**

**Recommendation:** Adopt a Resolution supporting the nominating of the North Berkeley BART station as a Priority Development Area.

**Financial Implications:** See report

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

## Consent Calendar

- 7. Contract: Redgwick Construction Company for Ninth Street Bicycle Boulevard Pathway Extension Phase II**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving plans and specifications for the Ninth Street Bicycle Boulevard Pathway Extension Phase II, (“Ninth Street Pathway – Phase II”, or “Project”), Specification No. 19-11331-C; and 2. Rejecting the bid protest of Mark Lee and Yong Kay Inc., doing business as Bay Construction Company, the third-lowest bidder; and 3. Accepting the bid of J. A. Gonsalves & Son Construction, Inc., the second-lowest responsive and responsible bidder; and 4. Accepting the bid of Redgwick Construction Company, the lowest responsive and responsible bidder; and 5. Authorizing the City Manager to execute a contract with Redgwick Construction Company and any amendments, extensions, and/or change orders until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$1,481,417, which includes a contingency of ten percent.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 8. Contract No. 10340 Amendment: HF&H Consultants, LLC for the Study of the City Providing Commercial Collection Services and Development and Update of Rate Model**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10340 with HF&H Consultants, LLC to increase the current contract by \$50,000 for a total not to exceed amount of \$200,000 and to extend the contract term to June 30, 2021 for the Study of the City Providing Commercial Collection Services and Development and Update of Rate Model.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 9. Purchase Order: National Auto Fleet Group for Seven (7) 25 Cubic Yard Capacity Heavy Duty Rear Loading Collection Trucks**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcwell contract bid procedures, authorizing the City Manager to execute a purchase order for seven (7) 2019 Crane Carrier 25 Cubic Yard Capacity Heavy Duty Rear Loader Collection Trucks with National Auto Fleet Group in an amount not to exceed \$2,348,733, and authorizing the disposal of three (3) Autocar and four (4) Volvo collection trucks by public auction.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Consent Calendar

- 10. Purchase Order: Braun Northwest, Inc. for Five (5) 2020 North Star 155-1 Ambulances**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in HGACBuy contract bid procedures, and authorizing the City Manager to execute a purchase order for five (5) 2020 North Star 155-1, Type 1 Ambulances with Braun Northwest, Inc. in an amount not to exceed \$1,110,000, and authorizing the disposal of three (3) Freightliner and two (2) International ambulances by public auction.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Council Consent Items

- 11. Extension of Declaration of Homeless Shelter Crisis**  
**From: Mayor Arreguin and Councilmembers Davila, Robinson, and Harrison**  
**Recommendation:** Adopt a Resolution extending Resolution No. 68,206 – N.S., Declaring a Homeless Shelter Crisis until January 19, 2022.  
**Financial Implications:** Staff time  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 12. Letter to Richmond City Council, California Environmental Protection Agency (CalEPA), California Department of Toxics (DTSC) concerning recent action of cleaning up AstraZeneca Site near Berkeley**  
**From: Councilmembers Davila and Hahn**  
**Recommendation:** Send a Letter to the Richmond City Council, California Environmental Protection Agency (CalEPA) and the California Department of Toxics (DTSC), including California State Assemblymember Buffy Wicks and State Senator Nancy Skinner, concerning recent Council action of cleaning up the nearby AstraZeneca Site and reconsideration of such action.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 13. Budget Referral: BigBelly Trash Receptacles in Ohlone Park**  
**From: Councilmembers Harrison and Bartlett**  
**Recommendation:** Refer \$15,000 to the November 2019 Annual Appropriations Ordinance Budget Process to purchase two BigBelly trash receptacles for Ohlone Park.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Council Consent Items

14. **Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units** *(Reviewed by the Land Use, Housing & Economic Development)*  
**From: Councilmembers Wengraf, Harrison, Hahn, and Mayor Arreguin**  
**Recommendation:** Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units using the guiding framework presented in the Background.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

## Action Calendar

*The public may comment on each item listed on the agenda for action 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 line up at the podium 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 – Continued Business

- A. **City Council Rules of Procedure and Order Revisions** *(Reviewed by the Agenda & Rules Committee. Continued from November 12, 2019. Item contains revised material.)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution revising the City Council Rules of Procedure and Order to integrate the previously adopted regulations for policy committees and make associated changes to other sections; update outdated references and practices; conform to the Open Government Ordinance; make other technical corrections; and rescinding any preceding amendatory resolutions.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900

## Action Calendar – New Business

- 15. FY 2019 Year-End Results and FY 2020 First Quarter Budget Update**  
**From: City Manager**  
**Recommendation:** Discuss and determine funding allocations for FY 2020 based on the FY 2019 General Fund Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) the Mayor’s June 25, 2019, Supplemental Budget Recommendations approved by the Council and 3) the Council’s Budget Referrals approved during FY 2020 to be considered in November 2019.  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 16. Amendment: FY 2020 Annual Appropriations Ordinance**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending the FY 2020 Annual Appropriations Ordinance No. 7,669–N.S. for fiscal year 2020 based upon recommended re-appropriation of committed FY 2019 funding and other adjustments authorized since July 1, 2019, in the amount of \$136,730,924 (gross) and \$130,267,144 (net).  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 17. goBerkeley Residential Shared Parking Pilot Project Update**  
**From: City Manager**  
**Recommendation:** Receive a presentation providing an update on the Residential Shared Parking Pilot project, and offer any comments to staff on the implementation of the project.  
**Financial Implications:** None  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 18a. Recommendations for Allocation of FY19/20 Measure P Funds**  
**From: Homeless Services Panel of Experts**  
**Recommendation:** Approve recommendations for the allocation of FY19/20 General Funds at least commensurate with resources accrued to date from the passage of Measure P. Refer to the City Manager to produce data regarding the percentage of those transported with County Emergency Mental Health Transport who are homeless, and other sources that could be used to cover this cost.  
**Financial Implications:** See report  
Contact: Peter Radu, Commission Secretary, (510) 981-5400

## Action Calendar – New Business

### 18b. Companion Report: Recommendations for Allocation of FY19/20 Measure P Funds

**From: City Manager**

**Recommendation:** The City Manager recommends that Council:

1. Approve the Homeless Services Panel of Experts' recommendation for the allocation of FY20 General Funds (Measure P) in the following investment areas: a. Immediate Street conditions & Hygiene; b. Flexible Housing Subsidies; and c. Infrastructure. For any allocation of "Flexible Housing Subsidies" to families, limit eligibility to those who are imminently at-risk of homelessness, and allow the City Manager to sole-source contracts for the implementation of these subsidies.
2. Refer discussion of the recommendations pertaining to the following areas to the Council Budget & Finance Policy Committee: a. Permanent Housing, b. Shelter & Temporary Accommodations, and c. Supportive Services. The City Manager recommends that the Policy Committee consider the following pertaining to these funding areas: - Allow the "permanent subsidies" allocation to fund tenancy sustaining services, and dedicate 10% of total funding to homeless families. - Allow the "Shelter and temporary accommodations" allocation to fund the creation of new programs (including for new RV parking programs) or maintenance of existing shelter programs funded by HEAP, when that funding is exhausted. - Authorize the City Manager to award any funding for shelter expansion and tenancy sustaining services to agencies that have already responded to the FY20-23 Community Agency Request for Proposals (RFP). - Authorize the City Manager to release one or more RFPs for an RV parking program that would require a non-profit operator and for any supportive services including street medicine, substance abuse treatment or mental health outreach.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

## Information Reports

### 19. City Council Short Term Referral Process – Monthly Update

**From: City Manager**

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

### 20. goBerkeley Program Update – Fall 2019

**From: City Manager**

Contact: Phillip Harrington, Public Works, (510) 981-6300

### 21. Short Term Rental Revenue Allocations for Civic Arts and the Affordable Housing Trust Fund

**From: Civic Arts Commission**

Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530

### 22. Alignment of Processes with Modernized Contract Registration Workflow

**From: Auditor**

Contact: Jenny Wong, Auditor, (510) 981-6750



## 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 or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

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

City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

Libraries:  
Main - 2090 Kittredge Street  
Claremont Branch – 2940 Benvenue  
West Branch – 1125 University  
North Branch – 1170 The Alameda  
South Branch – 1901 Russell

#### COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

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



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

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 14, 2019.***

Mark Numainville, City Clerk

## **Communications**

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

### **Telegraph Avenue Restrooms**

1. Brittany Cliffe
2. Hyungil Shim
3. Maya Rankupalli

### **Money for Streets**

4. Barbara Gilbert

### **Electric Bikes in the Hills and the Bike Plan**

5. Tom Lent

### **Ordinance Prohibiting Gas in New Construction**

6. Mary Oram

### **Helping the Homeless**

7. Avram Gur Arye
8. Connie Tyler
9. Sheila Jordan
10. Linda Franklin
11. Nicky Gonzalez Yuen

### **Opportunity Zones**

12. Margy Wilkinson

### **Proposed Retail (Chain Stores) Regulations**

13. Councilmember Hahn

### **Construction at 1499 University**

14. Jesse Goldberg

15. Timothy Burroughs, on behalf of the Planning Department

### **5G and Cell Towers**

16. Phoebe Anne Sorgen (2)

17. Stephanie Thomas

18. Vivian Warkentin

### **2650 Telegraph and ZAB**

19. Cecile Leneman (2)

20. Ashley James (3)

### **Memorial for Herbert “Brad” Cleaveland**

21. Miriam Berg

### **PRC Charter**

22. Merle Lustig

23. Christina Crowley

### **YSA – Tiny House Project**

24. Tom Luce

### **1148-Page Meeting Agenda**

25. Eric Friedman

### **Criminal Records Information on Rental Application Forms**

26. Merle Lustig

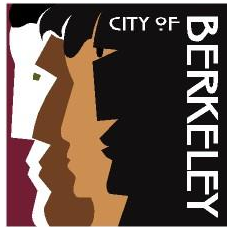
27. Ash Lynnette

### **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

## REVISED AGENDA MATERIAL

**Meeting Date:** November 12, 2019

**Item Number:** 26

**Item Description:** City Council Rules of Procedure and Order Revisions

**Supplemental/Revision Submitted By:** Mark Numainville, City Clerk

It was brought to my attention by a Councilmember that some of the provisions of Chapter III.C.1.a regarding the powers of the Agenda & Rules Committee were unclear and inconsistent with other provisions related to policy committees.

The proposed amendment attempts to clarify the provisions of Chapter III.C.1.a given the authority granted to the Agenda & Rules Committee by Resolution 68,726-N.S. while maintaining adequate discretion and control of the primary author of a Council item.

The new language proposed for Council consideration is in the version attached to this cover memo; track changes pages 13-14, and clean version pages 11-12. The original wording of this section is on page 875 of the packet (clean version) and page 916 of the packet (track changes version).

In addition, I have incorporated some non-substantive corrections/clarifications to the proposed amendments based on suggestions from Councilmembers. These edits are annotated in the attached track changes version of the ROP amendments. These new annotated edits all begin with "SUPP 1" in the comment bubble.

The clean version in this supplemental replaces Exhibit A to the resolution in the agenda packet.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.

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# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~##,###~~-N.S.  
Effective November 12, 2019

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| D.         | Fire Safety .....                                                                   | <a href="#"><u>373727</u></a> |
| E.         | Overcrowding .....                                                                  | <a href="#"><u>373727</u></a> |
|            | <b>APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES .</b>               | <a href="#"><u>383828</u></a> |
|            | <b>APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS</b> ..... | <a href="#"><u>414134</u></a> |

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I. DUTIES

I. DUTIES

A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

Commented [NML1]: Standard current practice per City Charter

B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set a limit on the speaking time allotted to Councilmembers during Council discussion.

Commented [NML2]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Commented [NML3]: SUPP 1 – changed to "a limit" to be more clear that the time is the same for all Councilmembers

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

I. DUTIES

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to ~~absent~~ ~~recuse~~ themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

Commented [NML4]: Correct terminology

F. Requests for Technical Assistance and/or Reports

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

G. **City Council Policy for Naming and Renaming Public Facilities**

~~The City Council Policy for Naming and Renaming Public Facilities adopted on January 31, 2012, and all its successors, is incorporated by reference into the City Council Rules of Procedure and included as Appendix A to this document.~~

Commented [NML5]: Edit from July 15, 2019 Agenda & Rules Committee meeting  
Language is unnecessary here

II. MEETINGS

II. MEETINGS

A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair, ~~at the conclusion of the business presently before the Council.~~ In the absence of the two officers specified in this section, the ~~Councilmember~~council member present with the longest period of Council service shall preside.

Commented [NML6]: Edit from July 15, 2019 Agenda & Rules Committee meeting  
Mayor resume chair upon resuming place on dais  
Commented [NML7]: Amended to standardize use throughout the document

B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

D. Council Meeting ~~Schedule~~Conduct of Business

~~The City Council shall hold a minimum of twenty four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.~~

Commented [NML8]: Moved to more appropriate location below

~~Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.~~

~~Regular City Council meetings shall begin no later than 6:00 p.m.~~

The agenda for the regular business meetings shall include the following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. ~~Items removed from the Consent Calendar will be moved to the Action Calendar.~~ The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Commented [NML9]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Commented [NML10]: Items removed from Consent may have many other actions taken and listing this single action is misleading.

Upon request by the Mayor or any ~~Councilmember~~council member, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any ~~Councilmember~~council member, at the ~~Council~~council member may also move an item from the Action Calendar to the Consent Calendar.

Commented [NML11]: Amended for clarity throughout document

Commented [NML12]: Edit from July 15, 2019 Agenda & Rules Committee meeting – changed "a Councilmember" to "the Council"

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious

II. MEETINGS

and lengthy and/or the Council's regular meeting schedule is heavily booked, the ~~Agenda Committee~~ Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Commented [NML13]: Amended to standardize use throughout the document

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the ~~Agenda Committee~~ Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

~~Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.~~

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Commented [NML14]: SUPP 1 – Added for clarity

Regular City Council meetings shall begin no later than 6:00 p.m.

Commented [NML15]: Proposed addition regarding starting early for ceremonial items was removed at the July 15, 2019 Agenda & Rules Committee meeting

A recess period is defined as a period of time longer than 21 days without a regular ~~or special~~ meeting of the Council.

Commented [NML16]: Special meetings are as needed and are not factored in to the annual schedule that is adopted, which includes the recess periods.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to

## II. MEETINGS

extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the ~~Agenda Committee~~ Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend ~~through up to the deadline for submission of staff reports for date of the first Agenda & Rules Committee meeting~~ for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

#### H. Pledge of Allegiance to the Flag

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the ~~program~~ Ceremonial Calendar will be the Pledge of Allegiance.

#### I. Ad Hoc Subcommittees

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Council ~~members~~ may ~~become~~ be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from ~~the~~ residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in ~~public and in accessible~~ locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Commented [NML17]: The existing definition left a significant gap that did not allow City Manager action on administratively urgent items

Commented [NML18]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Commented [NML19]: Edit from July 15, 2019 Agenda & Rules Committee meeting

II. MEETINGS

~~City staff may attend and participate in subcommittee meetings. Depending on the desires of the subcommittee members, City staff may participate the same as members of the public, or may be called upon to offer insights or provide information during discussion.~~

~~Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.~~

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

~~Certain requirements listed above may not apply to a~~ Ad hoc subcommittees ~~may seeking legal advice and assistance from the City Attorney or meeting with the City Manager or his/her designees for purposes of real estate or labor negotiations.~~ convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.

Commented [NML20]: Staff proposed language based on discussion at July 15, 2019 Agenda & Rules Committee meeting. This language mirrors the language used for Policy Committees Charter III, Section G

Commented [NML21]: Staff proposed language based on discussion at July 15, 2019 Agenda & Rules Committee meeting.

## III. AGENDA

## III. AGENDA

## A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items ~~carried over~~ continued from a previous meeting and published on a revised agenda.

Commented [NML22]: Additional clarification

## B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember~~council member~~, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if the Mayor or a Councilmember~~council member~~ so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter.

Council agenda items are limited to a maximum of three Co-Sponsors (in addition to the Primary Author). Co-Sponsors to Council reports may only be added in the following manner:

- In the original item as submitted by the Primary Author
- In a revised item submitted by the Primary Author at the Agenda & Rules Committee
- By verbal request of the Primary Author at the Agenda & Rules Committee
- In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
- By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full council at which the item is considered

Commented [NML23]: Must have certainty at the time of submission and throughout the process to properly monitor participation in policy committee meetings per the Brown Act. New language for designation of co-sponsors from the July 15, 2019 Agenda & Rules Committee meeting – removed limitation on when co-sponsors could be added and changed it to limit the addition of co-sponsors to discretion of the primary author.

Agenda items shall contain all relevant documentation, including the information listed below. ~~following as applicable:~~

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report ~~and action requested;~~
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;

III. AGENDA

c) Recommendation of the City Manager report author that describes the action to be taken on the item, if applicable; ~~(these provisions shall not apply to Mayor and Council items.);~~

Commented [NML24]: Required by the Brown Act for all agenda items.

d) Fiscal impacts of the recommendation;

e) A description of the current situation and its effects;

f) Background information as needed;

g) Rationale for recommendation;

h) Alternative actions considered;

i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);

j) Person or persons to contact for further information, with telephone number.

k) Additional information and analysis as required. It is recommended that reports include the recommended points of analysis in the Council Report Guidelines in Appendix B.

Commented [NML25]: SUPP 1 – redundant word deleted

~~j) If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.~~

Commented [NML26]: Outdated. We publish all materials except for the full administrative record of ZAB appeal.

2. "Primary Author" means the Mayor or Councilmember that initiated, authored, and submitted a council agenda item.

3. "Co-Sponsor" means the Mayor or other Councilmembers designated by the Primary Author to be co-sponsor of the council agenda item.

4.4. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.

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2.5. "Packet" means the agenda plus all its corresponding duplicated agenda items.

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3.6. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:



III. AGENDA

1-a) \_\_\_\_\_ A work stoppage or other activity which severely impairs public health, safety, or both;

2-b) \_\_\_\_\_ A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.

4-7. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier, ~~as uncompleted items.~~

5-8. "Old Business" Items carried over from a prior agenda of a meeting ~~as uncompleted items occurring more than 11 days earlier.~~

Commented [NML27]: Per Open Government Ordinance

C. Procedure for Bringing Matters Before City Council

a)1. **Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by ~~the Mayor or any Councilmember~~ council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by ~~an the Agenda Committee~~ Agenda & Rules Committee, which shall be a standing committee of the City Council. ~~The Agenda Committee shall consist of the Mayor and two councilmembers, nominated by the Mayor and approved by the Council. A third council member, nominated by the Mayor and approved by the Council, will serve as an alternate on the Committee in the event that an Agenda Committee member cannot attend a meeting.~~

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Commented [NML28]: Superseded by policy committee section below

The ~~Agenda Committee~~ Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. ~~Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day.~~ The ~~Agenda Committee~~ Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the ~~Agenda Committee~~ Agenda & Rules Committee meeting.

Commented [NML29]: Clarification

~~The Agenda Committee shall have the powers set forth below.~~

~~1. Items Authored by a Councilmember or the Auditor. As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda Committee shall review the item and may recommend that the matter be referred to a commission, to the City Manager, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.~~

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~~The author of a "referred" item must inform the City Clerk within 24 hours of the adjournment of the Agenda Committee meeting whether he or she prefers to: 1) hold the item for a future meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item~~

III. AGENDA

~~completely; or 4) re-submit the item with revisions as requested by the Agenda Committee within 24 hours of the adjournment of the Agenda Committee meeting for the Council agenda under consideration.~~

Commented [NML30]: Current practice

~~In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the Agenda Committee's adjournment, the recommendation of the Agenda Committee will take effect.~~

~~Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk. If changes made to the item extend beyond the scope of the Agenda Committee referral recommendations, the item must be re-submitted as a new Council item.~~

Commented [NML31]: Unecessary. If the item is being submitted for a future meeting, it is a "new" item.

~~For authors of referred items that select option 2) above, the referred item will automatically be placed at the end of the Action Calendar under the heading "Referred Items". The Agenda Committee shall specify the reason for the referral from the categories listed below. This reason shall be printed with the item on the agenda.~~

Commented [NML32]: No longer needed with the policy committee system.

- ~~Reason 1 — Significant Lack of Background or Supporting Information~~
- ~~Reason 2 — Significant Grammatical or Readability Issues~~

The Agenda & Rules Committee shall have the powers set forth below.

Commented [NML33]: SUPP 1 – change as described in the Supp 1 Cover Memo

- a) **Items Authored by the Mayor, a Councilmember, or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may take the following actions:
  - i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).
  - ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).
  - iii. Refer the item back to the author for adherence to required form or for additional analysis as required in Section III.B.1. (Primary Author may decline and request Policy Committee assignment).

## III. AGENDA

iv. Refer the item to a Policy Committee.

v. Schedule the item for the agenda under consideration or one of the next three full Council agendas.

For referrals under Chapter III.C.1.a.iii the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:

1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or

2) pull the item completely; or

3) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council agenda under consideration; or

4) accept the referral of the Agenda & Rules Committee in sub paragraphs i, ii, or iii.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft agenda for consideration by the Agenda & Rules Committee.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk.

a)b) **Items Authored by the City Manager.** The ~~Agenda Committee~~Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the ~~Agenda Committee~~Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the ~~referral~~ recommendation of the ~~Agenda Committee~~Agenda & Rules Committee or

III. AGENDA

~~revised items that have not been resubmitted to the Agenda Committee will~~ automatically be placed on the Action Calendar.

Commented [NML34]: Inconsistent with current practices. Staff reports are still in review and are not printed in the Agenda & Rules Committee packet.

~~2-c)~~ **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the ~~Agenda Committee~~ Agenda & Rules Committee.

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i) For a commission item that does not require a companion report from the City ~~Mananger~~ Manager, the ~~Agenda Committee~~ Agenda & Rules Committee may act on an agendaed commission report in the following manner:

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~~a-1.~~ 1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.

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~~b-2.~~ 2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.

~~c-3.~~ 3. Allow the item to proceed as submitted.

ii) For any commission report that requires a companion report, the ~~Agenda Committee~~ Agenda & Rules Committee ~~may~~ will schedule the item on a Council agenda. ~~The Committee must schedule the the~~ commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the ~~Agenda Committee~~ Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.

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~~3-d)~~ 4-d) The ~~Agenda Committee~~ Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E ~~of the Rules of Procedures and Order~~.

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~~b)2.~~ 2.) **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

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~~c)3.~~ 3.) **Submission of Agenda Items.**

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III. AGENDA

**1-a) City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.

**2-b) Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.

**3-c) Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or ~~Councilmember~~council member is received by the City Clerk after established deadlines and is not included on the ~~Agenda Committee~~Agenda & Rules Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the ~~Agenda Committee~~Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the ~~Agenda Committee~~Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the ~~Agenda Committee~~Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

**4-d)** The City Clerk may not accept any agenda item after the adjournment of the ~~Agenda Committee~~Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

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**d)4. Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

**a)** Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City

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Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council-member evaluation.

b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.

Commented [NML35]: Per Open Government Ordinance

~~4.~~

~~2-c)~~ After ~~5~~12:00 p.m. ~~seven~~one calendar days prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Council-member evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

~~e)5.~~ **Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

Commented [NML36]: Reflects current practice, which is much less formal than deleted text.

Commented [NML37]: SUPP 1 – Reflects current practice.

~~Any request for a presentation to the Council will be submitted as an agenda item and follow the time lines for submittal of agenda reports. The agenda item should include general information regarding the purpose and content of the presentation; information on the presenters; contact information; and the length of the presentation. The request may state a preference for a date before the Council. The Agenda Committee will review the request and recommend a presentation date and allotted time based on the Council's schedule.~~

III. AGENDA

The City Clerk will notify the presenters of the date and time of the presentation and will coordinate use of any presentation equipment and receipt of additional written material.

**i.D. Packet Preparation and Posting**

**a)1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4. ~~Reports carried over, as Continued Business or Old Business need not be reproduced again.~~

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Commented [NML38]: Inconsistent with OGO

**b)2. Distribution and Posting of Agenda.**

a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.

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b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.

c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**e)3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

~~i.a)~~ distribute the Agenda Packet to each member of the City Council;

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~~ii.b)~~ post the Agenda Packet to the City's website;

~~iii.c)~~ place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and

~~iv.d)~~ make the Agenda Packet available to members of the press.

III. AGENDA

~~4.~~ **Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - ~~a.~~ A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - ~~b.~~ Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which support~~ing~~ materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

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**E. Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

- ~~a)1.~~ Preliminary Matters: (Ceremonial, Comments from the City Manager, ~~Comments from the City Auditor, Non-Agenda~~ Public Comment)
- ~~b)2.~~ Consent Calendar
- ~~c)3.~~ Action Calendar
  - ~~1-a)~~ Appeals
  - ~~2-b)~~ Public Hearings
  - ~~3-c)~~ Continued Business
  - ~~4-d)~~ Old Business
  - ~~5-e)~~ New Business
  - ~~6.~~ Referred Items
- ~~4.~~ Information Reports
- ~~d)5.~~ Non-Agenda Public Comment
- ~~e)6.~~ AdjournmentCommunications
- ~~f)7.~~ CommunicationsAdjournment

Commented [NML39]: Edits to reflect current order

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

The ~~Agenda Committee~~ Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.



III. AGENDA

F. Closed Session Documents

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.

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2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

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3. Removal of confidential materials from a binder is prohibited.

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4. Duplication of the contents of a binder by any means is prohibited.

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5. Confidential materials shall be retained in the binders for at least two years.

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6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

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G. Regulations Governing City Council Policy Committees

Commented [NML40]: Regulations from the Policy Committee resolution are inserted in red text; changes to the resolution language are in track changes

1A. Legislative Item Process

All agenda items begin with submission to the Agenda Committee Agenda & Rules Committee.

Full Council Track

Items under this category are exempt from Agenda Committee Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

III. AGENDA

- 4.a. Items submitted by the City Manager and City Auditor
- 5.b. Items submitted by Boards and Commissions
- 6.c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- 7.d. Position Letters and/or Resolutions of Support/Opposition
- 8.e. Donations from the Mayor and Councilmember District Office Budgets
- 9.f. Referrals to the Budget Process
- 10.g. Proclamations
- 11.h. Sponsorship of Events
- 12.i. Information Reports
- 13.j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- 14.l. Committee and Regional Body Appointments

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Commented [NML41]: Clarification

Commented [NML42]: Standard administrative item

~~Notwithstanding the exemption stated above, the Agenda Committee, at its discretion, may route a Full Council Track item submitted by a Councilmember to a policy committee if the item has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues.~~

Commented [NML43]: Change made at September 16, 2019 Agenda & Rules Committee; integrated into next paragraph

~~The Agenda Committee Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item. If an item submitted by the Mayor or a Councilmember has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues the Agenda & Rules committee may refer the item to a Policy Committee.~~

Commented [NML44]: SUPP 1 – this sentence is unnecessary given the current authority of the Agenda & Rules Committee to refer any item to a policy committee

Policy Committee Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda Committee Agenda & Rules Committee on a draft City Council agenda (on a list).

Commented [NML45]: Clarification

The Agenda Committee Agenda & Rules Committee must refer an item to a Policy Committee at the first meeting that the item appears before the Agenda Committee Agenda & Rules Committee. The Agenda Committee Agenda & Rules Committee may only assign the item to a single Policy Committee.

For a Policy Committee Track item, the Agenda Committee Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.

## III. AGENDA

Time Critical Track

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or ~~Councilmember~~council member is received by the City Clerk after established deadlines and is not included on the ~~Agenda Committee~~Agenda & Rules Committee's published agenda.

The ~~Agenda Committee~~Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass ~~P~~policy ~~C~~committee review if determined to be time critical. If such an item is deemed not to be time critical, it ~~may~~will be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the ~~Agenda Committee~~Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

B2. Council Referrals to Committees

The full Council may refer any agenda item to a ~~P~~policy ~~C~~committee by majority vote.

3. Participation Rules for Policy Committees Pursuant to the Brown Act

- a. The quorum of a three-member ~~P~~policy ~~C~~committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a Policy Committee may not be co-authors of an item that will be heard by the committee.
- e. Only one co-author who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.

Commented [NML46]: New requirements due to re-evaluation of Brown Act applicability to policy committees

III. AGENDA

f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author who is not a member of the committee is present to participate in the discussion of their item, no other non-committee member Councilmembers, nor the Mayor, may attend as observers.

Commented [NML47]: SUPP 1 – added for clarification

Commented [NML48]: SUPP 1 – added for clarification

g. An item may be considered by only one Policy Committee before it goes to the full Council.

**C4. Functions of the Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.

f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.

f.g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.

Commented [NML49]: Clarification of authority; reflects Charter

g-h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.

i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.

h-j. Per Brown Act regulations, any such revised or supplemental materials must be direct revisions or supplements to the item that was published in the agenda packet.

Commented [NML50]: Added for transparency and to avoid violations arising from submission of materials only tangentially related to the agendized items

Commented [NML51]: SUPP 1 – added for clarification

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Items referred to a Policy Committee from the Agenda Committee ~~Agenda & Rules Committee~~ or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

III. AGENDA

Within 120 days of the referral date, the committee must vote to either (1) accept the author’s request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the ~~Agenda-Committee~~Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee’s ~~will include their~~ recommendation will be included in a ~~new~~separate section of the report template for that purpose.

~~A~~Policy Committee may not refer an item under its consideration to a city board or commission.

Commented [NML52]: Clarification of authority. Commissions are advisory to the Full Council

~~The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the Policy Committee are submitted to the agenda process City Clerk by the members of the committee.~~

Commented [NML53]: Clarification of responsibility for shepherding items through process

~~A policy committee may refer an item to another policy committee for review. The total time for review by all policy committees is limited to the initial 120-day deadline.~~

Commented [NML55]: Inconsistent with Brown Act – review by two committees would result in an illegal serial meeting

If a ~~P~~policy Committee does not take final action by the 120-day deadline, the item is returned to the ~~Agenda-Committee~~Agenda & Rules Committee and appears on the next available Council agenda. The ~~Agenda-Committee~~Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Commented [NML56]: Closes “endless loop” loophole

~~Policy~~Committees may add discussion topics that are within their purview to their agenda with the concurrence of a majority of the Committee. These items are not subject to the 120-day deadline for action. Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee.

Commented [NML57]: SUPP 1 – This paragraph was re-worded for clarity

III. AGENDA

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the author, and it will return to the Agenda Committee Agenda & Rules Committee on the next available agenda. The Agenda Committee Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

Commented [NML58]: Clarification

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review item first appeared on the committee agenda.

**5D. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers, with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

Commented [NML59]: This will allow two members of a policy committee to co-author an item. The Alternate will substitute for one of the co-authors while the item is heard by the policy committee.

SUPP 1 – comma added after Councilmembers

- 1. Agenda and Rules Committee
- 2. Budget and Finance Committee
- 3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
- 4. Health, Life Enrichment, Equity, and Community
- 5. Land Use, Housing, and Economic Development
- 6. Public Safety

The Agenda Committee Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

Commented [NML60]: Clarification

**6E. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall [stand identify themselves](#), shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 7.1. Public Comment on Consent Calendar and Information Items.

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.” 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.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. 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, [the Mayor or](#) 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.

## IV. CONDUCT OF MEETING

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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.

[This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.](#)

Commented [NML61]: SUPP 1 – added for clarification

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the “Action” section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the “Action” section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the “Public Hearings” section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants [of a single appeal](#) collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. [If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment.](#) Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

Commented [NML62]: Reflects existing due process standards

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.



## IV. CONDUCT OF MEETING

**4. Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

~~According to the current Rules and Procedures Pursuant to this document,~~ no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the ~~Agenda Committee~~ [Agenda & Rules Committee](#) for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, ~~C~~eouncilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

IV. CONDUCT OF MEETING

It is the policy of the Council that [the Mayor or Councilmembers](#) wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of [the Mayor or any Councilmember](#) shall be added to the appropriate section of [the Reports for Action Calendar](#) and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of [Mayor or any Councilmember](#) a Report for Information may be acted upon by the Council.

**D. Written Communications**

~~Letters~~[Written communications](#) from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." \_

Commented [NML63]: SUPP 1 – Clarification and updating of language

All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. [The Mayor or A Councilmember](#) may refer a communication to ~~staff~~ [the City Manager](#) for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

[Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.](#)

Commented [NML64]: Clarification per OGO

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

## IV. CONDUCT OF MEETING

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

Commented [NML65]: Same as above

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. 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.

Commented [NML66]: Current practice. Matches existing language for appeals above.

## F. Work Sessions

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker 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.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

G. Public Discussions

Commented [NML67]: Unnecessary. A "public discussion" must still occur at a noticed meeting which is regulated by the Brown Act, OGO, and this document.

IV. CONDUCT OF MEETING

~~The City Council may, from time to time, schedule a matter for public discussion and may limit the amount of time to be devoted to said discussions. At the time the public discussion is scheduled, the City Council may seek comment from others if they so determine.~~

**H. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a ~~Councilmember~~ council member except through the Presiding Officer.

## V. PROCEDURAL MATTERS

## V. PROCEDURAL MATTERS

**A. Persons Authorized to Sit at Tables**

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

**B. Decorum**

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council. ~~message to or contact with any member of the Council while the Council is in session shall be through the City Clerk.~~

Commented [NML68]: Clarification that Clerk forwards written communications only, not verbal messages

**C. Enforcement of Decorum**

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

**D. Precedence of Motions**

When a question or motion is before the Council, no motion shall be entertained except:

Commented [NML69]: SUPP 1 - clarification

~~4-1.~~ To adjourn,

~~5-2.~~ To fix the hour of adjournment,

~~6-3.~~ To lay on the table,

~~7-4.~~ For the previous question,

~~8-5.~~ To postpone to a certain day,

~~9-6.~~ To refer,

~~10-7.~~ To amend,

~~11-8.~~ To substitute, and

~~42.9.~~ To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to ~~adjourn~~, amend, or substitute, shall be put to a vote without debate.

Commented [NML70]: Motion to adjourn is not debatable pursuant to Roberts Rules

#### E. Roberts Rules of Order

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall ~~supercede~~supersede.

#### F. Rules of Debate

##### 1. Presiding Officer May Debate.

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

##### 2. Getting the Floor - Improper References to be avoided.

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

##### 3. Interruptions.

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

##### 4. Privilege of Closing Debate.

The ~~Mayor or Councilmember~~council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the ~~Mayor or Councilmember~~council member moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

##### 5. Motion to Reconsider.

A motion to reconsider any action taken by the Council may be made only ~~during the same session on the day~~ such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made ~~and seconded~~ by a member ~~one of~~ the prevailing sides, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

Commented [NML71]: Must happen at the same meeting, not just the same day.

Commented [NML72]: Inconsistent with Roberts Rules. Requiring a seconder to be on the prevailing side could infringe on a single member's right to reconsider their vote.

V. PROCEDURAL MATTERS

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**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

1. ~~Except as provided in Section V.F.b hereof, c~~ Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of [Good of the City Information Reports](#); provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, ~~the a motion for the~~ previous question, which, if passed [by a 2/3 vote](#), shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph ~~a-1~~ hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any ~~Councilmember~~~~council member~~ to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any ~~Councilmember~~~~council member~~ may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in ~~subparagraph Section a.1D~~ hereof is made and is passed.

Commented [NML73]: SUPP 1 – changes to b) added for clarification

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

~~Any person desiring to address the Council shall first secure the permission of the presiding officer to do so.~~ Under the following headings of business, unless the presiding officer rules otherwise, any ~~qualified and~~ interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

Commented [NML74]: Exactly restated later in same paragraph

Commented [NML75]: Not sure what could be meant by "qualified"

**1. Written Communications.**



## V. PROCEDURAL MATTERS

Interested parties or their authorized representatives may address the Council by in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

~~Communications pertaining to an item on the agenda which are received by the City Clerk after the deadline for inclusion in the Council Agenda packet and through 5:00 p.m. seven calendar days prior to the meeting shall be compiled into a supplemental communications packet. The supplemental communications packet shall be made available to the City Council, public and members of the press no later than five days prior to the meeting.~~

~~Communications received by the City Clerk after the aforementioned deadline and by noon on the day of a Council meeting shall be duplicated by the City Clerk and submitted to the City Council at the meeting if related to an item which is on the agenda for that meeting. Communications submitted at the Council meeting will be included in the public viewing binder and in the Clerk Department the day following the meeting.~~

Commented [NML76]: Described elsewhere and unnecessary here.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember~~council member~~ shall address the Council without first securing the permission of the presiding officer or Council to do so.

## VI. FACILITIES

### A. Council Chamber Capacity

~~Council Chamber~~ Attendance at council meetings shall be limited to the posted seating capacity of the meeting location thereof. Entrance to the ~~City Hall~~ meeting location will be appropriately regulated by the City Manager on occasions when the ~~Council Chamber~~ capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the ~~Council Chamber~~ meeting room except to address the Council, and sitting on the floor shall not be permitted. ~~The Council proceedings may be conveyed by loudspeaker to those who have been unable to enter the Council Chambers.~~

Commented [NML77]: Updated to reflect new locations of meetings and to not be as specific with regards to meeting locations

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the ~~City Council Chambers~~ School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the ~~City Council Chambers~~ Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the ~~City Council Chambers~~ Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the ~~Council Chamber~~ meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the ~~Council Chambers~~ meeting location has have reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

B.A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

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1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the ~~Agenda Committee~~ [Agenda & Rules Committee](#) to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

- ~~3.2.~~ 3.2. Agenda items shall contain all relevant documentation, including the following as Applicable:
- a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

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Guidelines for City Council Items:

1. Title
  2. Consent/Action/Information Calendar
  3. Recommendation
  4. Summary Statement/Current situation and its effects
  5. Background
  6. Review of Existing Plans, Programs, Policies and Laws
  7. Actions/Alternatives Considered
  8. Consultation/Outreach Overview and Results
  9. Rationale for Recommendation
  10. Implementation, Administration and Enforcement
  11. Environmental Sustainability
  12. Fiscal Impacts
  13. Outcomes and Evaluation
  14. Contact Information
  15. Attachments/Supporting Materials
- 

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan



## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

#### 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

#### 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

#### 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**

# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~##,###~~–N.S.  
Effective November 12, 2019

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## I. DUTIES

### A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

### B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

### C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

### D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set a limit on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

### E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

**II. MEETINGS****A. Call to Order - Presiding Officer**

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

**B. Roll Call**

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

**C. Quorum Call**

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

**D. Council Meeting Conduct of Business**

The agenda for the regular business meetings shall include the following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**



1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

#### **F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

#### **G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month except during recess periods; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

**H. Pledge of Allegiance to the Flag**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

**I. Ad Hoc Subcommittees**

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items continued from a previous meeting and published on a revised agenda.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter. Council agenda items are limited to a maximum of three Co-Sponsors (in addition to the Primary Author). Co-Sponsors to Council reports may only be added in the following manner:

- In the original item as submitted by the Primary Author
- In a revised item submitted by the Primary Author at the Agenda & Rules Committee
- By verbal request of the Primary Author at the Agenda & Rules Committee
- In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
- By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full council at which the item is considered

Agenda items shall contain all relevant documentation, including the information listed below.

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- c) Recommendation of the report author that describes the action to be taken on the item, if applicable;
- d) Fiscal impacts of the recommendation;

- e) A description of the current situation and its effects;
  - f) Background information as needed;
  - g) Rationale for recommendation;
  - h) Alternative actions considered;
  - i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j) Person or persons to contact for further information, with telephone number.
  - k) Additional information and analysis as required. It is recommended that reports include the points of analysis in the Council Report Guidelines in Appendix B.
2. "Primary Author" means the Mayor or Councilmember that initiated, authored, and submitted a council agenda item.
3. "Co-Sponsor" means the Mayor or other Councilmembers designated by the Primary Author to be co-sponsor of the council agenda item.
4. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
5. "Packet" means the agenda plus all its corresponding duplicated agenda items.
6. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
- a) A work stoppage or other activity which severely impairs public health, safety, or both;
  - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
7. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.
8. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

**C. Procedure for Bringing Matters Before City Council****1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by the Agenda & Rules Committee, which shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

- a) **Items Authored by the Mayor, a Councilmember, or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may take the following actions:
  - i. Refer the item to a commission for further analysis (Primary Author may decline and request Policy Committee assignment).
  - ii. Refer the item to the City Manager for further analysis (Primary Author may decline and request Policy Committee assignment).
  - iii. Refer the item back to the author for adherence to required form or for additional analysis as required in Section III.B.1, (Primary Author may decline and request Policy Committee assignment).
  - iv. Refer the item to a Policy Committee.
  - v. Schedule the item for the agenda under consideration or one of the next three full Council agendas.

For referrals under Chapter III.C.1.a.iii the Primary Author must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to:

- 1) re-submit the item for a future meeting with modifications as suggested by the Agenda & Rules Committee; or
- 2) pull the item completely; or

- 3) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council agenda under consideration; or
- 4) accept the referral of the Agenda & Rules Committee in sub paragraphs i, ii, or iii.

If the Primary Author requests a Policy Committee assignment, the item will appear on the next draft agenda presented to the Agenda & Rules Committee for assignment.

In the event that the City Clerk does not receive guidance from the Primary Author of the referred item within 24 hours of the Agenda & Rules Committee's adjournment, the item will appear on the next draft agenda for consideration by the Agenda & Rules Committee.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk.

- b) **Items Authored by the City Manager.** The Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

- c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee.

- i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendaized commission report in the following manner:
  1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.

2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
  3. Allow the item to proceed as submitted.
    - ii) For any commission report that requires a companion report, the Agenda & Rules Committee may schedule the item on a Council agenda. The Committee must schedule the the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.
    - d) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E.
2. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**  
The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.
3. **Submission of Agenda Items.**
- a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
  - b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.
  - c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

**4. Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.
- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a



factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

**5. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda. The Agenda & Rules Committee may request a presentation by staff in consultation with the City Manager.

**D. Packet Preparation and Posting**

**1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4.

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

**E. Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business
4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

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

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.
3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

**G. Regulations Governing City Council Policy Committees****1. Legislative Item Process**

All agenda items begin with submission to the Agenda & Rules Committee.

Full Council Track

Items under this category are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions

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- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- l. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item.

#### Policy Committee Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council agenda.

The Agenda & Rules Committee must refer an item to a Policy Committee at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee.

For a Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.

#### Time Critical Track

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.

- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

## **2. Council Referrals to Committees**

The full Council may refer any agenda item to a Policy Committee by majority vote.

## **3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a Policy Committee may not be co-authors of an item that will be heard by the committee.
- e. Only one co-author who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author who is not a member of the committee is present to participate in the discussion of their item, no other non-committee member Councilmembers, nor the Mayor, may attend as observers.
- g. An item may be considered by only one Policy Committee before it goes to the full Council.

## **4. Functions of the Committees**

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.

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- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any revised or supplemental materials must be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendaized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

- 1. Positive Recommendation (recommending Council pass the item as proposed),
- 2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
- 3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
- 4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the Policy Committee are submitted to the City Clerk by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Policy Committees may add discussion topics that are within their purview to their agenda with the concurrence of a majority of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the author, and it will return to the Agenda & Rules Committee on the next available agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

### **5. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers, with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee

3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

***6. Role of City Staff at Committee Meetings***

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.



## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

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.” 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.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. 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, the Mayor or 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.

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section, below.

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**4. Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of Mayor or any Councilmember a Report for Information may be acted upon by the Council.

**D. Written Communications**

Written communications from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. 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.

#### **F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker 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.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**H. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question or motion is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

**E. Roberts Rules of Order**

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

**F. Rules of Debate****1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.



**G. Debate Limited**

1. Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, a motion for the previous question, which, if passed by a 2/3 vote, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by

submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

## VI. FACILITIES

### A. Council Chamber Capacity

Attendance at council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City’s policy on naming of public facilities, for that commission’s review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

## Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal Impacts
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

---

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action



**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**



Office of the City Manager

ACTION CALENDAR

November 19, 2019

*(Continued from November 12, 2019)*

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted By: Mark Numainville, City Clerk  
Subject: City Council Rules of Procedure and Order Revisions

RECOMMENDATION

Adopt a Resolution revising the City Council Rules of Procedure and Order to integrate the previously adopted regulations for policy committees and make associated changes to other sections; update outdated references and practices; conform to the Open Government Ordinance; make other technical corrections; and rescinding any preceding amendatory resolutions.

POLICY COMMITTEE RECOMMENDATION

On September 16, 2019, the Agenda & Rules Committee adopted the following action: M/S/C (Harrison/Wengraf) to send the item to the City Council with a Positive Recommendation on the proposed amendments to the Rules of Procedure including the changes and edits made at the meeting on pages 10, 11, 14, 20, 21, 22, and 23; and to change “Co-Author” to “Co-Sponsor” throughout; add “Mayor” when using term “Councilmember;” and add a definition for “Primary Author.” The Committee also requested that a standing item be added to the agenda for discussion of further changes to the Rules of Procedure. Vote: All Ayes.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

This report and resolution are a response to the need to update the Rules of Procedure (ROP) to incorporate the regulations adopted to govern City Council Policy Committees in Resolution 68,726-N.S. adopted on December 11, 2018. The policy committee resolution was not adopted as an amendment to the ROP in December 2018. In addition, with six months of policy committee meetings completed, the need for amendments to the original policy committee regulations have surfaced. The amendments related to policy committees have ripples throughout the document and required changes to the sections for the Agenda Committee and the legislative process.

Some of the amendments related to policy committees are related to the participation of councilmembers. These amendments are being proposed due to a re-evaluation of the Brown Act's applicability to the policy committee process. After thorough review by the City Attorney's Office, the City Clerk Department, and the Chair of the League of California Cities Brown Act Committee, staff has concluded that new rules limiting participation by councilmembers are required. These changes are located on pages 20-21 of Attachment 2.

Further amendments to the policy committee rules are related to the authority of the Agenda & Rules Committee, calling special meetings of policy committees, responsibilities for shepherding legislation through the committee process, closing loopholes that would delay council items, and the rules for expedited review.

With the significant amendments needed to incorporate policy committees, staff recommends using this update to make other amendments related to the items below.

- Schedule for revised and supplemental materials per the Open Government Ordinance
- Outdated language related to agenda sections and headings
- Changes to the procedure for adding co-sponsors to agenda items
- Clarification regarding public comment on appeals
- Parliamentary clarifications to adhere to Roberts Rules of Order
- Updates related to moving Council meetings to the BUSD Board Room
- Other minor modifications and technical corrections

A fully annotated version of the revised document with all amendments in track changes is in Attachment 2.

#### BACKGROUND

The City Council Rules of Procedure and Order governs the duties of the Council, the conduct of meetings, the agenda, procedural matters and facilities. The rules have been amended as necessary over time to improve the function of the Agenda Committee and the conduct of City Council meetings.

#### ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

This update is primarily to incorporate the changes regarding policy committees that were adopted separately in Resolution 68,726-N.S. regarding council policy committees. Other conforming changes and technical updates are also included in this revision.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

- 1: Resolution  
    Exhibit A: City Council Rules of Procedure and Order (Clean Version)
- 2: Rules of Procedure with Track Changes

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

RE-ADOPTING THE CITY COUNCIL RULES OF PROCEDURE

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council Rules of Procedure and Order attached hereto as Exhibit A shall govern all proceedings of the City Council therein described, subject to the exception and deviations provided for in such rules.

BE IT FURTHER RESOLVED that violation of these rules shall not be construed as a penal offense, except as provided for by the adopted Rules of Procedure.

BE IT FURTHER RESOLVED that this update is primarily to incorporate the changes regarding policy committees that were adopted separately in Resolution 68,726-N.S. regarding council policy committees.

BE IT FURTHER RESOLVED that all preceding amendatory resolutions, including Resolution No. 68,753-N.S., are hereby rescinded.

Exhibit A: City Council Rules of Procedure and Order

# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~##,###~~–N.S.  
Effective **October 29, 2019**



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## I. DUTIES

### A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

### B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

### C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

### D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set limits on the speaking time allotted to Councilmembers during Council discussion.

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

### E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to recuse themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

**II. MEETINGS****A. Call to Order - Presiding Officer**

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. In the absence of the two officers specified in this section, the Councilmember present with the longest period of Council service shall preside.

**B. Roll Call**

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

**C. Quorum Call**

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

**D. Council Meeting Conduct of Business**

The agenda for the regular business meetings shall include the following: Ceremonial Items (including comments from the City Auditor if requested); Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Upon request by the Mayor or any Councilmember, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by the Mayor or any Councilmember, the Council may also move an item from the Action Calendar to the Consent Calendar.

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious and lengthy and/or the Council's regular meeting schedule is heavily booked, the Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

A recess period is defined as a period of time longer than 21 days without a regular meeting of the Council.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend up to the date of the Agenda & Rules Committee meeting for the first regular meeting after the Council recess.

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

**H. Pledge of Allegiance to the Flag**

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the Ceremonial Calendar will be the Pledge of Allegiance.

**I. Ad Hoc Subcommittees**

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Councilmembers may be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in locations that are open to the public and meet accessibility requirements under the Americans with Disabilities Act. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

Ad hoc subcommittees may convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.

### III. AGENDA

#### A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items continued from a previous meeting and published on a revised agenda.

#### B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

1. "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if the Mayor or a Councilmember so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter. Council agenda items are limited to a maximum of three Co-Sponsors (in addition to the Primary Author). Co-Sponsors to Council reports may only be added in the following manner:
  - In the original item as submitted by the Primary Author
  - In a revised item submitted by the Primary Author at the Agenda & Rules Committee
  - By verbal request of the Primary Author at the Agenda & Rules Committee
  - In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
  - By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full council at which the item is considered

Agenda items shall contain all relevant documentation, including the information listed below.

- a) A descriptive title that adequately informs the public of the subject matter and general nature of the item or report;
- b) Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
- c) Recommendation of the report author that describes the action to be taken on the item, if applicable;



- d) Fiscal impacts of the recommendation;
  - e) A description of the current situation and its effects;
  - f) Background information as needed;
  - g) Rationale for recommendation;
  - h) Alternative actions considered;
  - i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j) Person or persons to contact for further information, with telephone number.
  - k) Additional information and analysis as required. It is recommended that reports include the recommended points of analysis in the Council Report Guidelines in Appendix B.
2. "Primary Author" means the Mayor or Councilmember that initiated, authored, and submitted a council agenda item.
  3. "Co-Sponsor" means the Mayor or other Councilmembers designated by the Primary Author to be co-sponsor of the council agenda item.
  4. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.
  5. "Packet" means the agenda plus all its corresponding duplicated agenda items.
  6. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:
    - a) A work stoppage or other activity which severely impairs public health, safety, or both;
    - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
  7. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier.
  8. "Old Business" Items carried over from a prior agenda of a meeting occurring more than 11 days earlier.

## C. Procedure for Bringing Matters Before City Council

### 1. Persons Who Can Place Matters on the Agenda.

Matters may be placed on the agenda by the Mayor or any Councilmember, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by the Agenda & Rules Committee, which shall be a standing committee of the City Council.

The Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day. The Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the Agenda & Rules Committee meeting.

The Agenda & Rules Committee shall have the powers set forth below.

- a) **Items Authored by the Mayor, a Councilmember, or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the Agenda & Rules Committee shall review the item and may recommend that the matter be referred to a commission, to the City Manager, a Policy Committee, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a “referred” item must inform the City Clerk within 24 hours of the adjournment of the Agenda & Rules Committee meeting whether they prefer to: 1) hold the item for a future meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the Agenda & Rules Committee within 24 hours of the adjournment of the Agenda & Rules Committee meeting for the Council agenda under consideration. Option 2 is not available for items eligible to be referred to a Policy Committee.

In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the Agenda & Rules Committee’s adjournment, the recommendation of the Agenda & Rules Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk.

- b) **Items Authored by the City Manager.** The Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the recommendation of the Agenda & Rules Committee will automatically be placed on the Action Calendar.

- c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the Commissioners' Manual. The content of commission items is not subject to review by the Agenda & Rules Committee.
- i) For a commission item that does not require a companion report from the City Manager, the Agenda & Rules Committee may act on an agendaized commission report in the following manner:
1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
  2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
  3. Allow the item to proceed as submitted.
- ii) For any commission report that requires a companion report, the Agenda & Rules Committee may schedule the item on a Council agenda. The Committee must schedule the the commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.
- d) The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E.

2. **Scheduling Public Hearings Mandated by State, Federal, or Local Statute.**  
The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.
3. **Submission of Agenda Items.**
  - a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
  - b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.
  - c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the Agenda & Rules Committee. Time Critical items must be accompanied by complete reports and statements of financial implications. If the Agenda & Rules Committee finds the matter to meet the definition of Time Critical, the Agenda & Rules Committee may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the Agenda & Rules Committee meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.
4. **Submission of Supplemental and Revised Agenda Material.**  
Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:
    - a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council

meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation.

- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.
- c) After 12:00 p.m. one calendar day prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Councilmember evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

#### **5. Scheduling a Presentation.**

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda.

### **D. Packet Preparation and Posting**

#### **1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4.

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda as required by law.
- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

**E. Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business
4. Information Reports
5. Non-Agenda Public Comment
6. Adjournment
7. Communications

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

The Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

**F. Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

## **G. Regulations Governing City Council Policy Committees**

### **1. Legislative Item Process**

All agenda items begin with submission to the Agenda & Rules Committee.

#### Full Council Track

Items under this category are exempt from Agenda & Rules Committee discretion to refer them to a Policy Committee. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports
- j. Presentations from Outside Agencies and Organizations
- k. Ceremonial Items
- l. Committee and Regional Body Appointments

The Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item. If an item submitted by the Mayor or a Councilmember has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues the Agenda & Rules committee may refer the item to a Policy Committee.



Policy Committee Track

Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda & Rules Committee on a draft City Council agenda.

The Agenda & Rules Committee must refer an item to a Policy Committee at the first meeting that the item appears before the Agenda & Rules Committee. The Agenda & Rules Committee may only assign the item to a single Policy Committee.

For a Policy Committee Track item, the Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Policy Committee.

Time Critical Track

A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember is received by the City Clerk after established deadlines and is not included on the Agenda & Rules Committee's published agenda.

The Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Policy Committee review if determined to be time critical. If such an item is deemed not to be time critical, it may be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the Agenda & Rules Committee may go directly on a council agenda if determined to be time critical.

**2. Council Referrals to Committees**

The full Council may refer any agenda item to a Policy Committee by majority vote.

**3. Participation Rules for Policy Committees Pursuant to the Brown Act**

- a. The quorum of a three-member Policy Committee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed

- alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a Policy Committee may not be co-authors of an item that will be heard by the committee.
  - e. Only one co-author who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
  - f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author is present to participate in the discussion of their item, no other Councilmembers, nor the Mayor, may attend as observers.
  - g. An item may be considered by only one Policy Committee before it goes to the full Council.

#### 4. Functions of the Committees

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Policy Committee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- j. Per Brown Act regulations, any such materials must be direct revisions or supplements to the item that was published in the agenda packet.

Items referred to a Policy Committee from the Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),
3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's recommendation will be included in a separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the Policy Committee are submitted to the agenda process by the members of the committee.

If a Policy Committee does not take final action by the 120-day deadline, the item is returned to the Agenda & Rules Committee and appears on the next available Council agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee. These items are not subject to the 120-day deadline for action.

Once the item is voted out of a Policy Committee, the final item will be resubmitted to the agenda process by the author, and it will return to the Agenda & Rules Committee on the

next available agenda. The Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the deadline for final committee action is 45 days from the date the committee approves expedited review.

### **5. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers with a fourth Councilmember appointed as an alternate. Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee. The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

The Agenda & Rules Committee shall establish the Policy Committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All standing Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

### **6. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

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.” 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.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. 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, the Mayor or 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.

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section.

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

**4. Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the Agenda & Rules Committee for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

**5. Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

**B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

It is the policy of the Council that the Mayor or Councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of the Mayor or any Councilmember shall be added to the appropriate section of the Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of Mayor or any Councilmember a Report for Information may be acted upon by the Council.

**D. Communications**

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. The Mayor or a Councilmember may refer a communication to the City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review



in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. 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.

#### **F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker 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.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**H. Protocol**

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

**V. PROCEDURAL MATTERS****A. Persons Authorized to Sit at Tables**

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

**B. Decorum**

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council.

**C. Enforcement of Decorum**

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

**D. Precedence of Motions**

When a question is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and
9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to amend or substitute, shall be put to a vote without debate.

**E. Roberts Rules of Order**

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall supersede.

**F. Rules of Debate**

**1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The Mayor or Councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the Mayor or Councilmember moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made by a member on the prevailing side, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.

**G. Debate Limited**

1. Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Information Reports; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph 1 hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any Councilmember to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any Councilmember may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in Section D hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

Under the following headings of business, unless the presiding officer rules otherwise, any interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

**1. Written Communications.**

Interested parties or their authorized representatives may address the Council in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember shall address the Council without first securing the permission of the presiding officer or Council to do so.

## VI.FACILITIES

### A. Council Chamber Capacity

Attendance at council meetings shall be limited to the posted seating capacity of the meeting location. Entrance to the meeting location will be appropriately regulated by the City Manager on occasions when capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the meeting room except to address the Council, and sitting on the floor shall not be permitted.

### B. Alternate Facilities for Council Meetings

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the Board Room.

### C. Signs, Objects, and Symbolic Materials

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the meeting location during Council meetings.

### D. Fire Safety

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

### E. Overcrowding

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:



- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the Agenda & Rules Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal Impacts
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

---

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action

**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

State the specific outcomes expected, if any (i.e., *"it is expected that 100 homeless people will be referred to housing every year"*) and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**

This version incorporates  
the edits and changes  
made through the  
meeting of Sept. 16, 2019.

# The Berkeley City Council Rules of Procedure and Order

Adopted by Resolution No. ~~##,###~~–N.S.  
Effective ~~October~~ 29, 2019



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## I. DUTIES

## I. DUTIES

## A. Duties of Mayor

The Mayor shall preside at the meetings of the Council and shall preserve strict order and decorum at all regular and special meetings of the Council. The Mayor shall state every question coming before the Council, announce the decision of the Council on all subjects, and decide all questions of order, subject, however, to an appeal to the Council, in which event a majority vote of the Council shall govern and conclusively determine such question of order. In the Mayor's absence, the Vice President of the Council (hereafter referred to as the Vice-Mayor) shall preside.

Commented [NML1]: Standard current practice per City Charter

## B. Duties of Councilmembers

Promptly at the hour set by law on the date of each regular meeting, the members of the Council shall take their regular stations in the Council Chambers and the business of the Council shall be taken up for consideration and disposition.

## C. Motions to be Stated by Chair

When a motion is made, it may be stated by the Chair or the City Clerk before debate.

## D. Decorum by Councilmembers

While the Council is in session, the City Council will practice civility and decorum in their discussions and debate. Councilmembers will value each other's time and will preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt the proceedings of the Council, use personal, impertinent or slanderous remarks, nor disturb any other member while that member is speaking or refuse to obey the orders of the presiding officer or the Council, except as otherwise provided herein.

All Councilmembers have the opportunity to speak and agree to disagree but no Councilmember shall speak twice on any given subject unless all other Councilmembers have been given the opportunity to speak. The Presiding Officer may set limits on the speaking time allotted to Councilmembers during Council discussion.

Commented [NML2]: Edit from July 15, 2019 Agenda & Rules Committee meeting

The presiding officer has the affirmative duty to maintain order. The City Council will honor the role of the presiding officer in maintaining order. If a Councilmember believes the presiding officer is not maintaining order, the Councilmember may move that the Vice-Mayor, or another Councilmember if the Vice-Mayor is acting as the presiding officer at the time, enforce the rules of decorum and otherwise maintain order. If that motion receives a second and is approved by a majority of the Council, the Vice-Mayor, or other designated Councilmember, shall enforce the rules of decorum and maintain order.

## E. Voting Disqualification

No member of the Council who is disqualified shall vote upon the matter on which the member is disqualified. Any member shall openly state or have the presiding officer announce the fact and nature of such disqualification in open meeting, and shall not be subject to further inquiry. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the member affected, be

I. DUTIES

decided by the other members of the Council, by motion, and such decision shall determine such member's right and obligation to vote. A member who is disqualified by conflict of interest in any matter shall not remain in the Chamber during the debate and vote on such matter, but shall request and be given the presiding officer's permission to ~~absent~~ ~~recuse~~ themselves. Any member having a "remote interest" in any matter as provided in Government Code shall divulge the same before voting.

Commented [NML3]: Correct terminology

**F. Requests for Technical Assistance and/or Reports**

A majority vote of the Council shall be required to direct staff to provide technical assistance, develop a report, initiate staff research, or respond to requests for information or service generated by an individual council member.

**~~G. City Council Policy for Naming and Renaming Public Facilities~~**

~~The City Council Policy for Naming and Renaming Public Facilities adopted on January 31, 2012, and all its successors, is incorporated by reference into the City Council Rules of Procedure and included as Appendix A to this document.~~

Commented [NML4]: Edit from July 15, 2019 Agenda & Rules Committee meeting  
Language is unnecessary here

II. MEETINGS

II. MEETINGS

A. Call to Order - Presiding Officer

The Mayor, or in the Mayor's absence, the Vice Mayor, shall take the chair precisely at the hour appointed by the meeting and shall immediately call the Council to order. Upon the arrival of the Mayor, the Vice Mayor shall immediately relinquish the chair. ~~at the conclusion of the business presently before the Council.~~ In the absence of the two officers specified in this section, the ~~Councilmember~~council member present with the longest period of Council service shall preside.

Commented [NML5]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Mayor resume chair upon resuming place on dais

Commented [NML6]: Amended to standardize use throughout the document

B. Roll Call

Before the Council shall proceed with the business of the Council, the City Clerk shall call the roll of the members and the names of those present shall be entered in the minutes. The later arrival of any absentee shall also be entered in the minutes.

C. Quorum Call

During the course of the meeting, should the Chair note a Council quorum is lacking, the Chair shall call this fact to the attention of the City Clerk. The City Clerk shall issue a quorum call. If a quorum has not been restored within two minutes of a quorum call, the meeting shall be deemed automatically adjourned.

D. Council Meeting ~~Schedule~~Conduct of Business

~~The City Council shall hold a minimum of twenty four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.~~

Commented [NML7]: Moved to more appropriate location below

~~Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.~~

~~Regular City Council meetings shall begin no later than 6:00 p.m.~~

The agenda for the regular business meetings shall include the following: Ceremonial ~~items (including comments from the City Auditor if requested);~~ Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, Old Business, New Business); Information Reports; and Communication from the Public. Presentations and workshops may be included as part of the Action Calendar. ~~Items removed from the Consent Calendar will be moved to the Action Calendar.~~ The Chair will determine the order in which the item(s) will be heard with the consent of Council.

Commented [NML8]: Edit from July 15, 2019 Agenda & Rules Committee meeting

Commented [NML9]: Items removed from Consent may have many other actions taken and listing this single action is misleading.

Upon request by ~~the Mayor or~~ any ~~Councilmember~~council member, any item may be moved from the Consent Calendar or Information Calendar to the Action Calendar. Unless there is an objection by ~~the Mayor or~~ any ~~Councilmember~~council member, ~~at the Council~~council member may also move an item from the Action Calendar to the Consent Calendar.

Commented [NML10]: Amended for clarity throughout document

Commented [NML11]: Edit from July 15, 2019 Agenda & Rules Committee meeting – changed "a Councilmember" to "the Council"

A public hearing that is not expected to be lengthy may be placed on the agenda for a regular business meeting. When a public hearing is expected to be contentious

## II. MEETINGS

and lengthy and/or the Council's regular meeting schedule is heavily booked, the ~~Agenda Committee~~Agenda & Rules Committee, in conjunction with the staff, will schedule a special meeting exclusively for the public hearing. No other matters shall be placed on the agenda for the special meeting. All public comment will be considered as part of the public hearing and no separate time will be set aside for public comment not related to the public hearing at this meeting.

Commented [NML12]: Amended to standardize use throughout the document

Except at meetings at which the budget is to be adopted, no public hearing may commence later than 10:00 p.m. unless there is a legal necessity to hold the hearing or make a decision at that meeting or the City Council determines by a two-thirds vote that there is a fiscal necessity to hold the hearing.

**E. Adjournment**

1. No Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items; and any motion to extend the meeting beyond 11:00 p.m. shall include a list of specific agenda items to be covered and shall specify in which order these items shall be handled.
2. Any items not completed at a regularly scheduled Council meeting may be continued to an Adjourned Regular Meeting by a two-thirds majority vote of the Council.

**F. Unfinished Business**

Any items not completed by formal action of the Council, and any items not postponed to a date certain, shall be considered Unfinished Business. All Unfinished Business shall be referred to the ~~Agenda Committee~~Agenda & Rules Committee for scheduling for a Council meeting that occurs within 60 days from the date the item last appeared on a Council agenda. The 60 day period is tolled during a Council recess.

**G. City Council Schedule and Recess Periods**

Pursuant to the Open Government Ordinance, the City Council shall hold a minimum of twenty-four (24) meetings, or the amount needed to conduct City business in a timely manner, whichever is greater, each calendar year.

Regular meetings of the City Council shall be held generally two to three Tuesdays of each month; the schedule to be established annually by Council resolution taking into consideration holidays and election dates.

Regular City Council meetings shall begin no later than 6:00 p.m.

Commented [NML13]: Proposed addition regarding starting early for ceremonial items was removed at the July 15, 2019 Agenda & Rules Committee meeting

A recess period is defined as a period of time longer than 21 days without a regular ~~or special~~ meeting of the Council.

Commented [NML14]: Special meetings are as needed and are not factored in to the annual schedule that is adopted, which includes the recess periods.

When a recess period occurs, the City Manager is authorized to take such ministerial actions for matters of operational urgency as would normally be taken by the City Council during the period of recess except for those duties specifically reserved to the Council by the Charter, and including such emergency actions as are necessary for the immediate preservation of the public peace, health or safety; the authority to

## II. MEETINGS

extend throughout the period of time established by the City Council for the period of recess.

The City Manager shall have the aforementioned authority beginning the day after the ~~Agenda Committee~~ Agenda & Rules Committee meeting for the last regular meeting before a Council recess and this authority shall extend ~~through-up to the deadline for submission of staff reports for date of the first~~ Agenda & Rules Committee meeting ~~for the first regular meeting~~ after the Council recess.

Commented [NML15]: The existing definition left a significant gap that did not allow City Manager action on administratively urgent items

Commented [NML16]: Edit from July 15, 2019 Agenda & Rules Committee meeting

The City Manager shall make a full and complete report to the City Council at its first regularly scheduled meeting following the period of recess of actions taken by the City Manager pursuant to this section, at which time the City Council may make such findings as may be required and confirm said actions of the City Manager.

#### H. Pledge of Allegiance to the Flag

At the first meeting of each year following the August recess and at any subsequent meeting if specifically requested before the meeting by any member of the Council in order to commemorate an occasion of national significance, the first item on the ~~program~~ Ceremonial Calendar will be the Pledge of Allegiance.

#### I. Ad Hoc Subcommittees

From time to time the Council or the Mayor may appoint several of its members but fewer than the existing quorum of the present body to serve as an ad hoc subcommittee. Only Council ~~members~~ may ~~become~~ be members of the ad hoc subcommittee; however, the subcommittee shall seek input and advice from ~~the~~ residents, related commissions, and other groups. Ad Hoc Subcommittees must be reviewed annually by the Council to determine if the subcommittee is to continue.

Upon creation of an ad hoc subcommittee, the Council shall allow it to operate with the following parameters:

1. A specific charge or outline of responsibilities shall be established by the Council.
2. A target date must be established for a report back to the Council.
3. Maximum life of the subcommittee shall be one year, with annual review and possible extension by the Council.

Subcommittees shall conduct their meetings in ~~public and in accessible~~ locations that are open to the public ~~and meet accessibility requirements under the Americans with Disabilities Act~~. Meetings may be held at privately owned facilities provided that the location is open to all that wish to attend and that there is no requirement for purchase to attend. Agendas for subcommittee meetings must be posted in the same manner as the agendas for regular Council meetings except that subcommittee agendas may be posted with 24-hour notice. The public will be permitted to comment on agenda items but public comments may be limited to one minute if deemed necessary by the Committee Chair. Agendas and minutes of the meetings must be maintained and made available upon request.

Commented [NML17]: Edit from July 15, 2019 Agenda & Rules Committee meeting

II. MEETINGS

~~City staff may attend and participate in subcommittee meetings. Depending on the desires of the subcommittee members, City staff may participate the same as members of the public, or may be called upon to offer insights or provide information during discussion.~~

Ad hoc subcommittees will be staffed by City Council legislative staff. As part of the ad hoc subcommittee process, City staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item(s) under consideration. Staff analysis at ad hoc subcommittees is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Subcommittees must be comprised of at least two members. If only two members are appointed, then both must be present in order for the subcommittee meeting to be held. In other words, the quorum for a two-member subcommittee is always two.

~~Certain requirements listed above may not apply to a~~Ad hoc subcommittees may seeking legal advice and assistance from the City Attorney or meeting with the City Manager or his/her designees for purposes of real estate or labor negotiations.~~convene a closed session meeting pursuant to the conditions and regulations imposed by the Brown Act.~~

Commented [NML18]: Staff proposed language based on discussion at July 15, 2019 Agenda & Rules Committee meeting. This language mirrors the language used for Policy Committees Charter III, Section G

Commented [NML19]: Staff proposed language based on discussion at July 15, 2019 Agenda & Rules Committee meeting.



## III. AGENDA

## III. AGENDA

## A. Declaration of Policy

No ordinance, resolution, or item of business shall be introduced, discussed or acted upon before the Council at its meeting without prior thereto its having been published on the agenda of the meeting and posted in accordance with Section III.D.2. Exceptions to this rule are limited to circumstances listed in Section III.D.4.b and items ~~carried over~~ continued from a previous meeting and published on a revised agenda.

Commented [NML20]: Additional clarification

## B. Definitions

For purposes of this section, the terms listed herein shall be defined as follows:

- "Agenda Item" means an item placed on the agenda (on either the Consent Calendar or as a Report For Action) for a vote of the Council by ~~the Mayor or any Councilmember~~ council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council, or any Report For Information which may be acted upon if ~~the Mayor or a Councilmember~~ council member so requests. For purposes of this section, appeals shall be considered action items. All information from the City Manager concerning any item to be acted upon by the Council shall be submitted as a report on the agenda and not as an off-agenda memorandum and shall be available for public review, except to the extent such report is privileged and thus confidential such as an attorney client communication concerning a litigation matter.

Council agenda items are limited to a maximum of three Co-Sponsors (in addition to the Primary Author). Co-Sponsors to Council reports may only be added in the following manner:

Commented [NML21]: Must have certainty at the time of submission and throughout the process to properly monitor participation in policy committee meetings per the Brown Act. New language for designation of co-sponsors from the July 15, 2019 Agenda & Rules Committee meeting – removed limitation on when co-sponsors could be added and changed it to limit the addition of co-sponsors to discretion of the primary author.

- In the original item as submitted by the Primary Author
- In a revised item submitted by the Primary Author at the Agenda & Rules Committee
- By verbal request of the Primary Author at the Agenda & Rules Committee
- In a revised item submitted by the Primary Author in Supplemental Reports and Communications Packet #1 or #2
- By verbal or written request of the Mayor or any Councilmember at the Policy Committee meeting or meeting of the full council at which the item is considered

Agenda items shall contain all relevant documentation, including the information listed below, following as applicable:

- A descriptive title that adequately informs the public of the subject matter and general nature of the item or report ~~and action requested~~;
- Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;

## III. AGENDA

- c) Recommendation of the City Manager report author that describes the action to be taken on the item, if applicable; ~~(these provisions shall not apply to Mayor and Council items.);~~
- d) Fiscal impacts of the recommendation;
- e) A description of the current situation and its effects;
- f) Background information as needed;
- g) Rationale for recommendation;
- h) Alternative actions considered;
- i) For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
- j) Person or persons to contact for further information, with telephone number.
- k) Additional information and analysis as required. It is recommended that reports include the recommended points of analysis in the Council Report Guidelines in Appendix B.
- j) ~~If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.~~

Commented [NML22]: Required by the Brown Act for all agenda items.

Commented [NML23]: Outdated. We publish all materials except for the full administrative record of ZAB appeal.

2. "Primary Author" means the Mayor or Councilmember that initiated, authored, and submitted a council agenda item.

3. "Co-Sponsor" means the Mayor or other Councilmembers designated by the Primary Author to be co-sponsor of the council agenda item.

4. "Agenda" means the compilation of the descriptive titles of agenda items submitted to the City Clerk, arranged in the sequence established in Section III.E hereof.

5. "Packet" means the agenda plus all its corresponding duplicated agenda items.

6. "Emergency Matter" arises when prompt action is necessary due to the disruption or threatened disruption of public facilities and a majority of the Council determines that:

III. AGENDA

- a) A work stoppage or other activity which severely impairs public health, safety, or both;
  - b) A crippling disaster, which severely impairs public health, safety or both. Notice of the Council's proposed consideration of any such emergency matter shall be given in the manner required by law for such an emergency pursuant to Government Code Section 54956.5.
7. "Continued Business" Items carried over from a prior agenda of a meeting occurring less than 11 days earlier, ~~as uncompleted items.~~
8. "Old Business" Items carried over from a prior agenda of a meeting ~~as uncompleted items occurring~~ occurring more than 11 days earlier.

Commented [NML24]: Per Open Government Ordinance

**C. Procedure for Bringing Matters Before City Council**

**1. Persons Who Can Place Matters on the Agenda.**

Matters may be placed on the agenda by ~~the Mayor or any Councilmember~~ council member, the City Manager, the Auditor, or any board/commission/committee created by the City Council. All items, other than board and commission items shall be subject to review by ~~an the Agenda Committee~~ Agenda & Rules Committee, which shall be a standing committee of the City Council. ~~The Agenda Committee shall consist of the Mayor and two councilmembers, nominated by the Mayor and approved by the Council. A third council member, nominated by the Mayor and approved by the Council, will serve as an alternate on the Committee in the event that an Agenda Committee member cannot attend a meeting.~~

Commented [NML25]: Superseded by policy committee section below

The ~~Agenda Committee~~ Agenda & Rules Committee shall meet 15 days prior to each City Council meeting and shall approve the agenda of that City Council meeting. ~~Pursuant to BMC Section 1.04.080, if the 15<sup>th</sup> day prior to the Council meeting falls on a holiday, the Committee will meet the next business day.~~ The ~~Agenda Committee~~ Agenda & Rules Committee packet, including a draft agenda and Councilmember, Auditor, and Commission reports shall be distributed by 5:00 p.m. 4 days before the ~~Agenda Committee~~ Agenda & Rules Committee meeting.

Commented [NML26]: Clarification

The ~~Agenda Committee~~ Agenda & Rules Committee shall have the powers set forth below.

- a) **Items Authored by the Mayor, a Councilmember, or the Auditor.** As to items authored by the Mayor, a Councilmember, or the Auditor, the ~~Agenda Committee~~ Agenda & Rules Committee shall review the item and may recommend that the matter be referred to a commission, to the City Manager, a Policy Committee, or back to the author for adherence to required form or for additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

The author of a "referred" item must inform the City Clerk within 24 hours of the adjournment of the ~~Agenda Committee~~ Agenda & Rules Committee meeting whether ~~he or she~~ they prefers to: 1) hold the item for a future

III. AGENDA

meeting pending modifications as suggested by the Committee; 2) have the item appear on the Council agenda under consideration as originally submitted; 3) pull the item completely; or 4) re-submit the item with revisions as requested by the ~~Agenda Committee~~ Agenda & Rules Committee within 24 hours of the adjournment of the Agenda Committee ~~Agenda & Rules Committee meeting~~ for the Council agenda under consideration. Option 2 is not available for items eligible to be referred to a Policy Committee.

Commented [NML27]: Current practice

Commented [NML28]: Per policy committee regulations

In the event that the City Clerk does not receive guidance from the author of the referred item within 24 hours of the ~~Agenda Committee~~ Agenda & Rules Committee's adjournment, the recommendation of the ~~Agenda Committee~~ Agenda & Rules Committee will take effect.

Items held for a future meeting to allow for modifications will be placed on the next available Council meeting agenda at the time that the revised version is submitted to the City Clerk. ~~If changes made to the item extend beyond the scope of the Agenda Committee referral recommendations, the item must be re-submitted as a new Council item.~~

Commented [NML29]: Unecessary. If the item is being submitted for a future meeting, it is a "new" item.

~~For authors of referred items that select option 2) above, the referred item will automatically be placed at the end of the Action Calendar under the heading "Referred Items". The Agenda Committee shall specify the reason for the referral from the categories listed below. This reason shall be printed with the item on the agenda.~~

Commented [NML30]: No longer needed with the policy committee system.

- Reason 1— Significant Lack of Background or Supporting Information
- Reason 2— Significant Grammatical or Readability Issues

b) **Items Authored by the City Manager.** The ~~Agenda Committee~~ Agenda & Rules Committee shall review agenda descriptions of items authored by the City Manager. The Committee can recommend that the matter be referred to a commission or back to the City Manager for adherence to required form, additional analysis as required in Section III.B.2, or suggest other appropriate action including scheduling the matter for a later meeting to allow for appropriate revisions.

If the City Manager determines that the matter should proceed notwithstanding the ~~Agenda Committee~~ Agenda & Rules Committee's action, it will be placed on the agenda as directed by the Manager. All City Manager items placed on the Council agenda against the ~~referral recommendation of the Agenda Committee~~ Agenda & Rules Committee or revised items that have not been resubmitted to the Agenda Committee will automatically be placed on the Action Calendar.

Commented [NML31]: Inconsistent with current practices. Staff reports are still in review and are not printed in the Agenda & Rules Committee packet.

c) **Items Authored by Boards and Commissions.** Council items submitted by boards and commissions are subject to City Manager review and must follow procedures and timelines for submittal of reports as described in the

Commissioners' Manual. The content of commission items is not subject to review by the ~~Agenda Committee~~Agenda & Rules Committee.

- i) For a commission item that does not require a companion report from the City ~~Mananger~~Manager, the ~~Agenda Committee~~Agenda & Rules Committee may act on an agendized commission report in the following manner:
  - 1. Move a commission report from the Consent Calendar to the Action Calendar or from the Action Calendar to the Consent Calendar.
  - 2. Re-schedule the commission report to appear on one of the next three regular Council meeting agendas that occur after the regular meeting under consideration. Commission reports submitted in response to a Council referral shall receive higher priority for scheduling.
  - 3. Allow the item to proceed as submitted.
- ii) For any commission report that requires a companion report, the ~~Agenda Committee~~Agenda & Rules Committee ~~may~~will schedule the item on a Council agenda. ~~The Committee must schedule the the~~commission item for a meeting occurring not sooner than 60 days and not later than 120 days from the date of the meeting under consideration by the ~~Agenda Committee~~Agenda & Rules Committee. A commission report submitted with a complete companion report may be scheduled pursuant to subparagraph c.i. above.
- d) The ~~Agenda Committee~~Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in Chapter III, Section E ~~of the Rules of Procedures and Order~~.

## 2. Scheduling Public Hearings Mandated by State, Federal, or Local Statute.

The City Clerk may schedule a public hearing at an available time and date in those cases where State, Federal or local statute mandates the City Council hold a public hearing.

## 3. Submission of Agenda Items.

- a) **City Manager Items.** Except for Continued Business and Old Business, as a condition to placing an item on the agenda, agenda items from departments, including agenda items from commissions, shall be furnished to the City Clerk at a time established by the City Manager.
- b) **Council and Auditor Items.** The deadline for reports submitted by the Auditor, Mayor and City Council is 5:00 p.m. on Monday, 22 days before each Council meeting.

## III. AGENDA

- c) **Time Critical Items.** A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the City Manager, Auditor, Mayor or ~~Councilmember~~~~council member~~ is received by the City Clerk after established deadlines and is not included on the ~~Agenda Committee~~~~Agenda & Rules Committee~~'s published agenda.

The author of the report shall bring any reports submitted as Time Critical to the meeting of the ~~Agenda Committee~~~~Agenda & Rules Committee~~. Time Critical items must be accompanied by complete reports and statements of financial implications. If the ~~Agenda Committee~~~~Agenda & Rules Committee~~ finds the matter to meet the definition of Time Critical, the ~~Agenda Committee~~~~Agenda & Rules Committee~~ may place the matter on the Agenda on either the Consent or Action Calendar.

- d) The City Clerk may not accept any agenda item after the adjournment of the ~~Agenda Committee~~~~Agenda & Rules Committee~~ meeting, except for items carried over by the City Council from a prior City Council meeting occurring less than 11 days earlier, which may include supplemental or revised reports, and reports concerning actions taken by boards and commissions that are required by law or ordinance to be presented to the Council within a deadline that does not permit compliance with the agenda timelines in BMC Chapter 2.06 or these rules.

4. **Submission of Supplemental and Revised Agenda Material.**

Berkeley Municipal Code Section 2.06.070 allows for the submission of supplemental and revised agenda material. Supplemental and revised material cannot be substantially new or only tangentially related to an agenda item. Supplemental material must be specifically related to the item in the Agenda Packet. Revised material should be presented as revised versions of the report or item printed in the Agenda Packet. Supplemental and revised material may be submitted for consideration as follows:

- a) Supplemental and revised agenda material shall be submitted to the City Clerk no later than 5:00 p.m. seven calendar days prior to the City Council meeting at which it is to be considered. Supplemental and revised items that are received by the deadline shall be distributed to Council in a supplemental reports packet and posted to the City's website no later than 5:00 p.m. five calendar days prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council-member evaluation.
- b) Supplemental and revised agenda material submitted to the City Clerk after 5:00 p.m. seven days before the meeting and no later than 12:00 p.m. one day prior to the City Council meeting at which it is to be considered shall be distributed to Council in a supplemental reports packet and posted to

Commented [NML32]: Per Open Government Ordinance

## III. AGENDA

the City's website no later than 5:00 p.m. one day prior to the meeting. Copies of the supplemental packet shall also be made available in the office of the City Clerk and in the main branch of the Berkeley Public Library. Such material may be considered by the Council without the need for a determination that the good of the City clearly outweighs the lack of time for citizen review or City Council evaluation.

a)–

b)c) After ~~5~~12:00 p.m. ~~seven~~–one calendar days prior to the meeting, supplemental or revised reports may be submitted for consideration by delivering a minimum of 42 copies of the supplemental/revised material to the City Clerk for distribution at the meeting. Each copy must be accompanied by a completed supplemental/revised material cover page, using the form provided by the City Clerk. Revised reports must reflect a comparison with the original item using track changes formatting. The material may be considered only if the City Council, by a two-thirds roll call vote, makes a factual determination that the good of the City clearly outweighs the lack of time for citizen review or City Council–member evaluation of the material. Supplemental and revised material must be distributed and a factual determination made prior to the commencement of public comment on the agenda item in order for the material to be considered.

#### 5. Scheduling a Presentation.

Presentations from staff are either submitted as an Agenda Item or are requested by the City Manager. Presentations from outside agencies and the public are coordinated with the Mayor's Office. The Agenda & Rules Committee may adjust the schedule of presentations as needed to best manage the Council Agenda.

Commented [NML33]: Reflects current practice, which is much less formal than deleted text.

~~Any request for a presentation to the Council will be submitted as an agenda item and follow the time lines for submittal of agenda reports. The agenda item should include general information regarding the purpose and content of the presentation; information on the presenters; contact information; and the length of the presentation. The request may state a preference for a date before the Council. The Agenda Committee will review the request and recommend a presentation date and allotted time based on the Council's schedule.~~

~~The City Clerk will notify the presenters of the date and time of the presentation and will coordinate use of any presentation equipment and receipt of additional written material.~~

**D. Packet Preparation and Posting****1. Preparation of the Packet.**

Not later than the thirteenth day prior to said meeting, the City Clerk shall prepare the packet, which shall include the agenda plus all its corresponding duplicated agenda items. No item shall be considered if not included in the packet, except as provided for in Section III.C.4 and Section III.D.4. ~~Reports carried over, as Continued Business or Old Business need not be reproduced again.~~

Commented [NML34]: Inconsistent with OGO

**2. Distribution and Posting of Agenda.**

- a) The City Clerk shall post each agenda of the City Council regular meeting no later than 11 days prior to the meeting and shall post each agenda of a special meeting at least 24 hours in advance of the meeting in the official bulletin board. The City Clerk shall maintain an affidavit indicating the location, date and time of posting each agenda.
- b) The City Clerk shall also post agendas and annotated agendas of all City Council meetings and notices of public hearings on the City's website.
- c) No later than 11 days prior to a regular meeting, copies of the agenda shall be mailed by the City Clerk to any resident of the City of Berkeley who so requests in writing. Copies shall also be available free of charge in the City Clerk Department.

**3. Distribution of the Agenda Packet.**

The Agenda Packet shall consist of the Agenda and all supporting documents for agenda items. No later than 11 days prior to a regular meeting, the City Clerk shall:

- a) distribute the Agenda Packet to each member of the City Council;
- b) post the Agenda Packet to the City's website;
- c) place copies of the Agenda Packet in viewing binders in the office of the City Clerk and in the main branch of the Berkeley Public Library; and
- d) make the Agenda Packet available to members of the press.

**4. Failure to Meet Deadlines.**

- a) The City Clerk shall not accept any agenda item or revised agenda item after the deadlines established.
- b) Matters not included on the published agenda may be discussed and acted upon as otherwise authorized by State law or providing the Council finds one of the following conditions is met:
  - A majority of the Council determines that the subject meets the criteria of "Emergency" as defined in Section III.B.5.
  - Two thirds of the Council determines that there is a need to take immediate action and that the need for action came to the attention



## III. AGENDA

of the City subsequent to the posting of the agenda as required by law.

- c) Matters listed on the printed agenda but for which supporting materials are not received by the City Council on the eleventh day prior to said meeting as part of the agenda packet, shall not be discussed or acted upon.

#### E. **Agenda Sequence and Order of Business**

The Council agenda for a regular business meeting is to be arranged in the following order:

1. Preliminary Matters: (Ceremonial, Comments from the City Manager, Comments from the City Auditor, Non-Agenda Public Comment)
2. Consent Calendar
3. Action Calendar
  - a) Appeals
  - b) Public Hearings
  - c) Continued Business
  - d) Old Business
  - e) New Business
  - ~~f) Referred Items~~
4. Information Reports
- 4-5. Non-Agenda Public Comment
- 5-6. Adjournment Communications
- 6-7. Communications Adjournment

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

The ~~Agenda Committee~~ Agenda & Rules Committee shall have the authority to re-order the items on the Action Calendar regardless of the default sequence prescribed in this section.

#### F. **Closed Session Documents**

This section establishes a policy for the distribution of, and access to, confidential closed session documents by the Mayor and Members of the City Council.

1. Confidential closed session materials shall be kept in binders numbered from one to nine and assigned to the Mayor (#9) and each Councilmember (#1 to #8 by district). The binders will contain confidential closed session materials related to Labor Negotiations, Litigation, and Real Estate matters.
2. The binders will be maintained by City staff and retained in the Office of the City Attorney in a secure manner. City staff will bring the binders to each closed

Commented [NML35]: Edits to reflect current order

session for their use by the Mayor and Councilmembers. At other times, the binders will be available to the Mayor and Councilmembers during regular business hours for review in the City Attorney's Office. The binders may not be removed from the City Attorney's Office or the location of any closed session meeting by the Mayor or Councilmembers. City staff will collect the binders at the end of each closed session meeting and return them to the City Attorney's Office.

3. Removal of confidential materials from a binder is prohibited.
4. Duplication of the contents of a binder by any means is prohibited.
5. Confidential materials shall be retained in the binders for at least two years.
6. This policy does not prohibit the distribution of materials by staff to the Mayor and Councilmembers in advance of a closed session or otherwise as needed, but such materials shall also be included in the binders unless it is impracticable to do so.

#### G. Regulations Governing City Council Policy Committees

##### **1A. Legislative Item Process**

All agenda items begin with submission to the ~~Agenda Committee~~ Agenda & Rules Committee.

##### Full Council Track

Items under this category are exempt from ~~Agenda Committee~~ Agenda & Rules Committee discretion to refer them to a ~~Policy Committee~~. Items in this category may be submitted for the agenda of any scheduled regular meeting pursuant to established deadlines (same as existing deadlines). Types of Full Council Track items are listed below.

- a. Items submitted by the City Manager and City Auditor
- b. Items submitted by Boards and Commissions
- c. Resolutions on Legislation and Electoral Issues relating to Outside Agencies/Jurisdictions
- d. Position Letters and/or Resolutions of Support/Opposition
- e. Donations from the Mayor and Councilmember District Office Budgets
- f. Referrals to the Budget Process
- g. Proclamations
- h. Sponsorship of Events
- i. Information Reports

Commented [NML36]: Regulations from the Policy Committee resolution are inserted in red text; changes to the resolution language are in track changes

Commented [NML37]: Clarification

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j. Presentations from Outside Agencies and Organizations

k. Ceremonial Items

k.l. Committee and Regional Body Appointments

Commented [NML38]: Standard administrative item

~~Notwithstanding the exemption stated above, the Agenda Committee, at its discretion, may route a Full Council Track item submitted by a Councilmember to a policy committee if the item has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues.~~

Commented [NML39]: Change made at September 16, 2019 Agenda & Rules Committee; integrated into next paragraph

~~The Agenda Committee~~Agenda & Rules Committee has discretion to determine if an item submitted by the Mayor or a Councilmember falls under a Full Council Track exception or if it will be processed as a Policy Committee Track item. If an item submitted by the Mayor or a Councilmember has 1) a significant lack of background or supporting information, or 2) significant grammatical or readability issues the Agenda & Rules committee may refer the item to a Policy Committee.

Policy Committee Track

~~Items submitted by the Mayor or Councilmembers with moderate to significant administrative, operational, budgetary, resource, or programmatic impacts will go first to the Agenda Committee~~Agenda & Rules Committee on a draft City Council agenda (on a list).

Commented [NML40]: Clarification

~~The Agenda Committee~~Agenda & Rules Committee must refer an item to a Ppolicy Ccommittee at the first meeting that the item appears before the Agenda-CommitteeAgenda & Rules Committee. The Agenda-CommitteeAgenda & Rules Committee may only assign the item to a single Ppolicy Ccommittee.

~~For a Policy Committee Track item, the Agenda Committee~~Agenda & Rules Committee, at its discretion, may either route item directly to 1) the agenda currently under consideration, 2) one of the next three full Council Agendas (based on completeness of the item, lack of potential controversy, minimal impacts, etc.), or 3) to a Ppolicy Ccommittee.

Time Critical Track

~~A Time Critical item is defined as a matter that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the Council and for which a report prepared by the Mayor or Councilmember~~council member is received by the City Clerk after established deadlines and is not included on the Agenda-CommitteeAgenda & Rules Committee's published agenda.

~~The Agenda Committee~~Agenda & Rules Committee retains final discretion to determine the time critical nature of an item.

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- a) Time Critical items submitted on the Full Council Track deadlines, that would otherwise be assigned to the Policy Committee Track, may bypass Ppolicy Ccommittee review if determined to be time critical. If such an item is deemed not to be time critical, it maywill be referred to a Policy Committee.
- b) Time Critical items on the Full Council Track or Policy Committee Track that are submitted at a meeting of the Agenda CommitteeAgenda & Rules Committee may go directly on a council agenda if determined to be time critical.

**B2. Council Referrals to Committees**

The full Council may refer any agenda item to a Ppolicy Ccommittee by majority vote.

**3. Participation Rules for Policy Committees Pursuant to the Brown Act**

Commented [NML41]: New requiremetns due to re-evaluation of Brown Act applicability to policy committees

- a. The quorum of a three-member Ppolicy Ccommittee is always two members. A majority vote of the committee (two 'yes' votes) is required to pass a motion.
- b. Two Policy Committee members may not discuss any item that has been referred to the Policy Committee outside of an open and noticed meeting.
- c. Notwithstanding paragraph (b) above, two members of a Policy Committee may co-author an item provided that one of the authors will not serve as a committee member for consideration of the item, and shall not participate in the committee's discussion of, or action on the item. For purposes of the item, the appointed alternate will serve as a committee member in place of the non-participating co-author.
- d. All three members of a Policy Committee may not be co-authors of an item that will be heard by the committee.
- e. Only one co-author who is not a member of the Policy Committee may attend the committee meeting to participate in discussion of the item.
- f. If two or more non-committee members are present for any item or meeting, then all non-committee members may act only as observers and may not participate in discussion. If an author is present to participate in the discussion of their item, no other Councilmembers, nor the Mayor, may attend as observers.
- g. An item may be considered by only one Policy Committee before it goes to the full Council.

**C4. Functions of the Committees**

## III. AGENDA

Committees shall have the following qualities/components:

- a. All committees are Brown Act bodies with noticed public meetings and public comment. Regular meeting agendas will be posted at least 72 hours in advance of the meeting.
- b. Minutes shall be available online.
- c. Committees shall adopt regular meeting schedules, generally meeting once or twice per month; special meetings may be called when necessary, in accordance with the Brown Act.
- d. Generally, meetings will be held at 2180 Milvia Street in publicly accessible meeting rooms that can accommodate the committee members, public attendees, and staff.
- e. Members are recommended by the Mayor and approved by the full Council no later than January 31 of each year. Members continue to serve until successors are appointed and approved.
- f. Chairs are elected by the Committee at the first regular meeting of the Committee after the annual approval of Committee members by the City Council. In the absence of the Chair, the committee member with the longest tenure on the Council will preside.
- f.g. The Chair, or a quorum of the Committee may call a meeting or cancel a meeting of the Policy Committee.
- g.h. Committees will review items for completeness in accordance with Section III.B.2 of the City Council Rules of Procedure and Order and alignment with Strategic Plan goals.
- i. Reports leaving a Ppolicy Ccommittee must adequately include budget implications, administrative feasibility, basic legal concerns, and staff resource demands in order to allow for informed consideration by the full Council.
- h.j. Per Brown Act regulations, any such materials must be direct revisions or supplements to the item that was published in the agenda packet.

Commented [NML42]: Clarification of authority; reflects Charter

Commented [NML43]: Added for transparency and to avoid violations arising from submission of materials only tangentially related to the agendized items

Items referred to a Ppolicy Ccommittee from the ~~Agenda Committee~~Agenda & Rules Committee or from the City Council must be agendized for a committee meeting within 60 days of the referral date.

Within 120 days of the referral date, the committee must vote to either (1) accept the author's request that the item remain in committee until a date certain (more than one extension may be requested by the author); or (2) send the item to the ~~Agenda Committee~~Agenda & Rules Committee to be placed on a Council Agenda with a Committee recommendation consisting of one of the four options listed below.

1. Positive Recommendation (recommending Council pass the item as proposed),
2. Qualified Positive Recommendation (recommending Council pass the item with some changes),

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- 3. Qualified Negative Recommendation (recommending Council reject the item unless certain changes are made) or
- 4. Negative Recommendation (recommending the item not be approved).

The Policy Committee's ~~will include their~~ recommendation will be included in a new separate section of the report template for that purpose.

A Policy Committee may not refer an item under its consideration to a city board or commission.

Commented [NML44]: Clarification of authority. Commissions are advisory to the Full Council

The original Council author of an item referred to a Policy Committee is responsible for revisions and resubmission of the item back to the full Council. Items originating from the City Manager are revised and submitted by the appropriate city staff. Items from Commissions are revised and resubmitted by the members of the Policy Committee. Items and Recommendations originating from the Policy Committee are submitted to the agenda process by the members of the committee.

Commented [NML45]: Clarification of responsibility for shepherding items through process

A policy committee may refer an item to another policy committee for review. The total time for review by all policy committees is limited to the initial 120-day deadline.

Commented [NML46]: Inconsistent with Brown Act – review by two committees would result in an illegal serial meeting

If a ~~P~~policy ~~C~~committee does not take final action by the 120-day deadline, the item is returned to the ~~Agenda Committee~~Agenda & Rules Committee and appears on the next available Council agenda. The ~~Agenda Committee~~Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the next Council agenda. Items appearing on a City Council agenda due to lack of action by a Policy Committee may not be referred to a Policy Committee and must remain on the full Council agenda for consideration.

Commented [NML47]: Closes "endless loop" loophole

Non-legislative or discussion items may be added to the Policy Committee agenda by members of the Committee with the concurrence of a quorum of the Committee. These items are not subject to the 120-day deadline for action.

Commented [NML48]: Clarification

Once the item is voted out of a ~~P~~policy ~~C~~committee, the final item will be resubmitted to the agenda process by the author, and it will return to the ~~Agenda Committee~~Agenda & Rules Committee on the next available agenda. The ~~Agenda Committee~~Agenda & Rules Committee may leave the item on the agenda under consideration or place it on the following Council agenda. Only items that receive a Positive Recommendation can be placed on the Consent Calendar.

Commented [NML49]: Clarification

The lead author may request expedited committee review for items referred to a committee. Criteria for expedited review is generally to meet a deadline for action (e.g. grant deadline, specific event date, etc.). If the committee agrees to the request, the

## III. AGENDA

deadline for final committee action is 45 days from the date the committee approves expedited review, ~~item first appeared on the committee agenda.~~

**5D. Number and Make-up of Committees**

Six committees are authorized, each comprised of three Councilmembers ~~with a fourth Councilmember appointed as an alternate.~~ Each Councilmember and the Mayor will serve on two committees. The Mayor shall be a member of the Agenda and Rules Committee.

The committees are as follows:

1. Agenda and Rules Committee
2. Budget and Finance Committee
3. Facilities, Infrastructure, Transportation, Environment, and Sustainability
4. Health, Life Enrichment, Equity, and Community
5. Land Use, Housing, and Economic Development
6. Public Safety

~~The Agenda Committee~~ Agenda & Rules Committee shall establish the Ppolicy ~~C~~committee topic groupings, and may adjust said groupings periodically thereafter in order to evenly distribute expected workloads of various committees.

All ~~standing~~ Policy Committees of the City Council are considered “legislative bodies” under the Brown Act and must conduct all business in accordance with the Brown Act.

**6E. Role of City Staff at Committee Meetings**

Committees will be staffed by appropriate City Departments and personnel. As part of the committee process, staff will undertake a high-level, preliminary analysis of potential legal issues, costs, timelines, and staffing demands associated with the item. Staff analysis at the Policy Committee level is limited to the points above as the recommendation, program, or project has not yet been approved to proceed by the full Council.

Commented [NML50]: This will allow two members of a policy committee to co-author an item. The Alternate will substitute for one of the co-authors while the item is heard by the policy committee.

Commented [NML51]: Clarification

## IV. CONDUCT OF MEETING

### A. Comments from the Public

Public comment will be taken in the following order:

- An initial ten-minute period of public comment on non-agenda items, after the commencement of the meeting and immediately after Ceremonial Matters and City Manager Comments.
- Public comment on the Consent and Information Calendars.
- Public comment on action items, appeals and/or public hearings as they are taken up under procedures set forth in the sections governing each below.
- Public comment on non-agenda items from any speakers who did not speak during the first round of non-agenda public comment at the beginning of the meeting.

Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. A speaker wishing to yield their time shall stand and identify themselves, shall be recognized by the chair, and announce publicly their intention to yield their time. Disabled persons shall have priority seating in the front row of the public seating area.

A member of the public may only speak once at public comment on any single item, unless called upon by the Mayor or a Councilmember to answer a specific inquiry.

#### 1. Public Comment on Consent Calendar and Information Items.

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.” 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.”

The Council will then take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. A speaker may only speak once during the period for public comment on Consent Calendar and Information items. 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, the Mayor or 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.



## IV. CONDUCT OF MEETING

**2. Public Comment on Action Items.**

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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.

This procedure also applies to public hearings except those types of public hearings specifically provided for in this section.

**3. Appeals Appearing on Action Calendar.**

With the exception of appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission, appeals from decisions of City commissions appear on the "Action" section of the Council Agenda. Council determines whether to affirm the action of the commission, set a public hearing, or remand the matter to the commission. Appeals of proposed special assessment liens shall also appear on the "Action" section of the Council Agenda. Appeals from decisions of the Zoning Adjustments Board and Landmarks Preservation Commission are automatically set for public hearing and appear on the "Public Hearings" section of the Council Agenda.

Time shall be provided for public comment for persons representing both sides of the action/appeal and each side will be allocated seven minutes to present their comments on the appeal. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have seven minutes to comment and the applicant shall have seven minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have seven minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have seven minutes to comment and the persons supporting the action of the board or commission on appeal shall have seven minutes to comment. In the case of an appeal of proposed special assessment lien, the appellant shall have seven minutes to comment.

After the conclusion of the seven-minute comment periods, members of the public may comment on the appeal. Comments from members of the public regarding appeals shall be limited to one minute per speaker. Any person that addressed the Council during one of the seven-minute periods may not speak again during the public comment period on the appeal. Speakers may yield their time to one other speaker, however, no speaker shall have more than two minutes. Each side shall be informed of this public comment procedure at the time the Clerk notifies the parties of the date the appeal will appear on the Council agenda.

Commented [NML52]: Reflects existing due process standards

#### 4. **Public Comment on Non Agenda Matters.**

Immediately following Ceremonial Matters and the City Manager Comments and prior to the Consent Calendar, persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting.

The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Persons submitting speaker cards are not required to list their actual name, however they must list some identifying information or alternate name in order to be called to speak.

For the second round of public comment on non-agenda matters, the Presiding Officer retains the authority to limit the number of speakers by subject. The Presiding Officer will generally request that persons wishing to speak, line up at the podium to be recognized to determine the number of persons interested in speaking at that time. Each speaker will be entitled to speak for two minutes each unless the Presiding Officer determines that one-minute is appropriate given the number of speakers.

~~According to the current Rules and Procedures~~Pursuant to this document, no Council meeting shall continue past 11:00 p.m. unless a two-thirds majority of the Council votes to extend the meeting to discuss specified items. If any agenda item remains unfinished at 11:00 p.m. or the expiration of any extension after 11:00 p.m., it will be referred to the ~~Agenda Committee~~**Agenda & Rules Committee** for scheduling pursuant to Chapter II, Section F. In that event, the meeting shall be automatically extended for up to fifteen (15) minutes for public comment on non-agenda items.

#### 5. **Ralph M. Brown Act Pertaining to Public Comments.**

The "Brown Act" prohibits the Council from discussing or taking action on an issue raised during Public Comment, unless it is specifically listed on the agenda. However, the Council may refer a matter to the City Manager.

#### **B. Consent Calendar**

There shall be a Consent Calendar on all regular meeting agendas on which shall be included those matters which the Mayor, Councilmembers, boards, commissions, City Auditor and City Manager deem to be of such nature that no debate or inquiry will be necessary at the Council meetings. Ordinances for second reading may be included in the Consent Calendar.

## IV. CONDUCT OF MEETING

It is the policy of the Council that ~~the Mayor or C~~councilmembers wishing to ask questions concerning Consent Calendar items should ask questions of the contact person identified prior to the Council meeting so that the need for discussion of consent calendar items can be minimized.

Consent Calendar items may be moved to the Action Calendar by the Council. Action items may be reordered at the discretion of the Chair with the consent of Council.

**C. Information Reports Called Up for Discussion**

Reports for Information designated for discussion at the request of ~~the Mayor or any Councilmember~~council member shall be added to the appropriate section of ~~the Reports for~~ Action Calendar and may be acted upon at that meeting or carried over as pending business until discussed or withdrawn. The agenda will indicate that at the request of ~~Mayor or any Councilmember~~council member a Report for Information may be acted upon by the Council.

**D. Communications**

Letters from the public will not appear on the Council agenda as individual matters for discussion but will be distributed as part of the Council agenda packet with a cover sheet identifying the author and subject matter and will be listed under "Communications." \_

All such communications must have been received by the City Clerk no later than 5:00 p.m. fifteen days prior to the meeting in order to be included on the agenda.

In instances where an individual forwards more than three pages of email messages not related to actionable items on the Council agenda to the Council to be reproduced in the "Communications" section of the Council packet, the City Clerk will not reproduce the entire email(s) but instead refer the public to the City's website or a hard copy of the email(s) on file in the City Clerk Department.

All communications shall be simply deemed received without any formal action by the Council. ~~The Mayor or Aa Councilmember~~council member may refer a communication to ~~staff the~~ City Manager for action, if appropriate, or prepare a consent or action item for placement on a future agenda.

Communications related to an item on the agenda that are received after 5:00 p.m. fifteen days before the meeting are published as provided for in Chapter III.C.4.

Commented [NML53]: Clarification per OGO

**E. Public Hearings for Land Use, Zoning, Landmarks, and Public Nuisance Matters**

The City Council, in setting the time and place for a public hearing, may limit the amount of time to be devoted to public presentations. Staff shall introduce the public hearing item and present their comments.

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review

IV. CONDUCT OF MEETING

in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

This is followed by five-minute presentations each by the appellant and applicant. Where the appellant is not the applicant, the appellants of a single appeal collectively shall have five minutes to comment and the applicant shall have five minutes to comment. If there are multiple appeals filed, each appellant or group of appellants shall have five minutes to comment. Where the appellant is the applicant, the applicant/appellant shall have five minutes to comment and the persons supporting the action of the board or commission on appeal shall have five minutes to comment. In the case of a public nuisance determination, the representative(s) of the subject property shall have five minutes to present.

Commented [NML54]: Same as above

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

If ten or fewer persons are interested in speaking, each speaker 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. Any person that addressed the Council during one of the five-minute periods may not speak again during the public comment period on the appeal. 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.

Commented [NML55]: Current practice. Matches existing language for appeals above.

**F. Work Sessions**

The City Council may schedule a matter for general Council discussion and direction to staff. Official/formal action on a work session item will be scheduled on a subsequent agenda under the Action portion of the Council agenda.

In general, public comment at Council work sessions will be heard after the staff presentation, for a limited amount of time to be determined by the Presiding Officer.

The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time. If ten or fewer persons are interested in speaking, each speaker 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.

After Council discussion, if time permits, the Presiding Officer may allow additional public comment. During this time, each speaker will receive one minute. Persons who spoke during the prior public comment time may be permitted to speak again.

**G. Public Discussions**

Commented [NML56]: Unnecessary. A "public discussion" must still occur at a noticed meeting which is regulated by the Brown Act, OGO, and this document.

~~The City Council may, from time to time, schedule a matter for public discussion and may limit the amount of time to be devoted to said discussions. At the time the public discussion is scheduled, the City Council may seek comment from others if they so determine.~~

#### H. Protocol

People addressing the Council may first give their name in an audible tone of voice for the record. All remarks shall be addressed to the Council as a body and not to any member thereof. No one other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember~~council member~~ except through the Presiding Officer.

## V. PROCEDURAL MATTERS

### A. Persons Authorized to Sit at Tables

No person, except City officials, their representatives and representatives of boards and commissions shall be permitted to sit at the tables in the front of the Council Chambers without the express consent of the Council.

### B. Decorum

No person shall disrupt the orderly conduct of the Council meeting. Prohibited disruptive behavior includes but is not limited to shouting, making disruptive noises, such as boos or hisses, creating or participating in a physical disturbance, speaking out of turn or in violation of applicable rules, preventing or attempting to prevent others who have the floor from speaking, preventing others from observing the meeting, entering into or remaining in an area of the meeting room that is not open to the public, or approaching the Council Dais without consent. Any written communications addressed to the Council shall be delivered to the City Clerk for distribution to the Council. ~~message to or contact with any member of the Council while the Council is in session shall be through the City Clerk.~~

Commented [NML57]: Clarification that Clerk forwards written communications only, not verbal messages

### C. Enforcement of Decorum

When the public demonstrates a lack of order and decorum, the presiding officer shall call for order and inform the person(s) that the conduct is violating the Rules of Order and Procedure and provide a warning to the person(s) to cease the disruptive behavior. Should the person(s) fail to cease and desist the disruptive conduct, the presiding officer may call a five (5) minute recess to allow the disruptions to cease.

If the meeting cannot be continued due to continued disruptive conduct, the presiding officer may have any law enforcement officer on duty remove or place any person who violates the order and decorum of the meeting under arrest and cause that person to be prosecuted under the provisions of applicable law.

### D. Precedence of Motions

When a question is before the Council, no motion shall be entertained except:

1. To adjourn,
2. To fix the hour of adjournment,
3. To lay on the table,
4. For the previous question,
5. To postpone to a certain day,
6. To refer,
7. To amend,
8. To substitute, and

## V. PROCEDURAL MATTERS

## 9. To postpone indefinitely.

These motions shall have precedence in order indicated. Any such motion, except a motion to ~~adjourn~~, amend, or substitute, shall be put to a vote without debate.

Commented [NML58]: Motion to adjourn is not debatable pursuant to Roberts Rules

**E. Roberts Rules of Order**

Roberts Rules of Order have been adopted by the City Council and apply in all cases except the precedence of motions in Section V.D shall ~~supercedes~~supersede.

**F. Rules of Debate****1. Presiding Officer May Debate.**

The presiding officer may debate from the chair; subject only to such limitations of debate as are by these rules imposed on all members, and shall not be deprived of any of the rights and privileges as a member of the Council by reason of that person acting as the presiding officer.

**2. Getting the Floor - Improper References to be avoided.**

Members desiring to speak shall address the Chair, and upon recognition by the presiding officer, shall confine themselves to the question under debate.

**3. Interruptions.**

A member, once recognized, shall not be interrupted when speaking unless it is to call a member to order, or as herein otherwise provided. If a member, while speaking, were called to order, that member shall cease speaking until the question of order is determined, and, if in order, the member shall be permitted to proceed.

**4. Privilege of Closing Debate.**

The ~~Mayor or Councilmember~~council member moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. When a motion to call a question is passed, the ~~Mayor or Councilmember~~council member moving adoption of an ordinance, resolution or other action shall have three minutes to conclude the debate.

**5. Motion to Reconsider.**

A motion to reconsider any action taken by the Council may be made only during the same session on the day such action is taken. It may be made either immediately during the same session, or at a recessed or adjourned session thereof. Such motion must be made ~~and seconded~~ by a member one of on the prevailing sides, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

Commented [NML59]: Must happen at the same meeting, not just the same day.

Commented [NML60]: Inconsistent with Roberts Rules. Requiring a seconder to be on the prevailing side could infringe on a single member's right to reconsider their vote.

**6. Repeal or Amendment of Action Requiring a Vote of Two-Thirds of Council, or Greater.**

Any ordinance or resolution which is passed and which, as part of its terms, requires a vote of two-thirds of the Council or more in order to pass a motion pursuant to such an ordinance or resolution, shall require the vote of the same percent of the Council to repeal or amend the ordinance or resolution.



## V. PROCEDURAL MATTERS

**G. Debate Limited**

1. ~~Except as provided in Section V.F.b hereof, c~~Consideration of each matter coming before the Council shall be limited to 20 minutes from the time the matter is first taken up, at the end of which period consideration of such matter shall terminate and the matter shall be dropped to the foot of the agenda, immediately ahead of Good of the City Information Reports; provided that either of the following two not debatable motions shall be in order:
  - a) A motion to extend consideration which, if passed, shall commence a new twenty-minute period for consideration; or
  - b) If there are one or more motions on the floor, the previous question, which, if passed, shall require an immediate vote on pending motions.
2. The time limit set forth in subparagraph ~~a.1~~ hereof shall not be applicable to any public hearing, public discussion, Council discussion or other especially set matter for which a period of time has been specified (in which case such specially set time shall be the limit for consideration) or which by applicable law (e.g. hearings of appeals, etc.), the matter must proceed to its conclusion.
3. In the interest of expediting the business of the City, failure by the Chair or any ~~Councilmember~~~~council member~~ to call attention to the expiration of the time allowed for consideration of a matter, by point of order or otherwise, shall constitute unanimous consent to the continuation of consideration of the matter beyond the allowed time; provided, however, that the Chair or any ~~Councilmember~~~~council member~~ may at any time thereafter call attention to the expiration of the time allowed, in which case the Council shall proceed to the next item of business, unless one of the motions referred to in ~~subparagraph-Section a.4D~~ hereof is made and is passed.

**H. Motion to Lay on Table**

A motion to lay on the table shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the consideration of the subject may be resumed only upon a motion of a member voting with the majority and with consent of two-thirds of the members present.

**I. Division of Question**

If the question contains two or more propositions, which can be divided, the presiding officer may, and upon request of a member shall, divide the same.

**J. Addressing the Council**

~~Any person desiring to address the Council shall first secure the permission of the presiding officer to do so.~~ Under the following headings of business, unless the presiding officer rules otherwise, any ~~qualified and~~ interested person shall have the right to address the Council in accordance with the following conditions and upon obtaining recognition by the presiding officer:

1. **Written Communications.**

Commented [NML61]: Exactly restated later in same paragraph

Commented [NML62]: Not sure what could be meant by "qualified"

## V. PROCEDURAL MATTERS

Interested parties or their authorized representatives may address the Council by in the form of written communications in regard to matters of concern to them by submitting their written communications at the meeting, or prior to the meeting pursuant to the deadlines in Chapter III.C.4.

~~Communications pertaining to an item on the agenda which are received by the City Clerk after the deadline for inclusion in the Council Agenda packet and through 5:00 p.m. seven calendar days prior to the meeting shall be compiled into a supplemental communications packet. The supplemental communications packet shall be made available to the City Council, public and members of the press no later than five days prior to the meeting.~~

~~Communications received by the City Clerk after the aforementioned deadline and by noon on the day of a Council meeting shall be duplicated by the City Clerk and submitted to the City Council at the meeting if related to an item which is on the agenda for that meeting. Communications submitted at the Council meeting will be included in the public viewing binder and in the Clerk Department the day following the meeting.~~

**2. Public Hearings.**

Interested persons or their authorized representatives may address the Council by reading protests, petitions, or communications relating to matters then under consideration.

**3. Public Comment.**

Interested persons may address the Council on any issue concerning City business during the period assigned to Public Comment.

**K. Addressing the Council After Motion Made**

When a motion is pending before the Council, no person other than the Mayor or a Councilmember~~council member~~ shall address the Council without first securing the permission of the presiding officer or Council to do so.

Commented [NML63]: Described elsewhere and unnecessary here.

## VI. FACILITIES

## VI. FACILITIES

**A. Council Chamber Capacity**

~~Council Chamber~~ Attendance at council meetings shall be limited to the posted seating capacity of the meeting location thereof. Entrance to the City Hall meeting location will be appropriately regulated by the City Manager on occasions when the ~~Council Chamber~~ capacity is likely to be exceeded. While the Council is in session, members of the public shall not remain standing in the ~~Council Chamber~~ meeting room except to address the Council, and sitting on the floor shall not be permitted. ~~The Council proceedings may be conveyed by loudspeaker to those who have been unable to enter the Council Chambers.~~

Commented [NML64]: Updated to reflect new locations of meetings and to not be as specific with regards to meeting locations

**B. Alternate Facilities for Council Meetings**

The City Council shall approve in advance a proposal that a Council meeting be held at a facility other than the ~~City Council Chambers~~ School District Board Room.

If the City Manager has reason to anticipate that the attendance for a meeting will be substantially greater than the capacity of the ~~City Council Chambers~~ Board Room and insufficient time exists to secure the approval of the City Council to hold the meeting at an alternate facility, the City Manager shall make arrangements for the use of a suitable alternate facility to which such meeting may be recessed and moved, if the City Council authorizes the action.

If a suitable alternate facility is not available, the City Council may reschedule the matter to a date when a suitable alternate facility will be available.

Alternate facilities are to be selected from those facilities previously approved by the City Council as suitable for meetings away from the ~~City Council Chambers~~ Board Room.

**C. Signs, Objects, and Symbolic Materials**

Objects and symbolic materials such as signs which do not have sticks or poles attached or otherwise create any fire or safety hazards will be allowed within the ~~Council Chamber~~ meeting location during Council meetings.

**D. Fire Safety**

Exits shall not be obstructed in any manner. Obstructions, including storage, shall not be placed in aisles or other exit ways. Hand carried items must be stored so that such items do not inhibit passage in aisles or other exit ways. Attendees are strictly prohibited from sitting in aisles and/or exit ways. Exit ways shall not be used in any way that will present a hazardous condition.

**E. Overcrowding**

Admittance of persons beyond the approved capacity of a place of assembly is prohibited. When the ~~Council Chambers~~ meeting location has reached the posted maximum capacity, additional attendees shall be directed to the designated overflow area.

## APPENDIX A. POLICY FOR NAMING AND RENAMING PUBLIC FACILITIES

### Purpose

To establish a uniform policy regarding the naming and renaming of existing and future parks, streets, pathways and other public facilities.

### Objective

- A. To ensure that naming public facilities (such as parks, streets, recreation facilities, pathways, open spaces, public building, bridges or other structures) will enhance the values and heritage of the City of Berkeley and will be compatible with community interest.

### Section 1 – Lead Commission

The City Council designates the following commissions as the ‘Lead Commissions’ in overseeing, evaluating, and ultimately advising the Council in any naming or renaming of a public facility. The lead commission shall receive and coordinate comment and input from other Commissions and the public as appropriate.

#### Board of Library Trustees

Parks and Recreation Commission –Parks, recreation centers, camps, plazas and public open spaces

Public Works Commission –Public buildings (other than recreation centers), streets and bridges or other structures in the public thoroughfare.

Waterfront Commission –Public facilities within the area of the City known as the Waterfront, as described in BMC 3.36.060.B.

### Section 2 – General Policy

- A. Newly acquired or developed public facilities shall be named immediately after acquisition or development to ensure appropriate public identity.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. Public facilities that are renamed must follow the same criteria for naming new facilities. In addition, the historical significance and geographical reference of the established name should be considered when weighing and evaluating any name change.
- D. The City encourages the recognition of individuals for their service to the community in ways that include the naming of activities such as athletic events, cultural presentations, or annual festivals, which do not involve the naming or renaming of public facilities.
- E. Unless restricted by covenant, facilities named after an individual should not necessarily be considered a perpetual name.

### Section 3 – Criteria for Naming of Public Facilities

When considering the naming of a new public facility or an unnamed portion or feature within an already named public facility (such as a room within the facility or a feature within an established park), or, the renaming of an existing public facility the following criteria shall be applied:

- A. Public Facilities are generally easier to identify by reference to adjacent street names, distinct geographic or environmental features, or primary use activity. Therefore, the preferred practice is to give City-owned property a name of historical or geographical significance and to retain these names.
- B. No public facility may be named for a living person, but this policy can be overridden with a 2/3 vote of the City Council.
- C. The naming of a public facility or any parts thereof in recognition of an individual posthumously may only be considered if the individual had a positive effect on the community and has been deceased for more than 1 year.
- D. When a public facility provides a specific programmatic activity, it is preferred that the activity (e.g. skateboard park, baseball diamond) be included in the name of the park or facility.
- E. When public parks are located adjacent to elementary schools, a name that is the same as the adjacent school shall be considered.
- F. When considering the renaming of an existing public facility, in addition to applying criteria A-E above, proper weight should be given to the fact that: a name lends a site or property authenticity and heritage; existing names are presumed to have historic significance; and historic names give a community a sense of place and identity, continuing through time, and increases the sense of neighborhood and belonging.

#### Section 4 –Naming Standards Involving a Major Contribution

When a person, group or organization requests the naming or renaming of a public facility, all of the following conditions shall be met:

- A. An honoree will have made a major contribution towards the acquisition and/or development costs of a public facility or a major contribution to the City.
- B. The honoree has a record of outstanding service to their community
- C. Conditions of any donation that specifies that name of a public facility, as part of an agreement or deed, must be approved by the City Council, after review by and upon recommendation of the City Manager.

#### Section 5 –Procedures for Naming or Renaming of Public Facilities

- A. Any person or organization may make a written application to the City Manager requesting that a public facility or portion thereof, be named or renamed.
  - 1. Recommendations may also come directly of the City Boards or Commissions, the City Council, or City Staff.
- B. The City Manager shall refer the application to the appropriate lead commission as defined in Section 1 of the City's policy on naming of public facilities, for that commission's review, facilitation, and recommendation of disposition.
  - 1. The application shall contain the name or names of the persons or organization making the application and the reason for the requested naming or renaming.
- C. The lead commission shall review and consider the application, using the policies and criteria articulated to the City Policy on Naming and Renaming to make a recommendation to Council.
  - 1. All recommendations or suggestion will be given the same consideration without regard to the source of the nomination
- D. The lead commission shall hold a public hearing and notify the general public of any discussions regarding naming or renaming of a public facility.

1. Commission action will be taking at the meeting following any public hearing on the naming or renaming.
- E. The commission's recommendation shall be forwarded to Council for final consideration.

The City of Berkeley Policy for Naming and Renaming Public Facilities was adopted by the Berkeley City Council at the regular meeting of January 31, 2012.

## APPENDIX B. GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS

These guidelines are derived from the requirements for Agenda items listed in the Berkeley City Council Rules of Procedure and Order, Chapter III, Sections B(1) and (2), reproduced below. In addition, Chapter III Section C(1)(a) of the Rules of Procedure and Order allows the ~~Agenda Committee~~Agenda & Rules Committee to request that the author of an item provide “additional analysis” if the item as submitted evidences a “significant lack of background or supporting information” or “significant grammatical or readability issues.”

These guidelines provide a more detailed and comprehensive overview of elements of a complete Council item. While not all elements would be applicable to every type of Agenda item, they are intended to prompt authors to consider presenting items with as much relevant information and analysis as possible.

Chapter III, Sections (B)(1) and (2) of Council Rules of Procedure and Order:

2. Agenda items shall contain all relevant documentation, including the following as Applicable:
  - a. A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested;
  - b. Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information;
  - c. Recommendation of the City Manager, if applicable (these provisions shall not apply to Mayor and Council items.);
  - d. Fiscal impacts of the recommendation;
  - e. A description of the current situation and its effects;
  - f. Background information as needed;
  - g. Rationale for recommendation;
  - h. Alternative actions considered;
  - i. For awards of contracts; the abstract of bids and the Affirmative Action Program of the low bidder in those cases where such is required (these provisions shall not apply to Mayor and Council items.);
  - j. Person or persons to contact for further information, with telephone number. If the author of any report believes additional background information, beyond the basic report, is necessary to Council understanding of the subject, a separate compilation of such background information may be developed and copies will be available for Council and for public review in the City Clerk Department, and the City Clerk shall provide limited distribution of such background information depending upon quantity of pages to be duplicated. In such case the agenda item distributed with the packet shall so indicate.

## Guidelines for City Council Items:

1. Title
2. Consent/Action/Information Calendar
3. Recommendation
4. Summary Statement/Current situation and its effects
5. Background
6. Review of Existing Plans, Programs, Policies and Laws
7. Actions/Alternatives Considered
8. Consultation/Outreach Overview and Results
9. Rationale for Recommendation
10. Implementation, Administration and Enforcement
11. Environmental Sustainability
12. Fiscal Impacts
13. Outcomes and Evaluation
14. Contact Information
15. Attachments/Supporting Materials

**1. Title**

A descriptive title that adequately informs the public of the subject matter and general nature of the item or report and action requested.

**2. Consent/Action/Information Calendar**

Whether the matter is to be presented on the Consent Calendar or the Action Calendar or as a Report for Information.

**3. Recommendation**

Clear, succinct statement of action(s) to be taken. Recommendations can be further detailed within the item, by specific reference.

Common action options include:

- Adopt first reading of ordinance
- Adopt a resolution
- Referral to the City Manager (City Manager decides if it is a short term referral or is placed on the RRV ranking list)
- Direction to the City Manager (City Manager is directed to execute the recommendation right away, it is not placed on any referral list)
- Referral to a Commission or to a Standing or Ad Hoc Council Committee
- Referral to the budget process
- Send letter of support
- Accept, Approve, Modify or Reject a recommendation from a Commission or Committee
- Designate members of the Council to perform some action



**4. Summary Statement/ “Current situation and its effects”**

A short resume of the circumstances that give rise to the need for the recommended action(s).

- Briefly state the opportunity/problem/concern that has been identified, and the proposed solution.
- Example (fictional):  
*Winter rains are lasting longer than expected. Berkeley’s winter shelters are poised to close in three weeks, but forecasts suggest rain for another two months. If they do not remain open until the end of the rainy season, hundreds of people will be left in the rain 24/7. Therefore, this item seeks authorization to keep Berkeley’s winter shelters open until the end of April, and refers to the Budget Process \$40,000 to cover costs of an additional two months of shelter operations.*

**5. Background**

A full discussion of the history, circumstances and concerns to be addressed by the item.

- For the above fictional example, Background would include *information and data about the number and needs of homeless individuals in Berkeley, the number and availability of permanent shelter beds that meet their needs, the number of winter shelter beds that would be lost with closure, the impacts of such closure on this population, the weather forecasts, etc.*

**6. Review of Existing Plans, Programs, Policies and Laws**

Review, identify and discuss relevant/applicable Plans, Programs, Policies and Laws, and how the proposed actions conform with, compliment, are supported by, differ from or run contrary to them. What gaps were found that need to be filled? What existing policies, programs, plans and laws need to be changed/supplemented/improved/repealed? What is missing altogether that needs to be addressed?

Review of all pertinent/applicable sections of:

- The City Charter
- Berkeley Municipal Code
- Administrative Regulations
- Council Resolutions
- Staff training manuals

Review of all applicable City Plans:

- The General Plan
- Area Plans
- The Climate Action Plan
- Resilience Plan
- Equity Plan

- Capital Improvements Plan
- Zero Waste Plan
- Bike Plan
- Pedestrian Plan
- Other relevant precedents and plans

Review of the City's Strategic Plan

Review of similar legislation previously introduced/passed by Council

Review of County, State and Federal laws/policies/programs/plans, if applicable

## 7. Actions/Alternatives Considered

- What solutions/measures have **other jurisdictions** adopted that serve as models/cautionary tales?
- What solutions/measures are recommended by **advocates, experts, organizations**?
- What is the range of actions considered, and what are some of their major pros and cons?
- Why were other solutions not as feasible/advisable?

## 8. Consultation/Outreach Overview and Results

- Review/list external and internal stakeholders that were consulted
  - **External:** constituents, communities, neighborhood organizations, businesses and not for profits, advocates, people with lived experience, faith organizations, industry groups, people/groups that might have concerns about the item, etc.
  - **Internal:** staff who would implement policies, the City Manager and/or deputy CM, Department Heads, City Attorney, Clerk, etc.
- What reports, articles, books, websites and other materials were consulted?
- What was learned from these sources?
- What changes or approaches did they advocate for that were accepted or rejected?

## 9. Rationale for Recommendation

A clear and concise statement as to whether the item proposes actions that:

- Conform to, clarify or extend existing Plans, Programs, Policies and Laws
- Change/Amend existing Plans, Programs, Policies and Laws in **minor** ways
- Change/Amend existing Plans, Programs, Policies and Laws in **major** ways
- Create an exception to existing Plans, Programs, Policies and Laws
- Reverse/go contrary to or against existing Plans, Programs, Policies and Laws

Argument/summary of argument in support of recommended actions. The argument likely has already been made via the information and analysis already presented,

but should be presented/restated/summarized. Plus, further elaboration of terms for recommendations, if any.

**10. Implementation, Administration and Enforcement**

Discuss how the recommended action(s) would be implemented, administered and enforced. What staffing (internal or via contractors/consultants) and materials/facilities are likely required for implementation?

**11. Environmental Sustainability**

Discuss the impacts of the recommended action(s), if any, on the environment and the recommendation's positive and/or negative implications with respect to the City's Climate Action, Resilience, and other sustainability goals.

**12. Fiscal Impacts**

Review the recommended action's potential to generate funds or savings for the City in the short and long-term, as well as the potential direct and indirect costs.

**13. Outcomes and Evaluation**

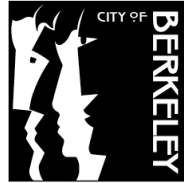
State the specific outcomes expected, if any (i.e., "*it is expected that 100 homeless people will be referred to housing every year*") and what reporting or evaluation is recommended.

**14. Contact Information**

**15. Attachments/Supporting Materials**



# AGENDA



## BERKELEY CITY COUNCIL MEETING

Tuesday, November 19, 2019

6:00 PM

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

*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. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. 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 by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.*

## 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.” 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 October 15, 2019 (special closed and regular), October 21, 2019 (special), October 22, 2019 (special closed and special), and October 29, 2019 (special closed and regular).

**Financial Implications:** None

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

### 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 19, 2019

**From: City Manager**

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

**Financial Implications:** Various Funds - \$800,000

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

## Consent Calendar

**3. Revenue Grant Agreements: Funding Support from the State of California to Conduct the State Childhood Lead Poisoning Prevention Services**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant agreement to the State of California, to accept the grant, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Childhood Lead Poisoning Prevention Program (CLPPP) Agreement, which includes services to detect, manage and prevent childhood lead poisoning and promote healthy environments and behaviors in the projected amount of \$94,821 per fiscal year FY2021 through FY2023 for a total of \$284,463.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**4. Authorizing City Manager To Provide a 2.5 Hour Minimum Overtime Pay For Emergency Call Back Employees In The Information Technology Department**  
**From: City Manager**

**Recommendation:** Adopt a Resolution Authorizing Information Technology Employees with Service Employees International Union, Local 1021 Community Services And Part Time Recreation Leaders Association (“SEIU” or “SEIU Local 1021 CSU & PTRLA) to receive 2.5 hours of overtime compensation for emergency call back involving remote work. The City has already negotiated a 2.5 hour rate with SEIU Local 1021 CSU & PTRLA in a new MOU indicated as 13.5.1.

**Financial Implications:** See report

Contact: LaTanya Bellow, Human Resources, (510) 981-6800

**5. Donations from Friends of Berkeley Tuolumne Camp and Berkeley Echo Lake Camp Association for Echo Lake Camp Scholarships and Programs**

**From: City Manager**

**Recommendation:** Adopt a Resolution accepting a cash donation of \$7,050 from the Friends of Berkeley Tuolumne Camp (FOBTC), and a cash donation of \$4,725 from the Berkeley Echo Lake Camp Association (BELCA), for support of Echo Lake Camp scholarships and programs.

**Financial Implications:** Camp Fund Donation - \$11,775

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

**6. Priority Development Area Nomination – North Berkeley BART Station**

**From: City Manager**

**Recommendation:** Adopt a Resolution supporting the nominating of the North Berkeley BART station as a Priority Development Area.

**Financial Implications:** See report

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

## Consent Calendar

- 7. Contract: Redgwick Construction Company for Ninth Street Bicycle Boulevard Pathway Extension Phase II**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving plans and specifications for the Ninth Street Bicycle Boulevard Pathway Extension Phase II, (“Ninth Street Pathway – Phase II”, or “Project”), Specification No. 19-11331-C; and 2. Rejecting the bid protest of Mark Lee and Yong Kay Inc., doing business as Bay Construction Company, the third-lowest bidder; and 3. Accepting the bid of J. A. Gonsalves & Son Construction, Inc., the second-lowest responsive and responsible bidder; and 4. Accepting the bid of Redgwick Construction Company, the lowest responsive and responsible bidder; and 5. Authorizing the City Manager to execute a contract with Redgwick Construction Company and any amendments, extensions, and/or change orders until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$1,481,417, which includes a contingency of ten percent.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 8. Contract No. 10340 Amendment: HF&H Consultants, LLC for the Study of the City Providing Commercial Collection Services and Development and Update of Rate Model**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10340 with HF&H Consultants, LLC to increase the current contract by \$50,000 for a total not to exceed amount of \$200,000 and to extend the contract term to June 30, 2021 for the Study of the City Providing Commercial Collection Services and Development and Update of Rate Model.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300
- 9. Purchase Order: National Auto Fleet Group for Seven (7) 25 Cubic Yard Capacity Heavy Duty Rear Loading Collection Trucks**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcwell contract bid procedures, authorizing the City Manager to execute a purchase order for seven (7) 2019 Crane Carrier 25 Cubic Yard Capacity Heavy Duty Rear Loader Collection Trucks with National Auto Fleet Group in an amount not to exceed \$2,348,733, and authorizing the disposal of three (3) Autocar and four (4) Volvo collection trucks by public auction.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300



## Consent Calendar

- 10. Purchase Order: Braun Northwest, Inc. for Five (5) 2020 North Star 155-1 Ambulances**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in HGACBuy contract bid procedures, and authorizing the City Manager to execute a purchase order for five (5) 2020 North Star 155-1, Type 1 Ambulances with Braun Northwest, Inc. in an amount not to exceed \$1,110,000, and authorizing the disposal of three (3) Freightliner and two (2) International ambulances by public auction.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, (510) 981-6300

## Council Consent Items

- 11. Extension of Declaration of Homeless Shelter Crisis**  
**From: Mayor Arreguin and Councilmembers Davila, Robinson, and Harrison**  
**Recommendation:** Adopt a Resolution extending Resolution No. 68,206 – N.S., Declaring a Homeless Shelter Crisis until January 19, 2022.  
**Financial Implications:** Staff time  
Contact: Jesse Arreguin, Mayor, (510) 981-7100
- 12. Letter to Richmond City Council, California Environmental Protection Agency (CalEPA), California Department of Toxics (DTSC) concerning recent action of cleaning up AstraZeneca Site near Berkeley**  
**From: Councilmembers Davila and Hahn**  
**Recommendation:** Send a Letter to the Richmond City Council, California Environmental Protection Agency (CalEPA) and the California Department of Toxics (DTSC), including California State Assemblymember Buffy Wicks and State Senator Nancy Skinner, concerning recent Council action of cleaning up the nearby AstraZeneca Site and reconsideration of such action.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120
- 13. Budget Referral: BigBelly Trash Receptacles in Ohlone Park**  
**From: Councilmembers Harrison and Bartlett**  
**Recommendation:** Refer \$15,000 to the November 2019 Annual Appropriations Ordinance Budget Process to purchase two BigBelly trash receptacles for Ohlone Park.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

## Consent Calendar

- 14. Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units** *(Reviewed by the Land Use, Housing & Economic Development)*  
**From: Councilmembers Wengraf, Harrison, Hahn, and Mayor Arreguin**  
**Recommendation:** Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units using the guiding framework presented in the Background.  
**Financial Implications:** See report  
Contact: Susan Wengraf, Councilmember, District 6, (510) 981-7160

## Action Calendar

*The public may comment on each item listed on the agenda for action 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 line up at the podium 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 – New Business

- 15. FY 2019 Year-End Results and FY 2020 First Quarter Budget Update**  
**From: City Manager**  
**Recommendation:** Discuss and determine funding allocations for FY 2020 based on the FY 2019 General Fund Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) the Mayor's June 25, 2019, Supplemental Budget Recommendations approved by the Council and 3) the Council's Budget Referrals approved during FY 2020 to be considered in November 2019.  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000
- 16. Amendment: FY 2020 Annual Appropriations Ordinance**  
**From: City Manager**  
**Recommendation:** Adopt first reading of an Ordinance amending the FY 2020 Annual Appropriations Ordinance No. 7,669–N.S. for fiscal year 2020 based upon recommended re-appropriation of committed FY 2019 funding and other adjustments authorized since July 1, 2019, in the amount of \$136,730,924 (gross) and \$130,267,144 (net).  
**Financial Implications:** See report  
Contact: Teresa Berkeley-Simmons, Budget Manager, (510) 981-7000

## Action Calendar – New Business

### 17. goBerkeley Residential Shared Parking Pilot Project Update

**From: City Manager**

**Recommendation:** Receive a presentation providing an update on the Residential Shared Parking Pilot project, and offer any comments to staff on the implementation of the project.

**Financial Implications:** None

Contact: Phillip Harrington, Public Works, (510) 981-6300

### 18a. Recommendations for Allocation of FY19/20 Measure P Funds

**From: Homeless Services Panel of Experts**

**Recommendation:** Approve recommendations for the allocation of FY19/20 General Funds at least commensurate with resources accrued to date from the passage of Measure P. Refer to the City Manager to produce data regarding the percentage of those transported with County Emergency Mental Health Transport who are homeless, and other sources that could be used to cover this cost.

**Financial Implications:** See report

Contact: Peter Radu, Commission Secretary, (510) 981-5400

### 18b. Companion Report: Recommendations for Allocation of FY19/20 Measure P Funds

**From: City Manager**

**Recommendation:** The City Manager recommends that Council:

1. Approve the Homeless Services Panel of Experts' recommendation for the allocation of FY20 General Funds (Measure P) in the following investment areas: a. Immediate Street conditions & Hygiene; b. Flexible Housing Subsidies; and c. Infrastructure. For any allocation of "Flexible Housing Subsidies" to families, limit eligibility to those who are imminently at-risk of homelessness, and allow the City Manager to sole-source contracts for the implementation of these subsidies.
2. Refer discussion of the recommendations pertaining to the following areas to the Council Budget & Finance Policy Committee: a. Permanent Housing, b. Shelter & Temporary Accommodations, and c. Supportive Services. The City Manager recommends that the Policy Committee consider the following pertaining to these funding areas: - Allow the "permanent subsidies" allocation to fund tenancy sustaining services, and dedicate 10% of total funding to homeless families. - Allow the "Shelter and temporary accommodations" allocation to fund the creation of new programs (including for new RV parking programs) or maintenance of existing shelter programs funded by HEAP, when that funding is exhausted. - Authorize the City Manager to award any funding for shelter expansion and tenancy sustaining services to agencies that have already responded to the FY20-23 Community Agency Request for Proposals (RFP). - Authorize the City Manager to release one or more RFPs for an RV parking program that would require a non-profit operator and for any supportive services including street medicine, substance abuse treatment or mental health outreach.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

## Information Reports

19. **City Council Short Term Referral Process – Monthly Update**  
**From: City Manager**  
Contact: Mark Numainville, City Clerk, (510) 981-6900
20. **goBerkeley Program Update – Fall 2019**  
**From: City Manager**  
Contact: Phillip Harrington, Public Works, (510) 981-6300
21. **Short Term Rental Revenue Allocations for Civic Arts and the Affordable Housing Trust Fund**  
**From: Civic Arts Commission**  
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530
22. **Alignment of Processes with Modernized Contract Registration Workflow**  
**From: Auditor**  
Contact: Jenny Wong, Auditor, (510) 981-6750

## 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 or in person to the City Clerk Department at 2180 Milvia Street. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

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

City Clerk Department  
2180 Milvia Street  
Tel: 510-981-6900  
TDD: 510-981-6903  
Fax: 510-981-6901  
Email: [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info)

Libraries:  
Main - 2090 Kittredge Street  
Claremont Branch – 2940 Benvenue  
West Branch – 1125 University  
North Branch – 1170 The Alameda  
South Branch – 1901 Russell

**COMMUNICATION ACCESS INFORMATION:**

This meeting is being held in a wheelchair accessible location.

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

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



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

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*I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on November 7, 2019.*

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

Mark Numainville, City Clerk

## Communications

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

### Telegraph Avenue Restrooms

1. Brittany Cliffe
2. Hyungil Shim
3. Maya Rankupalli

### Money for Streets

4. Barbara Gilbert

**Electric Bikes in the Hills and the Bike Plan**

5. Tom Lent

**Ordinance Prohibiting Gas in New Construction**

6. Mary Oram

**Helping the Homeless**

7. Avram Gur Arye

8. Connie Tyler

9. Sheila Jordan

10. Linda Franklin

11. Nicky Gonzalez Yuen

**Opportunity Zones**

12. Margy Wilkinson

**Proposed Retail (Chain Stores) Regulations**

13. Councilmember Hahn

**Construction at 1499 University**

14. Jesse Goldberg

15. Timothy Burroughs, on behalf of the Planning Department

**5G and Cell Towers**

16. Phoebe Anne Sorgen (2)

17. Stephanie Thomas

18. Vivian Warkentin

**2650 Telegraph and ZAB**

19. Cecile Leneman (2)

20. Ashley James (3)

**Memorial for Herbert “Brad” Cleaveland**

21. Miriam Berg

**PRC Charter**

22. Merle Lustig

23. Christina Crowley

**YSA – Tiny House Project**

24. Tom Luce

**1148-Page Meeting Agenda**

25. Eric Friedman

## **Criminal Records Information on Rental Application Forms**

26. Merle Lustig

27. Ash Lynnette

## **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  
November 19, 2019

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

RECOMMENDATION

Approve the minutes for the Council meetings of October 15, 2019 (special closed and regular), October 21, 2019 (special), October 22, 2019 (special closed and special) and October 29, 2019 (special closed and regular).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. October 15, 2019 – Special Closed City Council Meeting
2. October 15, 2019 – Regular City Council Meeting
3. October 21, 2019 – Special City Council Meeting
4. October 22, 2019 – Special Closed City Council Meeting
5. October 22, 2019 – Special City Council Meeting
6. October 29, 2019 – Special Closed City Council Meeting
7. October 29, 2019 – Regular City Council Meeting

**MINUTES  
THE BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**TUESDAY, OCTOBER 15, 2019**

**4:30 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA 94702  
TELECONFERENCE LOCATION – 2911 Lorina Street, Berkeley, CA 94705**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 4:34 p.m.

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

**Absent:** Kesarwani, Davila

Councilmember Kesarwani present at 4:35 p.m.

Councilmember Davila present at 4:37 p.m.

**Public Comment - Limited to items on this agenda only – 15 speakers**

**CLOSED SESSION:**

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

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

- a. *1444 Fifth Street LLC v. City of Berkeley*, Alameda County Superior Court Case No. 19032434

**Action:** Item held over to October 22, 2019.

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

**Negotiators:** Dee Williams-Ridley, City Manager, David White, Deputy City Manager, LaTanya Bellow, Director of Human Resources.

**Employee Organizations:** Berkeley Police Association.

**Action:** No reportable action taken.

**OPEN SESSION:**

No reportable action.

**Adjournment**

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

**Vote:** All Ayes.

Adjourned at 6:46 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting of the City Council on October 15, 2019.

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Mark Numainville  
City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, October 15, 2019**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION – 2911 LORINA STREET, BERKELEY, CA 94705

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:54 p.m.

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

**Absent:** Davila

Councilmember Davila present at 6:56 p.m.

**Ceremonial Matters:**

1. Recognition of Jacqueline Omania, Oxford Elementary Teacher
2. Recognition of Leslie Ewing, Pacific Center Director
3. Recognition of Butterfly Effect – Migration is Beautiful Project – Supporting Immigrant Children
4. Adjourn in memory of Michael Diehl, Former City Commissioner and Local Activist

**City Manager Comments:**

1. Planning Department Open House at the Permit Service Center, 1947 Center Street, October 16 from 4:00pm – 6:00pm.
2. Update on the EOC activation for the Public Safety Power Shut-Off

**City Auditor Comments:**

The City Auditor noted Item 43, the Planning Department Customer Service Audit, and that the audit is being closed out successfully.

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

## Consent Calendar

**Action:** M/S/C (Wengraf/Kesarwani) to add an urgent item to the agenda related to the emergency declaration for the public safety power shut-off.

**Vote:** All Ayes.

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

**Vote:** All Ayes.

**Public Comment on Consent Calendar and Information Items Only:** 18 speakers.

## Consent Calendar

### **Resolution Ratifying and Terminating the Proclamation of Emergency by the Director Emergency Services Due to PG&E Public Safety Power Shutoff**

**From:** City Manager

**Recommendation:** Adopt a Resolution Ratifying and Terminating the Proclamation of Emergency by the Director of Emergency Services due to the PG&E Public Safety Power Shutoff on October 9, 2019.

**Financial Implications:** See report

Contact: Farimah Brown, City Attorney, (510) 981-6998

**Action:** Adopted Resolution No. 69,125–N.S.

#### 1. **Grant from The Center at Sierra Health Foundation**

**From:** City Manager

**Recommendation:** Adopt a Resolution accepting a \$50,000 grant from The Center at Sierra Health Foundation for expansion of Medication Assisted Treatment (MAT) services for individuals with Opioid Use Disorders at Berkeley Mental Health.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** Adopted Resolution No. 69,126–N.S.

#### 2. **Annual Commission Attendance and Meeting Frequency Report**

**From:** City Manager

**Recommendation:** Adopt a Resolution approving a revised commission meeting frequency schedule and to accept the annual Commission Attendance and Meeting Frequency Report.

**Financial Implications:** None

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

**Action:** Adopted Resolution No. 69,127–N.S.

## Consent Calendar

- 3. Contract: Stryker for Purchase of Three Gurneys for the Fire Department Ambulances**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with Stryker to finance the purchase of three additional gurneys and equip all seven ambulances with the powered cot fastener system (power load system) for Fire Department ambulances which will allow transport of the sick and injured, increasing the amount by \$39,714 for a total not to exceed amount of \$74,000.  
**Financial Implications:** See report  
Contact: David Brannigan, Fire, (510) 981-3473  
**Action:** Adopted Resolution No. 69,128–N.S.
- 4. Assembly Bill 626 – Microenterprise Home Kitchen Operations**  
**From: City Manager**  
**Recommendation:** Staff recommends that the Mayor and City Council consider authorizing the permitting of Microenterprise Home Kitchen Operations (MEHKOs) as provided in Assembly Bill 626 (AB-626) through a resolution or ordinance.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Approved recommendation.
- 5. Contract No. 7258F Amendment: Verint Systems Inc. for Customer Relationship Management (CRM) Software Maintenance**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 7258F with Verint Systems, Inc. for CRM software licensing, maintenance, and support, increasing the amount by \$60,903 for a total contract amount not-to-exceed \$985,747 from March 23, 2007 through June 30, 2021.  
**Financial Implications:** Cost Allocation Fund - \$60,903  
Contact: Savita Chaudhary, Information Technology, (510) 981-6500  
**Action:** Adopted Resolution No. 69,129–N.S.
- 6. Contract: (D.L. Falk Construction) for Central Library Improvements Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving plans and specifications for the Central Library Improvements Project, Specification No. 19-11312-C; 2. Accepting the bid of D.L. Falk Construction as the lowest responsive and responsible bidder; 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 \$3,056,900, which includes a contingency of \$277,900.  
**Financial Implications:** Library Tax Fund - \$3,056,900  
Contact: Elliot Warren, Library, (510) 981-6100  
**Action:** Adopted Resolution No. 69,130–N.S.

## Consent Calendar

7. **Contract: Redwood Engineering Construction for James Kenney Park, Picnic, and Play Area Renovation**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the James Kenney Park, Picnic, and Play Area Renovation project, Specification No. 18-11216-C; and 2. Rejecting the lowest bid from Bay Construction Company as non-responsive; and 3. Accepting the bid of the lowest responsive and responsible bidder, Redwood Engineering Construction; and 4. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, with Redwood Engineering Construction, for the James Kenny Park, Picnic, and Play Area Renovation project at 1720 Eighth Street, Berkeley, CA 94710, in an amount not to exceed \$1,191,342, which includes a contract amount of \$992,785 and a 20% contingency in the amount of \$198,557.  
**Financial Implications:** Various Funds - \$1,191,342  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,131–N.S.
8. **Contract: J.A. Gonsalves & Son Construction, Inc. for Bay Trail Extension to Berkeley Marina - Segment Three**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution: 1. Approving the plans and specifications for the Berkeley Bay Trail Extension—Segment 3 project (Bid Specification No. 18-11177-C; Federal Project No. STPL-5057(042)); and 2. Accepting the bid of J.A. Gonsalves & Son Construction, Inc. as the lowest responsive and responsible bidder on the Project, and authorizing the City Manager to execute a contract with J.A. Gonsalves & Son Construction, Inc., and any amendments, extensions, or change orders until completion of the Project in accordance with the approved plans and specifications in an amount not to exceed \$505,684, which includes a contract amount of \$439,725 and a 15 percent contingency in the amount of \$65,959.  
**Financial Implications:** Various Funds - \$505,684  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,132–N.S.

## Consent Calendar

9. **Grant Application: The Air District Vehicle Trip Reduction Grant Program – the Berkeley Marina Bicycle Electronic Locker Project**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit a grant application in the amount of \$71,510 to the Bay Area Air Quality Management District (“Air District”) Vehicle Trip Reduction Grant Program for the Berkeley Marina Bicycle Electronic Locker Project; accept any grants; execute any resulting grant agreements and any amendments; and that Council authorize the implementation of the project and appropriation of funding for related expenses, subject to securing the grant.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, (510) 981-6700  
**Action:** Adopted Resolution No. 69,133–N.S.
10. **Mills Act Contract – 2524 Dwight Way**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing and directing the City Manager to enter into a Mills Act contract with NCR Properties LLC/Nathan D. George for the City Landmark property at 2524 Dwight Way.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,134–N.S.
11. **Mills Act Contract – 1730 Spruce Street**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing and directing the City Manager to enter into a Mills Act contract with Jeff Lipton for the City Landmark property at 1730 Spruce Street.  
**Financial Implications:** See report  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,135–N.S.



## Consent Calendar

### 12. Mills Act Contract – 2526 Hawthorne Terrace

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing and directing the City Manager to enter into a Mills Act contract with John Komoroske and Daniel McDonald for the City Landmark property at 2526 Hawthorne Terrace.

**Financial Implications:** See report

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400

**Action:** Moved to Action Calendar. 0 speakers. Action: M/S/C (Arreguin/Hahn) to adopt Resolution No. 69,136–N.S. authorizing and directing the City Manager to enter into a Mills Act contract with John Komoroske and Daniel McDonald for the City Landmark property at 2526 Hawthorne Terrace.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Arreguin; Noes – None; Abstain – None; Absent – Robinson, Droste, Wengraf (Recused due to residing within 500 feet of the subject property).

Councilmember Droste absent 8:31 p.m. – 8:36 p.m.

Councilmember Robinson absent 8:29 p.m. – 8:41 p.m.

### 13. Contracts: On-Call Construction and Project Management Services: Kitchell/CEM Inc. and Cooper Pugeda Management, Inc.

**From: City Manager**

**Recommendation:** Adopt two Resolutions authorizing the City Manager to execute contracts and any amendments with the following firms for on-call construction and project management services in support of the City's annual Facilities Capital Improvement Projects (CIP) program, each for a period of November 1, 2019 through June 30, 2022:

1. Kitchell/CEM, Inc., for an amount not to exceed \$500,000.

2. Cooper Pugeda Management, Inc., for an amount not to exceed \$500,000.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

**Action:** Adopted Resolution No. 69,137–N.S. (Kitchell/CEM) and Resolution No. 69,138–N.S. (Cooper Pugeda).

### 14. Renewal of the Elmwood Avenue BID for Calendar Year 2020

**From: Elmwood Advisory Board**

**Recommendation:** Adopt a Resolution approving the Elmwood Business Improvement District Advisory Board's (hereafter "Elmwood BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the Annual Report and preliminary budget for proposed improvements in the District for calendar year 2020; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2020 and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for October 29, 2019

**Financial Implications:** See report

Contact: Kieron Slaughter, Commission Secretary, (510) 981-7530

**Action:** Adopted Resolution No. 69,139–N.S.

## Consent Calendar

**15. Renewal of the Solano Avenue BID for Calendar Year 2020**

**From: Solano Avenue BID Advisory Board**

**Recommendation:** Adopt a Resolution approving the Solano Avenue Business Improvement District Advisory Board's (hereafter "Solano BID Advisory Board" or "the Advisory Board") recommendation that Council: 1) approve the 2019 Annual Report and preliminary budget on proposed improvements in the District for calendar year 2020; 2) declare its intent to levy an assessment to finance improvements in the District for calendar year 2020; and 3) direct the City Clerk to schedule a public hearing on the renewal of the assessment for October 29, 2019.

**Financial Implications:** See report

Contact: Eleanor Hollander, Commission Secretary, (510) 981-7530

**Action:** Adopted Resolution No. 69,140–N.S.

**16. Resolution: Protect from deportation beneficiaries of DACA, TPS, and DED**

**From: Peace and Justice Commission**

**Recommendation:** Adopt a resolution in support of protections from deportation and a path to permanent residency for beneficiaries of DACA (Deferred Action for Childhood Arrivals), TPS (Temporary Protected Status), and DED (Deferred Enforced Departure).

**Financial Implications:** None

Contact: Bre Slimick, Commission Secretary, (510) 981-7000

**Action:** Adopted Resolution No. 69,141–N.S.

## Council Consent Items

**17. Berkeley Holiday Fund: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

**From: Mayor Arreguin and Councilmember Davila**

**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Arreguin to the Berkeley Holiday Fund's annual campaign 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:** Mayor's Discretionary Fund - \$500

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

**Action:** Adopted Resolution No. 69,142–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Davila - \$250; Councilmember Hahn - \$250; Councilmember Wengraf - \$100; Councilmember Bartlett - \$100.

## Council Consent Items

**18. Grant Referral for Capoeira Arts Foundation**

**From: Mayor Arreguin and Councilmembers Kesarwani and Davila**

**Recommendation:** Refer a Grant of \$150,000 for the benefit of the Capoeira Arts Foundation (CAF) to the mid-year budget process to support their purchase of the Casa De Cultura-1901 San Pablo Ave-in partnership with BrasArte to create a permanent home for their organizations, their school, the United Capoeira Association (UCA) Berkeley, and for other Brazilian art forms.

**Financial Implications:** See report

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

**Action:** Councilmember Bartlett added as a co-sponsor. Approved recommendation as revised material in Supplemental Communications Packet #2 from Councilmember Kesarwani and Mayor Arreguin to change the grant to a forgivable loan.

**19. Health Impact Assessment Outreach Coordinator**

**From: Mayor Arreguin, and Councilmembers Harrison and Droste**

**Recommendation:** Refer to the Mid-Year Budget Process an amount of \$25,000 for Berkeley's contribution towards a budget of \$50,000 to support an Outreach Coordinator for the purpose of community education about the health impacts associated with the proposed closure of Alta Bates Hospital as indicated in the Health Impact Analysis completed by the Institute of Urban and Regional Development, University of California Berkeley in December 2018.

**Financial Implications:** See report

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

**Action:** Councilmember Hahn added as a co-sponsor. Approved recommendation.

**20. Excused Absence for Mayor Jesse Arreguin and Councilmember Rigel Robinson**

**From: Mayor Arreguin**

**Recommendation:** Excuse Mayor Jesse Arreguin and Councilmember Rigel Robinson from the September 24, 2019 Council meeting due to attending official business of the City.

**Financial Implications:** None

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

**Action:** Approved recommendation.

## Council Consent Items

**21. Referral to City Manager to Authorize Additional Inclement Weather Shelter at Old City Hall from October 15, 2019 - April 30, 2020**

**From: Councilmembers Davila, Harrison, Bartlett, and Kesarwani**

**Recommendation:**

1. Authorize the City Manager to maintain open an as-needed inclement weather shelter from October 15, 2019 - April 30, 2020, to provide safe, indoor locations for our unhoused community during inclement weather, including cold temperatures below 45 degrees, rain, and add extreme heat and atmospheric pollution such as smoke.
2. Approving the allocation of \$140,000 in funding for this inclement weather shelter with funds from the budget appropriations for an expanded Emergency Shelter program or by State Homeless Emergency Aid Program (HEAP) funding.
3. Authorizing the City Manager to amend Contract No. 10577B with Dorothy Day House for the current operation of the as-needed inclement weather shelter, that will include this extension through April 30, 2020, and possible program expansion in order to increase the number of unhoused people served.

**Financial Implications:** See report

Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120

**Action:** Adopted Resolution No. 69,150–N.S.

**22. National Association for the Advancement of Colored People (NAACP) Berkeley, Albany and Emeryville (B.A.E) Youth Council Fundraiser to send 15 youth members to the 111th Annual NAACP Youth Convention in Boston, Massachusetts in June 2020: Relinquishment of Council Office Budget Fund to the General Fund & Grant of Such Funds**

**From: Councilmembers Bartlett, Davila, and Harrison**

**Recommendation:** Adopt a resolution approving the expenditure of funds, including \$250 from Councilmember Bartlett, to Inter-City Services, Inc. 501(c)3 (organized by the National Association for the Advancement of Colored People (NAACP) Berkeley, Albany and Emeryville (B.A.E.) Youth Council). The funds should be relinquished to the city's general fund for this purpose from the discretionary council office budget of Councilmember Ben Bartlett and any other council members who would like to contribute.

**Financial Implications:** Councilmember's Discretionary Funds - \$250

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

**Action:** Adopted Resolution No. 69,143–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Davila - \$250; Councilmember Harrison - \$100; Councilmember Hahn - \$100; Councilmember Wengraf - \$100; Mayor Arreguin - \$100.

## Council Consent Items

- 23. Relinquishment of Council Office Budget Fund to the General Fund and Grant of Such Funds for Savo Island Cooperative Homes' 40th Anniversary Celebration**  
**From: Councilmember Bartlett**  
**Recommendation:** Adopt a resolution approving the expenditure of funds, including \$250 from Councilmember Bartlett, to Savo Island Cooperative Homes' 40th Anniversary Celebration. The funds should be relinquished to the City's general fund for this purpose from the discretionary Council Office budget of Councilmember Ben Bartlett and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Ben Bartlett, Councilmember, District 3, (510) 981-7130  
**Action:** Adopted Resolution No. 69,144–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Davila - \$50; Councilmember Harrison - \$250; Councilmember Hahn - \$100; Councilmember Wengraf - \$100; Mayor Arreguin - \$100.
- 24. Adopt an Ordinance Amending Berkeley Municipal Code Chapter 2.99 to Prohibit City Use of Face Recognition Technology** *(Reviewed by the Public Safety Committee)*  
**From: Councilmembers Harrison and Davila**  
**Recommendation:** Adopt first reading of an ordinance amending Berkeley Municipal Code Chapter 2.99 to prohibit the City from acquiring, retaining, requesting, accessing, or using: (1) any face recognition technology, or (2) any information obtained from face recognition technology.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Councilmembers Bartlett and Hahn added as co-sponsors. Moved to Action Calendar. 6 speakers. M/S/C (Harrison/Arreguin) to adopt first reading of Ordinance No. 7,676–N.S. Second reading scheduled for October 29, 2019.  
**Vote:** All Ayes.
- 25. Resolution in Support of the 2019 United Auto Workers General Motors Strike**  
**From: Councilmembers Harrison and Davila**  
**Recommendation:** Adopt a resolution in support of the United Auto Workers General Motors strike for fair wages, affordable quality healthcare, and job security.  
**Financial Implications:** None  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Adopted Resolution No. 69,145–N.S.

## Council Consent Items

**26. Berkeley City Club Conservancy Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

**From: Councilmembers Hahn and Robinson**

**Recommendation:** Adopt a resolution approving the expenditure of an amount not to exceed \$500 per Councilmember, including \$250 from Councilmember Hahn, to the Berkeley City Club Conservancy, a 501(c)(3) non-profit organization, to preserve the landmark Julia Morgan Berkeley City Club building and to celebrate its upcoming centennial in 2030, with funds relinquished to the City's general fund for this purpose from the discretionary Council office budget of Councilmember Hahn, and any other Councilmembers who would like to contribute.

**Financial Implications:** Councilmember's Discretionary Funds - \$250

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

**Action:** Adopted Resolution No. 69,146–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Davila - \$50; Councilmember Harrison - \$100; Councilmember Wengraf - \$100; Councilmember Robinson - \$100; Councilmember Bartlett - \$100; Mayor Arreguin - \$100.

**27. Declaring Wildfire Prevention and Safety a Top Priority in the City of Berkeley**  
**From: Councilmember Wengraf**

**Recommendation:** Adopt a Resolution declaring Wildfire Prevention and Safety a Top Priority in the City of Berkeley.

**Financial Implications:** None

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

**Action:** Councilmembers Hahn and Droste and Mayor Arreguin added as co-sponsors. Adopted Resolution No. 69,147–N.S.

**28. Budget Referral: RFP for a Freestanding Public Restroom Facility** *(Continued from September 24, 2019)*

**From: Councilmember Robinson**

**Recommendation:** Refer to the budget process to set aside up to \$100,000 to issue an RFP for a freestanding, 24/7 public restroom facility in the Telegraph Business Improvement District.

**Financial Implications:** See report

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

**Action:** Moved to the Action Calendar. 5 speakers. M/S/C (Droste/Robinson) to approve the recommendation.

**Vote:** All Ayes.

Recess 9:13 p.m. – 9:25 p.m.

## Council Consent Items

**29. Referral: Telegraph Shared Streets**

**From: Councilmember Robinson, Mayor Arreguin, and Councilmember Harrison**

**Recommendation:** Refer to the City Manager to develop and return to Council with a plan to implement the shared streets proposal outlined in the Telegraph Public Realm Plan, including identification of potential regional funding sources for the project.

**Financial Implications:** See report

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

**Action:** Councilmember Droste added as a co-sponsor. Item held over to October 29, 2019.

**30. Ban Racial, Ethnic, Cultural, and Religious Discrimination on the Basis of Hairstyle or Headwear** *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*

**From: Councilmembers Robinson, Davila, Bartlett, and Hahn**

**Recommendation:** Adopt first reading of an ordinance adopting a new Section of the Berkeley Municipal Code: Chapter 13.23 DISCRIMINATION ON THE BASIS OF HAIRSTYLE OR HEADWEAR IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS, prohibiting grooming or appearance policies which target natural or traditional hair, hairstyles, or headwear, and refer to the City Manager to consider the operational requirements of enforcement of the ordinance, including what effective and appropriate enforcement would entail or what amendments to the Chapter would be necessary to perform such enforcement.

**Financial Implications:** See report

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

**Action:** Adopted first reading of Ordinance No. 7,677–N.S. Second reading scheduled for October 29, 2019.

**31. Adopt Resolution to Support Seamless Transit Principles**

**From: Councilmember Droste, Mayor Arreguin, and Councilmembers Kesarwani and Robinson**

**Recommendation:** Adopt a Resolution to support Seamless Transit Principles in order to pursue an integrated reliable regional transit system connecting the Bay Area.

**Financial Implications:** Staff time

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

**Action:** Adopted Resolution No. 69,148–N.S.

## Action Calendar – Old Business

- 32. Authorization to Execute a Revised Programmatic Agreement with the California State Historic Preservation Officer (SHPO)** *(Continued from September 10, 2019)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a revised Programmatic Agreement (PA) with the California State Historic Preservation Officer (SHPO) to clarify which rehabilitation activities would not require SHPO's review.  
**Financial Implications:** See report  
 Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Item removed from the agenda by the City Manager.
- 33. IKE Smart City Kiosk Locations, Phase One** *(Continued from September 24, 2019)*  
**From: City Manager**  
**Recommendation:** Approve the locations for the first phase of deployment of 15 IKE Smart City Kiosks in the Downtown, Telegraph and Lorin commercial districts pursuant to Ordinance No. 7,626-N.S. granting the Franchise Agreement with IKE Smart City, LLC.  
**Financial Implications:** See report  
 Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** 7 speakers. M/S/C (Arreguin/Droste) to approve the locations for the first phase of deployment of 15 IKE Smart City Kiosks in the Downtown, Telegraph and Lorin commercial districts pursuant to Ordinance No. 7,626-N.S. granting the Franchise Agreement with IKE Smart City, LLC. Direction provided to draft an amended agreement with IKE Smart City regarding limitations on third-party data sharing and privacy protection.  
**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila, Hahn.
- 34. Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses** *(Continued from September 24, 2019)*  
**From: City Manager**  
**Recommendation:** Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley.  
**Financial Implications:** See report  
 Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** 2 speakers. M/S/C (Arreguin/Hahn) to approve the recommendation.  
**Vote:** All Ayes.
- 35. Deaccession of Berkeley Big People** *(Continued from September 24, 2019)*  
**From: City Manager**  
 Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** 1 speaker. Report received and discussion held.



## Action Calendar – Old Business

- 36. Referral Response: Issue a Request for Information to Explore Grant Writing Services from Specialized Municipal Grant-Writing Firms, and Report Back to Council** *(Continued from September 24, 2019)*  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Item referred to the Agenda and Rules Committee for scheduling.
- 37. Pathways STAIR Center: First Year Data Evaluation and Results-Based Accountability Dashboard** *(Continued from September 24, 2019)*  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** M/S/C (Arreguin/Hahn) to suspend the rules and extend the meeting to 11:20 p.m.  
**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – Davila; Abstain – None; Absent – Droste.  
**Action:** 2 speakers. Report received and discussion held.
- 38. Referral Response: Lava Mae Mobile Shower and Hygiene Services** *(Continued from September 24, 2019)*  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** M/S/C (Arreguin/Wengraf) to hold Item 38 over to October 29, 2019.  
**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Droste.
- 39. Settlement Authority of City Manager for Workers' Compensation Claims**  
**From: City Manager** *(Continued from September 24, 2019)*  
**Recommendation:** Adopt a Resolution to establish and grant authority to the City Manager or his/her designee to settle workers' compensation claims up to \$75,000 per employee claim, and establish and grant authority to the Human Resources Director to settle workers' compensation claims up to \$50,000 per employee claim.  
**Financial Implications:** See report  
Contact: LaTanya Bellow, Human Resources, (510) 981-6800  
**Action:** 0 speakers. M/S/C (Arreguin/Robinson) to adopt Resolution No. 69,149–N.S. to establish and grant authority to the City Manager or his/her designee to settle workers' compensation claims up to \$75,000 per employee claim, and establish and grant authority to the Human Resources Director to settle workers' compensation claims up to \$50,000 per employee claim.  
**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – Davila; Abstain – None, Absent – Droste.

Councilmember Droste absent 10:01 p.m. – 11:20 p.m.

## Action Calendar – Old Business

- 40. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention**  
*(Continued from September 24, 2019)*  
**From: Mayor Arreguin and Councilmembers Harrison and Droste**  
**Recommendation:** Adopt second reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project.  
 First Reading Vote: All Ayes.  
**Financial Implications:** Staff time  
 Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Councilmember Hahn added as a co-sponsor. Item held over to October 29, 2019.
- 41. Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy**  
*(Continued from September 24, 2019)*  
**From: Councilmembers Robinson, Droste, Harrison, and Mayor Arreguin**  
**Recommendation:** Refer to the City Manager to develop a comprehensive ordinance governing a Bicycle Lane and Pedestrian Street Improvements Policy that would:
1. Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met: (a) Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (b) Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (c) The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list. (d) Improvements are necessary to comply with the Americans with Disabilities Act.
  2. Prioritize bikeways and Vision Zero high-fatality, high-collision streets under the five-year Paving Plan by requiring that 50 percent of the repaving budget go towards such streets until they meet a minimum surface standard established with input from the Public Works and Transportation Commissions.
  3. Encourage the use of quick builds by expediting quick-build projects under \$1 million. (a) "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.
  4. Require staff to report progress back to Council every two years.
- Furthermore, refer to the City Manager to draft a revised version of the City's Complete Streets Policy that would clarify that the presence of an existing or planned bikeway parallel to an arterial does not exempt projects along said arterial from bicycle and micromobility improvements under the Policy.  
**Financial Implications:** Staff time  
 Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** M/S/C (Arreguin/Robinson) to hold over Item 41 to October 29, 2019  
**Vote:** All Ayes.

## Information Reports

42. **FY 2019 Third Quarter Investment Report: Ended March 31, 2019**  
**From: City Manager**  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Received and filed.
43. **Audit Update: Construction Permits: Monitor Performance and Fee Assessments to Ensure Excellent and Equitable Customer Service**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
44. **Adoption of Homeless Commission's Fiscal Year 2020 Workplan**  
**From: Homeless Commission**  
Contact: Peter Radu, Commission Secretary, (510) 981-5400  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda** - 1 speaker.

## Adjournment

Adjourned at 11:20 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting of October 15, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

**Item #16: Resolution: Protect from deportation beneficiaries of DACA, TPS and DED**

1. NorCal TPS Coalition

**Item #20: Excused Absence for Mayor Jesse Arreguin and Councilmember Rigel Robinson**

2. Jessica Behrman

**Item #24: Adopt an Ordinance Amending Berkeley Municipal Code Chapter 2.99 to Prohibit City Use of Face Recognition Technology**

3. 34 form letters in support of
4. Edward Piou
5. Shauna Haines

### **Traffic Circle Policy and Program Recommendations**

6. Karen Gillard

### **5G**

7. Vivian Warkentin (2)
8. Gar Smith (2)
9. Councilmember Wengraf
10. Ellie Marks
11. Cindy Rahav
12. Phoebe Sorgen (3)
13. Sandy Nixon

### **Encampments/Homelessness**

14. Jingjing Dai
15. Margy Wilkinson (3)
16. Bryan Bowman
17. Diana
18. Erwan Illian

### **City of Berkeley Sewer Service Fee**

19. Barbara Gilbert
20. Pam Speich

### **Housing**

21. East Bay Democratic Socialists of America
22. Samuel Kohn, on behalf of the Human Welfare Community Action Commission

### **Electrification Generates Huge Amounts of Greenhouse Gas**

23. David Lerman (2)

### **Berkeley Ranks 289 out of 300, Near the Bottom as a Safest City**

24. Steven Donaldson
25. Barbara Gilbert

### **BPD Automated License Plate Readers**

26. George Perezvelez, on behalf of the Police Review Commission

### **City of Berkeley Marina**

27. Erwan Illian

### **Toxicity and Environmental Remediation in West Berkeley**

28. Terry Taplin

**Endless Construction Ruining Our Streets**

29. Barbara Gilbert

**Motorized Scooters and Skateboards**

30. Summer Brenner

31. Sally Nelson

**West Campus Pool**

32. Helga Recke

**War on Triangle Park**

33. Carol Denney

34. Martin Nicolaus

**Vaping**

35. Sabrina Fendrick, on behalf of Berkeley Patients Group

**Police Review Commission**

36. Judith White

37. M. Rivka Polantnick

**RV's and Councilmember Harrison**

38. Jessica Behrman

**North Berkeley Crime Spree**

39. Jessica Behrman

**Street Paving Priorities**

40. Bill Pottinger

41. Janet

42. Councilmember Wengraf

**Aquatic Park Pollution**

43. Igor Tregub, on behalf of the Sierra Club San Francisco Bay

44. Joan Wager

**Addressing Climate Change**

45. Robert Kenney, Vice-President of PG&E

**TOPA**

46. Avram Gur Arye (2)

**Residential Smoking Ban**

47. Thomas Lord

48. Maria T. Garcia de la Noceda

**Undergrounding Utilities**

49. Kathryn Kennedy

**Scofflaw Cyclists**

50. John Rice

**Unfunded Employee Pension and Healthcare Liabilities**

51. David Lerman (2)

**Cracked Sidewalk**

52. David Kupler

53. Tony Benado

54. City of Berkeley Customer Service (311)

**Mental Health Commission Concerns**

55. Margaret Fine

**Supplemental Communications and Reports 1**

**Adjourn in memory of Michael Diehl, Former City Commissioner and Local Activist**

56. Kim Nemirow

**Item #6: Contract: (D.L. Falk Construction) for Central Library Improvements Project**

57. Melinda Carmack, on behalf of the Berkeley Public Library Foundation

**Item #18: Grant Referral for Capoeira Arts Foudation**

58. Lisa Bullwinkel

**Item #27: Declaring Wildfire Prevention and Safety a Top Priority in the City of Berkeley**

59. Louise Brown

60. Chris McKee

61. Michael Scott

62. John Sterns

63. Shelley Golomb

64. Brian Gilbane

65. Adam Ratoosh

66. Gertrude Allen

67. Janet Dreifort

68. Sandra Schlesinger

69. Howard Hertz

70. Richard Boyden

71. Robert Holloway

72. Susan Brand

73. Olda Shalygin

74. Michael Bank

75. Gail Machlis

76. Molly Raphael
77. George Leitmann
78. Gina Rieger
79. Bob Flasher
80. Liliana Cardile and Stefano Schiavon
81. Carlo Sequin
82. Nicole Chabot
83. Pam Valois
84. Rachel Sing
85. Theodore Raphael
86. Linnea Christiani
87. Sally Francis
88. Lyn Alhorn
89. Cynthia Johnson
90. William Hurley
91. Barbara Bibel
92. Dyan Whyte
93. Mark Galbraith
94. Vicki Piovia
95. Anne Pardee and Steve Beckendorf
96. Kevin Padian
97. Carol Curtis
98. Robin Johnston
99. Patrice Ignelzi
100. Meg Sedlak
101. Patricia Robak
102. Jan Raymond
103. Bohun Kinloch
104. Allison Wren and Darrin Banks
105. Kathleen Jain
106. Lynn Glaser
107. Robert Smith
108. Pierre Olivier
109. Joan Garvin
110. John Clarke
111. Kim Marder
112. Brenda Shank
113. Sue von Baeyer
114. Suzanne P. McKee

**Item #32: Authorization to Execute a Revised Programmatic Agreement with the California State Historic Preservation Officer (SHPO)**

115. Margie Cochran, Residential Access Coordinator for The Center for Independent Living

**Item #34: Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses**

116. Kelsie Kerr, Owner of Standard Fare

**Item #41: Referral: Develop a Bicycle Lane Pedestrian Street Improvements Policy**

- 117. Edward Medina
- 118. David Shere
- 119. Dean Wyrzykowski

**Supplemental Communications and Reports 2**

**Item #18: Grant Referral for Capoeira Arts Foundation**

- 120. Revised material, submitted by Councilmember Kesarwani

**Item #24: Adopt an Ordinance Amending Berkeley Municipal Code Chapter 2.99 to Prohibit City Use of Face Recognition Technology**

- 121. Chimey Lee
- 122. Brian Hofer, on behalf of Secure Justice

**Item #27: Declaring Wildfire Prevention and Safety a Top Priority in the City of Berkeley**

- 123. M.K.
- 124. Terry Pink Alexander and John Blaustein
- 125. Connie and Paul Riccardi
- 126. Harris Brody
- 127. Rick Dishnica
- 128. Maria Rita F. Biasin
- 129. Sharla Sullivan, on behalf of EBMUD (2)
- 130. Karl Reeh
- 131. Sabina McMurty
- 132. Max Ventura
- 133. Wanda Warkentin
- 134. Terry Mandel
- 135. Nancy Rader
- 136. Marvin Snow
- 137. Katherine Pope
- 138. Laura Louis
- 139. Nathan Glendenning
- 140. Marilyn Ichioka

**Item #29: Referral: Telegraph Shared Streets**

- 141. Varsha Sarveshwar, on behalf of the ASUC at Cal

**Item #30: Ban Racial, Ethnic, Cultural, and Religious Discrimination on the Basis of Hairstyle or Headwear**

- 142. Samantha Warren, on behalf of the Cal Berkeley Democrats (2)
- 143. Davina Srioudom
- 144. James Weichert



145. Pablo Chong Herrera
146. Timothy Etter
147. Zach Carter
148. Jon Corn
149. Riya
150. Bailey Henderson
151. Laurel Halvorson
152. Luka Cheney
153. Varsha Sarveshwar, on behalf of the ASUC at Cal
154. Sarah Abdesahian, on behalf of the Middle Eastern-North African Recruitment and Retention Center

**Item #41: Referral: Develop a Bicycle Lane Pedestrian Street Improvements Policy**

155. Steve Solnit
156. Ben Gerhardstein
157. Alfred Twu
158. Holly Mines
159. Julie Bussgang
160. Tom Lent
161. Lori Hines
162. James Wichert
163. Davina Srioudom
164. Pablo Chong Herrera
165. Elizabeth Grubb
166. Marjorie Alvord
167. Jon Corn
168. Riya
169. Samantha Warren
170. Dave Campbell
171. Jane Scantlebury
172. Bailey Henderson
173. Courtney Brousseau
174. Aaron Stein-Chester
175. Laurel Halvorson
176. M.K.
177. Luka Cheney
178. Robert Clear
179. Emmerich Anklam
180. Jodi Levin
181. Avi Flamholz
182. Julie Elis

**Item #44: Adoption of Homeless Commission's Fiscal Year 2020 Workplan**

183. Katharine Gale, on behalf of Homeless Services Panel of Experts

**Supplemental Communications and Reports 3**

**Urgency Item: Resolution Ratifying and Terminating the Proclamation of Emergency by the Director of Emergency Services Due to PG&E Public Safety Power Shutoff**

184. Dee Williams-Ridley, City Manager

**Item #18: Grant Referral for Capoeira Arts Foundation**

185. Moni Law (2)

**Item #26: Berkeley City Club Conservancy Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

186. Berkeley City Club Conservancy

**Item #27: Declaring Wildfire Prevention and Safety a Top Priority in the City of Berkeley**

187. Diane Weber

188. TJ Cutillo

189. Councilmember Wengraf

**Item #28: Budget Referral: RFP for a Freestanding Public Restroom Facility**

190. Siegel Yee Brunner and Mehta Lawfirm

**Item #33: IKE Smart City Kiosk Locations, Phase One**

191. Mark Thompson, on behalf of IKE Smart City

**Item #37: Pathways STAIR Center: First Year Data Evaluation and Results-Based Accountability Dashboard**

192. Presentation, submitted by HHCS

**Item #41: Referral: Develop a Bicycle Lane Pedestrian Street Improvements Policy**

193. Katy Love

194. Bill Powning

195. Brit Harvey

196. Jacqueline Park

197. Sadie Ciostello

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING MINUTES  
MONDAY, OCTOBER 21, 2019**

**9:00 A.M.**

Community Room – Main Branch Library, 2031 Bancroft Way, Berkeley, CA 94704

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call: 9:19 a.m.**

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

**Absent:** Davila, Bartlett

Councilmember Davila present at 9:29 a.m.

**Public Comment – Items on this agenda only – 1 speaker**

**Action Calendar**

**1. Discussion of Systems Realignment and Direction on Potential Changes to the City’s Legislative Process and Related Processes**

**From: City Manager**

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

Action: Presentations made and discussion held.

**Adjournment**

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

**Vote:** Ayes – Kesarwani, Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin;

Noes – None; Abstain – None; Absent – Bartlett.

Adjourned at 1:52 p.m.

I hereby certify that the forgoing is a true and correct record of the special meeting of October 21, 2019 as approved by the Berkeley City Council.

\_\_\_\_\_  
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: Discussion of Systems Realignment and Direction on Potential Changes to the City's Legislative Process and Related Processes**

1. Supplemental material, submitted by Mayor Arreguin

**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**TUESDAY, OCTOBER 22, 2019**

**4:30 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA 94702  
Teleconference Location – 2911 Lorina Street, Berkeley, CA 94705**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 4:37 p.m.

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

**Absent:** Harrison

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

**CLOSED SESSION:**

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

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

a. *1444 Fifth Street LLC v. City of Berkeley*, Alameda County Superior Court Case No. 19032434

**Action:** No reportable action taken.

b. *Gilmore v. City of Berkeley*, Alameda County Superior Court Case No. RG18925180

**Action:** M/S/C (Arreguin/Hahn) to approve the staff recommendation to authorize the City Attorney to enter into a settlement agreement with a provision to remove resale restrictions, to resolve *Gilmore v. City of Berkeley*, Case No. RG18925180.

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

Councilmember Davila absent 6:37 p.m. – 6:42 p.m.

## OPEN SESSION:

The City Council met in closed session and authorized the City Attorney to enter into a settlement agreement with a provision to remove resale restrictions, to resolve Gilmore v. City of Berkeley, Case No. RG18925180.

## Adjournment

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

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

Adjourned at 6:42 p.m.

I hereby certify that the foregoing is a true and correct record of the Closed Session meeting held on October 22, 2019.

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Mark Numainville  
City Clerk

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

**Tuesday, October 22, 2019**

**6:00 P.M.**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702  
TELECONFERENCE LOCATION – 2911 LORINA STREET, BERKELEY, CA 94705

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:50 p.m.

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

**Absent:** None

**Report from Closed Session**

The City Council met in closed session and authorized the City Attorney to enter into a settlement agreement with a provision to remove resale restrictions, to resolve Gilmore v. City of Berkeley, Case No. RG18925180.

**Worksession**

**1. Update on Berkeley's 2020 Vision**

**From:** City Manager

Contact: Erin Steffen, City Manager's Office, (510) 981-7000

**Action:** 9 speakers. Presentation made and discussion held.

Recess 8:46 p.m. – 8:58 p.m.

**2. Census 2020**

**From:** City Manager

Contact: Dave White, City Manager's Office, (510) 981-7000; Erin Steffen, City Manager's Office, (510) 981-7000

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

### 3. Short-Term Rentals in Berkeley

**From: City Manager**

Contact: Timothy Burroughs, Planning and Development, (510) 981-7400; Henry Oyekanmi, Finance, (510) 981-7300

**Action:** 5 speakers. Presentation made and discussion held.

### Adjournment

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

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

Councilmember Bartlett absent 8:58 p.m. – 10:57 p.m.

Councilmember Kesarwani absent 9:00 a.m. – 10:57 p.m.

Councilmember Davila absent 10:41 p.m. – 10:57 p.m.

Councilmember Droste absent 10:47 p.m. – 10:57 p.m.

Adjourned at 10:57 p.m.

I hereby certify that the forgoing is a true and correct record of the special meeting of October 22, 2019 as approved by the Berkeley City Council.

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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: Update on Berkeley's 2020 Vision**

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

**Item #2: Census 2020**

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

**Item #3: Short-Term Rentals in Berkeley**

3. Presentation, submitted by the Planning Department



**MINUTES  
BERKELEY CITY COUNCIL  
SPECIAL MEETING**

**TUESDAY, OCTOBER 29, 2019**

**5:00 P.M.**

**School District Board Room – 1231 Addison Street, Berkeley, CA 94702**

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 5:03 p.m.

**Present:** Davila, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin

**Absent:** Kesarwani, Bartlett

Councilmember Kesarwani present at 5:07 p.m.

Councilmember Bartlett present at 5:10 p.m.

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

**CLOSED SESSION:**

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

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

**Grievance Regarding Emergency Call Back for IT employees**

**Service Employees International Union Local 1021 Community Services & Part-time Recreation Leaders Association**

**(CSMCS Case No. ARB-18-0314)**

**Action:** M/S/C (Hahn/Wengraf) to provide direction to staff to settle a pending grievance regarding IT emergency callbacks -- (CSMCS Case No. ARB-18-0314). Staff will bring back a side letter to effectuate the settlement in open session.

**Vote:** All Ayes.

## OPEN SESSION:

The City Council met in closed session and provided direction to staff to settle a pending grievance regarding IT emergency callbacks -- (CSMCS Case No. ARB-18-0314). Staff will bring back a side letter to effectuate the settlement in open session.

## Adjournment

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

**Vote:** All Ayes.

Adjourned at 5:33 p.m.

I hereby certify that the foregoing is a true and correct record of the closed session meeting of the City Council held on October 29, 2019.

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Mark Numainville  
City Clerk

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, October 29, 2019**  
**6:00 PM**

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

JESSE ARREGUIN, MAYOR

Councilmembers:

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

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

**Preliminary Matters**

**Roll Call:** 6:07 p.m.

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

**Absent:** None

**Closed Session Report:**

The City Council met in closed session and provided direction to staff to settle a pending grievance regarding IT emergency callbacks -- (CSMCS Case No. ARB-18-0314). Staff will bring back a side letter to effectuate the settlement in open session.

**Ceremonial Matters:**

1. Recognition of Carlos Baron, Local Artist and Founder of La Pena Cultural Center
2. Recognition of Domestic Violence Awareness Month
3. Adjourned the meeting in memory of Elijah Cummings, Civil Rights Leader and Former Congressman
4. Adjourned the meeting in memory of John Conyers, Civil Rights Leader and Former Congressman

**City Auditor Comments:**

1. The City Auditor gave a presentation on the Domestic Violence Response audit (Item 13)

**City Manager Comments:** None

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

## Consent Calendar

**Action:** M/S/C (Wengraf/Robinson) to add an urgent item to the agenda related to the emergency declaration for the public safety power shut-off.

**Vote:** All Ayes.

**Action:** M/S/C (Wengraf/Robinson) to accept revised materials from Councilmember Harrison on Item 23.

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

Councilmember Droste absent 7:03 p.m. – 7:06 p.m.

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

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

**Vote:** All Ayes.

### **Resolution Ratifying the Proclamation of Emergency by the Director of Emergency Services Due to PG&E Public Safety Power Shutoff**

**From:** City Manager

**Recommendation:** Adopt a Resolution Ratifying the Proclamation of Emergency by the Director of Emergency Services due to the PG&E Public Safety Power Shutoff on October 25, 2019.

**Financial Implications:** See report

Contact: Farimah Brown, City Attorney, (510) 981-6998

**Action:** Adopted Resolution No. 69,151–N.S.

1. **Adopt an Ordinance Amending Berkeley Municipal Code Chapter 2.99 to Prohibit City Use of Face Recognition Technology** *(Reviewed by the Public Safety Committee)*

**From:** Councilmembers Harrison, Davila, Bartlett, and Hahn

**Recommendation:** Adopt second reading of Ordinance No. 7,676-N.S. amending Berkeley Municipal Code Chapter 2.99 to prohibit the City from acquiring, retaining, requesting, accessing, or using: (1) any face recognition technology, or (2) any information obtained from face recognition technology.

**First Reading Vote:** All Ayes.

**Financial Implications:** See report

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

**Action:** Adopted second reading of Ordinance No. 7,676-N.S.

## Consent Calendar

- 2. Ban Racial, Ethnic, Cultural, and Religious Discrimination on the Basis of Hairstyle or Headwear** *(Reviewed by the Health, Life Enrichment, Equity & Community Committee)*  
**From: Councilmembers Robinson, Davila, Bartlett, and Hahn**  
**Recommendation:** Adopt second reading of Ordinance No. 7,677-N.S. adopting a new Section of the Berkeley Municipal Code: Chapter 13.23 DISCRIMINATION ON THE BASIS OF HAIRSTYLE OR HEADWEAR IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS, prohibiting grooming or appearance policies which target natural or traditional hair, hairstyles, or headwear, and refer to the City Manager to consider the operational requirements of enforcement of the ordinance, including what effective and appropriate enforcement would entail or what amendments to the Chapter would be necessary to perform such enforcement.  
**First Reading Vote:** All Ayes.  
**Financial Implications:** See report  
Contact: Rigel Robinson, Councilmember, District 7, (510) 981-7170  
**Action:** Adopted second reading of Ordinance No. 7,677-N.S.
- 3. Minutes for Approval**  
**From: City Manager**  
**Recommendation:** Approve the minutes for the Council meetings of September 3, 2019 (special closed), September 10, 2019 (special closed and regular), September 17, 2019 (special closed and special) and September 24, 2019 (special closed and regular).  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Approved minutes as submitted.
- 4. City Council Rules of Procedure and Order Revisions** *(Reviewed by the Agenda & Rules Committee)*  
**From: City Manager**  
**Recommendation:** Adopt a Resolution revising the City Council Rules of Procedure and Order to integrate the previously adopted regulations for policy committees and make associated changes to other sections; update outdated references and practices; conform to the Open Government Ordinance; make other technical corrections; and rescinding any preceding amendatory resolutions.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Moved to Action Calendar. Item held over to November 12, 2019.
- 5. Revised Conflict of Interest Code**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution adopting a revised Conflict of Interest Code for the City of Berkeley and rescinding Resolution No. 68,201–N.S.  
**Financial Implications:** None  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Adopted Resolution No. 69,152–N.S.

## Consent Calendar

- 6. Contract: Berkeley Convention and Visitor's Bureau, d.b.a. Visit Berkeley**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a sole source contract and any amendments with the Berkeley Convention and Visitors' Bureau, d.b.a. Visit Berkeley, not to exceed \$7,966,000 of Berkeley Tourism Business Improvement District (BTBID) funds to support tourism marketing and promotion for the period through June 30, 2027.  
**Financial Implications:** See report  
Contact: Jordan Klein, Economic Development, (510) 981-7530  
**Action:** Adopted Resolution No. 69,153–N.S.
- 7. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 29, 2019**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$160,000  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #1.
- 8. Recommendation and Contract: Management Partners for Management Consultancy Services (Reviewed by the Agenda & Rules Committee)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution accepting the recommendation of the City Council Agenda & Rules Committee authorizing the City Manager or her designee to execute a contract and any amendments or extensions with Management Partners in an amount not to exceed \$45,500 for the period from November 12, 2019 through July 31, 2021 to provide management consultancy services to the City Council of the City of Berkeley to conduct a performance evaluation of the City Manager.  
**Financial Implications:** General Fund - \$45,500  
Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 69,154–N.S.

## Consent Calendar

9. **Contract No. 103580-1 (9821) Amendment: First Alarm Security & Patrol, Inc., dba First Security Services for Citywide Security Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to increase the not-to-exceed value of Contract No. 103580-1 (9821) by \$300,000, from \$2,784,798 to \$3,084,798 to fund continued services through the contract expiration date of February 29, 2020. The \$300,000 additional spending authority provides the City with the necessary funding to finalize the on-going RFP #19-11316-C (Re-issued) for Citywide Unarmed Security Guard Services.  
**Financial Implications:** See report  
 Contact: Henry Oyekanmi, Finance, (510) 981-7300  
**Action:** Adopted Resolution No. 69,155–N.S.
10. **Contract No. 10874B Amendment: Street Level Advisors for Zoning and Development Fee Feasibility Analyses**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10874B with Street Level Advisors, to analyze the impact of fees and other variables on development project feasibility, increasing the contract amount by \$150,000 to a new total not-to-exceed contract amount of \$225,400 and extending the contract period to December 31, 2022.  
**Financial Implications:** Permit Service Center Fund - \$150,000  
 Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Adopted Resolution No. 69,156–N.S.
11. **Contract No. 10742 Amendment: Redwood Toxicology Services for Drug and Alcohol Testing**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 10742 and any necessary future amendments with Redwood Toxicology Services for drug and alcohol testing for the Police Department, increasing the amount by \$200,000 for a total not to exceed amount of \$250,000 subject to the City's annual budget appropriation process.  
**Financial Implications:** General Fund - \$200,000  
 Contact: Andrew Greenwood, Police, (510) 981-5900  
**Action:** Adopted Resolution No. 69,157–N.S.
12. **Approval of One Additional Meeting for Children, Youth, and Recreation Commission in Calendar Year 2019**  
**From: Children, Youth, and Recreation Commission**  
**Recommendation:** Adopt a Resolution approving one additional meeting for the Children, Youth, and Recreation Commission in calendar year 2019.  
**Financial Implications:** Minimal  
 Contact: Stephanie Chu, Commission Secretary, (510) 981-6700  
**Action:** Adopted Resolution No. 69,158–N.S.

## Consent Calendar

**13. Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees**

**From: Auditor**

**Recommendation:** We recommend City Council request that the City Manager report back by April 28, 2020, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Human Resources Department. They have agreed to our findings and five of our recommendations. Please see our report for their complete response.

**Financial Implications:** See report

Contact: Jenny Wong, Auditor, (510) 981-6750

**Action:** Approved recommendation as revised in Supplemental Reports Packet #2 to include the presentation materials.

## Council Consent Items

**14. Budget Referral: Berkeley Age-Friendly Continuum**

**From: Mayor Arreguin and Councilmember Bartlett**

**Recommendation:** Refer to the mid-year budget process \$20,000 for the Berkeley Age-Friendly Continuum.

**Financial Implications:** See report

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

**Action:** Councilmember Hahn added as a co-sponsor. Approved recommendation.

**15. Extension of the Joint Subcommittee for the Implementation of State Housing Laws**

**From: Mayor Arreguin and Councilmember Harrison**

**Recommendation:** Adopt a Resolution extending the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) to complete its work by July 2020, with Joint Subcommittee providing its recommendations to Council by the end of September 2020.

**Financial Implications:** Staff time

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

**Action:** Councilmember Hahn added as a co-sponsor. Adopted Resolution No. 69,159–N.S.



- 16. Budget Referral: Funding Illegal Dumping Component of “Clean & Livable Commons Initiative”**  
**From: Councilmembers Kesarwani and Harrison, and Mayor Arreguin**  
**Recommendation:** Refer to the November budget process consideration for providing \$200,000 to fund a key component of the “Clean & Livable Commons Initiative” unanimously passed by the City Council on February 28, 2019 to: -Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping; and -Explore increasing the penalties for illegal dumping.  
**Financial Implications:** See report  
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110  
**Action:** Councilmember Hahn added as a co-sponsor. Approved recommendation.
- 17. Referral to the Civic Arts Commission to develop a grant program available for arts and cultural organizations to support retaining and improving creative spaces for artists**  
**From: Councilmembers Kesarwani, Droste, Wengraf, and Hahn**  
**Recommendation:** Referral to the Civic Arts Commission to prioritize within their current Work Plan creating a process for awarding competitive grants to Berkeley-based arts and cultural organizations that will help support their ability to stay in Berkeley.  
**Financial Implications:** Staff time  
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110  
**Action:** Approved recommendation.
- 18. Information on the City’s Existing Code Enforcement Practices for Residential Properties**  
**From: Councilmember Kesarwani**  
**Recommendation:** Request the City Manager provide a brief report or presentation on the City’s code enforcement practices for residential properties for the purposes of educating the City Council and the public on current practice. The requested information may include: -Reporting on the various ways in which code enforcement issues have been brought to the attention of the City over the last five years (i.e., neighbor complaint, 911 call to the property, etc.); -How various code enforcement issues at residential properties are currently handled (i.e., which City departments and which type of staff are involved, what they do, etc.); -Timeframe and mechanisms for achieving code compliance at residential properties; -Any existing assistance programs available to support property owners found to have code violations, such as financial assistance, mental health services, technical advice, etc.; -Specific learnings/change in City practices resulting from the Leonard Powell receivership case; -Other information deemed relevant and appropriate to understand the City’s current code enforcement practices for resident properties.  
**Financial Implications:** Staff time  
Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110  
**Action:** Item withdrawn from the agenda by Councilmember Kesarwani.

19. **Consider The Homeless Films, Food & Discussion Event on November 5, 2019: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmembers Davila and Bartlett**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$250 from Councilmember Cheryl Davila, to support the Consider The Homeless “Films, Food & Discussion” Event on November 5, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila, the Mayor and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$250  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Adopted Resolution No. 69,160–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Mayor Arreguin - \$250; Councilmember Harrison - \$100; Councilmember Wengraf - \$100; Councilmember Hahn - \$100; Councilmember Robinson - \$100; Councilmember Bartlett - \$100.
20. **Letter in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019**  
**From: Councilmembers Davila and Harrison**  
**Recommendation:** Send a Letter to Congresswoman Barbara Lee in Support of HR 1595: Secure And Fair Enforcement Banking Act of 2019, and direct the city clerk or designee to send a letter to our state representatives.  
**Financial Implications:** None  
Contact: Cheryl Davila, Councilmember, District 2, (510) 981-7120  
**Action:** Councilmember Bartlett added as a co-sponsor. Approved recommendation.
21. **Budget Referral: Allocate \$27,000 from the General Fund to Secure Potential Matching State Certified Local Government Landmarks Preservation Grants**  
**From: Councilmembers Harrison and Hahn**  
**Recommendation:** Refer to the FY 2021 November Budget Process to allocate \$27,000 from the General Fund to secure potential matching state Certified Local Government landmarks preservation grant.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation as revised in Supplemental Communications Packet #1.

- 22. Amending Chapter 19.34 of the Berkeley Municipal Code to Expand Automatic Gas Shut-Off Valve Requirements in Multifamily, Condominium and Commercial Buildings Undergoing Renovations and to All Existing Buildings Prior to Execution of a Contract for Sale or Close of Escrow** *(Reviewed by the Facilities, Infrastructure, Technology, Environment & Sustainability Committee)*  
**From: Councilmembers Harrison, Wengraf, Hahn, and Bartlett**  
**Recommendation:** Refer to the Disaster and Fire Safety Commission to consider an ordinance amending Berkeley Municipal Code (BMC) 19.34.040 to expand requirements for automatic natural gas shut-off valves or excess flow valves in multifamily, condominium and commercial buildings undergoing renovations and in all existing buildings prior to execution of a contract for sale or close of escrow. Ask the Commission to consider other triggers as appropriate.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation.
- 23. Oversized Vehicle Restrictions on Bicycle Boulevards**  
**From: Councilmembers Harrison, Robinson, and Bartlett**  
**Recommendation:**  
1. Refer to the Transportation Commission a draft ordinance amending Berkeley Municipal Code Chapter (BMC) 14.56.070 to prohibit commercial trucks exceeding three tons gross vehicle weight from utilizing streets comprising the bicycle boulevards network.  
2. Refer to the City Manager to update BMC 14.56.070 as more Berkeley streets become Bicycle Boulevards, as outlined in the 2017 Bicycle Plan.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Moved to Action Calendar. Councilmember Hahn added as a co-sponsor. 5 speakers. M/S/C (Droste/Robinson) to approve the recommendation as amended in the revised materials submitted by Councilmember Harrison to request that the commission work with business associations, the size limitations, the streets subject to the restrictions, and the clarifications added by Councilmember Wengraf related to emergency vehicles.  
**Vote:** All Ayes.
- 24. Budget Referral and Approving Installation of Cameras at Ohlone Park Mural**  
**From: Councilmembers Harrison and Kesarwani**  
**Recommendation:**  
1. Pursuant to Berkeley Municipal Code 2.99.060, declare that a camera installed in Ohlone Park at the corner of Hearst Street and Milvia Street will provide benefits to the community that outweigh costs and concerns.  
2. Refer \$6,000 to the FY20 November 2019 AAO Process for the purpose of purchasing and installing a surveillance camera.  
**Financial Implications:** See report  
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140  
**Action:** Approved recommendation.

## Action Calendar – Public Hearings

### 25. Renewal of the Elmwood Avenue BID for Calendar Year 2020

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Elmwood Business Improvement District (hereafter, “the District”, “the Elmwood BID” or “the BID”) for 2019-20 and, if no majority protest exists, levy annual assessments in the District for calendar year 2020 to finance services and improvements and authorize a fiscal agency contract with Elmwood Business Association for receipt and expenditure of District funds.

**Financial Implications:** See report

Contact: Jordan Klein, Economic Development, (510) 981-7530

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

M/S/C (Wengraf/Hahn) to close the public hearing.

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

Councilmember Bartlett absent 7:49 – 7:59

Councilmember Harrison absent 7:49 p.m. – 7:52 p.m.

**Action:** M/S/C (Hahn/Robinson) to adopt Resolution No. 69,161–N.S.

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

### 26. Renewal of the Solano Avenue BID for Calendar Year 2020

**From: City Manager**

**Recommendation:** Conduct a public hearing and, upon conclusion, adopt a Resolution confirming the Annual Report and Budget for the Solano Avenue Business Improvement District (hereafter, “Solano BID Advisory Board” or “the BID”) for 2019-20 and, if no majority protest exists, levy annual assessments in the District for calendar year 2020 to finance services and improvements and authorize a fiscal agency contract for receipt and expenditure of District funds.

**Financial Implications:** See report

Contact: Jordan Klein, Economic Development, (510) 981-7530

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

M/S/C (Wengraf/Hahn) to close the public hearing.

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

**Action:** M/S/C (Hahn/Wengraf) to adopt Resolution No. 69,162–N.S.

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

## Action Calendar – Public Hearings

**27. Amend BMC Chapter 14.52 Adding the North Shattuck Metered Parking Area to the goBerkeley Program**

**From: City Manager**

**Recommendation:** Conduct a public hearing, and upon conclusion adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 14.52 to add the North Shattuck metered parking area to the goBerkeley parking program.

**Financial Implications:** See report

Contact: Phillip Harrington, Public Works, (510) 981-6300

**Action:** The Mayor opened the public hearing. 0 speakers.

M/S/C (Arreguin/Wengraf) to continue the public hearing to November 12, 2019.

**Vote:** All Ayes.

Recess 8:00 p.m. – 8:12 p.m.

## Action Calendar – Old Business

**28. Referral Response: Lava Mae Mobile Shower and Hygiene Services** *(Continued from October 15, 2019)*

**From: City Manager**

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** Item held over to November 12, 2019.

**29. Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention** *(Continued from October 15, 2019)*

**From: Mayor Arreguin and Councilmembers Harrison, Droste, and Hahn**

**Recommendation:** Adopt second reading of Ordinance No. 7,668-N.S. repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project.

**First Reading Vote:** All Ayes.

**Financial Implications:** Staff time

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

**Action:** Item held over to November 12, 2019.

## Action Calendar – Old Business

30. **Referral: Telegraph Shared Streets** *(Continued from October 15, 2019)*  
**From: Councilmember Robinson, Mayor Arreguin, and Councilmembers Harrison and Droste**

**Recommendation:** Refer to the City Manager to develop and return to Council with a plan to implement the shared streets proposal outlined in the Telegraph Public Realm Plan, including identification of potential regional funding sources for the project.

**Financial Implications:** See report

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

**Action:** Moved to Consent Calendar as revised material in Supplemental Communications Packet #1.

## Action Calendar – Old Business

### 31. Referral: Develop a Bicycle Lane and Pedestrian Street Improvements Policy (Continued from October 15, 2019)

**From: Councilmembers Robinson, Droste, Harrison, and Mayor Arreguin**

**Recommendation:** Refer to the City Manager to develop a comprehensive ordinance governing a Bicycle Lane and Pedestrian Street Improvements Policy that would:

1. Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met: (a) Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (b) Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations. (c) The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list. (d) Improvements are necessary to comply with the Americans with Disabilities Act.
2. Prioritize bikeways and Vision Zero high-fatality, high-collision streets under the five-year Paving Plan by requiring that 50 percent of the repaving budget go towards such streets until they meet a minimum surface standard established with input from the Public Works and Transportation Commissions.
3. Encourage the use of quick builds by expediting quick-build projects under \$1 million. (a) "Quick-build" is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.
4. Require staff to report progress back to Council every two years.

Furthermore, refer to the City Manager to draft a revised version of the City's Complete Streets Policy that would clarify that the presence of an existing or planned bikeway parallel to an arterial does not exempt projects along said arterial from bicycle and micromobility improvements under the Policy.

**Financial Implications:** Staff time

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

**Action:** M/S/C (Arreguin/Harrison) to suspend the rules and extend the meeting to 11:30 p.m. and to carry over items 4, 28, and 35 to November 12, 2019.

**Vote:** All Ayes.

**Action:** 11 speakers. M/S/C (Robinson/Arreguin) to adopt Recommendation #1 as written below.

*Refer to the City Manager to develop a comprehensive ordinance with input from the Public Works & Transportation Commissions governing a Bicycle Lane and Pedestrian Street Improvements Policy that would:*

- *Require simultaneous implementation of recommendations in the City's Bicycle and Pedestrian Plans when City streets are repaved, if one or more of the following conditions are met:*

## Action Calendar – Old Business

- *Bicycle Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.*
- *Pedestrian Plan recommendations can be implemented using quick-build strategies that accommodate transit operations.*
- *The Bicycle Plan recommends studying protected bike lanes as part of a Complete Street Corridor Study in the Tier 1 Priority list.*
- *Improvements are necessary to comply with the Americans with Disabilities Act.*
- *Encourage the use of quick builds by expediting quick-build projects under \$1 million.*
  - *“Quick-build” is defined as projects that a) require non-permanent features such as bollards/paint/bus boarding islands, b) make up less than 25 percent of the total repaving cost for that street segment, and c) can be a component of a Complete Street Corridor Study that includes evaluation after installation.*
- *Require staff to report progress back to Council every two years.*

**Vote:** All Ayes.

**Action:** M/S/C (Robinson/Arreguin) to adopt Recommendation #2 as written below.

*Refer to the City Manager to establish a paving pilot program to prioritize bikeways and Vision Zero pedestrian high-injury streets by allocating at least 50 percent of the repaving budget towards such streets, to be implemented from 2022 to 2025 and earlier when feasible. Staff should evaluate the program’s success and report back to Council. In developing the program, staff should prioritize improving both safety and the pavement condition index (PCI) city-wide and on bikeways and pedestrian high-injury streets. Moreover, to advance equity, staff should use the project priorities outlined in the Bicycle Plan and forthcoming Pedestrian Plan, together with pavement quality information, to identify the highest-priority bikeways and high-injury street sections for repaving. Both plans incorporate equity factors to prioritize projects. Staff will present the pilot program to the Council for approval prior to implementation.*

- *Bikeways are defined as the street network that the Bicycle Plan recommends for bicycle infrastructure. A map of this street network is shown in Attachment 2.*
- *Vision Zero pedestrian high-injury streets are defined as the streets where a high proportion of severe and fatal pedestrian injuries occur. These streets will be identified in the Pedestrian Master Plan, which staff are currently updating. A draft map of these streets is shown in Attachment 3.*

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



## Action Calendar – Old Business

**Action:** 11 speakers. M/S/C (Robinson/Arreguin) to adopt Recommendation #3 as written below.

*Finally, refer to the City Manager to draft a revised version of the City's Complete Streets Policy that would clarify that the presence of an existing or planned bikeway parallel to an arterial does not exempt projects along said arterial from bicycle and micromobility improvements under the Policy.*

**Vote:** All Ayes.

## Action Calendar – New Business

### 32. Reserving General Funds for Housing Trust Fund Program Predevelopment Applications for 2526 San Pablo Avenue, 2001 Ashby Avenue, and 2321-2323 10th Street and Possible Measure U1 Funding Reservation

**From:** City Manager

**Recommendation:** Adopt a Resolution:

1. Reserving General Funds received pursuant to Measure U1 in the following amounts: -\$500,000 for Satellite Affordable Housing Associates' new construction development at 2527 San Pablo Avenue; and -\$1.2 million for Resources for Community Development's new construction development at 2001 Ashby Avenue; and -\$50,000 for Northern California Land Trust's renovation of 2321-2323 10th Street.
2. Conditioning NCLT's predevelopment loan on the organization demonstrating compliance with the requirements of its 2017 Development Loan Agreement for 1340-48 Blake Street and 2425 California Street, including: -Updating its plan for assessing the feasibility of converting 1340-48 Blake and 2425 California to cooperatives; and -Updating its organizational documents to reflect a tripartite structure.
3. Conditioning the loan for 2001 Ashby Avenue on RCD's evaluating ways to reduce or eliminate the project's proposed parking spaces and/or parking footprint, if possible, in consideration of the needs of the residents, community services space, and climate change mitigation.
4. Authorizing the City Manager to execute all original or amended documents or agreements to effectuate this action.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** Moved to Consent Calendar. Adopted Resolution No. 69,163–N.S.

## Action Calendar – New Business

### 33a. Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

**From: Housing Advisory Commission**

**Recommendation:** Approve modifications to policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

1. Increase staffing to implement enforcement of the ordinance as part of the next budget;
2. Improve signage related to the ordinance in residential buildings;
3. Make the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, and removing language requiring the statements to be “sworn,” and considering other, less threatening language that still expects a complaint be provided under the best of appellant’s knowledge;
4. Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., removing the requirement of providing two separate complaints from different individuals within a six-month period, if the building contains two or fewer units, removing the requirement of providing a sworn statement under penalty of perjury); and
5. Refer to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

**Financial Implications:** See report

Contact: Mike Uberti, Commission Secretary, (510) 981-7400

### 33b. Companion Report: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

**From: City Manager**

**Recommendation:** The City Manager appreciates the Housing Advisory Commission’s efforts to strengthen the implementation of the Smoke-free Multi-Unit Housing ordinance and recommends that the proposed modifications be referred to the City Manager Office for an analysis of the financial and legal feasibility of the proposed changes.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400

**Action:** Items 33a and 33b referred to the Health, Life Enrichment, Equity & Community.

## Council Action Items

### 34. Proposed Formula Retail (Chain Store) Regulations

**From: Councilmember Hahn**

**Recommendation:**

1. Refer to the City Manager and Planning Commission to finalize and return to the City Council for adoption an Ordinance and related amendments to the Berkeley Municipal Code, if any, based on the Draft Formula Retail Ordinance attached hereto, to establish Formula Retail regulations for Commercial and Manufacturing Districts in the City of Berkeley.
2. Refer to the City Manager and Planning Commission to: a. Recommend establishment of Business District boundaries and names, as provided for in Section 23E.18.030(B) of the proposed Formula Retail Ordinance, and b. Through a process that includes public notice and input, as described in the proposed Formula Retail Ordinance, recommend for each Business District whether to allow unlimited Formula Retail, limited Formula Retail (some or all use categories allowed with a Use Permit, Neighborhood Notice, Design Review and findings) or to prohibit Formula Retail.

**Financial Implications:** See report

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

**Action:** Councilmember Harrison added as a co-sponsor. Item referred to the Land Use, Housing & Economic Development Committee as amended in Supplemental Communications Packet #1.

### 35. Referral: Measures to Address Traffic Enforcement and Bicycle Safety

**From: Councilmember Robinson**

**Recommendation:**

1. Refer to the Transportation Commission to consider a Resolution deprioritizing enforcement of the Idaho Stop and Dead Red conventions for persons operating a bicycle, after the operator has yielded to any other road users with the right of way, by prohibiting the use of any City funds or resources in assisting in the enforcement or issuance of citations for bicyclist violations of California Vehicle Code Sections 22450(a) and 21453(a).
2. Refer to the City Manager to develop a ticket diversion program to educate bicyclists as an alternative to monetary fines related to other infractions, and to ensure integration of Vision Zero principles in implementation of state Office of Traffic Safety grants.
3. Refer to the City Manager to develop a plan to calm and divert motor vehicle traffic on bicycle boulevards to provide people who bicycle and walk a safe, comfortable and convenient mobility experience by adding or reconfiguring stop signage and other traffic calming measures, per the recommendations of the 2017 Bicycle Plan.

**Financial Implications:** See report

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

**Action:** Item held over to November 12, 2019 including revised material in Supplemental Communications Packet #1 from Councilmember Robinson.

## Information Reports

- 36. City Council Short Term Referral Process – Monthly Update**  
**From: City Manager**  
Contact: Mark Numainville, City Clerk, (510) 981-6900  
**Action:** Received and filed.
- 37. Referral Response: City Property for Affordable Housing and Modular Micro-Unit Buildings**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, (510) 981-5400  
**Action:** Received and filed.
- 38. LPO NOD: 1440 Hawthorne Terrace/#LMIN2018-0003**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
- 39. LPO NOD: 1450 Hawthorne Terrace/#LMIN2018-0002**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
- 40. LPO NOD: 2018-36 University Avenue/#LMSAP2019-0002 for the UC Theater Building**  
**From: City Manager**  
Contact: Timothy Burroughs, Planning and Development, (510) 981-7400  
**Action:** Received and filed.
- 41. goBerkeley Parking Management Program - Parking Rate and Time Limit Adjustments for New North Shattuck Area for December 1, 2019**  
**From: City Manager**  
Contact: Phillip Harrington, Director, Department of Public Works (510) 981-6303  
**Action:** Received and filed.
- 42. Children, Youth and Recreation Commission 2019 Work Plan**  
**From: Children, Youth, and Recreation Commission**  
Contact: Stephanie Chu, Commission Secretary, (510) 981-6700  
**Action:** Received and filed.
- 43. Civic Arts Commission Fiscal Year 2020 Work Plan**  
**From: Civic Arts Commission**  
Contact: Jennifer Lovvorn, Commission Secretary, (510) 981-7530  
**Action:** Received and filed.

## Information Reports

44. **Fiscal Year 2020 Commission on Aging Work Plan**  
**From: Commission on Aging**  
Contact: Richard Castrillon, Commission Secretary, (510) 981-5190  
**Action:** Received and filed.
45. **Berkeley Energy Commission Work Plan for 2019-2020**  
**From: Energy Commission**  
Contact: Billi Romain, Commission Secretary, (510) 981-7400  
**Action:** Received and filed.
46. **Report from Sister City Delegation to Gongju, Republic of Korea**  
**From: Mayor Arreguin and Councilmember Robinson**  
Contact: Jesse Arreguin, Mayor, (510) 981-7100  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda** - 2 speakers.

## Adjournment

Adjourned at 11:30 p.m.

I hereby certify that the forgoing is a true and correct record of the regular meeting of October 29, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

### 5G Telecom

1. Elizabeth Starr
2. Vivian Warkentin
3. Phoebe Anne Sorgen

### RV Parking Under University Avenue

4. Berkeley Warehouse (2)
5. Stacie Gancayco-Adlao, on behalf of Zen Booth
6. Danielle Rose Hacker
7. Genevieve Wilson

### City Manager Web Page

8. David Lerman

**Kiwibots**

9. Therese Fitzpatrick (2)

**Acquisition and Use of Surveillance Technology, GPS Tracking, and Biometric Time Clocks Notice of Violation**

10. Weinberg, Roger & Rosenfeld, on behalf of SEIU Local 1021

**Racial Disparities in Homeless Population**

11. Erica Etelson

**Endorse Ratification of U.N. Convention on the Rights of the Child**

12. Peace and Justice Commission

**Downtown Street Construction**

13. Paul Glusman

**Berkeley Low Income Housing**

14. Linda Franklin (2)

**Experience Contesting a Parking Violation**

15. Tejal Bhamre

**Manufactured Housing**

16. Avram Gur Arye (3)

**Encampments/Homelessness**

17. Eric Friedman

**Parking on Narrow City Streets**

18. Paul Casperson and Marilyn Pollack

**Safe Passages Project Pilot**

19. JoAnn Lorber

**Police Review Commission Amendment on the 2020 Ballot**

20. Ammar Ansari

21. Sarah Shehata

22. Emma Gobler

23. Meghan Schwartz

**Berkeley Social Housing**

24. Hannah Forsberg

**PG&E Email Addresses**

25. Juty Blue

**Traffic Circle Trees**

26. Donna Mickleson

**Supplemental Communications and Reports 1**

**Item #7: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on October 29, 2019**

27. Revised material, submitted by Finance

**Item #21: Budget Referral: Allocate \$27,000 from the General Fund to Secure Potential Matching State Certified Local Government Landmarks Preservation Grants**

28. Revised material, submitted by Councilmember Harrison

**Item #30: Referral: Telegraph Shared Streets**

29. Revised material, submitted by Councilmember Robinson

**Item #31: Referral: Develop a Bicycle Lane and Pedestrian Street Improvement Policy**

30. Revised material, submitted by Councilmember Robinson

31. Jennifer Frohlich

32. Michael Ho

33. Connor Jackson

34. Andy Peterson

**Item #34: Proposed Formula Retail (Chain Store) Regulations**

35. Supplemental material, submitted by Councilmember Hahn

**Item #35: Referral: Measures to Address Traffic Enforcement and Bicycle Safety**

36. Revised material, submitted by Councilmember Robinson

**Supplemental Communications and Reports 2**

**Item #13: Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees**

37. Supplemental material, submitted by the City Auditor's Office

**Item #23: Oversized Vehicle Restrictions on Bicycle Boulevards**

38. Ben Gerhardstein, on behalf of the Walk Bike Berkeley Coordinating Committee

**Item #31: Referral: Develop a Bicycle Lane and Pedestrian Street Improvement Policy**

39. Revised material, submitted by Councilmember Robinson

40. Watson Ladd

**Item #33a: Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance**

41. Carol Denney (2)

**Item #35: Referral: Measures to Address Traffic Enforcement and Bicycle Safety**

42. John Rice

43. Robert Zucker

- Item #35: Referral: Measures to Address Traffic Enforcement and Bicycle Safety**  
44. 205 Communications submitted via Berkeley Considers, includes summary information

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

**Urgency Item: Resolution Ratifying and Terminating the Proclamation of Emergency by the Director of Emergency Services Due to PG&E Public Safety Power Shutoff**

45. Urgency Item, submitted by the City Manager

**Item #13: Domestic Violence Response: Berkeley Needs a Comprehensive Policy to Support City Employees**

46. Presentation, submitted by the Auditor's Office  
47. Report Highlights, submitted by the Auditor's Office  
48. Moni Law (2)

**Item #23: Oversized Vehicle Restrictions on Bicycle Boulevards**

49. Revised material, submitted by Councilmember Harrison

**Item #30: Referral: Telegraph Shared Streets**

50. Riya Master  
51. Sylvia Targ  
52. Stuart Baker, TBID Executive Director  
53. Pablo Chong Herrera  
54. Ella Smith, on behalf of the Berkeley Student Cooperative  
55. Timothy Etter  
56. Davina Srioudom

**Item #31: Referral: Develop a Bicycle Lane and Pedestrian Street Improvement Policy**

57. Jeana Zelan Peterson  
58. Geoff Lomax  
59. Dan Johnson  
60. Kendra Levine  
61. Samantha Warren, on behalf of the Cal Berkeley Democrats  
62. Harry Chomsky  
63. Igor Tregub, on behalf of the Sierra Club of San Francisco Bay  
64. Terry Taplin

**Item #32: Reserving General Funds for Housing Trust Fund Program Predevelopment Applications for 2526 San Pablo Avenue, 2001 Ashby Avenue, and 2321-2323 10th Street and Possible Measure U1 Funding Reservation**

65. Nicole Brown, on behalf of the Resources for Community Development

**Item #34: Proposed Formula Retail (Chain Store) Regulations**

66. Kirsten MacDonald, CEO of the Berkeley Chamber  
67. Steven Donaldson, on behalf of Radiant Brands  
68. Kevin Gordon, on behalf of Gordon Commercial Real Estate Services



- 69. Denny Abrams, on behalf of Fourth Street Shops
- 70. Eric Muhlebach

**Aquatic Park**

- 71. Elaine Baden, on behalf of the Berkeley Paddling and Rowing Club

**EMF's and 5G**

- 72. Regina DiMagio





Office of the City Manager

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on November 19, 2019

RECOMMENDATION

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

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$800,000.

<u>PROJECT</u>	<u>Fund</u>	<u>Source</u>	<u>Amount</u>
Sanitary Sewer Rehabilitation-Urgent Sewer Repair FY 2020	611	Sanitary Sewer Operation	\$500,000
On-Call Electrical Services for City Facilities	511 501	Measure T1 Capital Improvements	\$300,000
<b>Total:</b>			<b>\$800,000</b>

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager's purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on November 19, 2019

CONSENT CALENDAR  
November 19, 2019

construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and

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

#### BACKGROUND

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

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

Need for the services.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

#### CONTACT PERSON

Dennis Dang, Acting General Services Manager, Finance, 510-981-7329

#### Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on November 19, 2019
  - a) Sanitary Sewer Rehabilitation – Urgent Sewer Repair FY 2020
  - b) On-Call Electrical Services for City Facilities

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

DATE SUBMITTED: November 19, 2019

SPECIFICATION NO.	DESCRIPTION OF GOODS / SERVICES BEING PURCHASED	APPROX. RELEASE DATE	APPROX. BID OPENING DATE	INTENDED USE	ESTIMATED COST	BUDGET CODE TO BE CHARGED	DEPT. / DIVISION	CONTACT NAME & PHONE
20-11362-C	Sanitary Sewer Rehabilitation-Urgent Sewer Repair FY 2020	11/20/2019	12/10/2019	Sewer rehabilitation and replacement project to repair and replace old and deteriorated sewer lines.	\$500,000	611-54-623-676-3013-000-473-665130-PWENSR2005	Public Works - Engineering	Nisha Patel 981-6406  Adadu Yemane 981-6413
20-1164-C	On-Call Electrical Services for City Facilities	11/20/2019	12/18/2019	Electrical services for upcoming City projects for three years.	\$300,000	70% PW 511-54-623-677-0000-000-444-612310  30% PW 501-54-623-677-0000-000-444-612310	Public Works - Engineering	Elmar Kapfer 981-9391
<b>DEPT. TOTAL</b>					<b>\$800,000</b>			
<b>GRAND TOTAL</b>					<b>\$800,000</b>			





Office of the City Manager

CONSENT CALENDAR

November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services

Subject: Revenue Grant Agreements: Funding Support from the State of California to Conduct Childhood Lead Poisoning Prevention Services

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to submit a grant agreement to the State of California, to accept the grant, and execute any resultant revenue agreements and amendments to conduct public health promotion, protection, and prevention services for the Childhood Lead Poisoning Prevention Program (CLPPP) Agreement, which includes services to detect, manage and prevent childhood lead poisoning and promote healthy environments and behaviors in the projected amount of \$94,821 per fiscal year FY2021 through FY2023 for a total of \$284,463.

FISCAL IMPACTS OF RECOMMENDATION

The City of Berkeley will receive funds in the estimated amount of \$284,463 from the State of California for FY2021 - FY2023 through the CLPPP Agreement funding source. The contract will have its own identifying CMS, contract number, and a defined budget code.

The State Childhood Lead Poisoning Prevention Program (CLPPP): CMS No. ATE28, Revenue Budget Code is 312-51-506-559-2054-000-000-432110. There is no match required and this contract is expected to be for FY2021 – FY2023

Spending of referenced grant funds is subject to Council approval of the budget for each fiscal year and the Annual Appropriations Ordinances. Depending on the timing of when this grant is officially awarded and the amount is determined, the grant budget will be adjusted as part of a future amendment to the FY2021 – FY2023 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

As a local health jurisdiction, the City of Berkeley provides a broad range of public health program services to the community, with the goals of addressing health inequities, promoting healthy environments and behaviors, protecting residents from disease, and preventing illness, disability, and premature death. The funding provided for the Childhood Lead Poisoning Prevention Program will identify and aid lead-

burdened children in Berkeley through case management and education as well as reduce childhood exposure to lead through community partnerships, outreach and education.

BACKGROUND

The City of Berkeley receives funding from many sources annually to complete work related to improving the health of the community. As a local health jurisdiction, the City is entitled to specific State funding to meet core public health objectives. The Division is committed to providing essential childhood lead poisoning prevention services to the community to prevent the spread of disease and to promote healthy environments.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

These funds support vital services related to our mandates as a public health jurisdiction and local initiatives designed to address health inequities in Berkeley and improve the health of Berkeley residents. This non-competitive grant supports the Department's mission and provides the City with funding to protect and improve the health of the community.

ALTERNATIVE ACTIONS CONSIDERED

This funding is essential for the Public Health Division's mission and goals. The Public Health Division assesses each funding source to ensure that it supports the City's mission and goals. The alternative action of not seeking any of these funding sources would result in a significant reduction in public health services to the community.

CONTACT PERSON

Janice Chin, Manager, Public Health Division, HHCS, (510) 981-5121

Attachments:

1: Resolution



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

GRANT AGREEMENT: STATE OF CALIFORNIA FOR THE CHILDHOOD LEAD  
POISONING PREVENTION PROGRAM

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services, Public Health Division, is committed to detecting, managing, and preventing childhood lead poisoning; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services provides a broad range of needed public health program services to the community; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services works to promote healthy environments and behaviors, protect residents from disease, and prevent illness, disability, and premature death; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to eliminate health inequities; and

WHEREAS, the City of Berkeley Department of Health, Housing & Community Services seeks to prevent lead poisoning and identify and aid lead-burdened children in Berkeley; and

WHEREAS, the City of Berkeley should seek outside funding wherever possible to fund vital health services.

WHEREAS, the City of Berkeley Budget Codes (Revenue): 312-51-506-559-2054-000-000-432110; (Expenditure) 321-51-506-559-2054-000-451; CMS No. ATE28.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is hereby authorized to submit a grant agreement to the State of California for funding for fiscal years 2021, 2022, and 2023 for the Childhood Lead Poisoning Prevention Program to detect, manage, and prevent childhood lead poisoning; to accept the grant; execute any resultant revenue agreements and amendments; and implement the projects and appropriation of funding for related expenses, subject to securing the grant.

A record signature copy of said agreements and any amendments shall be on file in the office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: LaTanya Bellow, Director of Human Resources

Subject: Authorizing City Manager To Provide a 2.5 Hour Minimum Overtime Pay For Emergency Call Back Employees In The Information Technology Department

RECOMMENDATION

Adopt a Resolution Authorizing Information Technology Employees with Service Employees International Union, Local 1021 Community Services And Part Time Recreation Leaders Association (“SEIU” or “SEIU Local 1021 CSU & PTRLA) to receive 2.5 hours of overtime compensation for emergency call back involving remote work. The City has already negotiated a 2.5 hour rate with SEIU Local 1021 CSU & PTRLA in a new MOU indicated as 13.5.1.

FISCAL IMPACTS OF RECOMMENDATION

The 2.5 hour overtime rate will result in a fiscal impact of approximately \$6,000 annually. The cost may be absorbed in the current General Fund.

CURRENT SITUATION AND ITS EFFECTS

Provides the employees in the Informational Technology Department represented by SEIU Local 1021 (CSU and PTRLA) a 2.5 minimum overtime compensation for remote work in the Virtual Private Network (VPN) or other remote technologies. Many comparable agencies pay special compensation to employees who are required to perform tasks on an emergency callback basis. The cities of Oakland, El Cerrito, Hayward and San Rafael all provide between 2.0 and 2.5 hours of overtime compensation for remote work.

BACKGROUND

The City’s Information Technology (IT) Department employs Information Systems Specialists and Senior Information Systems Specialists. One individual is required to be on standby 24 hours a day/seven days a week in order to provide IT after hours support throughout the city, such as for the police department. These employees are compensated for being on “standby” consistent with the MOU. However, several years ago the IT department reached an informal agreement with these employees regarding

callbacks. The informal agreement provided that IT employees would receive a minimum of 1 hour of overtime if they received a help request through the city's help-desk system after hours.

This informal agreement was necessitated because IT employees are, in the vast majority of cases, able to respond to IT requests remotely from home. IT employees seldom need to physically return to a city facility. Accordingly, the department and employees felt that a 1-hour minimum was fair for work performed remotely, typically from home.

The City and SEIU have agreed to a Side Letter to the MOU that would expressly provide a minimum of 2.5 hours of overtime for any remote work performed by IT employees. To arrive at the 2.5 hour number, the City focused in part on SEIU Local 102's previous and current agreements with other cities involving remote work. These cities included Sebastopol, with which Local 1021 agreed to 1.0 hour of overtime pay with less than one (1) minute of time considered 'de minimis,' or not compensable. The City noted that Oakland provides 2.5 hours, El Cerrito provides 2.5 hours, Albany provides 3.0 hours, San Rafael provides 2.0 hours, Sausalito provides 3.0 hours when an employee travels between their home and place of work, and Hayward provides 2.0 hours. Additionally, the City notes that Local 1021 negotiated with the County of Alameda to agree to a staggered increase in overtime which amounted to 2.0 hours or actual time worked, whichever was greater. The average of these nearby jurisdictions with similar provisions was 2.3 hours and the City of Berkeley rounded up to 2.5 based on the industry standard.

Since January 1, 2019, there have been approximately 70 instances of work remote by IT employees totaling 128.5 hours. If the 2.5 hour minimum had been in effect, the City would have paid an additional 73 hours of overtime to date in 2019. Those 73 hours of overtime have a value of approximately \$6000.

#### ENVIRONMENTAL SUSTAINABILITY

Not applicable.

#### RATIONALE FOR RECOMMENDATION

On or about January 17, 2019, SEIU filed a grievance alleging that the City was violating Section 13.5 of the MOU by not providing to IT employees performing work remotely a minimum of four (4) hours of compensation whenever an employee was required to perform "Emergency Call Back." The City denied the grievance on the ground that an employee performing work remotely is not entitled to the minimum four (4) hours of compensation under Section 13.5. It is SEIU's position that IT employees using the Virtual Private Network or their phones to remotely repair problems with the City's computer network 24 hours a day, seven days a week, were being "called back" to work and were entitled to call back pay.

In the interest of promoting harmonious labor relations between the parties and to avoid the uncertainty, inconvenience, and expense of litigation, the City and SEIU have agreed to a settlement of this grievance in the matter of CSMCS Case No. ARB-18-0314 and which settlement included 2.5 hours of overtime compensation for remote work in the VPN and other remote technologies.

The new language agreed to at a new Section 13.5.1 is as follows:

*“For IT employees who perform remote work in the Virtual Private Network (VPN) or other remote technologies the minimum overtime compensation paid shall be for two and a half (2.5) hours. Remote work in the VPN or other remote technologies which is completed in less than one (1) minute (from log-on to log-off) shall be considered ‘de minimis’ and not compensable. Multiple ‘de minimis’ remote work shall be considered in the aggregate, and shall be compensable under this provision if the aggregate is greater than one (1) minute. If an IT employee is required to travel to a city facility or other physical location, the minimum overtime compensation shall be for four (4) hours. If the IT employee’s travel to a city facility or other physical location is performed prior to the beginning of the regularly scheduled work period and overtime continues into the regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked.”*

ALTERNATIVE ACTIONS CONSIDERED

Not applicable.

CONTACT PERSON

LaTanya Bellow, Human Resources Director, [lbellow@cityofberkeley.info](mailto:lbellow@cityofberkeley.info) or (510) 981-6807.

Attachments:

1: Resolution

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

ADOPTING A 2.5 HOUR MINIMUM OVERTIME COMPENSATION PROVISION FOR  
REMOTE WORK ON AN EMERGENCY CALLBACK BASIS

WHEREAS, Service Employees International Union Local 1021 Community Services & Part Time Recreational Leaders Association (“SEIU”) represents a number of classifications at the City of Berkeley (“City”); and

WHEREAS, SEIU and the City entered into a Memorandum of Understanding dated October 21, 2018 to June 27, 2020 (“MOU”) which set forth the wages, hours and other terms and conditions of employment for SEIU members; and

WHEREAS, Section 13.5 (Emergency Call Back Pay) of the MOU specifically provides that:

“Employees who are called into work outside their normal work schedule shall be paid overtime compensation for actual time worked. The minimum time for which such overtime compensation shall be paid shall be four (4) hours. If such overtime work is performed prior to the beginning of the regularly scheduled work period and overtime continues into the regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked.”

and

WHEREAS, the City and SEIU agreed that IT employees represented by SEIU would be compensated according to the following terms in a new Section 13.5.1:

“For IT employees who perform remote work in the Virtual Private Network (VPN) or other remote technologies the minimum overtime compensation paid shall be for two and a half (2.5) hours. Remote work in the VPN or other remote technologies which is completed in less than one (1) minute (from log-on to log-off) shall be considered ‘de minimis’ and not compensable. Multiple ‘de minimis’ remote work shall be considered in the aggregate, and shall be compensable under this provision if the aggregate is greater than one (1) minute. If an IT employee is required to travel to a city facility or other physical location, the minimum overtime compensation shall be for four (4) hours. If the IT employee’s travel to a city facility or other physical location is performed prior to the beginning of the regularly scheduled work period and overtime continues into the regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked.

and

WHEREAS, the City recommends authorizing the 2.5 hour minimum overtime compensation rate for emergency call back pay.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that a 2.5 hour minimum overtime compensation provision be effective as to the applicable MOU with SEIU Local 1021 CSU & PTRLA at the start of the pay period containing the date of Council approval.

Exhibits:

1. Agreed Upon Side Letter

**Side Letter Agreement**  
**Between City of Berkeley**  
**and Service Employees International Union Local 1021**  
**Regarding Emergency Call Back**  
**(CSMCS Case No. ARB-18-0314)**

1. The City of Berkeley (City) and the Service Employees International Union Local 1021 (SEIU) are parties to a Memorandum of Understanding (MOU) in effect from October 21, 2018 to June 27, 2020.
2. Section 13.5 of the MOU provides the following with respect to Emergency Call Back compensation:

Employees who are called into work outside their normal work schedule shall be paid overtime compensation for actual time worked. The minimum time for which such overtime compensation shall be paid shall be four (4) hours. If such overtime work is performed prior to the beginning of the regularly scheduled work period and overtime continues into the regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked.

3. On or about January 17, 2019, SEIU filed a grievance alleging that the City was violating Section 13.5 of the MOU by not providing to IT employees performing work remotely a minimum of four (4) hours of compensation whenever an employee was required to perform "Emergency Call Back." The City denied the grievance on the ground that an employee performing work remotely is not entitled to the minimum four (4) hours of compensation under Section 13.5. It is SEIU's position that IT employees using the Virtual Private Network or their phones to remotely repair problems with the City's computer network 24 hours a day, seven days a week, were being "called back" to work and were entitled to call back pay.
4. In the interest of promoting harmonious labor relations between the parties and to avoid the uncertainty, inconvenience, and expense of litigation, the City and SEIU have agreed to this Side Letter in settlement of this grievance. (CSMCS Case No. ARB-18-0314)
5. The parties agree to the following provision which will be considered a Side Letter to the current MOU:

**Section 13.5.1**

**For IT employees who perform remote work in the Virtual Private Network (VPN) or other remote technologies the minimum overtime compensation paid shall be for two and a half (2.5) hours. Remote work in the VPN or other remote technologies which is completed in less than one (1) minute (from log-on to log-off) shall be considered 'de minimis' and not compensable. Multiple 'de minimis' remote work shall be considered in the aggregate, and**



shall be compensable under this provision if the aggregate is greater than one (1) minute. If an IT employee is required to travel to a city facility or other physical location, the minimum overtime compensation shall be for four (4) hours. If the IT employee's travel to a city facility or other physical location is performed prior to the beginning of the regularly scheduled work period and overtime continues into the regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked.

6. This new provision will take effect immediately upon approval by the City Council for the City of Berkeley. The City will present this Side Letter to the City Council for approval as soon as possible.
7. City staff will inform the City Council that this Side Letter has been reached as a result of negotiations between the parties and will recommend approval of the Side Letter by the City Council. If the City fails to present this Side Letter to the City Council as soon as practicable, or if the City Council does not approve the Side Letter, the grievance will be reset for arbitration before the same arbitrator with no impact on the potential remedy sought by SEIU.
8. SEIU hereby withdraws its grievance.
9. The parties will split the cost of any fees resulting from the cancellation of the arbitration in this matter.

11/1/19  
Date

*D. Williams Bidj*  
For City of Berkeley

10/30/19  
Date

*[Signature]*  
For SEIU Local 1021





Office of the City Manager

CONSENT CALENDAR

November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront Department  
 Subject: Donations from Friends of Berkeley Tuolumne Camp and Berkeley Echo Lake Camp Association for Echo Lake Camp Scholarships and Programs

RECOMMENDATION

Adopt a Resolution to accept a cash donation of \$7,050 from the Friends of Berkeley Tuolumne Camp (FOBTC), and a cash donation of \$4,725 from the Berkeley Echo Lake Camp Association (BELCA), for support of Echo Lake Camp scholarships and programs.

FISCAL IMPACTS OF RECOMMENDATION

The two, separate cash donations in the amount of \$7,050 from FOBTC and \$4,725 from BELCA will be deposited into the Camps Fund donation revenue budget code 125-52-543-582-0000-000-000-481110. The donations will be appropriated in the Second Amendment to the FY 2020 Annual Appropriations Ordinance.

CURRENT SITUATION AND ITS EFFECTS

The City's Open Governance Ordinance (OGO) requires City Council approval of any gift to the City in excess of \$1,000 (BMC Section 2.06.150, Ord. 7,166- N.S.)

The Friends of Berkeley Tuolumne Camp (FOBTC) have recently completed a fundraising effort to make a cash donation to the City's Camps Fund to fully fund 100% fee waivers (camp scholarships) to twelve (12) youth campers and three (3) Counselors-In-Training.

The Friends of Berkeley Tuolumne Camp have offered to help support the Youth Camp and Counselor-In-Training programs at Berkeley Echo Lake Camp by offering twelve (12) 100% full-fee waivers for Youth Camp participants, and three (3) 100% full-fee waivers for Counselors-In-Training who qualify for a Recreation Division program scholarship based upon financial need. The total value of this donation is \$7,050.00, and the donation will help offset the lost revenue incurred by the City's administration of the Echo Lake Camp scholarship program.

The Berkeley Echo Lake Camp Association (BELCA) have also recently completed a fundraising effort to make a separate cash donation of \$4,725.00 to the City's Camps

Fund to support the Echo Lake Camp Teen Weekend Program, Echo Lake Pre-K Camping Trip, and Echo Lake Youth Camp Scholarships.

BELCA has offered to donate \$2,300 to offset bus transportation costs associated with the Echo Lake Camp Teen Weekend Camping Trip, and \$1,900 to offset the Pre-K Camping Trip costs. In addition, BELCA has offered to donate \$525 to support the Echo Lake Youth Camp Scholarship program. This donation will offset the City's cost for administering two (2) partial-fee waivers (scholarships) that were provided during the Summer 2019 Echo Lake Youth Camp Program.

Echo Lake Youth Camp, Teen Weekend, and Pre-K Weekends are popular and well attended programs at Echo Lake Camp. In 2019, the Camp offered four sessions of youth camp serving 427 youth campers and 53 counselors-in-training, and the City provided forty-three (43) 100% full-fee waivers and two (2) 50% partial-fee waivers to youth camp participants, and three (3) 100% full-fee waivers to Counselor-In-Training participants. Teen Weekend was attended by 60 participants, and Pre-K Weekend was attended by 45 total participants. Both of these weekend programs include round-trip transportation to and from Berkeley, and are free to participants.

In total, the City provided 201 100% full-fee waivers and five (5) 50% partial-fee waivers to Echo Lake Campers in 2019. The total value of City administered Echo Lake Camp scholarships in 2019 is \$66,836.50.

#### BACKGROUND

Since 1922, Tuolumne and Echo Lake Camps have provided unique ways for Berkeley youth and families to experience family camp in the beautiful Sierra Mountain setting.

Friends of Berkeley Tuolumne Camp (FOBTC) is dedicated to preserving and enhancing the camp experience for present and future generations through education, volunteer efforts, and financial support. Since the loss of Berkeley Tuolumne Camp in 2013, many former Tuolumne campers and Friends of Berkeley Tuolumne Camp members have attended the new Echo Lake Family Camp program. They have been very generous and supportive of Echo Lake Camp.

The Berkeley Echo Lake Camp Association (BELCA) is dedicated to preserving and enhancing the Berkeley Echo Lake Camp experience for all campers of the Berkeley community. Their efforts focus on financial support, general advocacy, and enhancements to the programs and physical site of Berkeley Echo Lake Camp. Their goal is to contribute to Berkeley's environmental and social awareness through the continued success of the camp, and the preservation of the camp's history and natural beauty.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

This donation will directly offset costs incurred by the City for Echo Lake Youth Camp and Counselor-In-Training program scholarships, as well as the Echo Lake Camp Teen Weekend and Pre-K Weekend programs administered during the 2019 summer season.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Craig Veramay, Recreation Program Supervisor, PRW-Recreation Division, 510-981-6717

Attachments:

1: Resolution

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

DONATION OF \$7,050 TO THE CITY OF BERKELEY FROM THE FRIENDS OF BERKELEY TUOLUMNE CAMP AND DONATION OF \$4,725 FROM THE BERKELEY ECHO LAKE CAMP ASSOCIATION

WHEREAS, the Friends of Berkeley Tuolumne Camp (FOBTC) and the Berkeley Echo Lake Camp Association (BELCA) are dedicated to preserving and enhancing the Berkeley Camps experience for all campers of the Berkeley community.; and

WHEREAS, the Berkeley Echo Lake Camp Association has been generous and supportive of Echo Lake Camp programs; and

WHEREAS, since the loss of Berkeley Tuolumne Camp to the Rim Fire, the Friends of Berkeley Tuolumne Camp have also been generous and supportive of Echo Lake Camp programs; and

WHEREAS, the Friends of Berkeley Tuolumne Camp have offered to help support the Youth Camp and Counselor In Training scholarship programs at Echo Lake Camp by offering financial support of \$7,050.00 for the summer 2019 season. This donation will help offset operating costs incurred by the City for Echo Lake Camp scholarship administration; and

WHEREAS, the Berkeley Echo Lake Camp Association has offered to donate to the City of Berkeley Camps Fund to support the Berkeley Echo Lake Camp Teen Weekend, Pre-K Weekend, and Youth Camp programs, offering a cash donation of \$4,725 to help offset operating costs incurred by the City.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley to accept a cash donation of \$7,050 from the Friends of Berkeley Tuolumne Camp for scholarships at Echo Lake Camp, and a cash donation of \$4,725 from the Berkeley Echo Lake Camp Association for program support and camp scholarships at Echo Lake Camp.



Office of the City Manager

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Timothy Burroughs, Director, Planning and Development Department  
 Subject: Priority Development Area Nomination – North Berkeley BART Station

RECOMMENDATION

Adopt a Resolution in support of nominating the North Berkeley BART station as a Priority Development Area.

FISCAL IMPACTS OF RECOMMENDATION

Upon Metropolitan Transportation Commission's (MTC's) designation of the North Berkeley BART station as a Priority Development Area, the City of Berkeley would become eligible to apply for, and receive, grant funding from MTC for planning activities and infrastructure improvements related to the development of the North Berkeley BART station.

BACKGROUND

*Plan Bay Area 2050* is the long-range regional planning effort undertaken by MTC and the Association of Bay Area Governments (ABAG) to outline strategies for growth and investment in the nine-county Bay Area through the year 2050. The Plan will serve as the Bay Area's Regional Transportation Plan (RTP), to be developed in accordance with the California Transportation Commission's RTP guidelines, and will also serve as the Bay Area's Sustainable Communities Strategy, fostering compliance with greenhouse gas emissions reductions targets set by the California Air Resources Board, pursuant to the Sustainable Communities and Climate Protection Act (SB375). The Plan is to be adopted in 2021.

*Plan Bay Area 2050* envisions new development concentrated in Priority Development Areas (PDAs). PDAs are places with convenient public transit service prioritized by local governments for housing, jobs, and services. Jurisdictions with PDAs have access to dedicated funding for plans and infrastructure improvements focused in those areas. Since 2012, MTC has invested more than \$630 million in PDA projects that advance community goals, including new sidewalks and bike lanes, improved transit access, and development of housing, including affordable units. In addition, many competitive state transportation and housing funding programs now prioritize projects in places that implement regional plans such as PDAs.

The City of Berkeley currently has six PDAs (see *Attachment 3*): the Adeline Corridor; Downtown Berkeley; San Pablo Avenue; South Shattuck Avenue; Telegraph Avenue and the Southside; and University Avenue. The North Berkeley BART PDA would be the City's seventh PDA. The City received a grant of \$750,000 from MTC for planning in the Adeline / South Shattuck PDAs and anticipates receiving substantial additional funding for Specific Plan implementation. If the next round of PDA funding has a minimum size requirement, the North Berkeley PDA may be combined with another Berkeley PDA or planning area to qualify for funding.

In addition, State law (AB 2923, Chiu) passed in 2018 requires BART to develop transit-oriented development (TOD) zoning standards for each BART station, establishing minimum local zoning requirements for height, density, parking, and floor area ratio by July 1, 2020. The City is currently working with BART to establish such zoning regulations for the North Berkeley BART station, including a community visioning process for development at the station. Establishment of a North Berkeley BART PDA would allow the City to leverage funding that could support this planning process.

#### ENVIRONMENTAL SUSTAINABILITY

The designation of the North Berkeley BART station as a PDA will qualify the area for grant funds to support planning and infrastructure for the development of a TOD on the North Berkeley BART station site. Dense residential development in close proximity to transit and multimodal access improvements further the goals of the City of Berkeley's Climate Action Plan to reduce GHG emissions from the transportation sector and to improve the efficiency of energy use in buildings.

#### EQUITY ANALYSIS

The designation of North Berkeley BART as a PDA would encourage residential development near high-quality public transit. TOD at BART would offer sustainable, low-cost access to jobs and educational institutions and provide affordable housing per local (e.g. Inclusionary Housing Ordinance, Housing Trust Fund, Measure O) and State initiatives. Stable, affordable housing paired with transit can help prevent displacement and job-loss and can help improve the quality-of-life for individuals, families and communities.

#### RATIONALE FOR RECOMMENDATION

Designation of the North Berkeley BART station as a PDA will qualify the area for grant funds to support planning and infrastructure for the development of sustainable TOD, including affordable housing, on the North Berkeley BART station site. Designation of the area as a PDA would not compel the City of Berkeley to undertake any action which would be inconsistent with current plans, policies or programs. Choosing not to designate the area as a PDA could exclude the North Berkeley BART station project from certain sources of grant funding.

#### ALTERNATIVE ACTIONS CONSIDERED

None.



CONTACT PERSON

Alene Pearson, Principal Planner, Land Use Planning, 510-981-7489

Justin Horner, Associate Planner, Land Use Planning, 510-981-7476

Attachments:

- 1: Resolution
- 2: Map of Proposed North Berkeley BART PDA
- 3: Map of City of Berkeley PDAs

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

DESIGNATION OF NORTH BERKELEY BART STATION AS A PRIORITY  
DEVELOPMENT AREA

WHEREAS, the Metropolitan Transportation Commission and the Association of Bay Area Governments are preparing *Plan Bay Area 2050* (the Plan), a long-range plan charting the course for the future of the nine-county San Francisco Bay Area; and

WHEREAS, the Plan will serve as the Bay Area's Regional Transportation Plan and Sustainable Communities Strategy, outlining strategies for growth and investment through the year 2050; and

WHEREAS, the Plan is expected to support new development concentrated in Priority Development Areas (PDAs). PDAs are places with convenient public transit service prioritized by local governments for housing, jobs, and services; and

WHEREAS, jurisdictions with PDAs have access to dedicated funding from MTC for plans and infrastructure improvements focused on PDAs; and

WHEREAS, the City of Berkeley (the City) is currently working with the Bay Area Rapid Transit District (BART) to establish zoning regulations for the development of a transit-oriented development (TOD) at the North Berkeley BART station; and





WHEREAS, designation of the North Berkeley BART station as a PDA would qualify the area for grant funds to support planning and infrastructure for the development of TOD on the North Berkeley BART station site; and

WHEREAS, designation of the North Berkeley BART station does not require the City to approve any specific housing or other project at the North Berkeley BART station site at the time, nor does this designation compel the City of Berkeley to undertake any action inconsistent with current City plans, policies or programs.

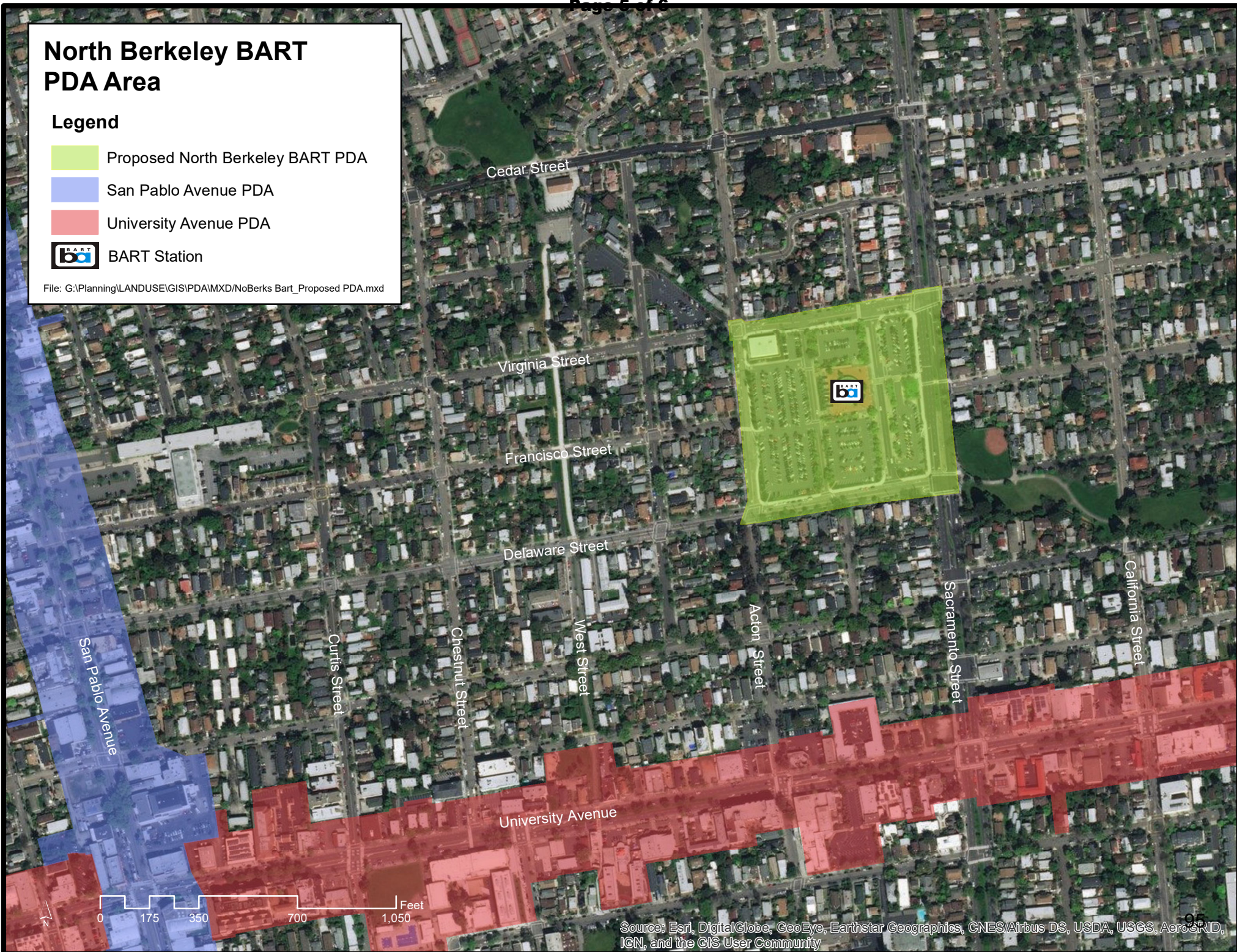
NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley nominate the North Berkeley BART station for PDA designation.

# North Berkeley BART PDA Area

## Legend

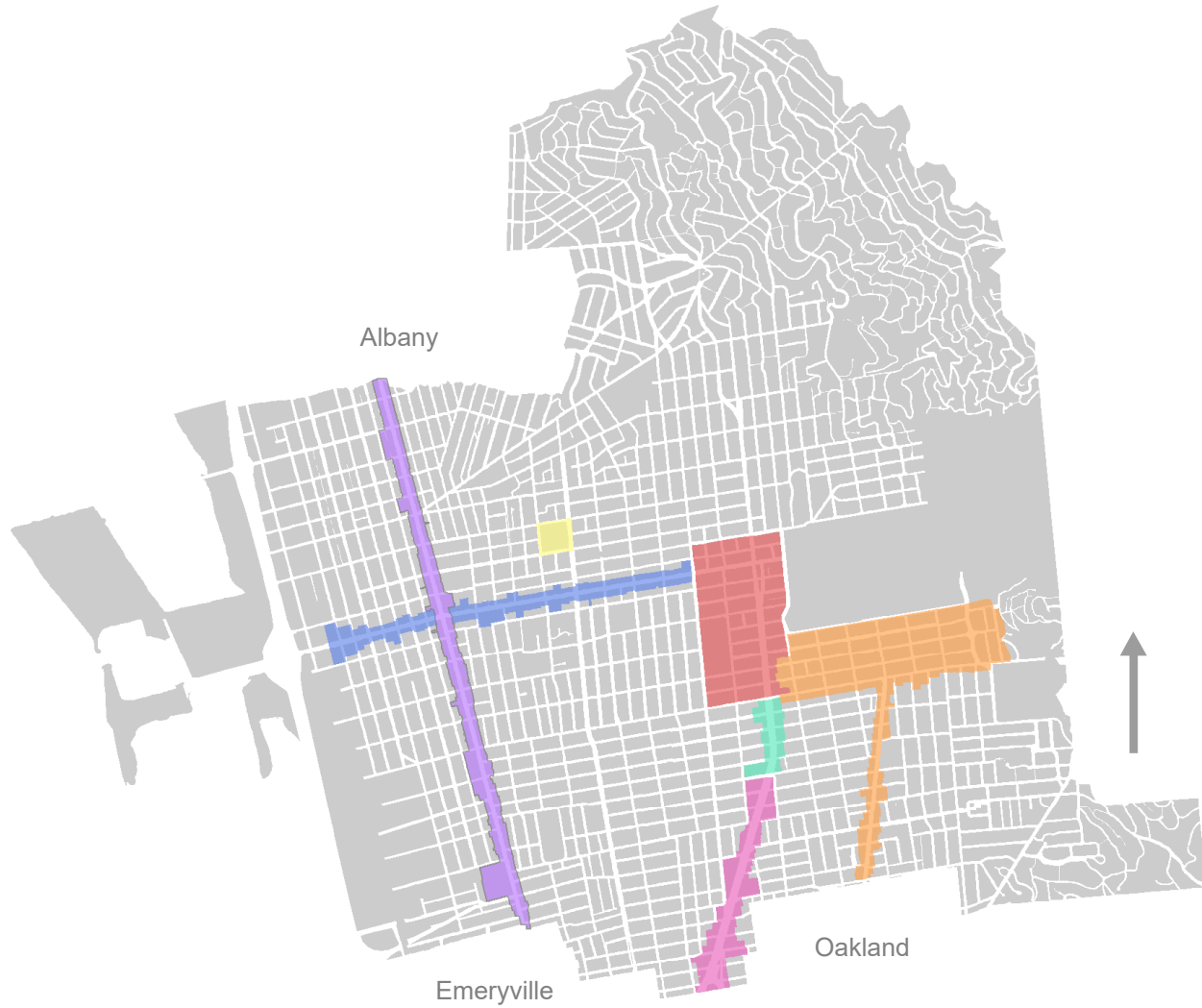
-  Proposed North Berkeley BART PDA
-  San Pablo Avenue PDA
-  University Avenue PDA
-  BART Station

File: G:\Planning\LANDUSE\GIS\PDA\MXD\NoBerks Bart\_Proposed PDA.mxd










# City of Berkeley | Priority Development Areas (PDA)

Last Updated: October 10, 2019



### Legend

- |  |  |
|--|--|
|  Proposed North Berkeley BART PDA |  Shattuck PDA   |
|  Adeline PDA                      |  Telegraph PDA  |
|  Downtown PDA                     |  University PDA |
|  San Pablo PDA                    |  |



Office of the City Manager

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Department of Public Works  
 Subject: Contract: Redgwick Construction Company for Ninth Street Bicycle Boulevard Pathway Extension Phase II

RECOMMENDATION

Adopt a Resolution:

1. Approving plans and specifications for the Ninth Street Bicycle Boulevard Pathway Extension Phase II, (“Ninth Street Pathway – Phase II”, or “Project”), Specification No. 19-11331-C;
2. Rejecting the bid protest of Mark Lee and Yong Kay Inc., doing business as Bay Construction Company, the third-lowest bidder; and
3. Accepting the bid of J. A. Gonsalves & Son Construction, Inc., the second-lowest responsive and responsible bidder; and
4. Accepting the bid of Redgwick Construction Company, the lowest responsive and responsible bidder; and
5. Authorizing the City Manager to execute a contract with Redgwick Construction Company and any amendments, extensions, and/or change orders until completion of the Project in accordance with the approved plans and specifications, in an amount not to exceed \$1,481,417, which includes a contingency of ten percent.

FISCAL IMPACTS OF RECOMMENDATION

The Ninth Street Bicycle Boulevard Pathway Extension Phase II Project’s construction budget consists of \$677,697 from the Caltrans Active Transportation Program (ATP) grant, \$613,000 from the Alameda County Transportation Commission (Alameda CTC) Discretionary County Measure grant, and \$190,720 of local matching funds from the City, for a total of \$1,481,417.

Funding for the Redgwick Construction Company contract will be available in the FY 2020 budget via the Second Amendment to the Annual Appropriations Ordinance in the Caltrans Grant Fund (344-54-622-668-0000-000-431-665110-), the Capital Grants – Local Fund (307-54-622-668-0000-000-431-665110-), the Measure BB- Bike and Ped Fund (135-54-622-668-0000-000-431-665110-) and the Measure B Local Street and Road Fund (130-54-622-668-0000-000-431-665110-).

Low Bid by Redgwick Construction Company	\$1,346,743
10% Contingency	\$134,674
Total Not-To-Exceed Construction Cost	\$1,481,417

This contract has been assigned Contract Management System (CMS) No. RSZTH.

CURRENT SITUATION AND ITS EFFECTS

On October 8, 2019, five bids were opened for the Project, with bids ranging from \$1,346,743 to \$1,860,541. The determination of the lowest responsible bidder was based on the total bid price, as indicated in the bid documents. The low bidder was Redgwick Construction Company (“Redgwick”), with a bid of \$1,346,743, or \$146,743 above the engineer’s estimate of \$1.2 million. Staff have identified additional funding to cover the total bid price of the low bidder, plus a 10% contingency, as indicated above. Staff have verified that Redgwick Construction is the lowest responsive and responsible bidder, in accordance with the Public Contract Code.

On October 16, 2019, the City received a bid protest by the third-lowest bidder, Mark Lee and Yong Kay Inc., doing business as Bay Construction Company (“Bay Construction”). Bay Construction protested that Redgwick and the second-lowest bidder, J.A. Gonsalves & Son Construction Inc. (“J.A. Gonsalves”) did not complete the required subcontractor listing form correctly as part of their bids. As a result, Bay Construction indicated that Redgwick’s and J.A. Gonsalves’ bids should be deemed non-responsive.

The City forwarded Bay Construction’s bid protest letter to Redgwick and J.A. Gonsalves for review and response. Both responded by demonstrating that their bids comply with Section 4104 of the Public Contract Code, which describes requirements for listing subcontractors. City staff send Redgwick’s and J. A. Gonsalves’ responses to Bay Construction for a response, but a response was not provided.

After evaluating the basis of the protest by Bay Construction, the responses by Redgwick and J.A. Gonsalves, and the lack of counter-response by Bay Construction, City staff determined that Redgwick’s and J.A. Gonsalves’ bids are responsive and responsible and that Bay Construction’s protest does not have merit. Therefore, it is recommended that the Council reject the bid protest by Bay Construction Company and award the contract for this project to the lowest responsive and responsible bidder, Redgwick Construction Company.

The Living Wage Ordinance does not apply to this project as Department of Public Works construction contracts are, pursuant to City policy, subject to State prevailing wage laws. Redgwick Construction Company has submitted a Certification of Compliance with the Equal Benefits Ordinance. The Community Workforce Agreement applies to this project because the estimated construction cost exceeds \$500,000. As a result, the successful bidder and all subcontractors will be required to sign an agreement to be bound by the terms of the Community Work Force Agreement.

## BACKGROUND

The Ninth Street Bicycle Boulevard Pathway Extension (Phase I and II) is a proposed Class 1<sup>1</sup> bike and pedestrian pathway connecting Berkeley's Ninth Street Bicycle Boulevard to the Emeryville Greenway. Supported by the City's Bicycle Master Plan, adopted by Council in April 2017, the Project will close the last gap in this important north-south urban bicycle corridor, which serves many biking and walking trips by residents, employees, and retail customers in the Project's immediate vicinity.

Phase I, completed in 2012, created a 0.1-mile, two-block section of Class 1 pathway from Murray Street to the Emeryville Greenway. Bicycle and pedestrian access from the Phase I pathway to the Ninth Street Bicycle Boulevard, is currently provided by a temporary Class 3<sup>2</sup> bicycle route on another section of Ninth Street that is separate from the main Ninth Street Bicycle Boulevard. This temporary route was constructed along Ninth Street between Anthony Street and Murray Street and on private property belonging to Berkeley Bowl West through a temporary easement, which was part of the provisions in their development agreement with the City. This Class 3 facility does not provide adequate bicycle and pedestrian access because it requires a longer, non-linear route and requires bicyclists to share a relatively narrow and congested road with motor vehicles.

Phase II completes the pathway connection between West Berkeley and Emeryville by providing a safer, more direct, and continuous off-street route and intersection crossing, as opposed to the current temporary route. Phase II will construct the last two sections of new shared-use pathway on City-owned property; one section from the end of Ninth Street just south of the intersection with Heinz Avenue to Ashby Avenue, and the other section between Ashby Avenue and Murray Street. Phase II will also construct signal and intersection improvements near the intersection of Ninth Street and Ashby Avenue, where the pathway will cross Ashby Avenue.

The Ninth Street Bicycle Boulevard Pathway Extension Phase II project is one of the City's strategic plan projects, advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

## ENVIRONMENTAL SUSTAINABILITY

The project will construct safety-related elements for pedestrians and bicyclists, likely increasing the number of residents and visitors bicycling and walking. Increasing cycling and walking is the number two goal under the Transportation and Land Use section of the Climate Action Plan. The Plan sets the goal of reducing transportation emissions 33 percent below 2000 levels by 2020 and 80 percent by 2050, and it states that

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<sup>1</sup> Defined as a bike path or shared-use path with exclusive right-of-way for bicyclists and pedestrians, separate from the roadway.

<sup>2</sup> Defined as a street designated for bicycle travel and shared with motor vehicles not served by dedicated bikeways to provide continuity to the bike network. Bike routes are established by placing bike route signs and shared roadway markings (sharrow) along roadways.

transportation modes such as public transit, walking, and cycling must become the primary means of fulfilling our mobility needs in order to meet these goals.

#### RATIONALE FOR RECOMMENDATION

As indicated above, the project elements are intended to increase pedestrian and bicyclist safety. This project is a high priority in the City's Bicycle Master Plan, initially adopted by Council in April 2000, with the most recent Council adoption of an update in 2017. Completion of Project construction requires contracted services, as the City does not possess the in-house staff or equipment resources needed. This construction contract must be awarded by November 27, 2019 in order to satisfy grant requirements, or else the City will lose grant funding for this Project.

#### ALTERNATIVE ACTIONS CONSIDERED

None. The City does not have adequate in-house resources to complete the project.

#### CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works Department (510) 981-7061  
Kenneth Jung, Associate Civil Engineer, Public Works Department (510) 981-7028

#### Attachments:

- 1: Resolution
- 2: Site Map
- 3: Abstract of Bids



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

CONTRACT: REDGWICK CONSTRUCTION COMPANY FOR  
NINTH STREET BICYCLE BOULEVARD PATHWAY EXTENSION PHASE II

WHEREAS, completion of the Ninth Street Bicycle Boulevard Pathway Extension projects (Phases I and II) will close an existing gap in the bicycle network between West Berkeley and Emeryville; and

WHEREAS, Phase I of the Ninth Street Bicycle Boulevard Pathway Extension was completed in June 2012 and consists of a shared-use pathway between Murray Street, near Ninth Street, and the Emeryville border; and

WHEREAS, A temporary path was created to facilitate bicycle and pedestrian movement between the Phase I pathway and the Ninth Street Bicycle Boulevard, and this temporary path requires bicyclists to share a roadway with motor vehicles and is a longer, non-linear route than the proposed pathway that will be constructed in Phase II;

WHEREAS, the Phase II pathway will replace the temporary path, and the former will consist of a shared-use pathway and improved crossing at the Ninth Street/Ashby Avenue intersection, providing a safer and more direct connection between the Phase I pathway and the Ninth Street Bicycle Boulevard; and

WHEREAS, the City has neither the staff nor the equipment needed to undertake this Project; and

WHEREAS, an invitation for bids was duly advertised and Redgwick Construction Company was the lowest responsive and responsible bidder; and

WHEREAS, the third-lowest bidder, Mark Lee and Yong Kay Inc., doing business as Bay Construction Company, protested the bids by Redgwick Construction Company and the second-lowest bidder, J. A. Gonsalves & Son Construction Inc.; and

WHEREAS, Redgwick Construction Company's bid and J. A. Gonsalves & Son Construction Inc.'s bids appear to correctly list subcontractors in accordance with Section 4104 of the Public Contract Code; and

WHEREAS, funding is available in the FY 2020 budget in the Caltrans Grant Fund (Fund 344), the Capital Grants – Local Fund (Fund 307), the Measure BB- Bike and Ped Fund (Fund 135) and the Measure B Local Street and Road Fund; and

WHEREAS, the contract has been entered into the citywide contract database with Contract Management System (CMS) No. RSZTH, no other funding is required, and no other project will be delayed due to this expenditure.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Plans and Specification No. 19-11331-C for the Ninth Street Bicycle Boulevard Pathway Extension Phase II project are approved.

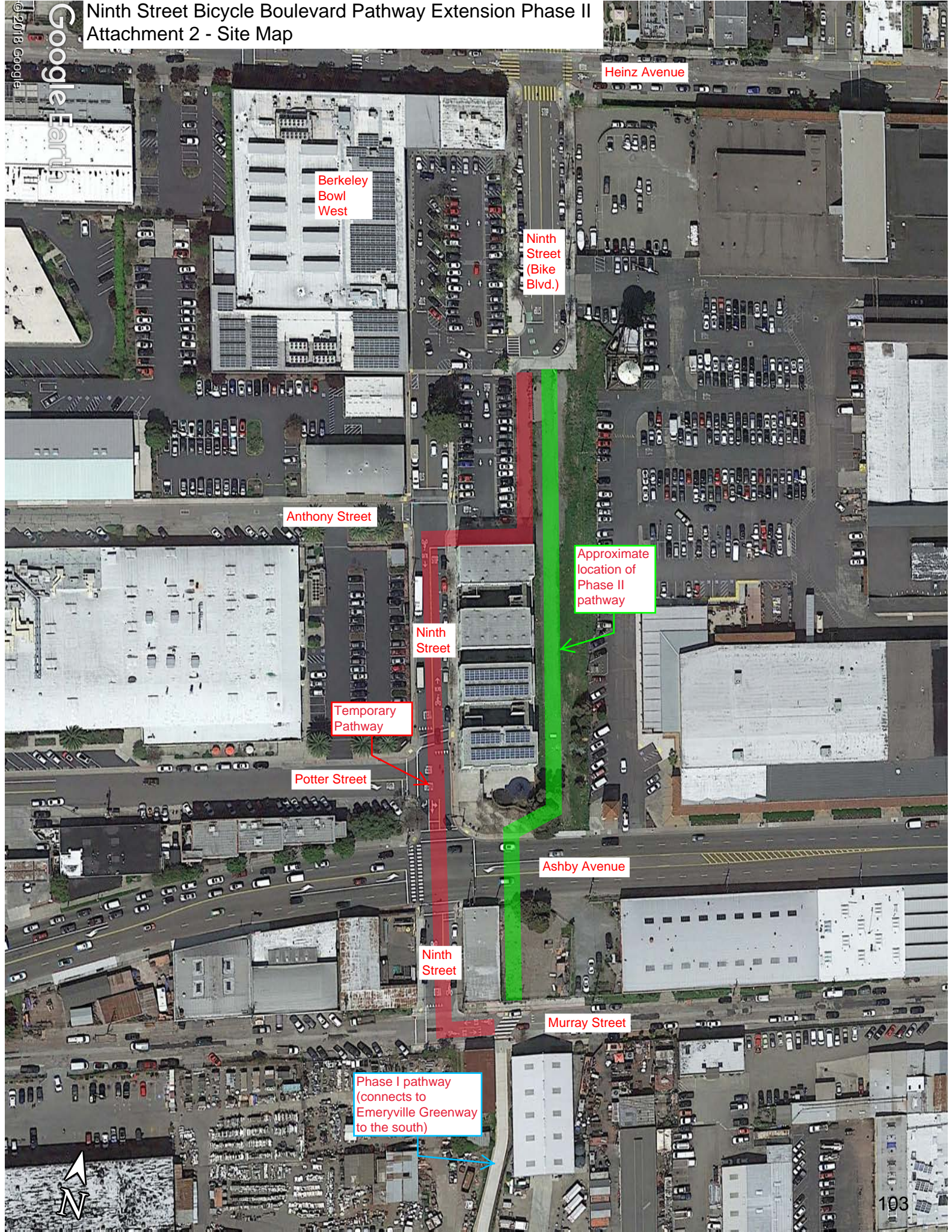
BE IT FURTHER RESOLVED that the Council of the City of Berkeley rejects the bid protest by Bay Construction Company.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley accepts the bid of the second-lowest responsive and responsible bidder, J.A. Gonsalves & Son.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley accepts the bid of the lowest responsive and responsible bidder, Redgwick Construction Company.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions, and/or change orders until completion of the project in accordance with the approved plans and specifications with Redgwick Construction Company in an amount not to exceed \$1,481,417, which includes a ten percent construction 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.

# Ninth Street Bicycle Boulevard Pathway Extension Phase II Attachment 2 - Site Map



Berkeley Bowl West

Ninth Street (Bike Blvd.)

Heinz Avenue

Anthony Street

Approximate location of Phase II pathway

Ninth Street

Temporary Pathway

Potter Street

Ashby Avenue

Ninth Street

Murray Street

Phase I pathway (connects to Emeryville Greenway to the south)



ATTACHMENT 3  
CITY OF BERKELEY  
ABSTRACT OF BIDS

For: Ninth Street Pathway - Phase II

Spec. No. 19-11331-C

Bid Opening: October 8, 2019, 2:00 PM

Item No.	Est. Qty	Unit	Description	J. A. Gonsalves & Son Construction Inc. Napa, CA		Redgwick Construction Co. Oakland, CA		Mark Lee & Yong Kay, Inc. DBA Bay Construction Oakland, CA		Sposeto Engineering Inc. Livermore, CA		Kerex Engineering, Inc. Pleasant Hill, CA	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
A1	1	LS	Mobilization & Demobilization	\$ 15,000.00	\$ 15,000.00	\$ 41,500.00	\$ 41,500.00	\$ 62,500.00	\$ 62,500.00	\$ 30,000.00	\$ 30,000.00	\$ 50,000.00	\$ 50,000.00
A2	1	LS	Traffic Control	\$ 85,000.00	\$ 85,000.00	\$ 34,950.00	\$ 34,950.00	\$ 25,000.00	\$ 25,000.00	\$ 92,000.00	\$ 92,000.00	\$ 50,000.00	\$ 50,000.00
A3	1	LS	Construction Area Information Signs	\$ 15,000.00	\$ 15,000.00	\$ 3,000.00	\$ 3,000.00	\$ 1,250.00	\$ 1,250.00	\$ 9,800.00	\$ 9,800.00	\$ 7,500.00	\$ 7,500.00
A4	1	LS	Water Pollution Control	\$ 14,500.00	\$ 14,500.00	\$ 5,500.00	\$ 5,500.00	\$ 5,000.00	\$ 5,000.00	\$ 11,300.00	\$ 11,300.00	\$ 10,000.00	\$ 10,000.00
A5	1	LS	Air Quality Monitoring	\$ 12,500.00	\$ 12,500.00	\$ 500.00	\$ 500.00	\$ 15,000.00	\$ 15,000.00	\$ 5,000.00	\$ 5,000.00	\$ 10,000.00	\$ 10,000.00
A6	3,240	SF	Remove Concrete & Base Material	\$ 5.00	\$ 16,200.00	\$ 7.00	\$ 22,680.00	\$ 8.75	\$ 28,350.00	\$ 14.60	\$ 47,304.00	\$ 7.00	\$ 22,680.00
A7	1,330	SF	Remove Asphalt & Base Material	\$ 7.00	\$ 9,310.00	\$ 12.00	\$ 15,960.00	\$ 7.50	\$ 9,975.00	\$ 10.00	\$ 13,300.00	\$ 7.00	\$ 9,310.00
A8	1	EA	Remove Storm Drain Catch Basin	\$ 1,000.00	\$ 1,000.00	\$ 650.00	\$ 650.00	\$ 3,750.00	\$ 3,750.00	\$ 1,600.00	\$ 1,600.00	\$ 7,500.00	\$ 7,500.00
A9	10	LF	Remove Storm Drain Pipeline	\$ 150.00	\$ 1,500.00	\$ 200.00	\$ 2,000.00	\$ 31.25	\$ 312.50	\$ 270.00	\$ 2,700.00	\$ 500.00	\$ 5,000.00
A10	1	EA	Plug Existing Storm Drain Pipeline Connection	\$ 11,750.00	\$ 11,750.00	\$ 500.00	\$ 500.00	\$ 750.00	\$ 750.00	\$ 1,400.00	\$ 1,400.00	\$ 2,500.00	\$ 2,500.00
A11	1	LS	Remove Trees	\$ 35,000.00	\$ 35,000.00	\$ 2,500.00	\$ 2,500.00	\$ 7,500.00	\$ 7,500.00	\$ 4,000.00	\$ 4,000.00	\$ 12,500.00	\$ 12,500.00
A12	785	SF	HMA Plug (Hot Mix Asphalt)	\$ 20.00	\$ 15,700.00	\$ 30.00	\$ 23,550.00	\$ 11.25	\$ 8,831.25	\$ 21.00	\$ 16,485.00	\$ 40.00	\$ 31,400.00
A13	69	CY	Class II Aggregate Base	\$ 130.00	\$ 8,970.00	\$ 70.00	\$ 4,830.00	\$ 70.00	\$ 4,830.00	\$ 220.00	\$ 15,180.00	\$ 115.00	\$ 7,935.00
A14	195	LF	Curb & Gutter (Type A2-6)	\$ 95.00	\$ 18,525.00	\$ 135.00	\$ 26,325.00	\$ 62.50	\$ 12,187.50	\$ 63.00	\$ 12,285.00	\$ 130.00	\$ 25,350.00
A15	30	LF	Curb & Gutter (Type B4)	\$ 95.00	\$ 2,850.00	\$ 200.00	\$ 6,000.00	\$ 62.50	\$ 1,875.00	\$ 67.00	\$ 2,010.00	\$ 250.00	\$ 7,500.00
A16	4	EA	Curb Transition Areas	\$ 1,250.00	\$ 5,000.00	\$ 550.00	\$ 2,200.00	\$ 2,500.00	\$ 10,000.00	\$ 440.00	\$ 1,760.00	\$ 2,000.00	\$ 8,000.00
A17	29	LF	Barrier Curb	\$ 70.00	\$ 2,030.00	\$ 114.00	\$ 3,306.00	\$ 72.50	\$ 2,102.50	\$ 52.00	\$ 1,508.00	\$ 250.00	\$ 7,250.00
A18	1	EA	Storm Drain Catch Basin	\$ 7,500.00	\$ 7,500.00	\$ 4,500.00	\$ 4,500.00	\$ 5,000.00	\$ 5,000.00	\$ 6,200.00	\$ 6,200.00	\$ 8,900.00	\$ 8,900.00
A19	21	LF	Storm Drain Pipeline (HDPE)	\$ 300.00	\$ 6,300.00	\$ 600.00	\$ 12,600.00	\$ 75.00	\$ 1,575.00	\$ 296.00	\$ 6,216.00	\$ 900.00	\$ 18,900.00
A20	1	EA	Storm Drain Connection	\$ 12,500.00	\$ 12,500.00	\$ 500.00	\$ 500.00	\$ 3,750.00	\$ 3,750.00	\$ 950.00	\$ 950.00	\$ 7,500.00	\$ 7,500.00
A21	3,195	SF	Concrete Sidewalk & Path Area	\$ 11.00	\$ 35,145.00	\$ 20.00	\$ 63,900.00	\$ 13.75	\$ 43,931.25	\$ 16.00	\$ 51,120.00	\$ 18.00	\$ 57,510.00
A22	1	LS	Pavement Markings, Traffic Stripes, & Signs	\$ 45,000.00	\$ 45,000.00	\$ 58,000.00	\$ 58,000.00	\$ 23,062.50	\$ 23,062.50	\$ 74,000.00	\$ 74,000.00	\$ 60,000.00	\$ 60,000.00
A23	1	LS	Modify Existing Traffic Signal	\$ 240,000.00	\$ 240,000.00	\$ 233,500.00	\$ 233,500.00	\$ 250,000.00	\$ 250,000.00	\$ 265,000.00	\$ 265,000.00	\$ 220,000.00	\$ 220,000.00
A24	1	LS	Supplemental Work	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
B1	1	LS	Mobilization & Demobilization	\$ 8,000.00	\$ 8,000.00	\$ 59,800.00	\$ 59,800.00	\$ 50,000.00	\$ 50,000.00	\$ 40,000.00	\$ 40,000.00	\$ 50,000.00	\$ 50,000.00
B2	1	LS	Traffic Control	\$ 15,000.00	\$ 15,000.00	\$ 7,500.00	\$ 7,500.00	\$ 18,750.00	\$ 18,750.00	\$ 14,000.00	\$ 14,000.00	\$ 20,000.00	\$ 20,000.00
B3	1	LS	Construction Area Information Signs	\$ 7,500.00	\$ 7,500.00	\$ 1,000.00	\$ 1,000.00	\$ 2,750.00	\$ 2,750.00	\$ 9,800.00	\$ 9,800.00	\$ 5,500.00	\$ 5,500.00
B4	1	LS	Water Pollution Control	\$ 4,500.00	\$ 4,500.00	\$ 12,000.00	\$ 12,000.00	\$ 6,250.00	\$ 6,250.00	\$ 11,000.00	\$ 11,000.00	\$ 10,000.00	\$ 10,000.00
B5	1	LS	Air Quality Monitoring	\$ 2,500.00	\$ 2,500.00	\$ 5,000.00	\$ 5,000.00	\$ 11,250.00	\$ 11,250.00	\$ 17,300.00	\$ 17,300.00	\$ 10,000.00	\$ 10,000.00
B6	55	SF	Remove Concrete & Base Material	\$ 23.00	\$ 1,265.00	\$ 15.00	\$ 825.00	\$ 8.75	\$ 481.25	\$ 16.00	\$ 880.00	\$ 40.00	\$ 2,200.00
B7	120	LF	Remove Chain Link Fence	\$ 50.00	\$ 6,000.00	\$ 10.00	\$ 1,200.00	\$ 15.00	\$ 1,800.00	\$ 21.00	\$ 2,520.00	\$ 90.00	\$ 10,800.00
B8	8,650	SF	Remove & Stockpile Gravel	\$ 1.00	\$ 8,650.00	\$ 0.50	\$ 4,325.00	\$ 1.25	\$ 10,812.50	\$ 2.60	\$ 22,490.00	\$ 5.00	\$ 43,250.00
B9	1	LS	Clearing & Grubbing	\$ 150,000.00	\$ 150,000.00	\$ 132,829.00	\$ 132,829.00	\$ 31,250.00	\$ 31,250.00	\$ 125,000.00	\$ 125,000.00	\$ 35,000.00	\$ 35,000.00
B10	1	LS	Remove Trees	\$ 25,000.00	\$ 25,000.00	\$ 5,000.00	\$ 5,000.00	\$ 9,625.00	\$ 9,625.00	\$ 30,000.00	\$ 30,000.00	\$ 20,000.00	\$ 20,000.00
B11	3	EA	Protection of Existing Trees	\$ 1,000.00	\$ 3,000.00	\$ 300.00	\$ 900.00	\$ 2,500.00	\$ 7,500.00	\$ 360.00	\$ 1,080.00	\$ 2,200.00	\$ 6,600.00
B12	1	LS	Remove Train Rails	\$ 7,000.00	\$ 7,000.00	\$ 500.00	\$ 500.00	\$ 7,500.00	\$ 7,500.00	\$ 5,040.00	\$ 5,040.00	\$ 15,000.00	\$ 15,000.00
B13	2,490	SF	Decomposed Granite	\$ 10.00	\$ 24,900.00	\$ 4.00	\$ 9,960.00	\$ 2.50	\$ 6,225.00	\$ 27.00	\$ 67,230.00	\$ 25.00	\$ 62,250.00
B14	52	LF	Curb & Gutter (6")	\$ 95.00	\$ 4,940.00	\$ 100.00	\$ 5,200.00	\$ 75.00	\$ 3,900.00	\$ 123.00	\$ 6,396.00	\$ 250.00	\$ 13,000.00
B15	1,100	SF	Concrete Pavers (Pervious)	\$ 30.00	\$ 33,000.00	\$ 42.00	\$ 46,200.00	\$ 37.50	\$ 41,250.00	\$ 84.00	\$ 92,400.00	\$ 45.00	\$ 49,500.00
B16	9,030	SF	Concrete Path & Rest Area Pavement	\$ 15.00	\$ 135,450.00	\$ 9.00	\$ 81,270.00	\$ 25.00	\$ 225,750.00	\$ 18.20	\$ 164,346.00	\$ 15.00	\$ 135,450.00
B17	395	CY	Class II Aggregate Base	\$ 120.00	\$ 47,400.00	\$ 70.00	\$ 27,650.00	\$ 3.75	\$ 1,481.25	\$ 296.00	\$ 116,920.00	\$ 90.00	\$ 35,550.00
B18	700	LF	Concrete Mow Curb (1' Width)	\$ 60.00	\$ 42,000.00	\$ 40.00	\$ 28,000.00	\$ 50.00	\$ 35,000.00	\$ 44.00	\$ 30,800.00	\$ 110.00	\$ 77,000.00
B19	36	LF	Modified Concrete Mow Curb (6" Width)	\$ 90.00	\$ 3,240.00	\$ 58.00	\$ 2,088.00	\$ 37.50	\$ 1,350.00	\$ 44.00	\$ 1,584.00	\$ 250.00	\$ 9,000.00
B20	100	LF	Fence	\$ 85.00	\$ 8,500.00	\$ 100.00	\$ 10,000.00	\$ 112.50	\$ 11,250.00	\$ 116.00	\$ 11,600.00	\$ 90.00	\$ 9,000.00
B21	2	EA	Bench (Rest Area)	\$ 2,500.00	\$ 5,000.00	\$ 2,500.00	\$ 5,000.00	\$ 2,500.00	\$ 5,000.00	\$ 3,500.00	\$ 7,000.00	\$ 1,500.00	\$ 3,000.00

ATTACHMENT 3  
CITY OF BERKELEY  
ABSTRACT OF BIDS

For: Ninth Street Pathway - Phase II

Spec. No. 19-11331-C

Bid Opening: October 8, 2019, 2:00 PM

Item No.	Est. Qty	Unit	Description	J. A. Gonsalves & Son Construction Inc. Napa, CA		Redgwick Construction Co. Oakland, CA		Mark Lee & Yong Kay, Inc. DBA Bay Construction Oakland, CA		Sposeto Engineering Inc. Livermore, CA		Kerex Engineering, Inc. Pleasant Hill, CA	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
B22	4	EA	Removable/Lockable Bollard	\$ 1,200.00	\$ 4,800.00	\$ 2,300.00	\$ 9,200.00	\$ 1,000.00	\$ 4,000.00	\$ 2,600.00	\$ 10,400.00	\$ 2,500.00	\$ 10,000.00
B23	1	LS	Two Year Maintenance for Landscape Establishment	\$ 35,000.00	\$ 35,000.00	\$ 14,400.00	\$ 14,400.00	\$ 187,500.00	\$ 187,500.00	\$ 54,000.00	\$ 54,000.00	\$ 65,000.00	\$ 65,000.00
B24	1	LS	Landscape Soil Preparation	\$ 7,500.00	\$ 7,500.00	\$ 8,000.00	\$ 8,000.00	\$ 62,500.00	\$ 62,500.00	\$ 4,100.00	\$ 4,100.00	\$ 9,000.00	\$ 9,000.00
B25	11	EA	24" Box Tree Planting	\$ 1,000.00	\$ 11,000.00	\$ 1,000.00	\$ 11,000.00	\$ 500.00	\$ 5,500.00	\$ 670.00	\$ 7,370.00	\$ 1,200.00	\$ 13,200.00
B26	1,400	LF	Fiber Roll	\$ 15.00	\$ 21,000.00	\$ 6.00	\$ 8,400.00	\$ 5.00	\$ 7,000.00	\$ 5.40	\$ 7,560.00	\$ 8.00	\$ 11,200.00
B27	1,130	SF	Blue Fescue	\$ 8.00	\$ 9,040.00	\$ 4.50	\$ 5,085.00	\$ 7.50	\$ 8,475.00	\$ 4.00	\$ 4,520.00	\$ 25.00	\$ 28,250.00
B28	11	EA	Shrubs (5 Gallon)	\$ 75.00	\$ 825.00	\$ 90.00	\$ 990.00	\$ 62.50	\$ 687.50	\$ 67.00	\$ 737.00	\$ 90.00	\$ 990.00
B29	18,000	SF	Hydroseeding	\$ 0.50	\$ 9,000.00	\$ 0.50	\$ 9,000.00	\$ 1.25	\$ 22,500.00	\$ 0.67	\$ 12,060.00	\$ 0.50	\$ 9,000.00
B30	830	SF	Crushed Rock	\$ 4.00	\$ 3,320.00	\$ 4.00	\$ 3,320.00	\$ 12.50	\$ 10,375.00	\$ 13.00	\$ 10,790.00	\$ 3.50	\$ 2,905.00
B31	1	LS	Pavement Markings, Traffic Stripes, & Signs	\$ 28,000.00	\$ 28,000.00	\$ 18,000.00	\$ 18,000.00	\$ 10,625.00	\$ 10,625.00	\$ 16,000.00	\$ 16,000.00	\$ 25,000.00	\$ 25,000.00
B32	1	LS	Site Electrical Work	\$ 130,000.00	\$ 130,000.00	\$ 132,850.00	\$ 132,850.00	\$ 193,750.00	\$ 193,750.00	\$ 172,000.00	\$ 172,000.00	\$ 165,000.00	\$ 165,000.00
B33	1	LS	Metered Service Pedestal	\$ 7,000.00	\$ 7,000.00	\$ 8,300.00	\$ 8,300.00	\$ 10,000.00	\$ 10,000.00	\$ 9,000.00	\$ 9,000.00	\$ 10,000.00	\$ 10,000.00
B34	1	LS	PG&E Coordination & Establish Service	\$ 2,500.00	\$ 2,500.00	\$ 3,000.00	\$ 3,000.00	\$ 3,750.00	\$ 3,750.00	\$ 3,500.00	\$ 3,500.00	\$ 5,000.00	\$ 5,000.00
B35	1	LS	Supplemental Work	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
<b>Total Price of Bid</b>				<b>\$ 1,528,110.00</b>		<b>\$ 1,346,743.00</b>		<b>\$ 1,642,370.00</b>		<b>\$ 1,860,541.00</b>		<b>\$ 1,723,880.00</b>	

Verified by: Kenneth Jung KS  
Submitted by: Kenneth Jung KS





Office of the City Manager

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip L. Harrington, Director, Public Works  
Subject: Contract No.10340 Amendment: HF&H Consultants, LLC for the Study of the City Providing Commercial Collection Services and Development and Update of Rate Model

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10340 with HF&H Consultants, LLC to increase the current contract by \$50,000 for a total not to exceed amount of \$200,000 and to extend the contract term to June 30, 2021 for the Study of the City Providing Commercial Collection Services and Development and Update of Rate Model.

FISCAL IMPACTS OF RECOMMENDATION

Funding is available in the Zero Waste Fund 601. Funding for the proposed contract amendment is available as detailed below:

Original Authorized Contract Amount	\$150,000
Current Contract Amendment	\$ 50,000
<b>Total contract amount.....</b>	<b>\$200,000</b>

CURRENT SITUATION AND ITS EFFECTS

HF&H Consultants, LLC was retained 1) to analyze the City’s options to provide all commercial refuse, recyclables and compost collection services that were provided by non-exclusive franchise commercial waste haulers and) to develop a rate model to review all City’s costs to provide residential and commercial collection services. The City Council authorized the City to provide services to commercial refuse, recyclables and compost collection service (7 cubic yard size carts and containers). Since July 2018, the City’s consultant, HF&H Consultants, LLC (HF&H), has worked with Zero Waste Division staff and other City staff to evaluate all relevant information required for all residential, commercial, and roll-off collection and corresponding services. As part of the development of in-house commercial hauling system analysis, HF&H reviewed all of the City Council approved 5 year residential and commercial rates schedules. Those rate schedules concluded on June 30, 2019 and are in need of evaluation and modification.

As presented at the September 17, 2019 City Council Work Session on Rate Study Review<sup>1</sup>, the consultant reviewed and analyzed costs associated with the City's provided collection and recycling programs services that provide the foundation of all City mandated efforts to achieve its goal of Zero Waste by 2020<sup>2</sup>. City Council Members' input provided will be included in a follow-up presentation to the City Council.

HF&H review the following Zero Waste Division (ZWD) programs and services that include:

1. Residential refuse and plant debris (green waste and food scraps combined) collection, (23,000+ customers),
2. Commercial refuse, dual stream recycling (includes multi-family units of 9 or more), and green waste/food scraps collection (5,000+ customers),
3. Residential bulky waste, and Christmas tree pick-ups at no charge,
4. Roll-off containers for C&D debris and commercial compactor hauling,
5. All Transfer Station operations, including the off-site hauling of both C&D and refuse to recycling and disposal facilities,
6. City's contracted vendors provide services for:
  - Residential and multi-family (8 units or less) dual stream recycling collection,
  - On-site sorting and marketing of all collected or dropped off residential and commercial recyclables,
  - Off-site hauling and composting of green waste and food scraps,
  - Acceptance and offsite recycling of residential used oil, appliances, carpet and mattresses,
  - Landfill disposal, and
  - Offsite sorting and marketing of C&D.
7. Fire Fuel Removal Program, and
8. Clean City Program that includes:
  - Neighborhood cleanups,
  - Street sweeping,
  - Graffiti abatement, and
  - Illegal dumping cleanups.

This contract amendment authorization supports the City's Strategic Plan Priority of advancing our goal to provide state-of-the-art, well-maintained infrastructure, amenities, and facilities.

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<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/09\\_Sep/Documents/2019-09-17\\_\(WS\)\\_Presentations\\_Item\\_2\\_Pres\\_PW\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/09_Sep/Documents/2019-09-17_(WS)_Presentations_Item_2_Pres_PW_pdf.aspx)

<sup>2</sup> [https://www.cityofberkeley.info/uploadedFiles/Public\\_Works/Level\\_3\\_-\\_Solid\\_Waste/Zero%20Waste%20Goal.pdf](https://www.cityofberkeley.info/uploadedFiles/Public_Works/Level_3_-_Solid_Waste/Zero%20Waste%20Goal.pdf)



### BACKGROUND

In August 2016, HF&H was retained 1) to analyze the City's options to provide all commercial refuse, recyclables and compost collection services that were provided by non-exclusive franchise commercial waste haulers and) to develop a rate model to review all City's costs to provide residential and commercial collection services. The City Council authorized the City to provide services to commercial refuse, recyclables and compost collection service (7 cubic yard size carts and containers).

In August 2016, HF&H was contracted to perform a comprehensive financial and operational assessment of the impacts to the City and public for providing in-house commercial hauling services to existing Zero Waste customers. HF&H, along with input from City staff, completed the 2014 Franchise Study assessments of relative impacts to the City's Zero Waste Policy, Climate Action Plan, and Municipal Code. This work also included an assessment of relative impacts to existing services, customer experience, infrastructure, and partnerships.

### ENVIRONMENTAL SUSTAINABILITY

The contract amendment will allow HF&H to continue to work on the proposed rate schedules that will ensure that as an enterprise funded operation that the City's Public Works – Zero Waste Division will generate sufficient revenues to support:

- The expansion of the City's efforts to meet its Zero Waste Goal,
- The 2009 Climate Action Plan<sup>3</sup>,
- Compliance with legislation to: enhance recycling; organic diversion and composting; single foodware use and litter reduction,
- All residential and commercial materials collection, material processing, or marketing, and
- Sufficient enterprise fund reserve for future capital replacements.

### RATIONALE FOR RECOMMENDATION

Authorization of this amendment will allow Public Work and HF&H Consultants, LLC to follow-up on the Council Members' input on the Zero Waste Division's financial and operations assessment and update to the 2014 Rate Study.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager, Public Works, 981-6359

1: Resolution

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<sup>3</sup> [Climate Action Plan - City of Berkeley, CA](#)

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

CONTRACT NO.10340 AMENDMENT: HF&H CONSULTANTS, LLC. FOR THE STUDY OF THE CITY PROVIDING COMMERCIAL COLLECTION SERVICES AND DEVELOPMENT AND UPDATE OF RATE MODEL

WHEREAS, on August 22, 2016, the City Manager authorized Contract No. 10340 with HF&H Consultants, LLC for a comprehensive financial and operations assessment of the impacts to city and public for providing in-house commercial hauling services, and to update the 2014 Franchise Study, in an amount not to exceed \$150,000; and

WHEREAS, HF&H Consultants, LLC services are necessary to complete the assessment of the City providing commercial collection services of refuse, recyclables and compost and update to the Rate Model; and

WHEREAS, Funding is available in Zero Waste Fund 601.

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. 10340 with HF&H Consultants, LLC in the amount of \$50,000 for a total contract not to exceed amount of \$200,000 (CMS No. CNPWL) for the Study of the City Providing Commercial Collection Services and Development and Update of Rate Model. A record signature copy of the contract and any amendments to be on file in the City Clerk Department.



Office of the City Manager

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Purchase Order: National Auto Fleet Group for Seven (7) 25 Cubic Yard Capacity Heavy Duty Rear Loading Collection Trucks

RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in Sourcewell contract bid procedures, authorizing the City Manager to execute a purchase order for seven (7) 2019 Crane Carrier 25 Cubic Yard Capacity Heavy Duty Rear Loader Collection Trucks with National Auto Fleet Group in an amount not to exceed \$2,348,732.70, and authorizing the disposal of three (3) Autocar and four (4) Volvo collection trucks by public auction.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of seven (7) 2019 25 Cubic Yard Heavy Duty Rear Loader Collection Trucks will not exceed \$2,348,732.70 and includes delivery to City of Berkeley, warranties, and sales tax. Funding for this purchase is available in the FY 2020 Baseline Budget Fund for Equipment Replacement (671) and Zero Waste Fund (601). Fund amounts will be distributed as follows:

(671) Equipment Replacement	\$2,300,787.00
(601) Zero Waste Fund	\$47,945.70
<b>Total</b>	<b>\$2,348,732.70</b>

CURRENT SITUATION AND ITS EFFECTS

This purchase order will replace seven (7) existing Rear Loader Collection Trucks (Trucks) that are beyond their useful life. The existing Trucks are utilized throughout the City to collect commercial (7 days per week) and residential (5 days per week) refuse, recyclables (fiber and bottles/containers separately) and organics (green and food waste) materials. The existing trucks will be replaced with state of the art trucks with enhanced safety features, improved fuel efficiency and maneuverability to better service the community. Pending Council authorization, the City will piggyback off a Sourcewell contract with National Auto Fleet Group who will provide Crane Carrier Company Model LET2-44 Standard Cab Straight Frame Chassis with McNeilus Truck and Manufacturing

Heavy Duty 25 Cubic Yard Rear Loader Body Assembly through the local authorized dealer for Crane Carrier Company (CCC), Western Truck Center.

Once the order is submitted to Western Truck Center, the cab and chassis is manufactured at CCC’s factory. When completed, CCC will deliver the cab and chassis to McNeilus Mfg. for the installation and wiring of the 25 cubic yard body. Once completed, McNeilus Mfg. will ship the finished units to Western Truck Center, located in San Leandro, CA. Western Truck Center will prepare the trucks for delivery to the City of Berkeley. The estimated time for the manufacture of cab, chassis and body of these trucks is seven to nine months.

The vehicles being replaced include the following:

Current Vehicle #s	Year	Make / Fuel
6350	2002	Volvo / CNG
6351	2002	Volvo / CNG
6352	2002	Volvo / CNG
6353	2002	Volvo / CNG
6357	2003	Autocar / CNG
6358	2003	Autocar / CNG
6359	2003	Autocar / CNG

**Electric / Hybrid Electric Evaluation**

For every fleet purchase, Public Works staff researches the feasibility and availability of fully electric vehicles and hybrid-electric powertrains to support the City’s transition off of fossil fuels. Staff research found there are only a few all electric prototypes currently being tested in Sacramento County, Palo Alto, and Seattle as part of pilot projects. As of now, hybrid-electric collection trucks are only in early development stages. The County of Sacramento and Palo Alto are testing these collection trucks as route assist trucks only. No all electric trucks are currently available or operating in the US that can complete full collection route day of 8 to 10 hours. The City of Bloomington has also found similar lack of availability and limitations in current testing of any all electric collection trucks while researching their options for their fleet (Attachment 2).

In addition to the lack of readily available and tested electric trucks, there is no current infrastructure at the City’s Transfer Station to support charging of electric vehicles. As part of the Solid Waste & Recycling Transfer Station Feasibility Study presented at the November 5, 2019 City Council Work Session, electric charging infrastructure and capacity will be included in the new design. Public Works is also applying for assistance from Pacific Gas and Electric to provide electric charging infrastructure for future medium and heavy duty vehicles.

Public Works staff is working closely with the East Bay Community Energy's consultant to complete a fleet assessment to evaluate overall fleet needs, vehicle options and right-sizing.

### ***Renewable Fuel***

The trucks being replaced were powered by Compressed Natural Gas which is non-renewable, and Renewable Natural Gas is unavailable in Berkeley at this time. The new trucks will run on 100% renewable diesel<sup>1</sup> which complies with the City's Fossil Free recommendations<sup>2</sup>.

This purchase will support the City's Strategic Plan Goal of Create a resilient, safe, connected, and prepared City.

### **BACKGROUND**

Throughout the year, Department of Public Works purchases vehicles and equipment for City's operating departments that are paid through the Equipment Replacement fund. City departments that use fleet vehicles pay into the equipment replacement fund, which funds vehicle replacement as they reach the end of their life. If a purchase request exceeds \$25,000, the Department of Finance, General Services Division, solicits bids or "piggybacks" off competitively bid contracts to ensure the City's departments receive the best pricing.

The City of Berkeley has been a no cost member of Sourcewell,<sup>3</sup> formerly the National Joint Powers Alliance (NJPA), and a municipal contracting agency operating under the legislative authority of Minnesota Statute 123A.21. The original 1978 statute was revised in 1995 to allow government clients to better meet their specific needs through participation in a service cooperative, rather than paying the higher cost associated with individual procurement. Sourcewell allows participating municipal agencies to leverage the benefits of cooperative purchasing and reduces procurement costs.

All Sourcewell contracts have been competitively solicited nationwide. On June 21, 2016, Sourcewell released Request for Proposal No. 081716 for Class 6, 7, and 8 Chassis with Related Equipment, Accessories and Services. The solicitation was released for approximately fifty-eight days and fourteen proposals were submitted. Upon their review Sourcewell selected National Auto Fleet Group as the best most responsive proposer to meet the specifications thusly awarding Contract No. 081716-NAF.

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<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2016/10\\_Oct/Documents/2016-10-18\\_Item\\_44\\_Use\\_of\\_Renewable\\_Diesel.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2016/10_Oct/Documents/2016-10-18_Item_44_Use_of_Renewable_Diesel.aspx)

<sup>2</sup> <https://www.cityofberkeley.info/uploadedFiles/Clerk/2019-10-03%20Agenda%20Packet%20-%20Facilities.pdf>

<sup>3</sup> <https://sourcewell-mn.gov/>

For all contracts Sourcewell charges an administrative fee based upon the percentage of the sale, and that fee is paid by the Contractor directly to Sourcewell. For this purchase the fee will be paid by National Auto Fleet Group and will be not be passed onto the City.

ENVIRONMENTAL SUSTAINABILITY

Public Works Equipment Maintenance works to procure the most fuel-efficient vehicles and equipment that are suitable for the required tasks. Hybrid heavy duty collection trucks are undergoing development and pilot testing and are not yet available to meet full service requirements of the Zero Waste Division.

The replacement equipment will be powered by 100% renewable diesel that will meet 2018 EPA and California Air Resources Board (CARB) requirements.

RATIONALE FOR RECOMMENDATION

All City vehicles are due for replacement at the end of their recognized economic lives. In addition, the newer collection trucks ensure that maintenance costs are controlled and meet current fuel efficiency and air emission standards.

ALTERNATIVE ACTIONS CONSIDERED

None. Listed vehicles have reached the end of their useful service life and replacement vehicles are urgently needed to ensure timely residential and commercial collection of refuse, recyclables and organics

CONTACT PERSON

Greg Ellington, Superintendent, Public Works Maintenance, (510) 981-6469

Attachments:

- 1: Resolution
2. City of Bloomington Illinois - Hybrid-Electric and Electric Garbage Trucks Could be the Future, but they're Not Ready

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

PURCHASE ORDER WITH NATIONAL AUTO FLEET GROUP FOR SEVEN (7) 25 CUBIC YARD CAPACITY HEAVY DUTY REAR LOADER COLLECTION TRUCKS

WHEREAS, seven (7) 25 Cubic Yard Capacity Heavy Duty Rear Loader collection trucks are needed by the City of Berkeley Public Works Division for the commercial and residential collection of refuse, recyclables, and organics; and

WHEREAS, the vehicles to be replaced have reached the end of their useful life; and

WHEREAS, vehicles must be replaced based upon a reasonable schedule that allows City employees to efficiently, safely and effectively carry out their duties; and

WHEREAS, surplus rolling stock valued at more than \$25,000 must be sent to public auction; and

WHEREAS, City Charter XI Section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through competitive bid process; and

WHEREAS, on June 21, 2016 Sourcewell released Request for Proposal No. 081716 for Class 6, 7, and 8 Chassis with Related Equipment, Accessories, and Services. The solicitation was released for approximately fifty-eight days and fourteen proposals were submitted. Upon their review Sourcewell selected National Auto Fleet Group as the best most responsive proposer to meet the specifications, thusly awarding Contract No. 081716-NAF; and

WHEREAS, Sourcewell contract bid procedures satisfy the procurement requirement of the City of Berkeley; and

WHEREAS, funds in the amount of \$2,300,787.00 are available in the FY 2020 Equipment Replacement Fund (671) and Zero Waste Fund (601) in the amount of \$47,945.70.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order for seven (7) 25 Cubic Yard Capacity Heavy Duty Rear Loader collection trucks with National Auto Fleet Group in an amount not to exceed \$ 2,348,732.70 and is authorized to dispose of three (3) Autocar and four (4) Volvo collection trucks by public auction.

# Hybrid-Electric and Electric Garbage Trucks Could be the Future, but they're Not Ready

August 2019

## *at a glance*

Hybrid-electric powertrains for existing garbage trucks and fully-electric garbage trucks are technologies that are in development and are not fully utilized by any U.S. garbage collection providers. Staff research shows that neither option is in production at this time. Wrightspeed is not testing or selling its technology at this time. Manufacturers such as Peterbilt and Kenworth are testing hybrid-electric technology internally while also testing over 50 electric trucks in multiple, large cities such as Los Angeles and Seattle. Staff recommends reviewing this research each year, as the technologies develop. In the meantime, staff recommends continuing its commitment to a green fleet by continuing to use 20 percent biodiesel fuel for the City's diesel fleet vehicles.

## Scope

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City Council and Administration directed Public Works to research the possibility of using hybrid-electric garbage trucks, based on research provided by Professor Emeritus William Rau, and both hybrid-electric and electric garbage trucks, based on previous research performed by Public Works staff. Staff has prepared this document to examine several aspects of hybrid-electric or electric garbage trucks, including the merits, effectiveness, availability, and price of each technology.

## Background

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The Fleet Management Section of the Public Works Department has continued to explore ways to "green" the fleet in responsible and practical manners, which is consistent with Strategic Plan and Comprehensive Plan goals. The Section uses 20 percent bio-diesel in all units that fill up at the Public Works fueling site. This includes all Solid Waste trucks. Bio-diesel is an alternative, renewable fuel. The city uses biodiesel derived from soybean oil. In total, the city has 191 vehicles that run on this alternative fuel. The city also has many cars and trucks that are compatible with E85 fuel. However, the City does not have an available fuel tank for this type of fuel, and off-site E85 fuel is not cost-effective at this time.

In February 2018, William Rau, Professor Emeritus of Sociology at Illinois State University, brought the issue of using hybrid-electric garbage trucks to union leadership by reaching out to the media. As a result, staff performed an internal, preliminary review of the information, but found it was not something that should be considered at that time.

In August 2019, Rau contacted Council prior to their consideration of purchasing three new diesel solid waste trucks. As a result, Council tabled the consideration of the purchase until September 2019 in order to generate this report, which discusses hybrid-electric and electric garbage trucks and whether they are feasible alternatives to the staff-recommended diesel solid waste trucks that would run on 20 percent biodiesel.



## Findings

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### Hybrid-Electric Garbage Trucks

#### Wrightspeed

Hybrid-electric powertrains, theorized by Wrightspeed, are installed on an existing truck. Once the conversion is completed, the truck would run on an electric powertrain until the batteries run low and then uses a biodiesel turbine generator to charge the batteries (Wrightspeed Powertrains, n.d.). Unfortunately, the company found that biodiesel turbine generators are not compliant with 2020 vehicle emissions standards based on information Wrightspeed provided to staff.

The information provided by Peter Kelly-Detweiler in an article in Forbes (Kelly-Detweiler, 2015), that makes claims about brakes only lasting three months and powertrains lasting five years or less, is based on quotes from Founder and CEO of Wrightspeed, Ian Wright, and does not have supporting data. Unfortunately, this technology is not well-tested for garbage trucks and buses and has failed to come to fruition in multiple communities, including Santa Rosa, California (McCallum, 2018), and Wellington, New Zealand (George, 2019). While FedEx tested Wrightspeed's technology on 2 delivery vehicles, and subsequently ordered 25 delivery vehicles for an additional test (Golson, 2014), staff could not find that FedEx has implemented the technology beyond those 25 test units. FedEx has more than 47,000 vehicles in its fleet, so the 27 vehicles would be under 0.06 percent of their fleet (Golson, 2014).

The company who manufactures the hybrid-electric powertrains appears to have gone dormant (Gitlin, 2019). Staff found that the company has had no press releases since 2016 and no consistent social media presence on Facebook, Twitter, or LinkedIn since 2017. However, staff was able to call Wrightspeed, and a representative estimated it would cost \$200,000 per truck to install their drivetrain, assuming it could go into production with the 2020 vehicle emissions standards. The representative said the company installed the unit on two garbage trucks, but none of them are in operation at this time. In addition, the representative said the company does not have service centers in Illinois, and they would only install units on a few vehicles at a time to test before installing on the entire fleet.

#### Other Manufacturers

Based on staff conversations with vendors, Peterbilt, Kenworth, and other companies are internally testing other forms of hybrid-electric garbage trucks. These include electric/biodiesel hybrids that use a traditional generator when the batteries run low and electric/compressed natural gas (CNG) hybrids that use a generator powered by CNG. However, none of these options are available on the market at this time.

### Electric Garbage Trucks

Electric garbage trucks are fully electric and use no other fuel. When the batteries run low, the vehicle must return and recharge or recharge on the road, which requires charging infrastructure and room for charging at either the domicile of the vehicle or on the road. This technology is in the testing phase for garbage trucks. Staff contacted distributors for Peterbilt and Volvo (owner of Mack) via e-mail to inquire about pricing for electric vehicles. Peterbilt is testing over 50 units across the country but has not announced a production launch date due to a lack of demand. Volvo (Mack) will start testing next year, but they estimate that production will not start for a couple of years.

Staff was not able to locate a U.S. solid waste collection provider that has a fleet of electric garbage trucks in service. Notably, Chicago, Sacramento, Los Angeles, and Seattle each have an electric garbage truck to use as a pilot. However, Chicago is currently suing the company that produced the truck they received in 2015 due to its inability to be in service. Sacramento and Los Angeles received their trucks in 2018 (Greenwalt, 2018), and Seattle received a truck in 2019 (Gitlin, 2019). Staff could not find resources that show that these cities have reported back about how the trucks are performing. New York City will pilot an electric garbage truck in 2020 (Dzikiy, 2019).

Some cities in the United States have purchased electric buses, but they are not widely utilized. The United States has 300 electric buses total, which is small, compared to China, which has 421,000 (Eckhouse, 2019). This is partially due to the fact that U.S. municipalities replace buses at the end of their useful lives, which averages to about 12 years, and electric buses, while cheaper to maintain than diesel models, are more expensive up-front (Eckhouse, 2019).

Connect Transit in Bloomington received discretionary grants from the FAST Act and the Federal Transit Administration's Buses and Bus Facilities Competitive Grant Program to replace 12 out of 42 diesel buses with electric buses and install charging infrastructure (Denham, 2018) (Denham & Schlenker, 2017). Since the technology is not available for garbage trucks, grants are also not available. Connect Transit has not purchased electric buses at this time. Staff met with Connect Transit Chief Operating Officer Martin Glaze and Safety and Training Director Dave White, who said that the organization advertised a Request for Proposals for the buses they want to purchase, which they estimate will cost about \$1 million per bus, including parts and labor for a charging station for each bus.

Interestingly, in Bloomberg New Energy Finance (NEF) (2019) reports buses and heavy commercial vehicles, such as garbage trucks, in different segments of the global fleet, which shows that they are quite different when it comes to adoption of fully-electric vehicles. Figure 1 forecasts that less than one percent of heavy commercial vehicles will be fully electric by 2026, and eleven percent will be fully electric by 2040. However, the Figure 1 also forecasts that 37 percent of buses will be fully electric by 2026, and 67 percent of buses will be fully electric by 2040. Figure 2 shows that, among heavy commercial vehicles, natural gas will outpace electricity as the main fuel each year until 2040. These figures demonstrate that heavy commercial vehicles have a long way to go before adoption by garbage truck fleets and other, similar fleets, whereas bus fleets will see a much larger increase in adoption of fully-electric vehicles.

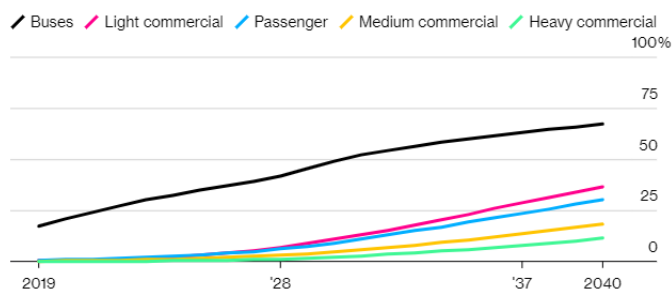


Figure 1: Percentage of electric vehicles in each segment of the global fleet (Bloomberg New Energy Finance, 2019)

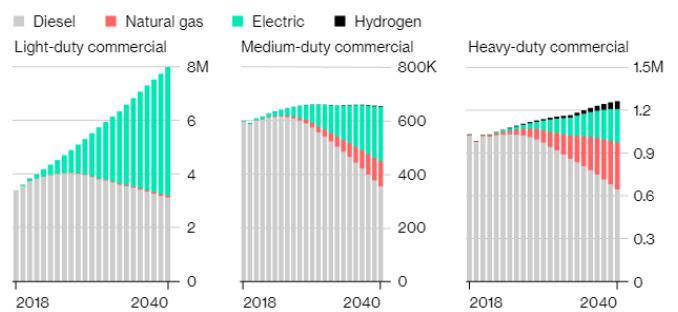


Figure 2: Commercial vehicle sales forecast by segment in the U.S., China and Europe (Bloomberg New Energy Finance, 2019)

## Recommendations

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At this time, staff recommends continuing to purchase diesel vehicles that run on 20 percent bio-diesel fuel until one or more of the technologies are proven and available on the market. Wrightspeed's technology is unproven and unavailable, but Peterbilt, Kenworth, and others companies are testing alternative hybrid-electric options internally. Electric garbage trucks are also in the testing stage, with more than 50 units spread across multiple, larger cities in the United States. Staff also recommends researching these technologies each year, prior to budget preparation, to determine whether they have developed enough to consider for garbage trucks.

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Office of the City Manager

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director of Public Works  
 Subject: Purchase Order: Braun Northwest, Inc. for Five (5) 2020 North Star 155-1 Ambulances

RECOMMENDATION

Adopt a Resolution satisfying requirements of City Charter Article XI Section 67.2 allowing the City to participate in HGACBuy contract bid procedures, and authorizing the City Manager to execute a purchase order for five (5) 2020 North Star 155-1, Type 1 Ambulances with Braun Northwest, Inc. in an amount not to exceed \$1,110,000, and authorizing the disposal of three (3) Freightliner and two (2) International ambulances by public auction.

FISCAL IMPACTS OF RECOMMENDATION

The purchase of five (5) North Star 155-1, Type 1 Ambulances will not exceed \$1,110,000 and includes delivery, CA Tire fees and sales tax. Funding for the purchase of these vehicles is available in the FY 2020 Baseline Budget Fund for Equipment Replacement (671).

CURRENT SITUATION AND ITS EFFECTS

Thus purchase order will replace five (5) existing ambulances that are have reached the end of their useful life. Ambulances are emergency medical response vehicles utilized throughout the City to maintain the community's health and welfare. The existing ambulances will be replaced with new compact versions; custom-built for quality, durability, and maximum functionality. The aluminum construction is designed to reduce weight and provide superior crash protection. In addition, the Fire Department is piloting a "Safety Model" ambulance that is designed to provide enhanced employee and patient safety in the event of a vehicle collision, including a roll over. The vehicle design includes five-point safety restraints for caregivers and patients in the rear of the ambulance, rounded corners inside the vehicle, equipment storage compartments with multiple points of access facilitating caregivers' ability to get needed supplies quickly without having to move around the patient compartment unrestrained. The estimated time for the manufacture of the cab, chassis and body of these ambulances is six to eight months.

The vehicles being replaced include the following:

Current Vehicle #s	Year/Make
1988	2009 Freightliner/ Horton
1990	2009 Freightliner/ Horton
1996	2009 Freightliner/ Horton
1997	2014 International /LEDR
1998	2014 International /LEDR

**Electric / Hybrid Electric Evaluation**

For every fleet purchase, Public Works staff researches the feasibility and availability of fully electric vehicles and hybrid-electric powertrains to support the City’s transition off of fossil fuels. Staff research found that there are no electric or hybrid electric ambulances for consideration. There are several companies including Tesla are in early development stages internationally.

In addition to the lack of readily available and tested electric ambulances, there is no current infrastructure at the Fire Stations to support electric charging of vehicles. Public Works staff is working closely with the East Bay Community Energy’s consultant to complete a fleet assessment to evaluate overall fleet needs, vehicle options and right-sizing.

The new ambulances will be able to run on 100% renewable diesel<sup>1</sup> which complies with the City’s Fossil Free recommendations<sup>2</sup>.

This purchase will support the City’s Strategic Plan Goal of Create a resilient, safe, connected, and prepared City.

**BACKGROUND**

Throughout the year, Department of Public Works purchases vehicles and equipment for City’s operating departments that are paid through the Equipment Replacement fund. City departments that use fleet vehicles pay into the equipment replacement fund, which funds vehicle replacement as they reach the end of their life. If a purchase request exceeds \$25,000, the Department of Finance, General Services Division, solicits bids or “piggybacks” off competitively bid contracts to ensure the City’s departments receive the best pricing.

The City of Berkeley has been a no-cost member of the Houston-Galveston Area Council (HGACBuy), a Cooperative Purchasing Program that has offered inter-local

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2016/10\\_Oct/Documents/2016-10-18\\_Item\\_44\\_Use\\_of\\_Renewable\\_Diesel.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2016/10_Oct/Documents/2016-10-18_Item_44_Use_of_Renewable_Diesel.aspx)

<sup>2</sup> <https://www.cityofberkeley.info/uploadedFiles/Clerk/2019-10-03%20Agenda%20Packet%20-%20Facilities.pdf>

purchasing since 2008<sup>3</sup>. HGACBuy provides procurement services that make the government procurement process more efficient by establishing competitively priced contracts for goods and services made available to local governments nationwide.

Products and services offered through HGACBuy have been subjected to a public competitive bid process. On May 2, 2018 HGACBuy released an Invitation to Submit Competitive Bid, Invitation No. AM10-18 for Ambulances, Emergency Medical Service (EMS) and Other Special Service Vehicles. This solicitation was nationally advertised for thirty-seven days. Twenty proposals were submitted and reviewed by the Houston-Galveston Area Council who selected Braun Northwest, Inc. as one of the best responsive and responsible proposers to meet the specifications, thusly awarding Contract No. AM10-18 to Braun Northwest, Inc.

HGACBuy charges an order processing fee for each sale successfully completed through their contract. For this purchase a flat fee charge of \$1,000 will be paid directly to HGACBuy by Braun Northwest, Inc. and the cost will not be passed on to the City.

#### ENVIRONMENTAL SUSTAINABILITY

Public Works Equipment Maintenance works to procure the most fuel-efficient vehicles and equipment that are suitable for the required tasks. Hybrid / Electric Medium Duty EMS vehicles are just starting to be developed and are not yet available for the Fire / EMS Services Industry.

The replacement equipment is state of the art, and will be able to be powered by 100% renewable diesel fuel that meets 2018 EPA and California Air Resources Board (CARB) requirements.

#### RATIONALE FOR RECOMMENDATION

All City vehicles are due for replacement at the end of their recognized economic lives. In addition, the newer ambulances ensure that maintenance costs are controlled and have enhanced safety features.

#### ALTERNATIVE ACTIONS CONSIDERED

None. Listed vehicles have reached the end of their useful active service life.

#### CONTACT PERSON

Greg Ellington, Superintendent, Department of Public Works (510) 981-6469

#### Attachments:

1: Resolution

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<sup>3</sup> <https://www.hgacbuy.org/>

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

PURCHASE ORDER: BRAUN NORTHWEST, INC. FOR FIVE (5) NORTH STAR 155-1, TYPE 1 AMBULANCES

WHEREAS, five (5) North Star 155-1, Type 1 ambulances are needed by the City of Berkeley Fire Department to provide ambulance services in Berkeley; and

WHEREAS, units 1988, 1990, 1996, 1997 and 1998 being replaced have reached the end of their economic life and due for replacement; and

WHEREAS, vehicles must be replaced based on a reasonable schedule that allows operators to safely, efficiently and effectively carry out their duties; and

WHEREAS, Charter section 67.2 allows the City to purchase goods without undergoing a competitive bid process if the City uses pricing obtained by another entity through a competitive bid process; and

WHEREAS, on May 2, 2018 HGACBuy released an Invitation to Submit a Competitive Bid, No. AM10-18 for Ambulances, EMS & Other Special Service Vehicles. The solicitation was released for approximately thirty-seven days and twenty bids were submitted. Upon their review HGACBuy selected Braun Northwest, Inc. as the best most responsive bidder to meet the specifications, thusly awarding Contract No. AM10-18; and

WHEREAS, funds in the amount of \$1,110,000 are available in the FY 2020 Equipment Replacement Fund 671.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a purchase order for five Type 1 Ambulances with Braun Northwest, Inc. in an amount not to exceed \$1,110,000 and authorized to send the International and Freightliner ambulances to public auction.





Office of the Mayor

CONSENT CALENDAR  
November 19, 2019

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, and Councilmembers Cheryl Davila, Rigel Robinson, and Kate Harrison

Subject: Extension of Declaration of Homeless Shelter Crisis

RECOMMENDATION

Adopt a Resolution extending Resolution No. 68,206 – N.S., Declaring a Homeless Shelter Crisis until January 19, 2022.

BACKGROUND

Berkeley is experiencing a housing emergency. Residential rents are climbing, shelters are at capacity, and many Berkeley residents face the threat, or the reality, of homelessness. While significant efforts have been made over the last few years in developing a Housing First policy and investing in anti-displacement resources, for those currently experiencing homelessness, finding shelter can be a difficult task. There are 305 shelter beds in Berkeley, a number significantly lower than the total homeless population.

In response to the severe shortage of shelter beds and supportive housing, on January 19, 2016, the Berkeley City Council unanimously approved Resolution No. 67,746-N.S., Declaring a Shelter Crisis in Berkeley. This followed similar resolutions passed in other cities facing a homeless crisis, including San Francisco, Oakland, San Jose, and Los Angeles. Originally set to expire on January 19, 2017, the Resolution has been extended multiple times, most recently through Resolution No.68,206-N.S. on October 31, 2017, which extended it to January 19, 2020.

Since the Resolution was first approved almost four years ago, the City has placed significant investment in addressing the homeless crisis and the lack of shelter. The STAIR Center, the first navigation center in the East Bay, opened in June 2018, placing over 100 people into permanent housing during the first year of operation. Berkeley voters approved Measures O & P in 2018, generating significant funds for affordable housing, homeless, and mental health services. Various non-profits that serve the homeless population have seen an expansion of services.

In the 2019 Point-In-Time Count by EveryOne Home, Berkeley's homeless population increased by 14% between January 2017 and January 2019. Of the 1,108 people counted, 813, or 73% of them, were unsheltered (countywide, the average was 79% unsheltered). The sheltered population between 2017 and 2019 remained stagnant

while the unsheltered population increased by 149 people. Much of this can be attributed to the rise of people living in recreational vehicles (RVs), which is considered a form of unsheltered homelessness.

While the increase in homelessness is significantly lower compared to the county average of 43%, showing that our investment is making a difference, there still is a long way to go. To maximize the effectiveness of our resources, it is requested that the expiration date of the Homeless Shelter Crisis be extended an additional two years.

FINANCIAL IMPLICATIONS

Staff time

ENVIRONMENTAL SUSTAINABILITY

An increase in interim, stable housing will reduce the impacts of temporary encampments, which will positively improve the environment.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

1: Resolution

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

EXTENSION OF DECLARATION OF HOMELESS SHELTER CRISIS

WHEREAS, on January 19, 2016, the City Council unanimously passed Resolution No. 67,357-N.S., Declaring a Homeless Shelter Crisis in Berkeley, which was set to expire on January 19, 2017; and

WHEREAS, on November 15, 2016, the City Council passed Resolution No. 67,746-N.S., extending the previous Resolution to January 19, 2018; and

WHEREAS, on October 31, 2017, the City Council passed Resolution No. 68,206-N.S., placing another extension until January 19, 2020; and

WHEREAS, according to the last EveryOne Home homeless count in January 2019, the homeless population has risen to 1,108; and

WHEREAS, this shelter crisis affects Berkeley's citizens disproportionately with more African American, Latino and elderly individuals experiencing homelessness; and

WHEREAS, the long term and recent decreases in Federal and State funding for housing programs have resulted in an erosion of shelter options for the most vulnerable populations including the elderly, youth, victims of domestic violence, sexually exploited minors and persons suffering from mental illness, HIV/AIDS, substance abuse and disabilities; and

WHEREAS, the current number of homeless individuals in Berkeley far outpaces the number of existing shelter beds, transitional housing or permanent supportive housing units available; and

WHEREAS, unauthorized homelessness encampments are increasing across parts of Berkeley within the public right of way, thus exposing homeless individuals to traffic hazards, crime, risk of death and injury, exposure to weather, lack of adequate sanitation and debris services, and other conditions that are detrimental to their health and safety; and

WHEREAS, analysis and evidence have demonstrated that providing decent, safe and stable housing combined with crucial support services are two primary components of successful transition from homelessness to a safer and healthier way of living; and

WHEREAS, this shelter crisis is not unique to Berkeley, but is evident throughout the Bay Area, California and the United States, causing other municipalities such as Los Angeles, Portland, Oregon and Seattle, Washington to also take more immediate actions to address these conditions; and

WHEREAS, given the extent of the shelter crisis, the City Council of the City of Berkeley finds that more immediate and expeditious efforts are necessary to develop additional shelter solutions that are safe and meet basic habitability standards and that flexibility and broad based approaches are essential to increase capacity; and

WHEREAS, California Government Code Section 8698, et seq., allows the governing body of a city to declare a shelter crisis when a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety; and

WHEREAS, California Government Code Section 8698.1 provides that, upon a declaration of a shelter crisis, the provisions of any state or local regulatory statute, regulation or Resolution prescribing standards of housing, health, or safety, as applied to public facilities, shall be suspended to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis; and

WHEREAS, California Government Code Section 8698.2 provides that, upon a declaration of a shelter crisis, a city may allow persons unable to obtain housing to occupy designated public facilities (including facilities leased by the city) during the duration of the crisis.

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

1. Finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and
2. This Resolution shall remain in place until January 19, 2022; and
3. Finds that a significant number of persons in Berkeley are without the ability to obtain shelter, and that this situation has resulted in a threat to the health and safety of these persons, for the reasons set forth above. The Council therefore hereby declares a shelter crisis in the City of Berkeley under the authority set forth in Government Code Section 8698, et seq.; and
4. Authorizes the City Manager or her designee to allow persons unable to obtain housing to occupy designated City facilities or facilities leased by the City as shelters during the period of this crisis; and
5. Authorizes for the term of this Resolution, no planning, zoning, building, or other permit requirements for the interim establishment of shelters for the homeless shall be required to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis. At the City Manager's discretion and with approval by the City Council, interim municipal health and safety provisions and land use controls may be applied to facilities ensuring minimal public health and safety

standards. These interim standards shall only apply to additional public facilities open to the homeless; and

6. Authorizes the City Manager to waive non-voter approved purchasing and bid requirements for the installation of facilities and services and approve contracts that are directly related to providing temporary shelter for the homeless. At the City Manager's discretion, the waiver of purchasing and bid requirements may apply to leased assets/equipment and other services that will be provided within or to support temporary shelter facilities.

7. Authorizes homeless housing projects that apply the authority provided for under this resolution shall be reviewed and approved by the City Council prior to implementation, and shall include detailed plans for the project and the standards and requirements being applied to the facility and its operation; and

8. Finds that if this Resolution is inconsistent with any other provisions of the Berkeley Municipal Code, this Resolution shall apply. This Resolution suspends contrary regulations in the Berkeley Municipal Code or requirements of the General Plan or implementing regulations; and

9. Recognizes that this Resolution is enacted pursuant to the City of Berkeley's general police powers, and Article XI of the California Constitution, as well as the other provisions of state and local law otherwise cited herein; and

10. Severability. If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Resolution and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila and Sophie Hahn

Subject: Letter to Richmond City Council, California Environmental Protection Agency (CalEPA), California Department of Toxics (DTSC) concerning recent action of cleaning up AstraZeneca Site near Berkeley

RECOMMENDATION

Send a Letter to the Richmond City Council, California Environmental Protection Agency (CalEPA) and the California Department of Toxics (DTSC), including California State Assemblymember Buffy Wicks and State Senator Nancy Skinner, concerning recent Council action of cleaning up the nearby AstraZeneca Site and reconsideration of such action.

BACKGROUND

In a recent Bay Area Toxic Tour visit, a Berkeley City Councilmember visited the AstraZeneca site, formerly created by Stauffer Chemical Company. This site is right next to the University of California at Berkeley (UCB) Richmond Field Station and the San Francisco Bay Trail, and in close proximity of the City of Berkeley, particularly West Berkeley. We learned that Stauffer Chemical Company established operations in the late 1800s storing and manufacturing hazardous chemicals such as sulfuric acid, herbicides and pesticides, as well as allowing chemicals to enter our waterways, soils and ecosystems for nearly a century. In the 1990s, Stauffer Chemical Company merged with AstraZeneca, a multibillion dollar pharmaceutical corporation, where AstraZeneca Corporation ceased operations of the site, demolished all of the buildings, as well as dug up the toxic soil and mixed it with other chemicals, and finally capped it with a thin concrete cap for short term purposes. The California Department of Toxic Substances fined AstraZeneca Corporation and the University of California over half a million dollars over violations concerning their role in the cleanup.

In a July 2018 East Bay Express Article "The Fight to Clean Up Another Richmond Brownfield," it discusses the issues that many community members who worked next to or near the site developed cancer and serious illnesses over several years.

Recently, the majority of the Richmond City Council made a decision to reverse last year's unanimous decision of the Richmond City Council concerning the clean-up of the AstraZeneca site. Clean Up Alternatives 1 through 6 are discussed in technical detail in a report called "Feasibility Study and Remedial Action Plan For Lots 1, 2, and the Uplands Portion of Lot 3 Campus Bay, Richmond, California." We have serious concerns that going with Alternative 3A instead of Alternative 6 will not benefit Richmond, nor the City of Berkeley.

Environmental racism, injustice, and contamination does not stop at one city's border. It affects neighboring communities such as the City of Berkeley, especially West Berkeley. According to the California Office of Environmental Health Hazard Assessment (OEHHA), the data shows

that West Berkeley communities suffer from high rates of Diesel, Pesticides, Toxic Releases, Hazardous Waste, Asthma, and Cancer. The data also shows West Berkeley population demographics is approximately 28% African American, 10% Asian American, 13% Hispanic, 43% White, and 6% Other ethnicities. (<https://oehha.ca.gov/calenviroscreen/maps-data>)

Communities has more than made it clear for over 13 years now that it wants the full dig-and-haul cleanup (Alternative 6) implemented at the AstraZeneca site. The bay belongs to all of us and no corporation—and no single city—should be able to risk ruining this shared resource. One of the key arguments AstraZeneca makes is that a full, true cleanup exposes local residents to more toxins because of the dust from truckloads of contaminated soil being transported through neighborhoods. There are better ways to mitigate this impact with safe, proper transportation techniques and covered trucks.

Those of us in Berkeley who travel to work in the affected area such as the UC Berkeley Richmond Field Station, as well as walk the San Francisco Bay trail which runs next to the contaminated site, request the Cal/EPA and CA Department of Toxic Substance Control (DTSC) choose last year's Richmond City Council's unanimous choice of Alternative 6 which would force AstraZeneca to pay to remove the contaminated dirt, safely transport it out of the area, and store it in a specialized landfill area far from where people live.

This is our last chance to convince decision-makers that the billion-dollar corporate polluter AstraZeneca can and should remove the toxic waste it left on our beautiful shoreline.

It is urgent that our communities inform the Richmond City Council, CALEPA and CA DTSC to stand up to corporate pressure, stop environmental racism, injustice, and contamination of our communities. We must insure we remove all toxins out of our communities.

#### FISCAL IMPACTS OF RECOMMENDATION

None.

#### ENVIRONMENTAL SUSTAINABILITY

The Berkeley City Council has a past legislative record advocating for the environment. It is imperative to protect the health and safety of all residents from environmental racism, injustice and contamination.

#### CONTACT PERSON

Cheryl Davila,  
Councilmember, District 2  
510.981.7120  
[cdavila@cityofberkeley.info](mailto:cdavila@cityofberkeley.info)

#### ATTACHMENTS:

1. Letter
2. September 2019 KPIX Channel 5 News Article: Homes To Be Developed On Richmond Toxic Soil Site After Decision To Cover With Concrete Cap  
<https://sanfrancisco.cbslocal.com/2019/09/30/homes-to-be-developed-on-richmond-toxic-soil-site-after-decision-to-cover-with-concrete-cap/>
3. September 2019 Article: The Mercury News: Pouring concrete over toxic soil where 4,000 apartments may rise is not OK, activists tell Richmond council.  
<https://www.mercurynews.com/2019/09/28/pouring-concrete-over-toxic-soil-where-4000-apartments-may-rise-is-not-ok-activists-tell-richmond-council/>
4. July 2018 Article: East Bay Express: The Fight to Clean Up Another Richmond Brownfield.  
<https://www.eastbayexpress.com/oakland/the-fight-to-clean-up-another-richmond-brownfield/Content?mode=print&oid=18390371>



5. December 2016 Article: Developing Richmond's Zeneca Site means confronting a legacy of contamination

<https://richmondconfidential.org/2016/12/13/developing-richmonds-zeneca-site-means-confronting-a-legacy-of-contamination/>

6. Feasibility Study and Remedial Action Plan For Lots 1, 2, and the Uplands Portion of Lot 3 Campus Bay, Richmond, California:

[https://www.envirostor.dtsc.ca.gov/public/community\\_involvement/8316410660/fsrap\\_CampusBay\\_Lot1\\_2\\_UplandLot3-rev%20July%202018.pdf](https://www.envirostor.dtsc.ca.gov/public/community_involvement/8316410660/fsrap_CampusBay_Lot1_2_UplandLot3-rev%20July%202018.pdf)

7. Data and Maps from California Office of Environmental Health Hazard Assessment (OEHHA):

<https://oehha.ca.gov/calenviroscreen/maps-data>

To: Richmond City Council, California Environmental Protection Agency (CalEPA) and the California Department of Toxic Substances (CA DTSC)

CC: State Assemblymember Buffy Wicks and State Senator Nancy Skinner

Date: November 19, 2019

Re: Concerning recent Richmond City Council action of cleaning up nearby AstraZeneca

Dear Richmond City Council, California Environmental Protection Agency (CalEPA) and the California Department of Toxic Substances (CA DTSC):

Recently, the majority of the Richmond City Council made a decision to reverse last year's unanimous decision of the Richmond City Council concerning the clean-up of AstraZeneca site, which is next to the UC Berkeley Richmond Field Station and a few miles from West Berkeley. We express concerns that going with Alternative 3A instead of Alternative 6 will not benefit the citizenry of Richmond nor neighboring jurisdictions.

Environmental racism, injustice, and contamination does not stop at one city's border. The contaminates effect neighboring communities and jurisdictions, such as the City of Berkeley, especially West Berkeley. According to the California Office of Environmental Health Hazard Assessment (OEHHA), the data shows that West Berkeley communities suffer from high rates of Diesel, Pesticides, Toxic Releases, Hazardous Waste, Asthma, and Cancer. The data also shows West Berkeley population demographics is approximately 28% African American, 10% Asian American, 13% Hispanic, 43% White, and 6% Other ethnicities. (<https://oehha.ca.gov/calenviroscreen/maps-data>)

Communities have more than made it clear for over 13 years that the full dig-and-haul cleanup (Alternative 6) should be implemented at the AstraZeneca site. The bay belongs to all of us and no single city—should be able to risk ruining this shared resource. One of the key arguments AstraZeneca makes is that a full, true cleanup exposes local residents to more toxins because of the dust from truckloads of contaminated soil being transported through neighborhoods. There are better ways to mitigate this impact with safe, proper transportation techniques and covered trucks.

Those of us in Berkeley who travel to work in the affected area such as the UC Berkeley Richmond Field Station, as well as walk the San Francisco Bay trail which runs next to the contaminated site, request the CalEPA and CA Department of Toxic Substance Control (CA DTSC) choose last year's Richmond City Council's unanimous choice of Alternative 3A temporary concrete cap, which would force AstraZeneca to pay to remove the contaminated dirt, safely transport it out of the area, and store it in a specialized landfill area far from where people live.

This is our last chance to convince decision-makers that the billion-dollar corporate polluter AstraZeneca can and should remove the toxic waste it left on our beautiful shoreline.

We urge the Richmond City Council, as well as CalEPA and CA DTSC to reconsider going with Alternative 6, the full dig-and-haul cleanup and stand with our communities. Stop corporate pressure, environmental racism, injustice, and contamination of our communities. Let's get the toxins out of our communities in a way that benefits everyone for generations to come.

Best regards,

The Berkeley City Council

Business > Real Estate

## Pouring concrete over toxic soil where 4,000 apartments may rise is not OK, activists tell Richmond council

City officials gave their blessing to allow developers to cap the contaminated soil and build on top of it, though its ultimately up to the state.



Richmond resident, entrepreneur and activist Sherry Padgett points out 30 acres of contaminated marshland in Richmond, Calif., on Wednesday, Dec. 9, 2015. For the past 11 years, the Department of Toxic Substances has been responsible for cleaning up the site of a



By **ALI TADAYON** | atadayon@bayareanewsgroup.com | Bay Area News Group  
PUBLISHED: September 28, 2019 at 6:21 am | UPDATED: September 28, 2019 at 6:31 am

RICHMOND — Activists are livid with the Richmond City Council’s recent decision that it’s OK for a developer to pour concrete over an 86-acre brownfield and plop 4,000 apartments atop it instead of removing the toxic soil altogether.

At a meeting Tuesday, they accused the council of settling for a concrete cap of the site because developer Shopoff Realty Investments offered to contribute \$52 million toward city programs and services. Capping the former shoreline toxic waste dump with concrete is a far cheaper alternative than hauling away the contaminated dirt.

The Zeneca site east of Marina Bay and west of Interstate 580 has long been a point of controversy in Richmond. Pesticide producer Stauffer Chemical Co. and later pharmaceutical company Zeneca dumped toxic byproducts — including benzene, arsenic and polychlorinated biphenyls (PCBs) — at the site for about 100 years before Zeneca — now known as AstraZeneca — stopped the practice in 1997; the site has been fenced off since.

AstraZeneca started cleaning up the property in 2000, and four years later the California Department of Toxic Substances began overseeing the work. But activists have been upset with the state’s recommendation to essentially leave the toxic soil there, and now they’re angry at the city for going along despite agreeing last year that soil removal is the best option. Back then, the council directed City Manager Bill Lindsay to let the state know it prefers that the dirt be replaced.

Activists have argued that soil removal, though more expensive, is safer for the health of people who’ll end up living there.

“It’s one of the most complex toxic sites in the state of California,” said Sherry Padgett, a cancer survivor who lives near the property and has been fighting for full cleanup for years.

Developers long have viewed the property as potentially valuable waterfront real estate. Irvington-based Shopoff Realty Investments is in the process of buying the foreclosed land with the intention of building more than 4,000



If allowed to do so, Shopoff has agreed to give the city \$52 million through a “community benefits agreement” to help finance municipal services and programs, including around \$9 million to the Richmond Promise college scholarship program and \$18 million to local schools, and for fire station upgrades.

If all goes well, Shopoff hopes to finish acquiring the land over the next few months, obtain building permits and break ground in late 2022 or early 2023.

“We didn’t have to come to the site. We wanted to come to this site because it presented an interesting opportunity to create housing for Californians, housing that’s desperately needed,” Bill Shopoff, president and CEO of Shopoff Realty Investments, said at the council meeting.

Of the 40-plus people who spoke at the meeting, most opposed the council’s decision and several activists likened the community benefits agreement to a “corporate bribe.”

“The only community benefit that would be worth it would be a hospital funded and staffed forever in order to care for the future generations that will be poisoned by this toxic waste,” activist Tarnell Abbott told the council.

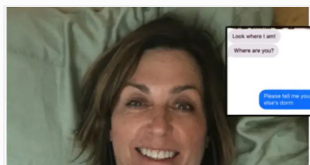
Richmond’s newest council members, Demnlus Johnson and Nat Bates, proposed supporting the concrete cap option and were joined by Mayor Tom Butt and council members Ben Choi and Jael Myrick. Council members Eduardo Martinez and Melvin Willis said they wanted to stick with the original decision for soil removal.

Shopoff said although Shopoff Realty Investments would pay for much of the cleanup, AstraZeneca would be on the hook for some of it too and the two parties are still negotiating who would pay for what.

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**Ali Tadayon** Ali Tadayon is an award-winning journalist covering Oakland for the Bay Area News Group. He joined the team in 2017 after working as a crime reporter in Riverside and Idaho Falls, Idaho.

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Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Harrison and Bartlett  
Subject: Budget Referral: BigBelly Trash Receptacles in Ohlone Park

RECOMMENDATION

Refer \$15,000 to the November 2019 Annual Appropriations Ordinance Budget Process to purchase two BigBelly trash receptacles for Ohlone Park.

BACKGROUND

BigBelly trash receptacles are self-powered compacting bins with five times<sup>1</sup> the capacity of traditional garbage bins. This higher capacity reduces the required collection trips, which saves fuel, labor, and maintenance costs. Furthermore, these bins close securely, and so there is no windblown litter, overflow, or access for rodents,<sup>2</sup> to which other trash receptacles are susceptible.

In January 2019, Berkeley purchased ten BigBelly receptacles, five of which are to be placed in the Downtown and five along Telegraph, as a pilot implementing Resolution 68,558-N.S. Since installing these receptacles in other cities such as Charleston<sup>3</sup> and Millbrae,<sup>4</sup> litter has decreased in both locations. Following the success of this pilot, BigBelly receptacles have the potential to decrease litter and beautify parks that have high volumes of trash, including Ohlone Park.

Ohlone Park stretches over half a mile and thus two bins are more appropriate for trash collection needs than one. The Parks Department and organizations like Friends of Ohlone Park can determine ideal placement for the bins, depending on volume of litter and other factors.

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<sup>1</sup> <http://bigbelly.com/platform/>

<sup>2</sup> *Ibid*

<sup>3</sup> <https://www.live5news.com/2019/08/22/you-paid-it-charleston-introduces-bigbelly-trash-cans/>

<sup>4</sup> <https://patch.com/california/millbrae/city-big-belly-compacting-trash-cans-great-millbrae>

FINANCIAL IMPLICATIONS

About \$7,000 per bin (\$5,000 for trash and \$2,000 for the attached recycling container) plus staff time to purchase and install in the park. Has the potential to reduce staff time in the long run by requiring fewer collection trips.

ENVIRONMENTAL SUSTAINABILITY

Increase Berkeley's diversion rate and contribute to our goal of Zero Waste by 2020. Reduces greenhouse gas emissions by requiring fewer collection trips and maximizing recycling and composting.

CONTACT PERSON

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

ATTACHMENTS

1: Item 42, July 24, 2018: "Contract: BigBelly Solar, Inc. for Solar Compacting Trash and Recycling Receptacles Pilot Program"





Office of the City Manager

CONSENT CALENDAR  
July 24, 2018

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Department of Public Works  
 Subject: Contract: Bigbelly Solar, Inc. for Solar Compacting Trash and Recycling Receptacles Pilot Program

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute a contract with Bigbelly Solar, Inc. for the Solar Compacting Trash and Recycling Receptacles Pilot Program and any amendments, extensions, or change orders, in an amount not to exceed \$71,300 for the term August 1, 2018 to June 30, 2023.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this Pilot Program (Program) in the amount of \$71,300 is available in FY2019 budget in Zero Waste Fund (820).

The contract has been entered in the contract management system as CMS No. APC78.

CURRENT SITUATION AND ITS EFFECTS

As requested by the City Manager, City Council authorized a Resolution for Request for Proposals (RFP) Specification No. 18-11191-C. The City released the RFP for a Solar Compacting Trash and Recycling Receptacles on April 24, 2018. Staff sought experienced, qualified firms for Solar Compacting Trash and Recycling Receptacles. The City received apparent responsive proposals from two qualified vendors. However, after reviewing the proposals, both companies lacked long-term operating history. Thus, it is necessary to evaluate a limited number of units in the field through a pilot program rather than award the deployment of all of the units specified in the RFP at this time. Therefore, the City is looking to begin a pilot program with an initial placement of ten (10) units with five (5) units in both the Shattuck and Telegraph streets commercial corridor. Bigbelly Solar Inc. has been initially selected due to its ability to manufacture and install these pilot program units more rapidly in the selected commercial corridors. Then, the pilot program will provide the initial installation, testing of these compactors, and the results will assist the City's decision whether to place more units in other commercial corridors.

### BACKGROUND

The City and the Downtown Business Association have been involved in ongoing discussions for the placement of solar compacting trash/litter with companion recycling (non-compacting) receptacles. Given the nascent development of these types of units and the lack of operating history, Public Works' staff spent a considerable amount of time to develop an adequate information base to release an RFP that would solicit competitive proposals.

These initial ten (10) units are intended to provide the compaction of the trash within the receptacle to allow more litter to be deposited between service collection times.

### ENVIRONMENTAL SUSTAINABILITY

The pilot program will provide the City the information required to develop a Citywide program for the placement of additional solar compacting and recycling receptacles throughout the City's commercial corridors. The pilot program will also allow the City to assess these receptacles ability to meet the City's approved Zero Waste<sup>1</sup> and Climate Action<sup>2</sup> goals.

### RATIONALE FOR RECOMMENDATION

The City does not have the available in-house staff to build and place these types of solar compacting and recycling receptacles. City Staff solicited and selected the most responsive and qualified firms to place these receptacles. The pilot program's initial placement and operation of the receptacles will allow the City to evaluate the effectiveness of this type of unit for a set period of time.

### ALTERNATIVE ACTIONS CONSIDERED

None.

### CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager, Public Works (510) 981-6359

Attachment:

1. Resolution

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<sup>1</sup> Resolution No. 62,849: <https://bit.ly/2y5ApAd>

<sup>2</sup> Climate Action Plan: <https://bit.ly/2l6Mmfi>

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

CONTRACT: BIGBELLY SOLAR, INC. FOR SOLAR COMPACTING AND RECYCLING  
RECEPTACLES PILOT PROGRAM

WHEREAS, the City of Berkeley's Department of Public Works has need for a company to provide, install and assist in the maintenance of solar compacting trash and recycling receptacles for a pilot program in the Shattuck and Telegraph streets commercial corridor; and

WHEREAS, the City of Berkeley released a Request For Proposals Specification No. 18-11191-C for a RFP for a Solar Compacting Trash and Recycling Receptacles on April 24, 2018; and

WHEREAS, staff is recommending Council authorize the City Manager to award a contract with a firm for Solar Compacting Trash and Recycling Receptacles Pilot Program; and

WHEREAS, funding is available in the Fiscal Year 2019 budget in the Zero Waste Fund (820), and the contract has been entered into the Contract Management System and assigned CMS No. APC78.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract with Bigbelly Solar, Inc., and any amendments, extensions, or change orders, in an amount not to exceed \$71,300 for the term August 1, 2018 to June 30, 2023. A record signature copy of said agreement will be on file in the Office of the City Clerk.





Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Wengraf, Harrison, Hahn and Mayor Arreguin  
 Subject: Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units

RECOMMENDATION

Referral to City Manager to Return to Council with an Amnesty Program for Undocumented Secondary Units using the guiding framework presented in the Background.

POLICY COMMITTEE RECOMMENDATION

On October 24, 2019, the Land Use, Housing & Economic Development Committee adopted the following action: M/S/C (Droste/Hahn) to move the item with revisions as submitted with a positive recommendation and to include the following: 1. Add certificate of compliance for Health and Safety on page 3; 2. To the checklist add Fire Department staff; 3. Change the duration of the program to reflect a limited timeframe but include language to extend to accommodate phasing or workflow. Vote: All Ayes.

FINANCIAL IMPLICATIONS

The City is required to devote staff time to bring our ADU Ordinance into compliance with the recently passed, new state legislation. As staff re-examines our regulations, and amends our requirements, incorporating the amnesty program into the process, simultaneously, will be an efficient use of resources.

Effective implementation of the Amnesty Program may require additional resources in the Planning Department. However, if flexibility can be created in how housing and building inspectors are deployed, the need for additional staff would be minimized.

BACKGROUND

The Agenda & Rules Committee voted to move this item to the Land Use Committee for further development on April 8, 2019. The Land Use Committee asked Councilmember Wengraf to develop a framework for the program. They reviewed and approved the following framework, with change requests incorporated, at their October 24, 2019 meeting:

BACKGROUND:

For the past several months, I have been working collaboratively with the Department of Planning & Development and the Legal Department and stakeholders to create a workable Amnesty program.

There is consensus and support amongst all parties to develop an amnesty program for secondary units.

The purpose of this program is to promote certification of unpermitted or undocumented secondary units while ensuring that they are safe, healthy and habitable, and once certified, to allow them to be legally used to provide needed housing to the Berkeley community. Planning staff estimates that there are as many as four thousand unpermitted secondary units in Berkeley.

Essential to the success of the amnesty program, is that owners of undocumented second units be given the opportunity to bring their properties into compliance, without fear of being criminally or civilly prosecuted by the City. Legalization means that once the property has been issued final inspection approval, it will be issued a **Zoning Certificate** and **Certificate of Compliance with Health and Safety Standards** confirming and validating that the unit will be considered legal for all purposes by the City.

Immunity must be emphasized. Discussions with other jurisdictions reveal that fear of disciplinary action is the number one deterrent to participating in an amnesty program.

NEW STATE LAWS AND EFFICIENT USE OF RESOURCES:

In the past few weeks, Governor Newsom signed into law, several bills that will impact regulations governing ADUs. A preliminary analysis and evaluation by the Planning Dept. of these new laws indicates that the proposed Amnesty program will benefit significantly as a result. For example, no minimum lot size will be required, height standards have been raised to 16 feet, set back requirements have been lifted, allowable square footage has been increased and multi-family ADUs are allowed (See attachment 1). The new state legislation will require the revision of current COB zoning laws that apply to secondary units.

The City is required to devote staff time to bring our ADU Ordinance into compliance with the recently passed, new state legislation. As staff re-examines our regulations, and amends our requirements, incorporating the amnesty program into the process, simultaneously, will be an efficient use of resources.

Effective implementation of the Amnesty Program may require additional resources in the Planning Department. However, if flexibility can be created in how housing and building inspectors are deployed, the need for additional staff would be minimized.

## FRAMEWORK

### IMPLEMENTATION AND CERTIFICATION:

Create a program where owners of secondary units voluntarily request legalization of their units, with no risk to them of disciplinary actions or assumptions of previous wrongdoing. **Immunity** from any form of discipline as a result of requesting amnesty, is essential to the success of the program and to getting safe and habitable units back into productive use at a time when the City of Berkeley is in dire need of additional housing units. In exchange for certification, the owner commits to maintaining the unit in compliance with health and safety standards and to acquire necessary permits for future improvements to the unit.

After inspections confirm that basic, required improvements for health and safety are met, a **Zoning Certificate** and a **Certificate of Compliance with Health and Safety Standards** will be issued, certifying the legality of the unit. In addition, the certification will be recorded and entered into the property files in the Planning Department database. In developing a proposal for the new program, staff will analyze if any additional zoning requirements would need to be amended or waived beyond the changes recently adopted by State law, in order to facilitate the amnesty objective.

### ADMINISTRATION:

**The Rental Housing Safety Program** has been identified as the best division in the city to be dedicated to implementation of the Amnesty Program. Basic health, life safety and habitability standards will be required for compliance. Zoning and development standards, as long as they don't conflict with basic health, safety and habitability requirements, may not be enforced. A **checklist** will be developed by Planning, Building and Safety, Fire, and any other relevant departments, to ensure a user-friendly process for participants.

### TIME LIMIT:

A window of opportunity to participate in the Amnesty Program should be limited to three years, but could be extended to accommodate program phasing.

### PUBLICITY:

A carefully crafted informational outreach campaign is imperative for the success of the amnesty program. Outreach needs to highlight immunity/confidentiality for applicants, and outline the process steps of the program in an easily understood format to encourage participation. Staff and/or contractor will execute outreach, making sure methods reach all parts of the city and residents of all economic, racial and language backgrounds.

PHASING:

Staff will fully design the amnesty program, however, implementation will be phased. Adjustments will be made to subsequent phases based on lessons learned through prior phases. The initial recommendation is:

1. Secondary units that are vacant in owner occupied single family properties
2. Secondary units that have sitting tenants in owner occupied single family properties
3. Secondary units that are vacant in non-owner occupied properties
4. Secondary units that are rented in non-owner occupied properties
5. Dwelling units in multiple unit housing that are unpermitted

These phasing suggestions may be refined as Planning digs deeper into the complexity of the program.

LOAN PROGRAM:

The success of the amnesty program will depend, in part, on the ability of applicants to have the resources to bring their units into compliance. Establishing a no-interest or low-interest loan program, specifically for compliance with health and safety standards, would accelerate participation and afford low-income homeowners the opportunity to participate in the Amnesty Program. The Building and Safety Division has some ideas for funding possibilities.

CONCLUSION:

Staff has agreed that they have an adequate understanding of the goals of the proposal to flesh out the details and create the program and return to City Council for final approval in the near future.

ENVIRONMENTAL SUSTAINABILITY

Ensuring health and safety standards and putting vacant dwelling units for housing is consistent with our climate action goals.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

- 1: Summary of new state laws impacting regulations governing ADUs
- 2: Original Amnesty Item, reviewed by Agenda Committee on April 8, 2019
- 3: Text of new State Laws: [AB-68](#), [AB-881](#), [SB-13](#) governing ADUs



Attachment 1

**Bills Governor Newsom signed into law, impacting regulations governing ADUs:  
Summary**

- **AB 68** prevents cities from using loopholes to block construction of Accessory Dwelling Units (ADUs), also known as “Granny Flats.” The bill also allows the construction of a second, “junior” ADU. This could lead to tens of thousands of new homes across the state.
- **AB 881** eliminates owner-occupancy rules for Accessory Dwelling Units. Right now, owner-occupancy rules are inhibiting the construction of ADUs in many parts of the state.
- **SB 13** targets barriers to constructing ADUs, including excessive impact fees, and creates a pathway to bring unpermitted units up to code.

Attachment 2

CONSENT CALENDAR  
April 23, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Wengraf, Harrison, Hahn, and Mayor Arreguin  
Subject: Referral to City Manager to Return to Council with an Amnesty Program for Legalizing Unpermitted Dwelling Units

RECOMMENDATION

That the City of Berkeley create and launch an Amnesty Program to incentivize the legalization of unpermitted dwelling units in order to improve the health/safety and preserve and possibly increase the supply of units available. A set of simple and clearly defined standards and a well-defined path for meeting those standards should be established in order to achieve the greatest success.

FINANCIAL IMPLICATIONS

Staff time in Planning, Building and Safety, and Legal Departments

BACKGROUND

Berkeley currently has an inventory of thousands of unpermitted dwelling units that are either being rented illegally or are being kept off the market. Building inspectors are required, under current regulations, to tell owners that these illegally constructed units must be demolished when it is discovered that they were built without permits.

While legal construction should always be the goal, many of the existing unpermitted structures in Berkeley are being put to beneficial use and have existed in the community for years. As long as safety and habitability can be ensured, the continued use of these units is in the public interest, especially given the crisis of available housing and very high housing costs.

Realizing that the state-wide housing crisis has created extraordinary circumstances, and that it is critical to preserve the current housing stock, many California cities have already enacted amnesty programs to address this issue. For example, San Francisco, City of Alameda, Daly City, County of San Mateo, County of Santa Cruz, Los Angeles, West Hollywood all have programs in place that incentivize the legalization of illegally constructed units.

ENVIRONMENTAL SUSTAINABILITY

Preserving dwelling units, rather than demolishing them is consistent with our Climate Action Goals

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160

**Assembly Bill No. 68**  
**CHAPTER 655**

An act to amend Sections 65852.2 and 65852.22 of the Government Code, relating to land use.

[ Approved by Governor October 09, 2019. Filed with Secretary of  
State October 09, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 68, Ting. Land use: accessory dwelling units.

(1) The Planning and Zoning Law authorizes a local agency to provide, by ordinance, for the creation of accessory dwelling units in single-family and multifamily residential zones and requires such an ordinance to impose standards on accessory dwelling units, including, among others, lot coverage. Existing law also requires such an ordinance to require the accessory dwelling units to be either attached to, or located within, the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This bill would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size. The bill would revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or an accessory structure, as defined.

(2) Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot, and would authorize the permitting agency to delay acting on the permit application if the permit application is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, as specified.

(3) Existing law prohibits the establishment by ordinance of minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the proposed or existing primary dwelling, if the limitations do not permit at least an efficiency unit to be constructed.

This bill would instead prohibit the imposition of those limitations if they do not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with 4-foot side and rear yard setbacks to be constructed. This bill would additionally prohibit the imposition of limits on lot coverage, floor area ratio, open space, and minimum lot size if they prohibit the construction of an accessory dwelling unit meeting those specifications.

(4) Existing law requires ministerial approval of a building permit to create within a zone for single-family use one accessory dwelling unit per single-family lot, subject to specified conditions and requirements.

This bill would instead require ministerial approval of an application for a building permit within a residential or mixed-use zone to create the following: (1) one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements are met; (2) a detached, new construction accessory dwelling unit that meets certain requirements and would authorize a local agency to impose specified conditions relating to floor area and height on that unit; (3) multiple accessory dwelling units within the portions of an existing multifamily dwelling structure provided those units meet certain requirements; or (4) not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to certain height and rear yard and side setback requirements.

(5) Existing law requires a local agency to submit its accessory dwelling unit ordinance to the Department of Housing and Community Development within 60 days after adoption and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to a local agency as to whether the local ordinance complies with state law, and would require the local agency to consider the department's findings and to amend its ordinance to comply with state law or adopt a resolution with specified findings. The bill would require the department to notify the Attorney General that the local agency is in violation of state law if the local agency does not amend its ordinance or adopt a resolution with specified findings.

(6) This bill would also prohibit a local agency from issuing a certificate of occupancy for an accessory dwelling unit before issuing a certificate of occupancy for the primary residence.

(7) This bill would require a local agency that has not adopted an ordinance for the creation of junior accessory dwelling units to apply the same standards established by this bill for local agencies with ordinances.

(8) This bill would make other conforming changes, including revising definitions and changes clarifying that the above-specified provisions regulating accessory dwelling units and junior accessory dwelling units also apply to the creation of accessory dwelling units and junior accessory dwelling units on proposed structures to be constructed.

(9) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by AB 881 and SB 13 to be operative only if this bill and either or both AB 881 and SB 13 are enacted and this bill is enacted last.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

## DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS  
FOLLOWS:

### SECTION 1.

Section 65852.2 of the Government Code is amended to read:

**65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application to create an accessory dwelling unit or a junior accessory dwelling unit shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.



(7) Notwithstanding subdivision (c) and paragraph (1), a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards, including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(A) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(B) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms apply:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Living area" means the interior habitable area of a dwelling unit, including basements and attics but does not include a garage or any accessory structure.

(4) "Local agency" means a city, county, or city and county, whether general law or chartered.

(5) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(6) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(7) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(8) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(9) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

**SEC. 1.1.**

Section 65852.2 of the Government Code is amended to read:

**65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas, or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application to create an accessory dwelling unit or a junior accessory dwelling unit shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require the property to be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general

plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1), a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards, including, but not limited to, design, development, and

historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(A) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(B) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms apply:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Living area" means the interior habitable area of a dwelling unit, including basements and attics but does not include a garage or any accessory structure.

(4) "Local agency" means a city, county, or city and county, whether general law or chartered.

(5) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(6) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(7) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(8) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(9) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) This section shall remain in effect until January 1, 2025, and as of that date is repealed.

## **SEC. 1.2.**

Section 65852.2 of the Government Code is amended to read:

### **65852.2.**



(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1), a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards, including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

- (i) Amend the ordinance to comply with this section.
- (ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
- (3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.  
  
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
- (i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
- (j) As used in this section, the following terms mean:
  - (1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:
    - (A) An efficiency unit.
    - (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
  - (2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.
  - (3) “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.
  - (4) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
  - (5) “Local agency” means a city, county, or city and county, whether general law or chartered.
  - (6) “Neighborhood” has the same meaning as set forth in Section 65589.5.
  - (7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
  - (8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
  - (9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
  - (10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

### **SEC. 1.3.**

Section 65852.2 of the Government Code is amended to read:

#### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory



dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the

local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1), a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards, including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) “Local agency” means a city, county, or city and county, whether general law or chartered.

(6) “Neighborhood” has the same meaning as set forth in Section 65589.5.

(7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

(8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

## **SEC. 2.**

Section 65852.22 of the Government Code is amended to read:

### **65852.22.**

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency

receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

### **SEC. 3.**

(a) Section 1.1 of this bill incorporates certain amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 881. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 65852.2 of the Government Code, and (3) Senate Bill 13 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 881, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates certain amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 13. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 65852.2 of the Government Code, (3) Assembly Bill 881 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 13 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates certain amendments to Section 65852.2 of the Government Code proposed by this bill, Assembly Bill 881, and Senate Bill 13. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2020, (2) all three bills amend Section 65852.2 of the Government Code, and (3) this bill is enacted after Assembly Bill 881 and Senate Bill 13, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.

**SEC. 4.**

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning  
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**Assembly Bill No. 881**  
**CHAPTER 659**

An act to amend, repeal, and add Section 65852.2 of the Government Code, relating to housing.

[ Approved by Governor October 09, 2019. Filed with Secretary of  
State October 09, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 881, Bloom. Accessory dwelling units.

(1) The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions. Existing law requires the ordinance to designate areas where accessory dwelling units may be permitted and authorizes the designated areas to be based on criteria that includes, but is not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

This bill would instead require a local agency to designate these areas based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. The bill would also prohibit a local agency from issuing a certificate of occupancy for an accessory dwelling unit before issuing a certificate of occupancy for the primary residence.

(2) Existing law requires an ordinance providing for the creation of accessory dwelling units, as described above, to impose standards on accessory dwelling units, including, among other things, lot coverage. Existing law also requires such an ordinance to require that the accessory dwelling units be either attached to, or located within, the living area of the proposed or existing primary dwelling, or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

This bill would delete the provision authorizing the imposition of standards on lot coverage and would prohibit an ordinance from imposing requirements on minimum lot size. The bill would revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or an accessory structure, as defined.

(3) Existing law prohibits a local agency from requiring a setback for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. Existing law requires that an accessory dwelling unit that is constructed above a garage have a setback of no more than 5 feet.

This bill would instead prohibit a setback requirement for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit. The bill would also instead require a setback of no more than 4 feet for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(4) Existing law provides that replacement offstreet parking spaces, required by a local agency when a garage, carport, or covered parking structure is demolished in conjunction with the construction of an

accessory dwelling unit or converted to an accessory dwelling unit, may be located in any configuration on the same lot as the accessory dwelling unit, except as provided.

This bill would instead prohibit a local agency from requiring the replacement of offstreet parking spaces when a garage, carport, or covered parking structure is demolished or converted, as described above.

(5) Existing law requires a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit within 120 days of receiving the application.

This bill would instead require a local agency to ministerially approve or deny a permit application for the creation of an accessory dwelling unit or junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. The bill would authorize the permitting agency to delay acting on the permit application if the permit application is submitted with a permit application to create a new single-family or multifamily dwelling on the lot, as specified.

(6) Existing law prohibits a local agency from utilizing standards to evaluate a proposed accessory dwelling unit on a lot that is zoned for residential use that includes a proposed or existing single-family dwelling other than the criteria described above, except, among one other exception, a local agency may require an applicant for a permit to be an owner-occupant of either the primary or accessory dwelling unit as a condition of issuing a permit.

This bill, until January 1, 2025, would prohibit a local agency from imposing an owner-occupant requirement, as described above.

(7) Existing law authorizes a local agency to establish minimum and maximum unit size limitations on accessory dwelling units, provided that the ordinance permits an efficiency unit to be constructed in compliance with local development standards.

This bill would prohibit a local agency from establishing a minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit, as defined. The bill would also prohibit a local agency from establishing a maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than 850 square feet, and 1,000 square feet if the accessory dwelling unit contains more than one bedroom. The bill would also instead prohibit a local agency from establishing any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size for either attached or detached dwelling units that prohibits at least an 800 square foot accessory dwelling unit that is at least 16 feet in height and with a 4-foot side and rear yard setbacks.

(8) Existing law prohibits a local agency from imposing parking standards for an accessory dwelling unit if, among other conditions, the accessory dwelling unit is located within 1/2 mile of public transit.

This bill would make that prohibition applicable if the accessory dwelling unit is located within 1/2 mile walking distance of public transit, and would define public transit for those purposes.

(9) Existing law requires a local agency to ministerially approve an application for a building permit to create within a zone for single-family use one accessory dwelling unit per single family lot of the unit that is contained within the existing space of a single-family residence or accessory structure when specified conditions are met, including that the side and rear setbacks are sufficient for fire safety.

This bill would instead require ministerial approval of an application for a building permit within a residential or mixed-use zone to create the following: (1) one accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if certain requirements

are met; (2) a detached, new construction accessory dwelling unit that meets certain requirements and would authorize a local agency to impose specified conditions relating to floor area and height on that unit; (3) multiple accessory dwelling units within the portions of an existing multifamily dwelling structure provided those units meet certain requirements; or (4) not more than 2 accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to certain height and rear yard and side setback requirements.

(10) Existing law prohibits a local agency, special district, or water corporation from considering an accessory dwelling unit to be a new residential use for purposes of calculating fees or capacity charges.

This bill would establish an exception from the above-described prohibition in the case of an accessory dwelling unit that was constructed with a new single-family home.

(11) Existing law requires a local agency to submit a copy of the adopted ordinance to the Department of Housing and Community Development and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to the local agency as to whether the ordinance complies with the statute authorizing the creation of an accessory dwelling unit, and, if the department finds that the local agency's ordinance does not comply with those provisions, would require the department to notify the local agency within a reasonable time. The bill would require the local agency to consider the department's findings and either amend its ordinance to comply with those provisions or adopt it without changes and include specified findings. If the local agency does not amend its ordinance or does not adopt those findings, the bill would require the department to notify the local agency and authorize it to notify the Attorney General that the local agency is in violation of state law, as provided. The bill would authorize the department to adopt guidelines to implement uniform standards or criteria to supplement or clarify the provisions authorizing accessory dwelling units.

(12) Existing law defines the term "accessory dwelling unit" for these purposes to mean an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons.

This bill would revise the definition to additionally require an accessory dwelling unit be located on a lot with a proposed or existing primary residence in order for the provisions described above to apply.

(13) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by SB 13 to be operative only if this bill and SB 13 are enacted and this bill is enacted last.

(14) By increasing the duties of local agencies with respect to land use regulations, this bill would impose a state-mandated local program.

(15) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(16) This bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

## DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS  
FOLLOWS:**SECTION 1.**

Section 65852.2 of the Government Code is amended to read:

**65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not

converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application to create an accessory dwelling unit or a junior accessory dwelling unit shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be

used or imposed, including an owner-occupant requirement, except that a local agency may require the property to be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1), a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(A) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(B) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and



addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(4) "Local agency" means a city, county, or city and county, whether general law or chartered.

(5) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(6) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(7) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(8) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(9) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

**SEC. 1.5.**

Section 65852.2 of the Government Code is amended to read:

**65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including

any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.
- (e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:
- (A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:
- (i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.
- (ii) The space has exterior access from the proposed or existing single-family dwelling.
- (iii) The side and rear setbacks are sufficient for fire and safety.
- (iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.
- (B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:
- (i) A total floor area limitation of not more than 800 square feet.
- (ii) A height limitation of 16 feet.
- (C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
- (ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.
- (D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
- (2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
- (3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

## **SEC. 2.**

Section 65852.2 is added to the Government Code, to read:

### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.



(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily use and includes a proposed or existing single-family dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application to create an accessory dwelling unit or a junior accessory dwelling unit shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit

within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision for an accessory dwelling unit created on or after January 1, 2025, to be an owner-occupant, or may require the property to be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit

or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1), a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(A) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(B) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

- (A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
- (B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- (2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.
- (3) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.
- (4) “Local agency” means a city, county, or city and county, whether general law or chartered.
- (5) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
- (6) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- (7) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (8) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (9) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
- (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
- (m) This section shall become operative on January 1, 2025.

## **SEC. 2.5.**

Section 65852.2 is added to the Government Code, to read:

### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse

impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.



(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and

historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(A) An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall become operative on January 1, 2025.

**SEC. 3.**

Sections 1.5 and 2.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 13. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 13, in which case Sections 1 and 2 of this bill shall not become operative.

**SEC. 4.**

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 5.**

The Legislature finds and declares that Sections 1 and 2 of this act amending, repealing, and adding Section 65852.2 of the Government Code addresses a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act applies to all cities, including charter cities.

**Senate Bill No. 13**  
**CHAPTER 653**

An act to amend, repeal, and add Section 65852.2 of the Government Code, and to add and repeal Section 17980.12 of the Health and Safety Code, relating to land use.

[ Approved by Governor October 09, 2019. Filed with Secretary of State October 09, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 13, Wieckowski. Accessory dwelling units.

(1) The Planning and Zoning Law authorizes a local agency, by ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, to provide for the creation of accessory dwelling units in single-family and multifamily residential zones in accordance with specified standards and conditions. Existing law requires any ordinance adopted by a local agency to comply with certain criteria, including that it require accessory dwelling units to be either attached to, or located within, the proposed or existing primary dwelling or detached if located within the same lot, and that it does not exceed a specified amount of total area of floor space.

This bill would, instead, authorize the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The bill would also revise the requirements for an accessory dwelling unit by providing that the accessory dwelling unit may be attached to, or located within, an attached garage, storage area, or other structure, and that it does not exceed a specified amount of total floor area.

(2) Existing law generally authorizes a local agency to include in the ordinance parking standards for accessory dwelling units, including authorizing a local agency to require the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. Existing law also prohibits a local agency from imposing parking standards on an accessory dwelling unit if it is located within one-half mile of public transit.

This bill would, instead, prohibit a local agency from requiring the replacement of parking spaces if a garage, carport, or covered parking is demolished to construct an accessory dwelling unit. The bill would also prohibit a local agency from imposing parking standards on an accessory dwelling unit that is located within one-half mile walking distance of public transit, and would define the term “public transit” for those purposes.

(3) Existing law authorizes a local agency to establish minimum and maximum unit size limitations on accessory dwelling units, provided that the ordinance permits an efficiency unit to be constructed in compliance with local development standards.

This bill would prohibit a local agency from establishing a minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit, as defined. The bill would also prohibit a local agency from establishing a maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than 850 square feet, and 1,000 square feet if the accessory dwelling unit contains more than one bedroom. The bill would also instead prohibit a local agency from establishing any other minimum or maximum size for an accessory dwelling unit, size

based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size for either attached or detached dwelling units that prohibit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height and with a 4-foot side and rear yard setbacks.

(4) Existing law prohibits a local agency from utilizing standards to evaluate a proposed accessory dwelling unit on a lot that is zoned for residential use that includes a proposed or existing single-family dwelling other than the criteria described above, except that, among one other exception, a local agency may require an applicant for a permit to be an owner-occupant of either the primary or accessory dwelling unit as a condition of issuing a permit.

This bill, until January 1, 2025, would instead prohibit a local agency from imposing an owner-occupant requirement as described above.

(5) Existing law requires a local agency that has not adopted an ordinance governing accessory dwelling units to approve or disapprove the application ministerially and without discretionary review within 120 days after receiving the application.

The bill would require a local agency, whether or not it has adopted an ordinance, to consider and approve an application, ministerially and without discretionary review, within 60 days after receiving a completed application. The bill would also provide that, if a local agency does not act on the application within that time period, the application shall be deemed approved.

(6) Existing law requires fees for an accessory dwelling unit to be determined in accordance with the Mitigation Fee Act. Existing law also requires the connection fee or capacity charge for an accessory dwelling unit requiring a new or separate utility connection to be based on either the accessory dwelling unit's size or the number of its plumbing fixtures.

This bill would prohibit a local agency, special district, or water corporation from imposing any impact fee, as specified, upon the development of an accessory dwelling unit less than 750 square feet, and would require any impact fees to be charged for an accessory dwelling unit of 750 square feet or more to be proportional to the square footage of the primary dwelling unit. The bill would revise the basis for calculating the connection fee or capacity charge specified above to either the accessory dwelling unit's square feet or the number of its drainage fixture unit values, as specified.

(7) Existing law, for purposes of these provisions, defines "living area" as the interior habitable area of a dwelling unit including basements and attics, but not a garage or accessory structure.

This bill would define "accessory structure" to mean a structure that is accessory and incidental to a dwelling located on the same lot.

(8) Existing law requires a local agency to submit a copy of the adopted ordinance to the Department of Housing and Community Development and authorizes the department to review and comment on the ordinance.

This bill would instead authorize the department to submit written findings to the local agency as to whether the ordinance complies with the statute authorizing the creation of an accessory dwelling unit, and, if the department finds that the local agency's ordinance does not comply with those provisions, would require the department to notify the local agency within a reasonable time. The bill would require the local agency to consider the department's findings and either amend its ordinance to comply with those provisions or adopt it without changes and include specified findings. If the local agency does not amend its ordinance or does not adopt those findings, the bill would require the department to notify the local agency and authorize it to notify the Attorney General that the local agency is in violation of state law, as provided. The bill would authorize the department to adopt guidelines to implement uniform standards or criteria to supplement or clarify the provisions authorizing accessory dwelling units.

(9) Existing law requires the planning agency of each city and county to adopt a general plan that includes a housing element that identifies adequate sites for housing. Existing law authorizes the department to allow a city or county to do so by a variety of methods and also authorizes the department to allow a city or county to identify sites for accessory dwelling units, as specified.

This bill would state that a local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing in accordance with those provisions.

(10) Existing law, the State Housing Law, a violation of which is a crime, establishes statewide construction and occupancy standards for buildings used for human habitation. Existing law requires, for those purposes, that any building, including any dwelling unit, be deemed to be a substandard building when a health officer determines that any one of specified listed conditions exists to the extent that it endangers the life, limb, health, property, safety, or welfare of the public or its occupants.

This bill would authorize the owner of an accessory dwelling unit built before January 1, 2020, or built on or after January 1, 2020, under specified circumstances, that receives a notice to correct violations or abate nuisances to request that the enforcement of the violation be delayed for 5 years if correcting the violation is not necessary to protect health and safety, as determined by the enforcement agency, subject to specified requirements. The bill would make conforming and other changes relating to the creation of accessory dwelling units.

By increasing the duties of local agencies with respect to land use regulations, and because the bill would expand the scope of a crime under the State Housing Law, the bill would impose a state-mandated local program.

(11) This bill would incorporate additional changes to Section 65852.2 of the Government Code proposed by AB 68 and AB 881 to be operative only if this bill and either or both AB 68 and AB 881 are enacted and this bill is enacted last.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

## DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS  
FOLLOWS:

### SECTION 1.

Section 65852.2 of the Government Code is amended to read:

#### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:



(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit within 60 days from the date the local agency receives a completed application. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create one accessory dwelling unit per lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(5) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) “Local agency” means a city, county, or city and county, whether general law or chartered.

(6) “Neighborhood” has the same meaning as set forth in Section 65589.5.

(7) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(8) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(9) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(l) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(m) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(n) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

### **SEC. 1.1.**

Section 65852.2 of the Government Code is amended to read:

**65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.



(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

## **SEC. 1.2.**

Section 65852.2 of the Government Code is amended to read:

### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create

the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an



accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The

guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in

paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

- (1) The accessory dwelling unit was built before January 1, 2020.
- (2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
- (o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

### **SEC. 1.3.**

Section 65852.2 of the Government Code is amended to read:

#### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

- (vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
- (vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.
- (viii) Local building code requirements that apply to detached dwellings, as appropriate.
- (ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
- (x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
- (II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
- (III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).
- (xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.
- (xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
- (2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
- (3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
- (4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the

requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and

minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

- (1) The accessory dwelling unit is located within one-half mile walking distance of public transit.
- (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
- (3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
- (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- (5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by

the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.



- (5) “Local agency” means a city, county, or city and county, whether general law or chartered.
- (6) “Neighborhood” has the same meaning as set forth in Section 65589.5.
- (7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.
- (8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- (9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
- (10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
- (11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
- (k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
- (l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
- (m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
- (n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
- (1) The accessory dwelling unit was built before January 1, 2020.
  - (2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
- (o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

## **SEC. 2.**

Section 65852.2 is added to the Government Code, to read:

### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the

adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) The total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the proposed or existing primary dwelling living area or 1,200 square feet.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020 to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit within 60 days from the date the local agency receives a completed application. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create one accessory dwelling unit per lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an

accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(5) For an accessory dwelling unit that is not described in subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider findings made by the department pursuant to subparagraph (A) and shall do either one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) “Local agency” means a city, county, or city and county, whether general law or chartered.

(6) “Neighborhood” has the same meaning as set forth in Section 65589.5.

(7) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(8) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(9) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(l) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(m) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2), a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(n) This section shall become operative on January 1, 2025.

## **SEC. 2.1.**

Section 65852.2 is added to the Government Code, to read:

**65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.



(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020 to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an

ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall become operative on January 1, 2025.

**SEC. 2.2.**

Section 65302.2 is added to the Government Code, to read:

**65302.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse

impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except that, subject to subparagraph (B), a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020 to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:



(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and

historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall become operative on January 1, 2025.

### **SEC. 2.3.**

Section 65852.2 is added to the Government Code, to read:

#### **65852.2.**

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria that may include the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the

permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed except, subject to subparagraph (B), that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020 to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.



(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with the section.

(2) (A) If the department finds that the local agency’s ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department’s findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department’s findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) “Accessory dwelling unit” means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) “Local agency” means a city, county, or city and county, whether general law or chartered.

(6) “Neighborhood” has the same meaning as set forth in Section 65589.5.

(7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

(8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall become operative on January 1, 2025.

### **SEC. 3.**

Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read:

#### **17980.12.**

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

(A) The accessory dwelling unit was built before January 1, 2020.

(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, “accessory dwelling unit” has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

### **SEC. 4.**

(a) Sections 1.1 and 2.1 of this bill incorporate amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 68. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends and adds Section 65852.2 of the Government Code, (3) Assembly Bill 881 is not enacted or as enacted does not amend and add that section, and (4) this bill is enacted after Assembly Bill 68, in which case Sections 1, 1.2, 1.3, 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Sections 1.2 and 2.2 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Assembly Bill 881. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends and adds Section 65852.2 of the Government Code, (3) Assembly Bill 68 is not enacted or as enacted does not

amend and add that section, and (4) this bill is enacted after Assembly Bill 881 in which case Sections 1, 1.1, 1.3, 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Sections 1.3 and 2.3 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by this bill, Assembly Bill 68, and Assembly Bill 881. That section shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2020, (2) all three bills amend and add Section 65852.2 of the Government Code, and (3) this bill is enacted after Assembly Bill 68 and Assembly Bill 881, in which case Sections 1, 1.1, 1.2, 2, 2.1, and 2.2 of this bill shall not become operative.

**SEC. 5.**

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.







Office of the City Manager

ACTION CALENDAR

November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Teresa Berkeley-Simmons, Budget Manager  
 Subject: FY 2019 Year-End Results and FY 2020 First Quarter Budget Update

RECOMMENDATION

Discuss and determine funding allocations for FY 2020 based on the FY 2019 General Fund Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) the Mayor's June 25, 2019, Supplemental Budget Recommendations approved by the Council and 3) the Council's Budget Referrals approved during FY 2020 to be considered in November 2019.

INTRODUCTION

This budget update presents the FY 2019 Year-End (Year-End) results as well as reports on the FY 2020 First Quarter. The FY 2019 Year-End budget summary covers the period starting July 1, 2018, through June 30, 2019 (FY 2019). This report also provides preliminary revenue information for the first quarter of the current fiscal year, 2020. The FY 2020 First Quarter Budget Update covers the period July 1, 2019, through September 30, 2019. The FY 2019 General Fund Year-End balance was \$38.8 million. Amounts restricted, committed, and assigned totaled \$35.5 million. Allocations to the General Fund reserves totaled \$1.2 million<sup>1</sup>. The amount of Unassigned Excess Equity totaled \$2.2 million.

The information in this report should be reviewed in conjunction with the Amendment to the FY 2020 Annual Appropriations Ordinance (AAO) also on tonight's agenda. The AAO#1 establishes the expenditure limits by fund for FY 2020. The adopted budget is amended annually to reflect the re-appropriation of prior year funds for contractual commitments (i.e. encumbrances) as well as unencumbered carryover of unexpended funds previously authorized for one-time, non-recurring purposes. These budget modifications are presented to the Council twice a year in the form of an AAO. However, this fiscal year we will present three AAOs to Council for approval.

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<sup>1</sup> Starting in FY 2018, to achieve the City's intermediate and long-term Reserves goals, 50% of Excess Equity above the first \$1M is allocated to Reserves. The General Fund Reserve consists of the total of the Stability Reserve and the Catastrophic Reserve.

The first AAO is on tonight's agenda. The second AAO will go to Council in late February or early March. The third and final AAO will go to Council in May.

Included on tonight's agenda is the First Amendment to the FY 2020 Annual Appropriations Ordinance report (AAO#1). The information included in this Year-End report is supplemented by the detailed information included in the AAO#1. Recommendations in the AAO#1 augments the adopted General Fund budget by \$22.2 million. The \$22.2 million includes encumbrances of \$5.5 million, unencumbered carry-over requests of \$4.2 million, and adjustments of \$12.5 million.

## CURRENT SITUATION AND ITS EFFECTS

### **FY 2019 Year-End Summary**

#### General Fund

On June 26, 2018, the City Council adopted the FY 2019 budget (Adopted Budget).<sup>2</sup> The FY 2019 adopted General Fund revenues were \$184.8 million. The actual FY 2019 year-end General Fund revenues were \$208.5 million.

Included in the FY 2019 Adopted Budget were General Fund expenditures of \$184.3 million. During the fiscal year, there were two Adjustments to the Appropriation Ordinance totaling \$42.2 million, thus the total FY 2019 General Fund adjusted expenditure budget was \$226.5 million<sup>3</sup>. At the end of FY 2019, \$5.5 million was encumbered and rolled into FY 2020 resulting in an FY 2019 year-end adjusted expenditure budget of \$220.9. Not all of the budgeted funds were expended in FY 2019, so the FY 2019 year-end actual General Fund expenditures were \$212.4 million.

#### Revenues

At FY 2019 year-end, actual General Fund revenues were \$208.5 million. This was \$23.7 million above the adopted budget of \$184.8 million. The largest contributors to the revenue increase were Property Transfer Tax, which exceeded the budgeted amount by \$7.5 million; Measure P – Transfer Tax<sup>4</sup>, which exceeded the budgeted amount by \$2.9 million, and Business License Tax generated from Measure U1 – Rental Unit Business License Tax<sup>5</sup>, which exceeded the budgeted amount by \$4.8 million. Together, these three revenue streams generated \$15.2 million above the FY 2019 adopted revenues for the General Fund.

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/06\\_June/City\\_Council\\_06-26-2018\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/City_Council_06-26-2018_-_Regular_Meeting_Agenda.aspx) (Items 40 & 41)

<sup>3</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/05\\_May/City\\_Council\\_05-28-2019\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/05_May/City_Council_05-28-2019_-_Regular_Meeting_Agenda.aspx) (Item #1, Exhibit A)

<sup>4</sup> [https://www.cityofberkeley.info/Clerk/Elections/Ballot\\_Measure\\_Archive\\_Page.aspx](https://www.cityofberkeley.info/Clerk/Elections/Ballot_Measure_Archive_Page.aspx)

<sup>5</sup> Business License Tax of five or more units (U1)



Expenditures

Actual FY 2019 General Fund expenditures were \$212.4 million. This was \$28.1 million above the initial adopted budget of \$184.3 million and \$8.4 million below the adjusted budget of \$220.9 million.

The actual General Fund expenditures came in below the adjusted budget due to salary savings and cost of living adjustments that were substantially absorbed by many departments. FY 2019 General Fund salary savings were \$4.0 million. In addition, there were several capital projects that were budgeted but not completed in FY 2019. Funding allocations for ongoing projects are being carried over to FY 2020.

Details of the variances are included in Attachment 3 of this report.

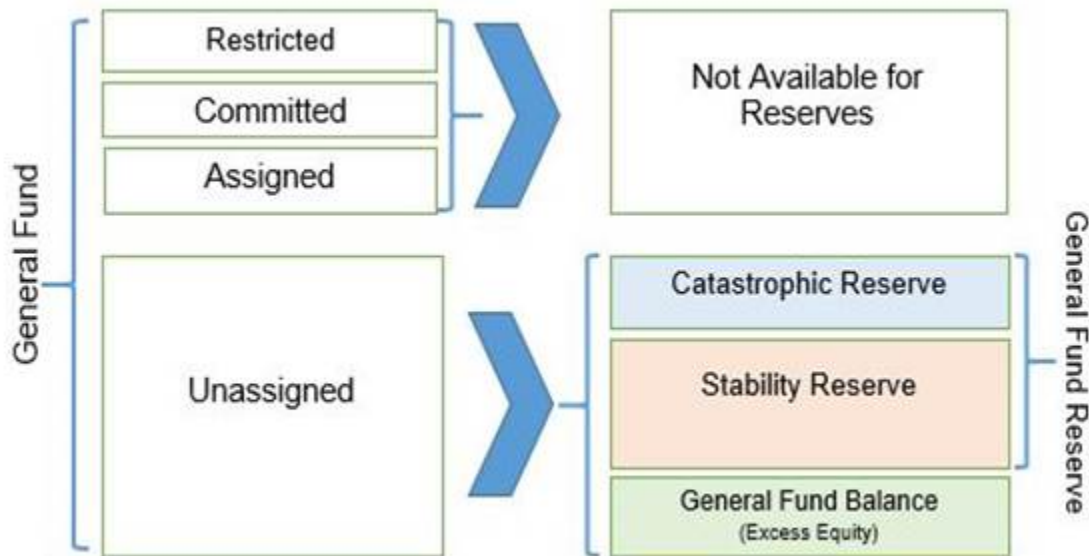
Details of the carryover requests are included in the AAO#1 on tonight's agenda.

**Excess Equity**

Starting in FY 2018 to achieve the City's intermediate and long-term General Fund Reserves goals, 50% of Excess Equity above the first \$1 million is allocated to General Fund Reserves. The chart below illustrates the FY 2019, \$1.16 million reserve calculation as well as the \$2.16 million calculation for the unassigned excess equity.

GENERAL FUND EXCESS EQUITY	
FY 2019 Beginning Balance	\$ 42.75
FY 2019 Revenues	\$ 208.46
FY 2019 Expenditures	\$ (212.45)
<b>Available Balance</b>	<b>\$ 38.77</b>
<b>Less:</b>	
<i>Committed</i>	
Excess Property Transfer Tax	\$ (7.45)
Excess Business License Tax U1*	\$ (8.99)
Encumbered Rollovers (AAO#1)	\$ (5.51)
<i>Assigned</i>	
General Fund Carryover & Adjustments (AAO#1 - Excludes U1**)	\$ (13.50)
<b>Total Committed &amp; Assigned</b>	<b>\$ (35.45)</b>
<b>Excess Equity</b>	<b>\$ 3.32</b>
<b>Allocation to Reserves</b>	<b>\$ 1.16</b>
<b>Unassigned Excess Equity</b>	<b>\$ 2.16</b>
*U1 revenues were \$4.16M (FY18) and \$4.83M (FY19)	
** U1 allocations are discussed later in this report	

The calculation for excess equity is documented in the graphic below.



The graphic above shows the relation between excess equity as well as other restricted, committed, and assigned General Fund monies.

- The restricted fund balance category includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation.
- The committed fund balance classification includes amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority.
- Amounts in the assigned fund balance classification are intended to be used by the government for specific purposes but do not meet the criteria to be classified as restricted or committed.
- Unassigned fund balance is the residual classification for the government's general fund and includes all spendable amounts not contained in the other classifications

### General Fund Reserve

The General Fund Reserve is distinctly separate from the General Fund Balance (Excess Equity). On January 24, 2017, the City Council established [Resolution No. 67,821](#) – N.S., a policy for the General Fund Reserves.<sup>6</sup> The General Fund reserves are comprised of two elements: a Stability Reserve and a Catastrophic Reserve.

The Stability Reserve was established to mitigate the loss of service delivery and financial risks associated with unexpected revenue shortfalls during a single fiscal year or during a prolonged recessionary period. The purpose of the Stability Reserve is to provide fiscal stability in response to unexpected downturns or revenue shortfalls. Fifty-five percent of the General Fund Reserve is allocated to the Stability Reserve.

The Catastrophic Reserve was established to sustain the General Fund operations in the case of a public emergency such as a natural disaster or other catastrophic event. The Catastrophic Reserve may be used to respond to extreme onetime events, such as earthquakes, fires, floods, civil unrest, and terrorist attacks. Forty-five percent of the General Fund Reserve is allocated to the Catastrophic Reserve.

When the Council adopted the General Fund Reserve Policy the target level established for the Reserve was a minimum of 13.8% of Adopted General Fund Revenues with an Intermediate Goal of a minimum of 16.7% by the end of Fiscal Year 2020, if financially feasible. In addition, the Council adopted a Long-Term Goal of 30% of General Fund revenues, to be achieved within no more than 10 years. The Council demonstrated their commitment to these goals in the policy by assigning 50% of the General Fund Excess Equity above the first \$1 million to be allocated to Reserves. Additional Excess Equity may be allocated to Reserves by a majority vote of the Council. The chart directly below illustrates the FY 2019 allocation of the \$1.16 million distributed to the General Fund Reserves, resulting in an actual Reserves level of 17.43%<sup>7</sup>.

General Fund Reserves	Stability Reserve	Catastrophic Reserve	Reserve %
Beginning Cash Balance - Reserves	\$ 20.25	\$ 16.39	
FY 2019 Allocation to Reserves	\$ 0.64	\$ 0.52	
% Allocation	55%	45%	
<b>Reserve Balance</b>	\$ 20.89	\$ 16.91	
Reserved for Camps Fund - Tuolumne Cam	-	\$ (3.30)	
<b>Ending Cash Balance - Reserves</b>	<b>\$ 20.89</b>	<b>\$ 13.61</b>	<b>17.43%</b>

The allocations to the General Fund reserves are not included in AAO#1.

<sup>6</sup> <https://www.cityofberkeley.info/recordsonline/export/17153922.pdf>

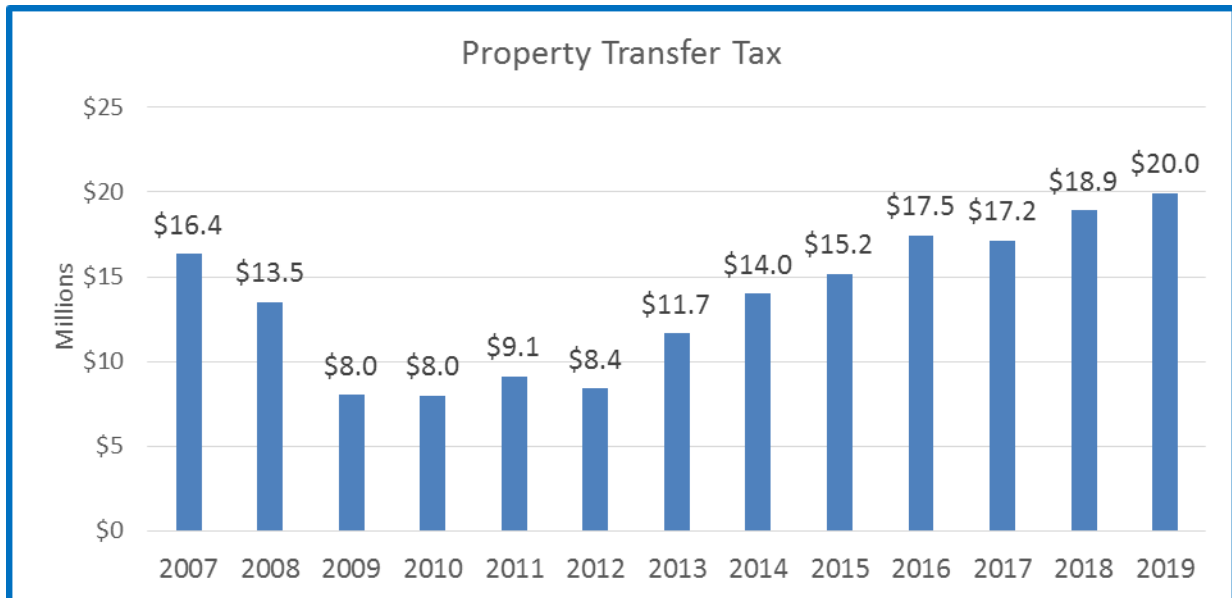
<sup>7</sup> Based on the FY 2020 Adopted General Fund Revenues of \$198.0 million.

### Funding for Capital Improvements

#### Property Transfer Tax

One of Council’s fiscal policies stipulates that the Property Transfer Tax in excess of the \$12.5 million operating baseline will be treated as one-time revenue to be used for the City’s capital infrastructure needs.

The chart below documents the historical trend of the City’s Property Transfer Tax from FY 2007 through FY 2019.



In FY 2019 the Property Transfer Tax included in the Adopted Budget was \$12.5 million. By year-end, the actual Property Transfer Tax was \$20.0 million. This is \$7.5 million over the \$12.5 million operating baseline threshold established by Council.

Of the \$7.5 million in excess Property Transfer Tax, Council committed \$3.4 million when the budget was adopted on June 25, 2019. Staff is recommending additional one-time allocations totaling \$1.4 million. Thus, the Unassigned Excess Property Transfer Tax is \$2.6 million. The chart below displays the allocations from the FY 2019 Excess Property Transfer Tax. These allocations are included in the AAO#1 on tonight’s agenda.

FY 2019 Property Transfer Tax	
Adopted Property Transfer Tax	\$ 12,500,000
Actual Property Transfer Tax	\$ 19,952,981
Excess Property Transfer Tax	\$ 7,452,981
Excess Property Transfer Tax	\$ 7,452,981
<b>Restricted: Approved by Council 6/25/19</b>	
Relocate PEOs to Marina	\$ 250,000
Software Costs Above ERMA	\$ 120,000
Pedestrian/Bicycle Safety Imprv	\$ 100,000
50/50 Sidewalk (backlog)	\$ 500,000
EV Charging Stations	\$ 600,000
Waterfont Capital Needs	\$ 1,505,000
1.0 FTE Associate Civil Engineer	\$ 143,802
1.0 FTE (Traffic) Engineering Inspector	\$ 80,986
Convert Asst Architect to Asst Eng	\$ 14,643
Convert Sr. Bldg Insp to Sr. Eng Insp	\$ 20,000
1.0 FTE Sr. Mgmt Analyst 20%	\$ 35,503
Intern	\$ 42,000
<b>Sub-Total</b>	<b>\$ 3,411,933</b>
<b>New Request: AAO#1 11/19/19</b>	
IT Move to 1947 Center St & remodel	\$ 500,000
7th/Anthony Traffice Signal Imprv	\$ 12,380
1951 Shattuck Traffic Signal	\$ 800,000
Convert Temp. Assoc Civil Eng to Perm	\$ 116,260
<b>Sub-Total</b>	<b>\$ 1,428,640</b>
Committed and Assigned Total	\$ 4,840,573
<b>Unassigned Excess Property Transfer Tax</b>	<b>\$ 2,612,408</b>

In prior years the majority of the Excess Property Transfer Tax was used to finance the \$15.1 million required to replace the City's obsolete financial system, FUND\$. However, with the adoption of the FY 2020 budget, funding was available to support other Council priorities projects as noted in the chart above. The \$2.6 million Unassigned Excess Property Transfer Tax should be allocated to one-time Council priority projects.

Enterprise Resource Planning (ERP) Software (FUND\$ Replacement)

The total estimated cost for the FUND\$ Replacement project was \$15.1 million. This estimate was for work orders, business licensing, facilities and fleet management, performance evaluation, and refuse billing software solutions. Additionally, staff determined that there is a need to implement performance evaluation software and there will be some current solutions that will no longer work with a new ERP and will also require replacement. The solutions for these services will either be through the expansion of the ERP system or an additional technology-based service for staff to maintain the service we deliver currently. The \$15.1 million costs also included 8.3 dedicated ERP implementation staff for three years.

In November 2018 the City launched Phase IA which included Chart of Accounts / General Ledger, Requisition, Purchase Orders, Contracts, Project Ledger, Accounts Payable Modules. In January 2019, the City began working on the Phase 1B Payroll and HR modules which are expected to go-live on July 1, 2020. This goal requires four consecutive successful parallel runs to test the new system. In parallel, the City is working with Tyler to develop a timeline for Phase 1C which includes launching Budget prep, Accounts Receivables, General Billing and Cashiering in FY 2021.

**Project Challenges** - The team started with dedicated team members. However, the project team had few setbacks with staffing challenges due to retirements and staff moving on to new roles within the organization. Mitigation plans include contracting with an outside project manager to assist with go-live and project implementation. Both positive and negative lessons learned from Phase 1A have been documented. Due to the age of the existing financial system, data conversion was a challenge and a significant portion of the data needed to be converted manually. These challenges are being addressed, and a new project plan is being developed including the additional requirements from the lessons learned from Phase 1A.

There are additional costs associated with the FUND\$ Replacement project in the amount of \$1,250,000<sup>8</sup> for FY 20. These additional costs are included in AAO#1 on tonight's agenda and are described below:

Additional Staffing - City Auditors Office	\$ 30,000.00
Additional Server Environment for 2017 to 2019 upgrade	\$ 34,000.00
NEW - Expense Reimbursement Module	\$ 180,000.00
Additional Project Management / Implementation Services	\$ 616,000.00
Additional Consulting - HR Payroll	\$ 100,000.00
Data Integrations / Data Conversion	\$ 290,000.00

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<sup>8</sup>Note There will be additional expenses in FY 2021 through FY 2023 which will be brought back to Council as the Phase2 Projects go through implementation.

The implementation of the new system provides the City with a suite of modern software that will work in harmony to support efficiency and transparency in our work and allow staff to dedicate more time addressing community priorities.

#### Workers' Compensation Repayment for Purchase of University Avenue Property

The City appropriated \$6.7 million from the Workers' Compensation Fund for the [Acquisition of Real Property at 1001 University Avenue, 1007 University Avenue, 1011 University Avenue, and 1925 Ninth Street](#) (formerly Premier Cru) with the purpose of redeveloping the majority of the site for below market-rate housing. In addition, a portion of the property was identified for use as an interim City Council Chamber with a seating capacity of 150-200 persons. Meetings of the City Council, the Rent Board, and the Zoning Adjustments Board would utilize the interim Council Chamber.<sup>9</sup>

Proposed repayment to the Worker's Compensation fund was to be made with revenue generated from a combination of the Business License Tax of five or more units (U1) and excess Property Transfer Tax. The proposed repayment schedule is illustrated below.

#### *Summary of Proposed Funds for Repayment*

Total Purchase Price: \$6,650,000

Repayment Source	Principal Repayment Amount	Percent of Purchase Price
General Fund Excess Property Transfer Tax	\$ 2,000,000	30%
Measure U1 Business Tax Revenue	\$ 4,650,000	70%

#### *Annual Repayment Amounts by Source (with interest)*

Total Repayment Amount: \$6,765,575

Repayment Source	General Fund Excess Property Transfer Tax*	Measure U1 Business Tax Revenue**
FY 2017-18	406,952	946,163
FY 2018-19	406,952	946,163
FY 2019-20	406,952	946,163
FY 2020-21	406,952	946,163
FY 2021-22	406,952	946,163
<b>Total</b>	<b>\$2,034,760</b>	<b>\$4,730,815</b>

\* Total General Fund excess Property Transfer Tax has averaged \$5.8 million over the last two years.

\*\* Total Measure U1 Business Tax revenue is estimated at \$3 million annually.

<sup>9</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/03\\_Mar/City\\_Council\\_03-28-2017\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/03_Mar/City_Council_03-28-2017_-_Regular_Meeting_Agenda.aspx) (Item #32)

Included in the AAO#1 on tonight’s agenda is a \$406,952 General Fund allocation to repay the Workers’ Compensation Fund for the portion of the property that will be used for the Council Chambers. There is also a \$946,163 allocation from U1 to pay for the remainder of the property proposed for below market-rate housing. Additional U1 funding allocations are shown in the chart below.

FY 2019 Measure U1	
Actual U1 Revenues	\$ 5,828,443
Actual U1 Expenditures	\$ 1,995,280
Excess U1 Revenues	\$ 3,833,163
Excess U1 Revenues	<b>\$ 3,833,163</b>
<b>Committed: New Request AAO#1 11/19/19</b>	
2001 Ashby Avenue*	\$ 368,000
HTF Predevelopment Applications*	\$ 1,750,000
Measure O Staff Person	\$ 167,212
Worker's Comp Fund (Premier Cru)	\$ 946,163
Reserve for 2001 Ashby Avenue approved by Reso 68,824 by Council on 4/23/19. Reserve for HTF Predevelopment Applications approved by Council on 10/29/19.*	
Committed Total	<b>\$ 3,231,375</b>
<b>Available Excess FY 19 U1 Revenue</b>	<b>\$ 601,788</b>



**Other Funding Needs For Council's Consideration****Excess Transfer Occupancy Tax (Short Term Rentals)**

Included in Council's fiscal policies is the methodology to allocate General Fund revenues generated from Short Term Rentals. Starting in FY 2018, staff costs as approved by the City Council that exceed the enforcement fees and penalties shall be appropriated from the short term rental taxes collected pursuant to BMC Section 23C.22.050, Section H, with primary allocation of the rental tax to the purposes listed below:

- Two thirds (66.7%) allocated to the Affordable Housing Trust Fund.
- One third (33.3%) allocated to the Civic Arts Grant Fund.

In order to facilitate the Civic Arts Grant Funding allocation process, Council reset the Civic Arts Grants Funding allocation to \$500,000 as part of the FY 2020 and FY 2021 Biennial Budget adoption in June. This would ensure that a baseline of \$500,000 was available for allocation and would eliminate the allocation delay resulting from the excess Short-Term Rentals November calculation. However, in order to fund the Civic Arts Grant to the \$500,000 level in June, funding allocations to other critical City functions were deferred.

Included in the FY 2019 Adopted budget was \$840,000 of General Fund revenue from short-term rentals. The actual revenue was \$1.8 million. The excess over the budgeted amount was \$990,983. One-third of the excess is \$327,024. Two-thirds of the excess is \$654,049. These allocations are currently not included in AAO#1.

Council's Fiscal Policies are scheduled to be discussed and reviewed by the Budget and Finance Policy Committee. The policy tied to the Short-Term Rentals will be part of that discussion.

**Unfunded Liabilities**

On April 4, 2017, there was a Council Worksession in which the City's outside actuary presented the [Projections of Future Liabilities - Options to Address Unfunded Liabilities Tied to Employee Benefits](#). The actuary provided several options for Council's consideration that would reduce the City's unfunded liabilities tied to post-employee benefits. Included in the recommendations were the following:

- Investing for the long-term to generate more earning to meet long-term funding targets,
- Increase annual contribution by approximately \$4.5 million per year and fully pre-fund the plans, and
- Establish an irrevocable supplemental trust for CalPERS to stabilize the increasing employer contribution rates.

On June 26, 2018, Council authorized the City Manager to establish an IRS Section 115 Pension Trust Fund (Trust) to be used to help pre-fund pension obligations<sup>10</sup>. On May 14, 2019, Council authorized the City Manager to execute a contract with Keenan Financial Services to establish, maintain, and invest the pension Section 115 Trust<sup>11</sup>. To date, Council has allocated \$9.1 million to fund the Trust, which consists of the following:

- ✓ \$4 million set aside in the PERS Savings Fund
- ✓ \$4 million allocated by Council in November 2018
- ✓ \$1.1 million discount the City saved by prepaying the FY 2019 unfunded liability payments required by CalPERS

Ongoing funding of the Trust has not yet been identified and is needed to ensure continuity of services as the City's pension contributions increase. As the Budget and Finance Policy Committee review Council's Fiscal Policies, a policy to identify ongoing funding of the Trust will be part of that discussion. No additional funding of the Trust is included in the AAO#1 on tonight's agenda. However, Council may vote to allocate additional Excess Equity to fund the Trust.

#### Negotiations with Labor

As a service organization, the majority of the City's costs are tied to staffing. Salary and benefit costs made up approximately 55% of the citywide budget on an All Funds basis and 74% of the General Fund operating budget. As such, labor costs are a major factor for budgetary stability. All 7 of the labor contracts are scheduled to expire June 2020.

The City treats employees fairly and equitable and also has a policy of minimizing the layoff of career employees. Controlling expenditures has been, and will continue to be a necessity in managing the City's budget, and labor costs are a critical factor in that approach. Last year Council set aside \$1.5 million of the FY 2018 Excess Equity to address the impacts of the COLAs. Currently, there is no set aside in the FY 2020 AAO#1 on tonight's agenda to address future negotiations.

#### **Council Budget Referrals Deferred for Consideration in November 2019**

On June 25, 2019, Council referred the following Supplemental Budget Recommendations to the budget process for consideration in November 2019. Funding for these budget referrals is not included in AAO#1.

<sup>10</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/06\\_June/Documents/2018-06-26\\_Item\\_19\\_Authorization\\_to\\_Establish\\_IRS.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/Documents/2018-06-26_Item_19_Authorization_to_Establish_IRS.aspx)

<sup>11</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/05\\_May/City\\_Council\\_05-14-2019\\_-\\_Regular\\_Meeting\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/05_May/City_Council_05-14-2019_-_Regular_Meeting_Agenda.aspx) (Item #5)

## For Funding Consideration - November 2019

Item #	Department/ Program	Fund Name	Description	FY 2020 Amount	FY 2021 Amount
1	HHCS	Excess Equity or Measure P	Youth Spirit Artworks Tiny House Village Services	78,000	-
2	Public Works/Fire	Excess Property Tax or Excess Equity	Outdoor Emergency Warning System	1,100,000	-
3	Public Works	Excess Property Tax or Excess Equity	Traffic Light at University/Acton (up to)	400,000	
4	Public Works	Excess Property Tax or Excess Equity	RRFP Light at San Pablo and Addison	100,000	
5	Public Works	Excess Property Tax or Excess Equity	Traffic Calming at MLK and Stuart Street (up to)	400,000	
6	Public Works/ Transportation	Excess Equity	Traffic Study on Alcatraz Avenue (unknown)	unknown	-
<b>For Funding Consideration - November 2019 Total</b>				<b>2,078,000</b>	-

In addition, between June 25, 2018, and November 19, 2019, there were 22 Council items referred to the budget process for consideration in November 2019. These budget referrals are listed below.

Title and Item #	Council Date	Description (Purpose)	Amount	Referred by: Council Member Name
1. <a href="#">Budget Referral: Remediation of Lawn Bowling, North Green and Santa Fe Right-of-Way, FY2020-2021</a> <sup>12</sup>	June 25, 2019	Refer to the FY20 (2020/2021) RRV Budget Process for consideration of at least \$150,000 and up to remediate the Lawn Bowlers, North Green and Santa Fe Right-of Way in advance of Request for Proposal (RFP) for these areas that potentially could provide much needed affordable alternative housing.	\$150,000	Davila
2. <a href="#">Adopt an Ordinance adding a new Chapter 12.80 to the Berkeley Municipal Code Prohibiting Natural Gas Infrastructure in New Building</a> <sup>13</sup>	July 9, 2019	Refer to the November 2019 budget process for consideration of up to \$273,341 per year to fund a new career position in the Building & Safety Division of the Department of Planning and Development. The staff person will assist with implementing the gas prohibition ordinance and reach codes, and perform other duties as specified in the Financial Implications section of this item	\$273,341	Harrison, Davila, Bartlett and Hahn
3. <a href="#">Funding the Pavement of Derby Street Between Telegraph Avenue and Shattuck Avenue</a> <sup>14</sup>	September 10, 2019	Refer to the budget process for the paving of Derby St. between Shattuck Ave. and Telegraph Ave. in order to repair deteriorating street that serves as a part of major commuter corridor.	\$1.6 million for pavement reconstruction Per 2017 Bicycle Plan: \$60,000 for traffic diverter at Fulton \$360,000 for Ped. Hybrid Signal at Shattuck	Bartlett

<sup>12</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/07\\_Jul/Documents/2019-07-09\\_Item\\_21\\_Adopt\\_an\\_Ordinance\\_adding\\_a\\_new.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/07_Jul/Documents/2019-07-09_Item_21_Adopt_an_Ordinance_adding_a_new.aspx)

<sup>13</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/06\\_June/Documents/2019-06-25\\_Item\\_38\\_Budget\\_Referral\\_Remediation\\_of\\_Lawn.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/06_June/Documents/2019-06-25_Item_38_Budget_Referral_Remediation_of_Lawn.aspx)

<sup>14</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/09\\_Sep/Documents/2019-09-10\\_Item\\_44\\_Pavement\\_of\\_Derby\\_Street\\_and\\_Ward.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/09_Sep/Documents/2019-09-10_Item_44_Pavement_of_Derby_Street_and_Ward.aspx)

Title and Item #	Council Date	Description (Purpose)	Amount	Referred by: Council Member Name
4. <a href="#">Funding the Construction of a Pedestrian Signal at Ashby Street and Fulton Street</a> <sup>15</sup>	September 10, 2019	Refer to the November budget AAO process for the construction of a pedestrian crossing signal at the intersection of Ashby and Fulton St. in order to reduce traffic accidents, and further safeguard the community.	\$400,000 - \$800,000	Bartlett
5. <a href="#">Funding for Pedestrian Crossing Signal at Intersection of Shattuck and Prince</a> <sup>16</sup>	September 10, 2019	Refer to the November Budget Annual Appropriations Ordinance to fund pedestrian crossing signals on all directions of the Shattuck Avenue and Prince Street intersection in order to address inadequate traffic control and ensure the safety of travelers along these streets.	\$400,000 - \$800,000	Bartlett
6. <a href="#">Funding Streetlight Near South East Corner of Otis Street</a> <sup>17</sup>	September 10, 2019	Council refers to the City Manager to fund construction of a streetlight on the corner of Otis near Ashby.	\$10,000 to \$20,000	Bartlett

<sup>15</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/09\\_Sep/Documents/2019-09-10\\_Item\\_45\\_Funding\\_the\\_Construction\\_of\\_a\\_Pedestrian.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/09_Sep/Documents/2019-09-10_Item_45_Funding_the_Construction_of_a_Pedestrian.aspx)

<sup>16</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/09\\_Sep/Documents/2019-09-10\\_Item\\_46\\_Funding\\_for\\_Pedestrian\\_Crossing\\_Signal.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/09_Sep/Documents/2019-09-10_Item_46_Funding_for_Pedestrian_Crossing_Signal.aspx)

<sup>17</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/09\\_Sep/Documents/2019-09-10\\_Item\\_47\\_Funding\\_Streetlight\\_Near\\_South\\_East.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/09_Sep/Documents/2019-09-10_Item_47_Funding_Streetlight_Near_South_East.aspx)

Title and Item #	Council Date	Description (Purpose)	Amount	Referred by: Council Member Name
7. <a href="#">RFP for a Freestanding Public restroom Facility</a> <sup>18</sup>	September 24, 2019	Refer to the budget process to set aside up to \$100,000 to issue an RFP for a freestanding, 24/7 public restroom facility in the Telegraph Business Improvement District.	\$100,000	Robinson
8. <a href="#">Grant referral for Capoeira Arts Foundation</a> <sup>19</sup>	October 15, 2019	Refer a Grant of \$150,000 for the benefit of the Capoeira Arts Foundation (CAF) to the mid-year budget process to support their purchase of the Casa De Cultura-1901 San Pablo Ave-in partnership with BrasArte to create a permanent home for their organizations, their school, the United Capoeira Association (UCA) Berkeley, and for other Brazilian art forms.	\$150,000	Arreguin, Kesarwani and Davila

<sup>18</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/09\\_Sep/Documents/2019-09-24\\_Item\\_28\\_Budget\\_Referral\\_RFP\\_for\\_a\\_Freestanding\\_Public.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/09_Sep/Documents/2019-09-24_Item_28_Budget_Referral_RFP_for_a_Freestanding_Public.aspx)

<sup>19</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-15\\_Item\\_18\\_Grant\\_Referral\\_for\\_Capoeira\\_Arts.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-15_Item_18_Grant_Referral_for_Capoeira_Arts.aspx)

Title and Item #	Council Date	Description (Purpose)	Amount	Referred by: Council Member Name
<b>9. <a href="#">Health Impact Assessment Outreach Coordinator</a><sup>20</sup></b>	<b>October 15, 2019</b>	<b>Refer to the Mid-Year Budget Process an amount of \$25,000 for Berkeley's contribution towards a budget of \$50,000 to support an Outreach Coordinator for the purpose of community education about the health impacts associated with the proposed closure of Alta Bates Hospital as indicated in the Health Impact Analysis completed by the Institute of Urban and Regional Development, UC Berkeley in December 2018.</b>	<b>\$25,000</b>	<b>Arreguin, Harrison, and Droste</b>
<b>10. <a href="#">RFP for a Freestanding Public restroom Facility</a><sup>21</sup></b>	<b>October 15, 2019</b>	<b><i>Continued from September 24, 2019 Council Meeting</i></b>		<b>Robinson</b>
<b>11. <a href="#">Berkeley Age-Friendly Continuum</a><sup>22</sup></b>	<b>October 29, 2019</b>	<b>Refer to the mid-year budget process \$20,000 for the Berkeley Age-Friendly Continuum.</b>	<b>\$20,000</b>	<b>Mayor Arreguin and Bartlett</b>

<sup>20</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-15\\_Item\\_19\\_Health\\_Impact\\_Assessment\\_Outreach.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-15_Item_19_Health_Impact_Assessment_Outreach.aspx)

<sup>21</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-15\\_Item\\_28\\_Budget\\_Referral\\_RFP\\_for\\_a\\_Freestanding.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-15_Item_28_Budget_Referral_RFP_for_a_Freestanding.aspx)

<sup>22</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-29\\_Item\\_14\\_Budget\\_Referral\\_Berkeley\\_Age-Friendly.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-29_Item_14_Budget_Referral_Berkeley_Age-Friendly.aspx)

Title and Item #	Council Date	Description (Purpose)	Amount	Referred by: Council Member Name
12. <a href="#">Funding Illegal Dumping Component of “Clean &amp; Livable Commons Initiative”</a> <sup>23</sup>	October 29, 2019	Refer to the November budget process consideration for providing \$200,000 to fund a key component of the “Clean & Livable Commons Initiative” unanimously passed by the City Council on February 28, 2019.	\$200,000	Kesarwani, Harrison, and Mayor Arreguin
13. <a href="#">Allocate \$27,000 from the General Fund to Secure Potential Matching State Certified Local Government Landmarks Preservation Grants</a> <sup>24</sup>	October 29, 2019	Refer to the FY 2021 November Budget Process to allocate \$27,000 from the General Fund to secure potential matching state Certified Local Government landmarks preservation grant.	\$27,000	Harrison and Hahn
14. <a href="#">Budget Referral and Approving Installation of Cameras at Ohlone Park Mural</a> <sup>25</sup>	October 29, 2019	Refer \$6,000 to the FY20 November 2019 AAO Process for the purpose of purchasing and installing a surveillance camera.	\$6,000	Harrison and Kesarwani

<sup>23</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-29\\_Item\\_16\\_Budget\\_Referral\\_Funding\\_Illegal\\_Dumping.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-29_Item_16_Budget_Referral_Funding_Illegal_Dumping.aspx)

<sup>24</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-29\\_Item\\_21\\_Budget\\_Referral\\_Allocate\\_27,000.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-29_Item_21_Budget_Referral_Allocate_27,000.aspx)

<sup>25</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/10\\_Oct/Documents/2019-10-29\\_Item\\_24\\_Budget\\_Referral\\_and\\_Approving\\_Installation.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/10_Oct/Documents/2019-10-29_Item_24_Budget_Referral_and_Approving_Installation.aspx)



Title and Item #	Council Date	Description (Purpose)	Amount	Referred by: Council Member Name
15. <a href="#">Wildfire Mitigation Mid-Year Budget Referral</a> <sup>26</sup>	November 12, 2019	Refer to the Mid-Year Budget Process an amount of \$550,000 for wildfire mitigation measures, including the removal of fire fuel on City properties and the extension by six additional months of the Fire Captain position to provide wildfire safety planning, Safe Passages implementation, and oversight of mitigation programs and public education.	\$550,000	Wengraf
16. <a href="#">BART Station Environmental Planning</a> <sup>27</sup>	November 12, 2019	Refer to the budget process \$250,000 for BART station planning. This budget allocation will allow the initiation of environmental review required as part of developing and adopting zoning for the Ashby and North Berkeley BART Stations that is in conformance with Assembly Bill 2923.	\$250,000	Mayor Arreguin

<sup>26</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/Documents/2019-11-12\\_Item\\_20\\_Wildfire\\_Mitigation\\_Mid-Year\\_Budget.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/Documents/2019-11-12_Item_20_Wildfire_Mitigation_Mid-Year_Budget.aspx)

<sup>27</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/Documents/2019-11-12\\_Item\\_12\\_Budget\\_Referral\\_BART\\_Station.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/Documents/2019-11-12_Item_12_Budget_Referral_BART_Station.aspx)

Title and Item #	Council Date	Description (Purpose)	Amount	Referred by: Council Member Name
17. <a href="#">Additional funding to Enhance Services at the Berkeley Drop-In Center</a> <sup>28</sup>	November 12, 2019	Refer to the November Budget Annual Appropriations Ordinance to fund \$210,000 to enhance services at the Berkeley Drop-In Center, specifically for the installation of a public shower, installation of washer and dryer, renovation of the existing publicly accessible restroom, and additional payee service capacity.	\$210,000	Bartlett
18. <a href="#">Expansion of Homeless Navigation Facilities and Programs</a> <sup>29</sup>	November 12, 2019	Refer to the budget process to allocate funds to establish a third sleeping unit and additional facilities as needed to increase capacity at the STAIR Center, and to fund operational and programmatic needs.	unknown	Hahn and Mayor Arreguin
19. <a href="#">Transportation to Support Mobility-Impaired Individuals Experiencing Homelessness who are Engaged in Rehousing and other Services</a> <sup>30</sup>	November 12, 2019	Refer to the budget process to allocate funds to provide transportation for mobility-impaired individuals experiencing homelessness who are engaged with rehousing and other services through the STAIR Center, The Hub, or other City of Berkeley-funded homeless services	unknown	Hahn and Mayor Arreguin

<sup>28</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/Documents/2019-11-12\\_Item\\_15\\_Additional\\_Funding\\_to\\_Enhance\\_Services.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/Documents/2019-11-12_Item_15_Additional_Funding_to_Enhance_Services.aspx)

<sup>29</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/Documents/2019-11-12\\_Item\\_19\\_Budget\\_Referral\\_Expansion\\_of\\_Homeless.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/Documents/2019-11-12_Item_19_Budget_Referral_Expansion_of_Homeless.aspx)

<sup>30</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/Documents/2019-11-12\\_Item\\_19\\_Budget\\_Referral\\_Expansion\\_of\\_Homeless.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/Documents/2019-11-12_Item_19_Budget_Referral_Expansion_of_Homeless.aspx)

Title and Item #	Council Date	Description (Purpose)	Amount	Referred by: Council Member Name
20. <a href="#">Evaluation and Implementation of Pedestrian and Bicycle Safety Along Oxford Street</a> <sup>31</sup>	November 12, 2019	Refer \$75,000 to the FY20 2019 AAO Process for the purpose of assessing, identifying, and implementing improvements to pedestrian and bicycle safety across Oxford Street, particularly between University Avenue and Bancroft Street.	\$75,000	Harrison
21. <a href="#">Additional funding for Berkeley Community Gardening Collaborative/ Moving South Berkeley Forward</a> <sup>32</sup>	November 12, 2019	Refer to the November Budget AAO to fund \$10,582.06 to Berkeley Community Gardening Collaborative for a coordinator for the year-long Moving South Berkeley Forward project	\$10,582	Bartlett and Mayor Arreguin
22. <a href="#">BigBelly Trash Receptacles in Ohlone Park</a> <sup>33</sup>	November 19, 2019	Refer \$15,000 to the November 2019 Annual Appropriations Ordinance Budget Process to purchase two BigBelly trash receptacles for Ohlone Park.	\$15,000	Harrison
<b>TOTAL</b>			<b>\$5,701,923</b>	

Funding for these budget referrals is not included in AAO#1.

<sup>31</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/Documents/2019-11-12\\_Item\\_17\\_Budget\\_Referral\\_Evaluation\\_and\\_Implementation.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/Documents/2019-11-12_Item_17_Budget_Referral_Evaluation_and_Implementation.aspx)

<sup>32</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/Documents/2019-11-12\\_Item\\_16\\_Additional\\_funding\\_for\\_Berkeley.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/Documents/2019-11-12_Item_16_Additional_funding_for_Berkeley.aspx)

<sup>33</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/11\\_Nov/Documents/2019-11-12\\_Item\\_16\\_Additional\\_funding\\_for\\_Berkeley.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/11_Nov/Documents/2019-11-12_Item_16_Additional_funding_for_Berkeley.aspx)

All Funds

On an All Funds basis, the City finished FY 2019, \$86.8 million (15%) under the adjusted budget. These fund balances are largely dedicated to projects, capital improvements that have not yet been completed, and personnel cost savings. For example, \$32.0 million is in the Department of Public Works. A sampling of the \$32 million underspending includes the following:

- \$5.80 million is tied to the Sewer Fund: \$1.9 million in personnel savings due to vacancies, \$3.7 million in continuing and deferred sewer projects scheduled for completion in FY 2020
- \$4.9 million is tied to the Capital Improvement Fund: \$0.6 million in salary savings and \$3.9 million in project fund carryover for transportation, street, facilities project funds to FY 2020 due to project timing, including ADA Transition Plan, Shattuck Reconfiguration, FY 19 Street Rehab and FY 19 Sidewalk Repair projects.
- \$3.1 million is tied to the State Transportation Tax: \$0.8 million in salary savings and \$2.3 million in project funding for various street and storm drain program projects continued for completion in FY 2020.
- 3.6 million is tied to T1: \$3.6 million in carryover for various T1 projects begun in FY 2019 with work continuing into FY 2020
- \$2.9 million is tied to the Equipment Replacement Fund to replace purchases initially scheduled for FY 2019 that will be completed in FY 2020.

In addition, the Department of Health Housing and Community Services had \$13.2 million in underspending primarily as a result of funds allocated to projects and programs not fully expended by the end of the fiscal year that will be carried forward to FY 2020, new positions being filled after the start of the fiscal year and vacancies throughout the department. Of the \$13 million, approximately \$3.5 million was accumulated in the Housing Trust Fund to be disbursed for various Housing Development projects at a later date, almost \$1.5 million were CDBG funds committed to programs that were not expended during the fiscal year and will be carried forward, and over \$2 million in unspent Mental Health Service Act Funds budgeted for the renovation of the Mental Health Adult Clinic and the new MH Wellness Center.

Information Technology had \$11.6 million in underspending due to General Fund, FUNDS\$ Replacement Funds, and the IT Cost Allocation Fund not being fully spent in FY 2019. These funds will be carried over to FY 2020.

Parks Recreation and Waterfront had \$13.0 million in underspending due to personnel savings and unexpended project funds in the Playground Camp, Parks Tax Fund, Measure WW Parks Bond Grant Fund, Capital Improvement Fund, and Measure T1 Fund. Only certain unspent project funds will be carried over to FY 2020.

Planning had \$4.1 million in underspending as a result of the FEMA Funds for the Hazard Mitigation Grant Program not being fully spent in FY 2019. The FY 2019 budget was based on an estimate of seismic retrofit grants that we may be required to pay through the funding received from the FEMA grant. Actual grant funding requests were much lower than anticipated. However, Planning may make revisions this year for the FY 2020 FEMA budget if they get better estimates. The Permit Service Center Fund also had personnel and non-personnel savings of \$2.2 million in FY 2019

Finally, the Library Fund had underspending of \$4.9 million from unexpected delays to the Central Library Improvement Project. The Central Library capital improvement project did not advance to construction as was expected. Budgeted savings were realized from design, engineering, construction time lags, and personnel costs.

Attachment 1 provides information on the FY 2019 Year-End General Fund Revenues and includes a variance analysis.

Attachment 2 provides information on unspent FY 2019 Year-End Expenditures. Additional detailed information on unspent funds can be found in the AAO#1 on tonight's agenda.

## **FY 2020 First Quarter Summary**

### General Fund Revenues

The first quarter review focuses primarily on the major General Fund revenue fluctuations, and changes that have occurred that might significantly impact future projections. FY 2020 General Fund revenues are tracking slightly over what was received during the same period in FY 2019. During the first quarter of FY 2020, we received 17.46% of the adopted revenues compared to 16.09% received in FY 2019. Staff will present more refined revenue projections based on additional information during the mid-year update.

Several of the underlying revenue assumptions for FY 2020 are sensitive to economic changes. Staff will continue to monitor these revenue streams and report on the impact of economic changes on revenue projections. For additional information on the First Quarter General Fund Revenues please see Attachment 3.

### General Fund Expenditures

General Fund expenditures are currently tracking within budget. Staff will continue to monitor the budget and report back at mid-year on the impacts of the key challenges discussed earlier in this report.

Attachment 3 provides additional information on the FY 2020 First Quarter General Fund Revenues and includes a variance analysis

Attachment 4 provides additional information on the FY 2020 First Quarter Expenditures by department and includes a variance analysis

**Next Steps**

Staff will present second-quarter revenue and expenditure projections at the FY 2020 mid-year update in March 2020.

ENVIRONMENTAL SUSTAINABILITY

Actions included in the budget will be developed and implemented in a manner that is consistent with the City's environmental sustainability goals and requirements.

CONTACT PERSON

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Attachments:

- 1: FY 2019 Year End General Fund Revenues
- 2: FY 2019 Year End General Fund and All Funds Expenditures
3. FY 2020 1<sup>st</sup> Quarter General Fund Revenues
4. FY 2020 1<sup>st</sup> Quarter General Fund and All Funds Expenditures

## General Fund Revenue for FY 2019 and Comparison with FY 2018

Revenue Categories	FY 2019				FY 2018				Comparison FY19 vs FY18	
	Adopted	Actual	Variance	% Received	Adopted	Actual	Variance	% Received	Amount	%
	(a)	(b)	c= (b) - (a)	(d) = (b)/(a)	(e)	(f)	g= (f) - (e)	(h) = (f)/(g)	(i) = (b) - (f)	(j) = (i)/(f)
Secured Property	\$57,966,998	\$59,178,773	\$1,211,775	102.09%	\$50,018,636	\$56,038,218	\$6,019,582	112.03%	3,140,555	5.60%
Redemptions -Regular	668,140	590,395	(77,745)	0.88	1,443,800	680,975	(762,825)	47.17%	(90,580)	-13.30%
Supplemental Taxes	1,400,000	2,174,903	774,903	1.55	1,100,000	2,237,649	1,137,649	203.42%	(62,746)	-2.80%
Unsecured Property Taxes	2,500,000	2,878,275	378,275	1.15	2,767,684	2,687,198	(80,486)	97.09%	191,077	7.11%
Property Transfer Tax	12,500,000	19,952,981	7,452,981	1.60	12,500,000	18,911,368	6,411,368	151.29%	1,041,613	5.51%
Property Transfer Tax-Measure P	0	2,932,313	2,932,313		0	0	0		2,932,313	
Sales Taxes	18,140,977	18,663,550	522,573	1.03	18,000,000	17,435,591	(564,409)	96.86%	1,227,959	7.04%
Soda Taxes (new in May 2015)	1,500,000	1,547,349	47,349	1.03	1,721,456	1,457,003	(264,453)	84.64%	90,346	6.20%
Utility Users Taxes	15,000,000	13,973,744	(1,026,256)	0.93	14,282,375	14,828,120	545,745	103.82%	(854,376)	-5.76%
Transient Occupancy Taxes	7,800,000	7,995,188	195,188	1.03	8,769,633	7,664,473	(1,105,160)	87.40%	330,715	4.31%
Short-term Rentals	840,000	1,830,983	990,983	2.18	800,000	1,053,815	253,815	131.73%	777,168	73.75%
Business License Tax, ex Recr. Cannabis	18,360,000	19,848,803	1,488,803	1.08	17,651,191	19,878,912	2,227,721	112.62%	(30,109)	-0.15%
Recreational Cannabis	500,000	1,168,794	668,794	2.34	0	0	0	-	1,168,794	-
U1 Revenues	1,000,000	5,828,443	4,828,443	5.83	650,000	5,161,615	4,511,615	794.09%	666,828	12.92%
Other Taxes	1,889,800	1,688,101	(201,699)	0.89	1,466,381	933,462	(532,919)	63.66%	754,639	80.84%
Vehicle In-Lieu Taxes	12,381,128	12,540,784	159,656	1.01	10,320,402	11,822,917	1,502,515	114.56%	717,867	6.07%
Parking Fines-Regular Collections	5,818,123	6,002,211	184,088	1.03	6,299,322	6,376,463	77,141	101.22%	(374,252)	-5.87%
Parking Fines-Booting Collections	200,000	211,913	11,913	1.06	204,000	231,538	27,538	113.50%	(19,625)	-8.48%
Moving Violations	235,000	177,824	(57,176)	0.76	239,770	188,443	(51,327)	78.59%	(10,619)	-5.64%
Ambulance Fees	4,613,194	4,424,808	(188,386)	0.96	4,823,720	4,343,453	(480,267)	90.04%	81,355	1.87%
Interest Income	2,500,000	4,334,404	1,834,404	1.73	2,211,000	3,636,989	1,425,989	164.50%	697,415	19.18%
Franchise Fees	1,984,643	1,821,316	(163,327)	0.92	1,955,314	2,009,931	54,617	102.79%	(188,615)	-9.38%
Other Revenues	7,620,152	8,116,908	496,756	1.07	5,916,158	9,121,889	3,205,731	154.19%	(1,004,982)	-11.02%
IDC Reimbursement	4,952,317	5,223,725	271,408	1.05	4,553,189	6,149,619	1,596,430	135.06%	(925,894)	-15.06%
Transfers	4,385,568	5,356,132	970,564	1.22	5,197,771	5,792,575	594,804	111.44%	(436,443)	-7.53%
<b>Total Revenue:</b>	<b>\$184,756,040</b>	<b>\$208,462,620</b>	<b>\$23,706,580</b>	<b>112.83%</b>	<b>\$172,891,802</b>	<b>\$198,642,216</b>	<b>\$25,750,414</b>	<b>114.89%</b>	<b>\$9,820,404</b>	<b>4.94%</b>

Note: This statement is presented on a budgetary basis.

During FY 2019, General Fund revenues and transfers increased \$9,820,404 or 4.94%, from \$198,642,216 in FY 2018 to \$208,462,620 in FY 2019.

The following FY 2019 review focuses primarily on the major revenue fluctuation.

### **Secured Property Tax (+\$3,140,555 over FY 2018 Actual)**

During FY 2019, Secured Property Tax revenues totaled \$59,178,773 which was \$3,140,555 or 5.60% more than the \$56,038,218 received for FY 2018. The FY 2019 total of \$59,178,773 is \$1,211,775 more than the adopted budget amount of \$57,966,998. The growth in annual property tax revenues is generally close to the growth in annual assessed values. Differences between the two result primarily from reassessment refunds and changes in delinquency rates

### **Property Transfer Tax (+\$1,041,613 over FY 2018 Actual)**

For FY 2019, Property Transfer Tax revenue totaled \$19,952,981, which is an increase of \$1,041,613 or 5.51% from the \$18,911,368 received in FY 2018. The amount of \$19,952,981 received in FY 2019 was \$7,452,981 more than the adopted budget amount of \$12,500,000. The number of property transactions decreased by 80 or 8.60% from 926 in FY 2018 to 846 in FY 2019. The decline in property transactions in FY 2019 was more than offset by a greater number of properties that sold for more than \$4 million in FY 2019 than in FY 2018 (15 transactions with an average sales price of \$13.1 million in FY 2019 versus 11 transactions with an average sales price of \$7.1 million in FY 2018).

This revenue source is budgeted at \$12.5 Million as any excess above that amount is transferred to the reserve fund and the Capital Improvement Fund the following fiscal year.

**Sales Tax (+\$1,227,959 over FY 2018 Actual)**

For FY 2019, Sales Tax revenue totaled \$18,663,550, which is \$1,227,959 or 7.04% more than the \$17,435,591 received in FY 2018. The amount of \$18,663,550 received in FY 2019 was \$522,573 more than the adopted budget amount of \$18,140,977. However, the apparent big jump in revenue in FY 2019 was actually a misallocation of revenues between FY 2018 and FY 2019. When the California Department of Tax and Fee Administration (Formerly State Board of Equalization) changed the allocations from three advances and a cleanup to two advances and a cleanup, they underpaid most cities' Sales Tax revenue in the first quarter of FY 2018. This was because CDTFA had issues with the processing of payments. As a result, Berkeley was underpaid \$555,600 in Sales Tax revenue in FY 2018 and that amount was paid during FY 2019. For that reason, staff is projecting a decline of 2.28%, rather than an increase, in Sales Tax revenue in FY 2019.

**Utility Users Taxes (-\$854,376 under FY 2018 Actual)**

UUT revenue in FY 2019 decreased by \$854,376 or 5.76%, to \$13,973,744 from the \$14,828,120 received in FY 2018. The \$13,973,744 collected in FY 2019 was \$1,026,256 or 6.84% less than the adopted budget amount of \$15,000,000.

The decrease in FY 2019 is primarily attributable to a \$302,633 or 14.20% decrease in Cellular charges, a \$403,178 or 4.30% decrease in Gas/Electric charges, and a \$100,971 or 7.50% decrease in Cable charges.

**Transient Occupancy Tax (+\$330,715 over FY 2018 Actual)**

Transient Occupancy Tax (TOT) revenue for FY 2019 totaled \$7,995,188 which is \$330,715 or 4.31% more than the \$7,664,473 received in FY 2018. The FY 2019 results reflect a rebound from a continuing slowdown in the growth rate of the City's major hotels. The increase resulted from the five largest hotels showing an increase in revenue of \$203,131 or 3.40% during fiscal the year.

**Short-term Rentals (+\$777,168 over FY 2018 Actual)**

This is a tax on Berkeley residents who host short-term rentals. They are required to register with the City and pay a 12% Transient Occupancy Tax on such rentals.

For FY 2019, Short-term Rentals totaled \$1,830,983 which is \$777,168 or 73.75% more than the total of \$1,053,815 received in FY 2018. It was also \$990,983 more than the adopted Budget total of \$840,000.

**Business License Tax (-\$30,109 less than FY 2018 Actual)**

For FY 2019, BLT revenue totaled \$19,848,803, which is \$30,109 or .015% less than the \$19,878,912 received in FY 2018. The \$19,848,803 collected in FY 2019 was \$1,488,803 or 8.11% more than the adopted budget amount of \$18,360,000.

**U1 Business License Revenue**

For FY 2019, U1 Business License Tax revenue totaled \$5,828,443 which is \$666,828 more than the \$5,161,615 received in FY 2018. The \$5,828,443 collected in FY 2019 was \$4,828,443 more than the adopted budget amount of \$1,000,000.

**Vehicle In-Lieu Taxes (+\$717,867 over FY 2018 Actual)**

For FY 2019, VLF revenue totaled \$12,540,784, which is \$717,867 or 6.07% more than the \$11,822,917 received in FY 2018, and is consistent with the 6.93% increase in assessed values for FY 2019. The amount of \$12,540,784 received in FY 2019 was \$159,656 more than the adopted budget amount of \$12,381,128.



**Parking Fines (-\$374,252 less than FY 2018 Actual)**

For FY 2019, Parking Fines revenue (excluding booting fines) decreased by \$374,252 or 5.87% to \$6,002,211 from \$6,376,463 in FY 2018. This decrease was generated partly as a result of a decrease in ticket writing of 5,770 tickets issued, from 145,286 in FY 2018 to 139,516 issued in FY 2019.

The vehicle booting program, which started in October 2011, decreased during FY 2019. During that period, booting collections totaled \$211,913, a decrease of \$19,625 or 8.48% from the total of \$231,538 received in FY 2018. The total of \$211,913 received in FY 2019 was \$11,913 more than the adopted budget amount of \$200,000.

**Interest Income (+\$697,415 over FY 2018 Actual)**

For FY 2019, Interest Income totaled \$4,334,404, which was \$697,415 or 19.18% more than the \$3,636,989 received in FY 2018. It was also \$1,834,404 more than the adopted budget amount of \$2,500,000. The interest income in FY 2019 was significantly more than projected primarily because interest rates were significantly higher in FY 2019 than in FY 2018, especially for the short-term portion of the City's portfolio. However, the trend toward higher interest rates abruptly reversed course towards the end of FY 2019 and has continued into FY 2020.

**Other Revenue (-\$1,004,982 less than FY 2018 Actual)**

For FY 2019, other income totaled \$8,116,908 which is \$1,004,982 or 11.02% less than the total of \$9,121,889 received in FY 2018. This decrease is primarily due to some reclassifications exercise done during fiscal year 2019.

**IDC Reimbursement (-\$925,894 less than FY 2018 Actual)**

IDC Reimbursement for FY 2019 totaled \$5,223,725 which is \$925,894 or 15.06% less than the \$6,149,619 received in FY 2018. IDC Reimbursement are indirect cost allocation base that are utilized to allocate cost to enterprise funds.

## FY 2019 Year End Expenditures

## General Fund

Department	FY 2019 Adopted	FY 2019 Adjusted	Year-End Actuals	Balance	Percent Expended
Mayor & Council	2,020,693	2,062,715	2,081,536	(18,821)	101%
Auditor	2,322,174	2,359,452	2,266,839	92,613	96%
Rent Board		265,419	265,419	-	100%
City Manager	10,109,574	11,162,229	10,633,155	529,074	95%
City Attorney	2,186,657	2,180,010	2,181,489	(1,479)	100%
City Clerk	2,534,266	2,756,322	2,643,486	112,836	96%
Finance	6,080,806	5,877,392	5,474,314	403,078	93%
Human Resources	2,016,349	2,267,835	2,045,393	222,442	90%
Information Technology	7,711,017	2,787,859	1,525,916	1,261,943	55%
Health, Housing & Community Services	14,766,894	19,679,660	19,169,534	510,126	97%
Parks, Recreation and Waterfront	5,747,738	6,127,211	5,943,167	184,044	97%
Planning	1,975,461	2,486,571	1,885,755	600,816	76%
Public Works	3,307,978	5,082,298	4,691,231	391,067	92%
Police	62,219,080	62,339,098	65,493,664	(3,154,566)	105%
Fire	31,800,695	32,842,409	34,172,733	(1,330,324)	104%
Non-Departmental	29,450,664	60,574,051	51,972,083	8,601,968	86%
<b>Total</b>	<b>184,250,046</b>	<b>220,850,531</b>	<b>212,445,713</b>	<b>8,404,818</b>	<b>96%</b>

## All Funds (including General Fund)

Department	FY 2019 Adopted	FY 2019 Adjusted	Year-End Actuals	Balance	Percent Expended
Mayor & Council	2,020,693	2,062,715	2,081,536	(18,821)	101%
Auditor	2,419,749	2,457,027	2,416,689	40,338	98%
Rent Board	5,231,605	5,378,423	5,109,453	268,970	95%
City Manager	13,767,449	16,530,109	14,685,013	1,845,096	89%
Library	23,333,610	23,576,923	18,720,976	4,855,947	79%
City Attorney	4,224,401	5,926,452	5,333,550	592,902	90%
City Clerk	2,534,266	2,756,322	2,643,486	112,836	96%
Finance	7,924,435	7,759,818	7,226,820	532,998	93%
Human Resources	3,888,726	4,387,083	3,939,247	447,836	90%
Information Technology	17,537,825	24,858,762	13,239,636	11,619,126	53%
Health, Housing & Community Services	49,197,874	63,207,185	50,027,411	13,179,774	79%
Parks, Recreation and Waterfront	28,150,223	44,591,944	31,621,644	12,970,300	71%
Planning	21,372,934	22,447,576	18,325,495	4,122,081	82%
Public Works	115,819,678	144,053,865	111,984,358	32,069,507	78%
Police	67,277,591	67,626,360	69,567,103	(1,940,743)	103%
Fire	40,008,265	41,407,170	42,992,558	(1,585,388)	104%
Non-Departmental	56,940,782	92,475,521	84,752,912	7,722,609	92%
<b>Total</b>	<b>461,650,106</b>	<b>571,503,255</b>	<b>484,667,887</b>	<b>86,835,368</b>	<b>85%</b>

## FY 2019 Year-End Expenditures Variance Analysis

### Significant General Fund Variances

- City Manager's Office (+529,074), Finance (+403,078), and Health, Housing and Community Services (\$510,126) was due to salary savings from vacant positions and underspending of non-personnel funds. The City Manager's Office and Health, Housing & Community Services will be carrying over some of the unspent funds to FY 2020.
- Information Technology (+\$1,261,943) was primarily due to non-personnel savings for a number of Digital Strategic Plan projects that were not completed in FY 2019. Most of the unspent funds will be carried over to FY 2020 to complete these projects.
- Planning (\$600,818) was due to the allocations approved by Council that have not been fully spent yet. These allocations are being carried over to FY 2020.
- Police (-\$3,154,631) was due to overtime expenditures being \$3,197,795 over budget. The overage in overtime expenditures was due to sworn vacancies and medical leave and needing to maintain minimum staffing for public safety. Salary and benefit savings resulted in the total personnel budget being over budget by -\$2,976,279. The non-personnel budget was over budget by -\$178,352 which was due to higher costs for vehicle maintenance and replacement. These costs were offset by savings in other non-personnel categories in FY 2019.
- Fire (-\$1,330,323) was primarily the result of the personnel budget being over budget by -\$1,424,608. Shortly after FY 2019 started, the Council approved the new Memorandum of Understanding for the Berkeley Fire Fighters Association. The new agreement authorized a 4% wage increase effective the first pay period after Council approval; \$2,000 one-time stipend effective the first pay period after Council approval; 2% wage increase effective the first full pay period in July 2019. These wage increases were not budgeted in the Fire Department's budget but were set aside in Non-Departmental. Overtime expenses were over budget by \$265,418. The department received \$449,091 in mutual aid reimbursements which was not added to the expenditure budget. Non-personnel savings of \$94,285 helped to reduce the total overage down to the final -\$1,330,323 figure.
- Non-Departmental (+8,601,968) was due to \$6,560,535 set aside for General Fund cost of living adjustments for Police, Fire, and Miscellaneous employees. These funds were budgeted in Non-Departmental but were not allocated out to departments for the salary increases that were approved early in FY 2019. An allocation of \$1,000,000 for the Service Employees International Union Fair Labor Standards Act overtime payment issue was approved as part of the First Amendment to the FY 2019 Annual Appropriations Ordinance. Only \$480,971 of this allocation was spent and left a balance of \$519,028. Funds were also budgeted and not spent for the following items:
  - Pedestrian Activated Crosswalk at Cedar/Rose Park (\$100,000)
  - Pedestrian Activated Crosswalk at Grant and University (\$100,000)
  - Rectangular Rapid Flashing Beacons at Eton and Claremont (\$50,000)

- Rectangular Rapid Flashing Beacons at Claremont and Russell (\$50,000)
- Hopkins Corridor Study (\$200,000)
- RFP to address gaps for marginalized youth in Berkeley (\$50,000)
- Funds for City Minimum Wage to Youth Works employees (\$86,924)
- Age Friendly Berkeley Study (\$20,000)

### Significant All Funds Variances

- Information Technology (+\$11,619,126) was due to General Fund, FUNDS Replacement Funds, and the IT Cost Allocation Fund not being fully spent in FY 2019. These funds will be carried over to FY 2020.
- Health, Housing & Community Services fund balance (+\$13,179,774) was primarily the result of funds allocated to projects and programs not fully expended by the end of the fiscal year which will be carried forward to FY20, new positions being filled after the start of the fiscal year and vacancies throughout the department. The transition from FUNDS to ERMA resulted in planned FY19 purchases being postponed. Of the \$13 million, approximately \$3.5 million was accumulated in the Housing Trust Fund to be disbursed for various Housing Development projects at a later date, almost \$1.5 million were CDBG funds committed to programs that were not expended during the fiscal year and will be carried forward, over \$2 million in unspent Mental Health Service Act Funds budgeted for the renovation of the Mental Health Adult Clinic and the new MH Wellness Center. Almost \$1 million was added to the fund balance in Realignment to be used as an audit liability reserve as the state and federal funding agencies increase the audits. An additional \$800,000 was in the State Health Grant fund which includes 16 unique grants from the state to support our public health efforts and reflects various vacancies and cost shifts throughout those programs with an additional \$200,000 in cost reductions to match a reduction in revenue.
- Public Works (+\$32,069,507) were largely due to the following:
  - General Fund (+\$0.3 million): \$0.3 million in carryover for projects to be completed in FY 20.
  - Sewer Fund (+\$5.8 million): \$1.9 million in personnel savings due to vacancies, \$3.7 million in continuing and deferred sewer projects scheduled for completion in FY 2020.
  - State Transportation Tax (+\$3.1 million) \$0.8 million in salary savings and \$2.3 million in project funding for various street and storm drain program projects continued for completion in FY 2020.
  - Capital Improvement Fund (+\$4.9 million): \$0.6 million in salary savings and \$3.9 million in project fund carryover for transportation, street, facilities project funds to FY 2020 due to project timing, including ADA Transition Plan, Shattuck Reconfiguration, FY 19 Street Rehab and FY 19 Sidewalk Repair projects.
  - Measure BB (+1.7 million) \$0.3 million in salary savings and \$1.3 million in street improvement projects project budget to be carried over into FY 2020 for completion

- Measure M Fund (+\$0.2 million): \$0.2 million in Measure M funds carried over for one final green infrastructure project now scheduled for completion in FY 2020
  - Off Street Parking (+0.7 million) and Parking Meter (+0.9 million): A combined total of \$0.2 million in salary savings and \$0.7M Off Street Parking Fund savings due to project budget carryover to FY 2020 and \$0.9M Parking Meter Fund savings due to project budget carryover to FY2020.
  - UCLRP (+\$0.2 million) \$0.2 million of project carryover into FY 2020 for completion of various capital projects.
  - MTC (+\$0.2 million) \$0.2 million in project carryover for transportation projects.
  - T1 (+\$3.6 million) \$3.6 million in carryover for various T1 projects begun in FY 2019 with work continuing into FY 2020.
  - Streetlight Assessment (+\$0.6 million) \$0.4 million in salary savings, and \$0.1 million in capital project carryover/deferral for Shattuck Avenue Reconfiguration scheduled for completion in FY2020 and City Streetlight Replacement and Maintenance Program.
  - Building Maintenance (+\$0.2 million) \$0.2 million in salary savings due to vacancies.
  - Equipment Replacement (+\$2.9 million) \$2.9 million for replacement purchases initially scheduled for FY 2019 but to be completed in FY 2020.
  - Equipment Maintenance (+\$0.4): \$0.3 million in non-personnel savings, including parts, fuel and oil, and \$0.2 million in personnel savings due to vacancies.
- Parks Recreation and Waterfront (+\$12,970,300) due to personnel savings and unexpended project funds in the Playground Camp, Parks Tax Fund, Measure WW Parks Bond Grant Fund, Capital Improvement Fund, and Measure T1 Fund. Only certain unspent project funds will be carried over to FY 2020.
  - Planning (+\$4,122,081) due to unspent FEMA Funds for the Hazard Mitigation Grant Program not being fully spent in FY 2019. The FY 2019 budget was based on an estimate of seismic retrofit grants that we may be required to pay through the funding received from the FEMA grant. Actual grant funding requests were much lower than anticipated. However, Planning may make revisions this year for the FY 2020 FEMA budget if they get better estimates. The Permit Service Center Fund also had personnel and non-personnel savings of \$2,170,252 in FY 2019.
  - Library (+\$4,855,947) due to unexpected delays to the Central Library Improvement Project. The Central Library capital improvement project did not advance to construction as was expected. Budgeted savings were realized from design, engineering, and construction time lags; and personnel costs also contributed to significant savings as a result of staffing vacancies throughout the organization.

## General Fund Revenue for 1<sup>st</sup> Quarter FY2020 and Comparison With 1<sup>st</sup> Quarter of FY2019

Revenue Categories	FY 2020				FY 2019				Comparison FY20 vs FY 19	
	Adopted	1st Qtr-Actual	Variance	% Received	Adopted	1st Qtr-Actual	Variance	% Received	Amount	%
	(a)	(b)	c=(a) - (b)	(d) = (b)/(a)	(e)	(f)	g=(e) - (f)	(h) = (f)/(g)	(i) = (b) - (f)	(j) = (i)/(f)
Secured Property	\$63,199,622	\$306,451	\$62,893,171	0.48%	\$57,966,998	\$365,288	\$57,601,710	0.63%	(58,837)	-16.11%
Redemptions - Regular	668,140	69,946	598,194	10.47%	668,140	72,176	595,964	10.80%	(2,230)	-3.09%
Supplemental Taxes	1,400,000	310,455	1,089,545	22.18%	1,400,000	275,075	1,124,925	19.65%	35,380	12.86%
Unsecured Property Taxes	2,500,000	2,650,502	(150,502)	106.02%	2,500,000	2,439,085	60,915	97.56%	211,417	8.67%
Property Transfer Tax	12,500,000	6,887,018	5,612,982	55.10%	12,500,000	5,722,325	6,777,675	45.78%	1,164,693	20.35%
Property Transfer Tax-Measure P (New December 21, 2018)	1,509,218	2,999,630	(1,490,412)	198.75%			-		2,999,630	
Sales Taxes	18,238,000	4,680,703	13,557,297	25.66%	18,140,977	4,352,090	13,788,887	23.99%	328,613	7.55%
Soda Taxes	1,459,057	383,166	1,075,891	26.26%	1,500,000	384,903	1,115,097	25.66%	(1,737)	-0.45%
Utility Users Taxes	15,000,000	3,250,324	11,749,676	21.67%	15,000,000	3,365,240	11,634,760	22.43%	(114,916)	-3.41%
Transient Occupancy Taxes	7,800,000	2,256,945	5,543,055	28.94%	7,800,000	2,223,554	5,576,446	28.51%	33,391	1.50%
Short-term Rentals	1,020,000	417,070	602,930	40.89%	840,000	485,528	354,472	131.05%	(68,458)	-14.10%
Business License Tax	19,584,000	222,263	19,361,737	1.13%	19,200,000	825,389	18,374,611	4.30%	(603,126)	-73.07%
Recreational Cannabis	510,000	481,424	28,576	94.40%	500,000	129,724	370,276	25.94%	351,700	271.11%
U1 Revenues	1,000,000	62,278	937,722	6.23%	1,000,000	23,328	976,672	2.33%	38,950	166.97%
Other Taxes	1,116,860	310,154	806,706	27.77%	1,049,800	216,562	833,238	20.63%	93,592	43.22%
Vehicle In-Lieu Taxes	13,333,826	-	13,333,826	0.00%	12,381,128		12,381,128	0.00%	-	0.00%
Parking Fines-Regular Collections	6,600,000	1,604,681	4,995,319	24.31%	5,818,123	1,602,343	4,215,780	27.54%	2,338	0.15%
Parking Fines-Booting Collections	200,000	47,378	152,622	23.69%	200,000	47,378	152,622	23.69%	-	0.00%
Moving Violations	190,000	59,426	130,574	31.28%	235,000	33,124	201,876	14.10%	26,302	79.40%
Ambulance Fees	4,200,000	1,350,509	2,849,491	32.15%	4,613,194	1,039,816	3,573,378	22.54%	310,693	29.88%
Interest Income	3,500,000	1,520,513	1,979,487	43.44%	2,500,000	858,556	1,641,444	34.34%	661,957	77.10%
Franchise Fees	2,068,928	216,794	1,852,134	10.48%	1,984,643	238,480	1,746,163	12.02%	(21,686)	-9.09%
Other Revenues	8,044,544	1,901,235	6,143,309	23.63%	7,620,152	2,193,174	5,426,978	28.78%	(291,939)	-13.31%
IDC Reimbursement	6,100,000	1,260,850	4,839,150	20.67%	6,100,000	4,952,317	1,147,683	30.74%	(261,639)	-17.18%
Transfers	5,266,688	1,149,075	4,117,613	21.82%	4,385,568	1,310,256	3,075,312	29.88%	(161,181)	-12.30%
<b>Total Revenue:</b>	<b>\$197,008,883</b>	<b>\$34,398,790</b>	<b>\$162,610,093</b>	<b>17.46%</b>	<b>\$184,756,040</b>	<b>\$29,725,883</b>	<b>\$155,030,157</b>	<b>16.09%</b>	<b>\$4,672,907</b>	<b>15.72%</b>

Note: This statement is presented on a budgetary basis.

During the first quarter of FY 2020, General Fund revenue increased from the first quarter of FY 2019 by \$4,672,907 or 15.72%, due primarily to the new Measure P Property Transfer Tax (+2,999,630), an increase in Property Transfer Taxes (+1,164,693), and an increase in Interest Income(+661,957).

The first quarter review focuses primarily on the major revenue fluctuation and changes that have occurred that might result in significant changes in future projections. Staff will present more refined revenue projections based on additional information during the mid-year update.

### **Secured Property Tax (-\$58,837 less than FY 2019 Actual)**

During the first quarter of FY 2020, Secured Property Tax revenues totaled \$306,451, which was \$58,837 or 16.11% less than the \$365,288 received for FY 2019. This first quarter reflects a relatively small amount received from the previous year's levy that was unpaid during that fiscal year. The amount received is typical of what is historically received in the first quarter. Staff revenue projection reflected in the Adopted Budget assumes a 6.80%% growth for the year, consistent with the County's Certification of Assessed Valuation growth of 6.60%.

### **Property Transfer Tax (\$1,164,693 more than FY 2019 Actual)**

During the first quarter of FY 2020, Property Transfer Tax totaled \$6,887,018, which was \$1,164,693 or 20.35% more than the \$5,722,325 received for the first quarter of FY 2019. The primary reason for the \$1,164,693 increase in Property Transfer Tax was the sale of a group of properties totaling \$87.5 million that resulted in Property Transfer Tax of \$1,312,500. Staff will closely monitor this revenue for a probable increase in the FY 2020 projection.

In addition, \$2,999,630 in Measure P taxes was collected during the first quarter of FY 2020 compared to zero collected during the first quarter of FY 2019, as the tax took effect December 21, 2018.

**Sales Tax ( \$328,613 more than FY 2019 Actual)**

For the first quarter of FY 2020, Sales Tax revenue totaled \$4,680,703, which is \$328,613 or 7.55% more than the \$4,352,090 received for the first quarter of FY 2019. Staff will closely monitor this revenue for a probable increase in the FY 2020 projection.

**Utility Users Taxes (- \$114,916 less than FY 2019 Actual)**

Utility Users Taxes revenue for the first quarter of FY 2020 totaled \$3,250,324, which is \$114,916 or 3.41% less than the \$3,365,240 received for the same period in FY 2019. This is a continuation of the sharp decline in FY 2019 that reflected significant declines in cellular, gas/electric and cable charges. An analysis is being performed by staff to determine the reasons for the large, unexpected drop in the FY 2019 revenue from the \$15 million level that this revenue source has been at over the last several years. Staff will determine whether future projections need to be revised.

**Transient Occupancy Tax (+\$33,391 more than FY 2019 Actual)**

Transient Occupancy Tax (TOT) revenue for the first quarter of FY 2020 totaled \$2,256,945 which is \$33,391 or 1.50% more than the \$2,223,554 received for the first quarter of FY 2019. The increase in FY 2020 is attributable to flat growth at the five largest hotels in Berkeley during the quarter and a \$49,207 receipt during the quarter that was applicable to FY 2019.

**Business License Taxes (-\$603,126 less than FY 2019 Actual)**

Business license Taxes (BLT) revenue for the first quarter of FY 2020 totaled \$222,263 which is \$603,126 or 73.07% less than the \$825,389 received for the first quarter of FY 2019. The decrease in FY 2020 is primarily attributable to \$422,304 non-profit paid in the first quarter of FY 2019 versus zero paid in the first quarter of FY 2020.

**Parking Fines (+2,338 more than FY 2019 Actual)**

Parking Fines revenue for the first quarter of FY 2020 totaled \$1,604,681 which is \$2,338 or .15% more than the \$1,602,343 received for the first quarter of FY 2019, despite a decline in ticket writing from the first quarter of FY 2019. Staff will be researching and monitoring this revenue source closely.

**Interest Income (+\$661,957 more than FY 2019 Actual)**

For the first quarter of FY 2020, interest income totaled \$1,520,513 which is \$661,957 or 77.10% more than the total of \$858,556 received for the same period in FY 2018. This increase is primarily attributable to a rise in short-term and long-term interest rates. Staff will monitor this revenue source closely for an adjustment in the projection. The Federal Reserve reversed course on July 31, 2019 by cutting interest rates by 25 basis points. Also, on September 18, 2019 the Federal Reserve made another 25 basis point interest rate cut.

**Indirect Cost Reimbursements (-\$261,639 less than FY 2019 Actual)**

IDC Reimbursement for the first quarter of FY 2020 totaled \$1,260,850 which is \$261,639 or 17.18% less than the \$1,522,489 received for the same period in FY 2019. This is primarily attributable to an increase in the indirect cost rates charged in the first quarter of FY 2020 (24.26%) from the indirect cost rates charged in the first quarter of FY 2019 (19.6% to 20.44%). IDC Reimbursement increases result from increases in the indirect cost allocation base (i.e., total direct salaries and wages in the fund), an increase in the indirect cost rate or both.

**Other Revenues (-\$291,939 less than FY 2019 Actual)**

Other Revenues consists of licenses and permits; grants; preferential parking fees; general government charges for services; public safety charges for services; health charges for services;

culture and recreation charges for services; rents and royalties; and other miscellaneous revenues that are not considered major.

Other Revenues Income for the first quarter of FY 2020 totaled \$1,901,235 which is \$291,939 or 13.31% less than the \$2,193,174 received for the first quarter of FY 2019,



## FY 2020 First Quarter Expenditures (7/1/19 – 9/30/19)

## General Fund

Department	FY 2020 Adopted	FY 2020 Adjusted*	Year-To-Date		Percent Expended
			Actuals + Encumbrances	Balance	
Mayor & Council	2,398,876	2,572,196	448,696	2,123,500	17%
Auditor	2,625,103	2,642,278	445,867	2,196,411	17%
Rent Board	0	602,015	52,015	550,000	9%
City Manager	11,037,283	12,192,216	2,956,817	9,235,399	24%
City Attorney	2,516,581	2,621,658	428,621	2,193,037	16%
City Clerk	3,004,901	3,069,440	499,784	2,569,656	16%
Finance	6,797,353	8,349,912	2,496,390	5,853,522	30%
Human Resources	2,329,292	2,631,604	468,167	2,163,437	18%
Information Technology	213,210	1,670,395	1,317,014	353,380	79%
Health, Housing & Community Services	17,553,283	27,697,978	10,581,818	17,116,160	38%
Parks, Recreation and Waterfront	7,105,343	7,712,188	2,403,297	5,308,890	31%
Planning	2,426,051	2,774,115	601,099	2,173,016	22%
Public Works	4,404,030	4,917,425	1,375,983	3,541,443	28%
Police	70,622,557	71,110,036	14,041,819	57,068,217	20%
Fire	36,019,089	39,281,584	8,757,570	30,524,014	22%
Non-Departmental	27,860,897	16,544,178	5,341,570	11,202,608	32%
<b>Total</b>	<b>196,913,849</b>	<b>206,389,218</b>	<b>52,216,527</b>	<b>154,172,691</b>	<b>25%</b>

\*FY 2020 Adjusted includes FY 2019 Encumbrance Rollover

## All Funds (including General Fund)

Department	FY 2020 Adopted	FY 2020 Adjusted*	Year-To-Date		Percent Expended
			Actuals + Encumbrances	Balance	
Mayor & Council	2,398,876	2,572,196	448,696	2,123,500	17%
Auditor	2,714,111	2,731,286	471,902	2,259,384	17%
Rent Board	5,334,943	6,099,664	1,594,895	4,504,769	26%
City Manager	14,548,957	16,523,708	4,270,156	12,253,552	26%
Library	26,114,585	26,830,114	6,915,374	19,914,740	26%
City Attorney	4,594,533	4,778,463	1,603,886	3,174,577	34%
City Clerk	3,004,901	3,069,440	499,784	2,569,656	16%
Finance	8,766,934	10,391,782	2,902,799	7,488,983	28%
Human Resources	4,240,103	4,547,397	767,132	3,780,265	17%
Information Technology	19,404,413	22,498,136	5,097,417	17,400,719	23%
Health, Housing & Community Services	54,597,950	77,635,853	23,717,022	53,918,831	31%
Parks, Recreation and Waterfront	46,600,585	62,804,576	14,784,601	48,019,975	24%
Planning	24,506,913	26,009,740	4,984,460	21,025,280	19%
Public Works	133,015,850	185,759,006	81,411,215	104,347,791	44%
Police	74,979,834	75,683,603	15,432,614	60,250,989	20%
Fire	44,379,144	48,128,218	10,824,797	37,303,421	22%
Non-Departmental	56,654,177	45,336,683	15,137,475	30,199,208	33%
<b>Total</b>	<b>525,856,809</b>	<b>621,399,865</b>	<b>190,864,224</b>	<b>430,535,641</b>	<b>31%</b>

\*FY 2020 Adjusted includes FY 2019 Encumbrance Rollover

## FY 2020 First Quarter Expenditures Variance Analysis

### First Quarter Assumptions

- Personnel year-to-date actuals are through 09/30/19 and represent 23.08% expended. All departments are tracking at or below 23.08% in personnel expenditures. General Fund personnel costs represent almost 74% of the total City's General Fund budget and are tracked on a monthly basis. As in prior years, Police overtime continues to be a concern and is being monitored by staff.

Generally, on an all funds basis, expenditures over 23.08% are related to non-personnel costs, such as encumbrances for contracts, supplies, and materials.

### First Quarter Variances

#### General Fund

- Finance: Banking Services contracts and other professional services contracts were encumbered in the 1<sup>st</sup> Quarter.
- Information Technology: A significant portion of the General Fund budget is contracts for professional services contracts, computer maintenance, and software licenses that were encumbered in FY 2019 and rolled over to FY 2020
- Health, Housing & Community Services: First three months is when summer youth workers are hired. Community Agency contract funds were moved from Non-Departmental so that contracts purchase orders could be created.
- Public Works: Funds were encumbered for gas and electricity payments.
- Parks Recreation & Waterfront: 1<sup>st</sup> quarter was peak season for Recreation programs.
- Non-Departmental: Funds for the City's Outside Auditors, Legislative and Professional Services, Insurance were encumbered or paid in the first three months of FY 2020. Funds for FLSA payments to Fire and Police approved by Council in Closed Session were paid out.

#### All Funds

- City Attorney: Funds for outside counsel contracts were encumbered at the start of the fiscal year.
- Public Works: Funds were encumbered for capital improvement projects early in the fiscal year.
- Non-Departmental: Debt service payments were made in August.



Office of the City Manager

ACTION CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Teresa Berkeley-Simmons, Budget Manager  
 Subject: Amendment: FY 2020 Annual Appropriations Ordinance

RECOMMENDATION

Adopt first reading of an Ordinance amending the FY 2020 Annual Appropriations Ordinance No. 7,669–N.S. for fiscal year 2020 based upon recommended re-appropriation of committed FY 2019 funding and other adjustments authorized since July 1, 2019, in the amount of \$136,730,924 (gross) and \$130,267,144 (net).

FISCAL IMPACTS OF RECOMMENDATION

On June 26, 2019 the City Council adopted the FY 2020 Budget, authorizing gross appropriations of \$525,856,809 and net appropriations of \$460,146,093 (net of dual appropriations).

This first amendment to the Annual Appropriations Ordinance totals \$136,730,924 (gross) and \$130,267,144 (net), increasing the gross appropriations to \$662,587,733 and net appropriations to \$590,413,237 and represents the re-authorization of funding previously committed in FY 2019 and some new expenditures including new grant fund appropriations. The recommendations in this report also include funding for a number of capital projects. Funding is recommended for the following:

1. Encumbered contract obligations from FY 2019 totaling \$64,586,258;
2. Re-appropriating committed, unencumbered FY 2019 funding for all funds in the amount of \$36,555,859; and
3. Changes to fund appropriations primarily due to receipt of new grants and use of available fund balances adjustments in the amount of \$35,588,807.

The changes to the General Fund total \$22,239,232 which includes encumbrances of \$5,512,512, unencumbered carry-over requests of \$4,177,247, and adjustments of \$12,549,473. The Capital Improvement Fund increases by \$14,074,233 and includes encumbrances of \$4,491,447, unencumbered carry-over requests of \$4,335,261, and adjustments of \$5,247,525.

**BACKGROUND**

The Annual Appropriations Ordinance (AAO) establishes the expenditure limits by fund for FY 2020. Throughout the year, the City takes actions that amend the adopted budget. These may include, but are not limited to, the acceptance of new grants, revisions to existing grants, adjustments to adopted expenditure authority due to emergency needs, and transfers in accordance with Council's fiscal policies.

The adopted budget is also amended annually to reflect the re-appropriation of prior year funds for contractual commitments (i.e. encumbrances) as well as unencumbered carryover of unexpended funds previously authorized for one-time, non-recurring purposes. These budget modifications are periodically presented to the Council in the form of an Ordinance amending the Annual Appropriations Ordinance, which formally requires a two-thirds vote of the City Council. This report addresses re-appropriating FY 2019 spending authority to FY 2020 of available cash for commitments entered into in prior years and is the first amendment to the FY 2020 AAO.

When Council adopts an appropriations ordinance (budget), it is based on projected revenues and expenditures. If fund balances do not support the requested level of expenditures, no carryover is recommended.

The proposed changes, presented in their entirety in Exhibit A, are summarized as follows:

	<b>Encumbered Recommended</b>	<b>Unencumbered Recommended</b>	<b>Other Adjustments</b>	<b>Total</b>
General Fund (011)	\$ 5,512,512	\$ 4,177,247	\$ 12,549,473	\$ 22,239,232
Capital Improvement Fund (501)	\$ 4,491,447	\$ 4,335,261	\$ 5,247,525	\$ 14,074,233
All Other Funds	\$ 54,582,299	\$ 28,043,351	\$ 17,791,809	\$ 100,417,459
<b>Total</b>	<b>\$ 64,586,258</b>	<b>\$ 36,555,859</b>	<b>\$ 35,588,807</b>	<b>\$ 136,730,924</b>

**Carryover Process**

Departments were asked to submit information regarding the reasons for the unencumbered carryover requests to assist staff in determining which funds should be carried into FY 2019. In prior years, funds have been approved for carryover from one year to the next based on funding availability.

This report recommends approximately \$37 million in unencumbered carryover for Council review and approval, representing funding for priority projects and programs.

**Types of Carryover**

FY 2019 Encumbrance Rollovers, totaling \$64,586,258 reflect contractual obligations entered into in fiscal year 2019 which had not been paid as of June 30, 2019. Funding for these "encumbered" commitments is brought forward into the current fiscal year to provide for payment of these obligations. Funding the encumbered rollovers for the General Fund represents around 9% of the total recommended encumbered rollovers.

The FY 2020 Adjusted Budget currently includes the carry forward of FY 2019 encumbrances, since the City is obligated to pay for these commitments.

FY 2019 Unencumbered Carryover, totals \$64,586,258 and reflects the carryover of funding appropriated by the City Council for specific purposes that had not been encumbered by year-end. The carryover for the General Fund represents around 11% of the total recommended unencumbered carryover amount and is for priority projects. Capital Improvement Funds carryovers are for continuing projects and makes up 13% of the unencumbered carryover. The remaining 76% represents carryover items in non-discretionary funds.

FY 2020 Other Adjustments total \$35,181,855 and reflect actions taken by the City Council with the adoption of the FY 2020 budget as well as adjustments required or approved since the budget adoption. Many of these adjustments are within non-discretionary funds and reflect the appropriation of grant funding and the use of available fund balance.

Below is a summary of the FY 2019 Unencumbered Carryover and the FY 2020 Adjustments for the City's General Fund and Other Funds.

### **General Fund**

The General Fund includes unencumbered carry-over requests of \$4,177,247 and other adjustments of \$12,549,473 including the following program allocations:

#### *Carryover*

- \$258,977 in the City Clerk's Office including \$159,977 for the costs related to upcoming Special California Primary Election in March 2020
- \$244,185 in the City Manager's Office with \$30,000 for the Neighborhood Services Program, \$81,185 for the Code Enforcement Program, \$35,000 set aside to develop a financial model for labor negotiations and \$75,000 for a survey of registered voters for potential 2020 ballot initiatives
- \$195,000 in Finance for new revenue-generating collection and audit management software to enhance our Short-Term Rental, business license, and Measure U1 programs (\$150,000) and Customer Service Counter renovations (\$45,000)
- \$539,426 in Health, Housing & Community Services carryover items including \$200,000 for the Aquatic Park Water Quality Investigation
- \$127,442 in the Human Resources Department for classification and compensation studies for upcoming labor negotiations
- \$1,199,801 in Information Technology for a number of critical projects including \$469,700 for the Website Redesign Project. Some of these project funds will be budgeted in Non-Departmental and transferred to the Information Technology Cost Allocation Fund and appropriated out of that fund for the projects.
- \$173,595 in Parks, Recreation & Waterfront for fire fuel management, landscaping work for 6 blocks of the Santa Fe Right of Way, portable toilets and

handwashing stations, the ADA Transition Plan, and a fence at the Dwight Triangle area/median to replace the one that was recently destroyed

- \$620,747 in Planning for Council approved projects
- \$394,845 in Public Works for Fire Safety (\$200,000), Cameras at San Pablo Park (\$34,845), and the Underground Utility District #48 (\$160,000)

#### *Other Adjustments*

- \$1,244,196 in Excess Equity allocations approved by Council with the FY 2020 & FY 2021 Budget Adoption on June 25, 2019
- \$1,414,225 in the Fire Department for the following items:
  - \$1,008,274 for the ambulance response and fire inspection billing contract with Wittman Enterprises LLC approved by Council
  - \$185,000 for Ground Emergency Medical Transport Quality Assurance Fee to the State of California Department of Health Services for emergency medical transport services
  - \$39,714 for 3 additional gurneys from Stryker and equipping all seven ambulances with powered cot fastener systems
  - \$181,237 to purchase and outfit two trucks for fire stations and purchase a Prius for the Fire Prevention Division
- \$368,000 in Measure U1 Funds for Resources for Community Development's proposed development of 2001 Ashby Avenue
- \$1,750,000 in Measure U1 Funds for the following projects:
  - \$500,000 for Satellite Affordable Housing Associates' new construction development at 2527 San Pablo Avenue
  - \$1,200,000 for Resources for Community Development's new construction development at 2001 Ashby Avenue
  - \$50,000 for Northern California Land Trust's renovation of 2321-2323 10<sup>th</sup> Street
- \$167,212 in Measure U1 Funds for a Community Development Project Coordinator position in Health, Housing & Community Services to manage Measure O activities. Measure O bond proceeds cannot be used for staff cost. Therefore, an alternative funding source is needed to fund this position.
- \$450,000 in Human Resources for outside negotiators to assist with upcoming labor negotiations
- \$1,277,469 in Information Technology for the following items:
  - \$550,000 for the Redundant Cooling System for the Public Safety Data Center
  - \$270,000 for the FY 2019 & FY 2020 Rent Board contributions to the Information Technology Cost Allocation Fund
  - \$350,000 for the Police Department New World CAD Licenses
  - \$6,500 for the Fire Department Records Management Software
  - \$100.969 for facilities maintenance fees for the 4<sup>th</sup> floor space at 2180 Milvia Street that were not budgeted for in FY 2020.
- \$605,000 in Federal Labor Standards Act overtime payments to Fire and Police

- ❑ \$1,200,000 transfer to the Public Liability Fund to pay for increased costs for outside counsel, court costs, and claims and judgement payments approved by Council
- ❑ \$406,925 transfer of FY 2019 Excess Property Transfer Tax Revenue to Capital Improvement Fund and then transferred to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center)
- ❑ \$946,163 transfer of Measure U1 Revenues to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center)
- ❑ \$1,899,000 transfer to the FUNDS\$ Replacement Fund above the original \$15.1 million approved by Council. These funds are being used for the following items:
  - \$649,000 for the current FUNDS\$ Application Software Support that ends in December 2020
  - \$30,000 for Additional Staffing Help in City Auditors Office
  - \$34,000 for Additional Server Environment for 2019 upgrade
  - \$180,000 for a New Employee Expense Reimbursement Module
  - \$616,000 for Additional Project Management/Implementation Services
  - \$100,000 for Additional Consulting for HR Payroll
  - \$290,000 for Data Integrations/Data Conversion

There will be additional expenses in FY 2021 thru FY 2023 which will be brought back to Council as the Phase 2 Projects go through implementation

- ❑ \$350,000 in Public Works for the purchase of a sweeper for the Clean Cities Program

### **Other Funds**

Other City funds (including capital improvement project funds) total unencumbered carryover of \$32,785,564 and other adjustments of \$22,632,382 including the following project allocations:

#### *Carryover*

- ❑ \$4,045,237 in Affordable Housing Mitigation Fee funds for Housing Trust Fund projects
- ❑ \$525,872 in Inclusionary Housing Program funds for Housing Trust Fund projects
- ❑ \$997,980 in Condo Conversion Program funds for Housing Trust Fund projects
- ❑ \$1,685,000 in Playground Camp funds for construction management at Berkeley Tuolumne Camp (\$1,655,000) and for Echo Lake bus costs (\$30,000)
- ❑ \$621,169 in State Transportation Tax Funds for Public Works street projects
- ❑ \$1,471,318 in Parks Tax funds for various Parks, Recreation & Waterfront Department capital projects currently under way
- ❑ \$362,595 in Mental Health State Aid Realignment funds for the 2640 Martin Luther King Jr. Way Adult Mental Health Clinic renovation project
- ❑ \$1,051,751 in Housing Mitigation funds for Housing Trust Fund projects

- ❑ \$310,930 in One Time Grant: No Capital Expenditure funds for the Berkeley Electric Vehicle Charging Project and the restoration of Codornices Creek at Kains
- ❑ \$1,447,829 in Measure WW funds for approved park projects
- ❑ \$4,335,261 in Capital Improvement Projects funding for Information Technology, Parks, Recreation & Waterfront, and Public Works projects
- ❑ \$7,492,060 in FUND\$ Replacement Funds for the FUND\$ Replacement Project
- ❑ \$3,655,311 in Measure T1 Funds for Parks, Recreation & Waterfront Department and Public Works Department project currently under way
- ❑ \$432,490 in Marina Funds for capital projects
- ❑ \$629,523 in Sewer Funds for projects at Portland Avenue, Santa Fe, Kains, and other locations
- ❑ \$554,340 in Off Street Parking Funds for the completion of the Center Street Garage project
- ❑ \$1,547,193 in the Information Technology Cost Allocation Fund for Digital Strategic Plan projects in FY 2020

#### *Other Adjustments*

- ❑ \$768,568 in Playground Camps Fund for the Berkeley Tuolumne Camp permit fees, tree removal, and cabin repairs
- ❑ \$353,505 in Rental Housing Safety Program funds for two inspector positions as part of the Rental Housing Safety Program expansion
- ❑ \$482,394 in Measure B – Local Streets & Road Funds for the Best Plan Update & Vision Zero Action Plan
- ❑ \$621,000 in Parks Tax Funds for the Cesar Chavez Solar Calendar Maintenance, ADA Transition Plan, and the Live Oak Park Seismic Upgrade project
- ❑ \$200,000 in Office of Traffic Safety grant funds to fund strategies to reduce
- ❑ \$1,831,875 in Mental Health Services Act funds for contracts, positions, and other program expenses
- ❑ \$3,3653,174 in One-Time Grant: No Capital Expenditures funds for the Homeless Emergency Aid Program Grant (\$2,816,827), No Place Like Home Grant (\$75,000), Kaiser Permanente Grant (\$150,000), Homeless Mentally Ill and Treatment – Mental Health Adult Triage Grant (\$265,347), the Center at Sierra Health Foundation Grant (\$50,000), Water Emergency Transportation Authority Grant (\$250,000), San Francisco Foundation Grant (\$7,000), CARE California Carpet Stewardship Program (\$7,000), and the B.U.R.P.'s ERA Construction (\$25,000)
- ❑ \$5,247,525 in Capital Improvement Funds for Special Fund Allocations and Excess Property Transfer Tax Allocations approved by Council with the Adoption of the FY 2020 & FY 2021 Budget on June 25, 2019. Also included is an \$800,000 appropriation for the traffic signal at 1951 Shattuck Avenue and a \$406,952 transfer of Excess Property Transfer Tax Revenue from General Fund then transferred to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center)



- ❑ \$1,899,000 appropriation of FUNDS Replacement Funds for the items described in the General Fund Section above
- ❑ \$440,748 in Measure M Funds for the Cratus Incorporated contract
- ❑ \$1,587,247 in Measure T1 – Infrastructure & Facilities Funds for project currently underway
- ❑ \$272,549 in Sewer Funds for Special Fund Allocations approved by Council with the Adoption of the FY 2020 & FY 2021 Budget on June 25, 2019.
- ❑ \$552,804 in Clean Storm Water Funds for Special Fund Allocations approved by Council with the Adoption of the FY 2020 & FY 2021 Budget on June 25, 2019.
- ❑ \$969,680 in Permit Service Center Funds for an Accela contract amendment and Special Fund Allocations approved by Council with the Adoption of the FY 2020 & FY 2021 Budget on June 25, 2019.
- ❑ \$1,200,000 in Public Liability Funds for the funds transferred in from the General Fund for increased costs for outside counsel, court costs, and claims and judgement payments approved by Council
- ❑ \$1,233,827 in Information Technology Cost Allocation Funds transferred in from the General Fund and Capital Improvement Fund for projects such as the Data Center Upgrade and Replacement of the Backup System.

This report has been discussed with the Budget & Finance Policy Committee at their November 14, 2019 meeting.

Any changes made by the Council as part of the adoption of the FY 2019 Year-End/FY 2020 1<sup>st</sup> Quarter Report will need to be incorporated into the numbers presented in this report to reflect these additional appropriations.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the act of adopting the budget/appropriations ordinance/amendments. Actions included in the budget will be developed and implemented in a manner that is consistent with the City's environmental sustainability goals and requirements.

#### RATIONALE FOR RECOMMENDATION

The recommendation allows the City to amend the FY 2020 Adopted Budget, re-appropriating funds from FY 2019 to FY 2020 for contractual commitments that need to be paid and revising the budget to reflect approved carryover requests in both discretionary and non-discretionary funds.

The recommendations in this report deal with the unencumbered carryover in the funds listed above and the other adjustments in all funds. Staff has conducted a detailed analysis of the individual carryover requests submitted by departments and is presenting carryover recommendations for projects that are either currently under contract, represent council priorities, and/or are considered critical.

#### CONTACT PERSON

Teresa Berkeley-Simmons, Budget Manager, City Manager's Office, 981-7000

Rama Murty, Senior Management Analyst, City Manager's Office, 981-7000

Attachments:

1: Ordinance

Exhibit A: Annual Appropriation Ordinance Summary of Appropriations by Fund

2: FY 2019 Carryover Recommendations and FY 2020 Adjustments

ORDINANCE NO. -N.S.

AMENDING THE ANNUAL APPROPRIATIONS ORDINANCE NO. 7,669–N.S. FOR  
FISCAL YEAR 2020

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

Section 1. That the Annual Appropriations Ordinance based on the budget for FY 2020 submitted by the City Manager and passed by the City Council be amended as follows and as summarized in Exhibit A:

A. General Fund (Funds 001-099)	219,153,081
B. Special Funds ( Funds 100-199)	117,087,692
C. Grant Funds (Funds 300-399)	46,751,427
D. Capital Projects Funds (Funds 500-550)	68,435,643
E. Debt Service Fund (Funds 551-599)	10,533,979
F. Enterprise Funds (Funds 600-669)	144,115,620
G. Internal Service Funds (Funds 146, 670-699)	46,116,952
H. Successor Agency (Funds 760-769)	56,960
I. Agency Funds (Funds 771-799)	4,838,731
J. Other Funds (Funds 800-899)	5,497,649
<u>K. Total</u>	
Total General Fund	219,153,081
Add: Total Other Than General Fund	443,434,653
<b>Gross Revenue Appropriated</b>	<b>662,587,733</b>
Less: Dual Appropriations	-26,171,544
Less: Revolving/Internal Service Funds	-46,002,952
<b>Net Revenue Appropriated</b>	<b>590,413,237</b>

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

- a. From the General Fund to the General Fund – Stability Reserve Fund; Catastrophic Reserve Fund; Health State Aid Realignment; Paramedic Tax Fund; Capital Improvement Fund; Phone System Replacement; Equipment Replacement Fund; Public Liability Fund; Catastrophic Loss Fund; Police

Employee Retiree Health Assistance Plan; Safety Members Pension Fund; and Sick Leave Entitlement Fund.

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

Transportation Tax Fund; Rental Housing Safety Program Fund; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; FEMA Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Central Services Fund.

- n. To the Building Maintenance Fund from the General Fund; Health (General) Fund; Health (Short/Doyle) Fund; Measure B Local Street & Road Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Off Street Parking Fund; Parking Meter Fund; Equipment Maintenance Fund; Building Maintenance Fund; and Mental Health State Aid Realignment Fund.
- o. To the Central Services Fund from the General Fund; First Source Fund; Health (Short/Doyle) Fund; Library-Discretionary Fund; Playground Camp Fund; Rent Stabilization Board Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Building Purchases & Management Fund; Building Maintenance Fund; Central Services Fund; and Mental Health State Aid Realignment Fund.
- p. To Information Technology Cost Allocation Plan Fund from General Fund; Target Case Management/Linkages Fund; Health (Short/Doyle); Library Fund; Playground Camp Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Rent Stabilization Board Fund; Parks Tax Fund; Street Light Assessment District Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation; Clean Storm Water Fund; Permit Service Center Fund; Off Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Equipment Maintenance Fund; Building Maintenance Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; and Mental Health State Aid Realignment Fund.
- q. To the Workers' Compensation Self-Insurance Fund from General Fund; Special Tax for Severely Disabled Measure E Fund; First Source Fund; HUD Fund; ESGP Fund; Health (General) Fund; Target Case Management/Linkages Fund; Mental Health Service Act Fund; Health (Short/Doyle) Fund; EPSDT Expansion Proposal Fund; Senior Nutrition (Title III) Fund; C.F.P. Title X Fund; Fund Raising Activities Fund; Berkeley Unified School District Grant; Vector Control Fund; Paramedic Tax Fund; Alameda County Grants Fund; Senior Supportive Social Services Fund; Family Care Support Program Fund; Domestic Violence Prevention – Vital Statistics Fund; Affordable Housing Mitigation; Inclusionary Housing Program; Library – Discretionary Fund; Playground Camp Fund; Community Action Program Fund; State Proposition 172 Public Safety Fund; State Transportation Tax Fund; CDBG Fund; Rental Housing Safety Program; Measure B Local State & Road Fund; Measure B Bike & Pedestrian Fund; Measure B – Paratransit Fund; Measure F Alameda County Vehicle Registration Fee Streets & Roads Fund; Measure BB – Paratransit Fund; One-Time Grant: No Cap Expense Fund; Rent Stabilization Board Fund; Parks Tax Fund; Measure GG – Fire Prep Tax Fund; Street Lighting

Assessment District Fund; Employee Training Fund; Private Percent – Art Fund; Measure T1 – Infrastructure & Facilities Fund; FUND\$ Replacement Fund; Capital Improvement Fund; FEMA Fund; CFD #1 District Fire Protect Bond Fund; Special Tax Bonds CFD#1 ML-ROOS Fund; Shelter+Care HUD Fund; Shelter+Care County Fund; Zero Waste Fund; Marina Operations/Maintenance Fund; Sanitary Sewer Operation Fund; Clean Storm Water Fund; Private Sewer Lateral Fund; Permit Service Center Fund; Off-Street Parking Fund; Parking Meter Fund; Unified Program (CUPA) Fund; Building Purchases & Management Fund; Equipment Replacement Fund; Equipment Maintenance Fund; Building Maintenance Fund; Central Services Fund; Workers’ Compensation Fund; Public Liability Fund; Information Technology Cost Allocation Plan Fund; Health State Aid Realignment Trust Fund; Tobacco Control Trust Fund; Mental Health State Aid Realignment Fund; Alameda Abandoned Vehicle Abatement Authority; and Bio-Terrorism Grant Fund.

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

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

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

**Attachment for Annual Appropriations Ordinance - Fiscal Year 2020****REVOLVING FUNDS/INTERNAL SERVICE FUNDS**

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

**Revolving/Internal Service Funds**

Employee Training Fund	856,852
Equipment Replacement Fund	5,977,948
Equipment Maintenance Fund	8,194,536
Building Maintenance Fund	4,674,225
Central Services Fund	396,985
Workers' Compensation Fund	6,534,674
Public Liability Fund	3,274,495
Information Technology Fund	16,093,237
Subtotal Revolving/Internal Service Funds	\$ 46,002,952

**DUAL APPROPRIATIONS - WORKING BUDGET**

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

## Transfers to the General Fund

<u>Indirect Cost Reimbursement</u>	
CDBG Fund	154,260
Street Light Assessment District Fund	112,971
Zero Waste Fund	2,195,402
Marina Enterprise Fund	438,683
Sanitary Sewer Fund	1,043,589
Clean Storm Water Fund	214,695
Permit Service Center Fund	1,734,781
Unified Program (CUPA) Fund	90,763
Subtotal Transfers to General Fund:	\$ 5,985,144



Transfer to Safety Members Pension Fund from General Fund	551,804
Transfer to Health State Aid Realignment from General Fund	1,953,018
Transfer to Paramedic Tax Fund from General Fund	612,696
Transfer to Capital Improvement Fund (CIP) from General Fund	4,950,905
Transfer to Phone System Replacement - VOIP from General Fund	163,000
Transfer to Equipment Replacement Fund from General Fund	1,336,699
Transfer to Public Liability Fund from General Fund	1,695,888
Transfer to Catastrophic Loss Fund from General Fund	1,351,564
Transfer to Police Employee Retiree Health Assistance Plan from General Fund	400,136
Transfer to Sick Leave Entitlement Fund from General Fund	201,501
Transfer to General Fund from UC Settlement Fund	881,120
Transfer to Clean Storm Water Fund from UC Settlement Fund	293,708
Transfer to General Fund from Health State Aid Realignment Fund	2,643,280
Transfer from CIP Fund to PERS Savings Fund	151,632
Transfer to Berkeley Repertory Theater Debt Service Fund from CIP Fund	499,802
Transfer from CIP Fund to 2010 COP (Animal Shelter) Fund	402,613
Transfer to Private Sewer Lateral Fund from Sewer Fund	90,501
Transfer to Catastrophic Loss Fund from Permit Service Center Fund	50,555
Transfer to Catastrophic Loss Fund from Unified Program (CUPA) Fund	5,082
Transfer to General Fund from Parking Meter Fund	1,742,288
Transfer from Special Tax Bonds CFD#1 ML-ROOS to CFD#1 District Fire Protect Bond (Measure Q)	100,000
Transfer to First Source Fund from Parks Tax Fund	11,625
Transfer to First Source Fund from Capital Improvement Fund	29,943
Transfer to First Source Fund from Marina Fund	1,875
Transfer to Public Art Fund from Parks Tax Fund	17,437
Transfer to Public Art Fund from Capital Improvement Fund	44,915
Transfer to Public Art Fund from Marina Fund	2,813
Subtotal Transfers to Other Funds:	<u>20,186,400</u>
Sub-Total Dual Appropriations	<u>\$ 26,171,544</u>
<b>Grand Total Dual Appropriations</b>	<b>\$ 72,174,496</b>

## SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund #	Fund	FY 2020 Adopted	1st AAO			FY 2020 Revised #1	
			Encumbered Rollovers	Unencum. Carryovers	Other Adjustments		Total Amend.
11	General Fund Discretionary	196,913,849	5,512,512	4,177,247	12,549,473	22,239,232	219,153,081
101	Library - Tax	25,834,485	688,625			688,625	26,523,110
103	Library - Grants	64,089	141			141	64,230
104	Library - Friends & Gift	150,000	552			552	150,552
105	Library - Foundation	100,000	26,211			26,211	126,211
106	Asset Forfeiture	201,000				-	201,000
107	Special Tax Measure E	1,316,894				-	1,316,894
108	First Source Fund	47,327				-	47,327
110	Sec 108 Loan Gty Asst.	546,979				-	546,979
111	Fund Raising Activities	71,408			21,000	21,000	92,408
113	Sports Field (Vendor Oper)	189,807	6,484		30,000	36,484	226,291
114	Gilman Fields Reserve	-	73,173			73,173	73,173
115	Animal Shelter	52,480	7,531			7,531	60,011
116	Paramedic Tax	3,872,044				-	3,872,044
117	CA Energy Commission	-	44,249			44,249	44,249
119	Domestic Violence Prev - Vit Stat	25,646				-	25,646
120	Affordable Housing Mitigation	66,641	1,582,236	4,045,237		5,627,473	5,694,114
121	Affordable Child Care	13,275				-	13,275
122	Inclusionary Housing Program	147,145		525,872		525,872	673,017
123	Condo Conversion	-		997,980		997,980	997,980
124	Parking In-Lieu Fee	-	82,010			82,010	82,010
125	Playground Camp	1,956,129	1,985,378	1,685,000	768,568	4,438,946	6,395,075
126	State-Prop 172 Pub.Safety	462,481	76,420			76,420	538,901
127	State Transportation Tax	5,419,156	2,049,187	621,169	82,508	2,752,864	8,172,020
128	CDBG	2,513,991	1,314,326			1,314,326	3,828,317
129	Rental Housing Safety Program	1,553,079	6,602		353,505	360,107	1,913,186
130	Measure B - Local St & Road	3,029,395	1,917,465		80,000	1,997,465	5,026,860
131	Measure B - Bike and Pedestrian	415,769	80,414	40,632	83,562	204,608	620,377
132	Measure B - Paratransit	475,359	10,335			10,335	485,694
133	Measure F Alameda County VRF St & Rd	523,325	238,903	100,000		338,903	862,228
134	Measure BB - Local St & Road	3,654,183	2,674,799	100,000	482,394	3,257,193	6,911,376
135	Measure BB - Bike & Pedestrian	631,828	35,134			35,134	666,962
136	Measure BB - Paratransit	384,702	6,787		60,000	66,787	451,489
137	One Time Funding	-	139,080			139,080	139,080
138	Parks Tax	16,342,573	1,420,119	1,471,318	621,000	3,512,437	19,855,010
139	Street And Open Space Impr	-	1,140,512			1,140,512	1,140,512
140	Measure GG - Fire Prep Tax	4,793,467	126,667			126,667	4,920,134
141	1st Response Adv Life Supp	-	5,356	55,144		60,500	60,500
142	Streetlight Assesment District	2,620,883	484,869		26,189	511,058	3,131,941
143	Berkeley Bus Ec Dev	156,387			12,000	12,000	168,387
145	Bayer (Miles Lab)	8,500				-	8,500
146	Employee Training	780,629	13,640	62,583		76,223	856,852
147	UC Settlement	1,174,828	8,960			8,960	1,183,788
148	Cultural Trust	22,012	5,000	141,144		146,144	168,156
149	Private Party Sidewalks	100,000	72,485	99,973		172,458	272,458
150	Public Art Fund	65,164	64,928	10,516		75,444	140,608
152	Vital & Health Statistics Trust Fund	28,195				-	28,195
156	Hlth State Aid Realign Trust	4,125,651	2,359			2,359	4,128,010
157	Tobacco Cont.Trust	350,227	32	131,815		131,847	482,074
158	Mental Health State Aid Realign	3,003,718	708,140	362,595	50,000	1,120,735	4,124,453
159	Citizens Option Public Safety Trust	258,921	23,751		50,000	73,751	332,672
161	Alameda Cty Abandoned Vehicle Abatement	99,920	288			288	100,208
307	Capital Grants - Local	-	341,406			341,406	341,406
309	OTS DUI Enforcement Education Prg.	129,500			200,000	200,000	329,500
310	HUD/Home	831,094				-	831,094
311	ESGP	235,790				-	235,790
312	Health (General)	2,190,908	5,260		16,466	21,726	2,212,634
313	Target Case Management Linkages	809,278	105,841	100,320		206,161	1,015,439
314	Alameda County Tay Tip	-	8			8	8
315	Mental Health Service Act	7,839,248	1,715,355		1,831,875	3,547,230	11,386,478
316	Health (Short/Doyle)	4,196,856	148,499		159,000	307,499	4,504,355
317	EPSDT Expansion Proposal	377,855				-	377,855
318	Alcoholic Bev Ctr OTS/UC	52,804			15,000	15,000	67,804
319	Youth Lunch	101,900	218,699			218,699	320,599
320	Sr. Nutrition Title III	76,554			9,673	9,673	86,227
321	CFP Title X	158,740				-	158,740
324	BUSD Grant	307,624				-	307,624
325	Vector Control	335,418	9,792			9,792	345,210
326	Alameda County Grants	556,234	2,197		15,784	17,981	574,215
327	Senior Supportive Social Services	54,775			1,822	1,822	56,597

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund # Fund	FY 2020 Adopted	1st AAO				FY 2020 Revised #1
		Encumbered Rollovers	Unencum. Carryovers	Other Adjustments	Total Amend.	
328 Family Care Support Program	72,128				-	72,128
329 CA Integrated Waste Management	5,244				-	5,244
331 Housing Mitigation	-		1,051,751		1,051,751	1,051,751
333 CALHOME	363,100				-	363,100
334 Community Action	264,258				-	264,258
336 One-Time Grant: No Cap Exp	1,966,893	670,807	310,930	3,653,174	4,634,911	6,601,804
338 Bay Area Air Quality Management	60,000				-	60,000
339 MTC	-	2,552,414			2,552,414	2,552,414
340 FEMA	1,238,295	1,576,589		22,650	1,599,239	2,837,534
341 Alameda Cty Waste Mgt.	285,000	22,397			22,397	307,397
343 State Dept Conserv/Recylg	28,000				-	28,000
344 CALTRANS Grant	-	350,958	10,227		361,185	361,185
345 Measure WW Park Bond Grant	1,525,274	1,220	1,447,829		1,449,049	2,974,323
346 CALTRANS Safe Routes 2 Schools	-	9,757			9,757	9,757
347 Shelter+Care HUD	5,168,632				-	5,168,632
348 Shelter+Care County	546,638				-	546,638
349 JAG Grant	52,500			70,000	70,000	122,500
350 Bioterrorism Grant	273,175	13			13	273,188
501 Capital Improvement Fund	7,399,464	4,491,447	4,335,261	5,247,525	14,074,233	21,473,697
502 Phone System Replacement	198,000				-	198,000
503 FUND\$ Replacement	6,028,585	881,378	7,492,060	1,899,000	10,272,438	16,301,023
504 PEG-Public, Education & Government	100,000				-	100,000
506 Measure M - Street & Watershed Impv	-	1,012,683	1,000	440,748	1,454,431	1,454,431
511 Measure T1 - Infra & Facil.	15,882,701	7,783,232	3,655,311	1,587,247	13,025,790	28,908,491
552 09 Measure FF Debt Service	1,619,731				-	1,619,731
553 2015 GORBS	2,612,468				-	2,612,468
554 2012 Lease Revenue Bonds BJPFA	502,402				-	502,402
555 2015 GORBS - 2002 G.O. Refunding Bonds	482,600				-	482,600
556 2015 GORBS (2007, Series A)	181,674				-	181,674
557 2015 GORBS (2008 Measure I)	612,562				-	612,562
558 2010 COP (Animal Shelter)	404,498				-	404,498
559 Measure M GO Street & Water Imps	1,647,738				-	1,647,738
560 Infrastructure & Facilities Measure T1	2,470,306				-	2,470,306
601 Zero Waste	48,362,247	1,518,978		180,340	1,699,318	50,061,565
606 MAR - Costal Conservancy	-		125,400		125,400	125,400
608 Marina Operation	7,118,243	461,487	432,490		893,977	8,012,220
611 Sewer	23,524,301	13,275,285	629,522	272,549	14,177,356	37,701,657
612 Private Sewer Lateral FD	197,441				-	197,441
616 Clean Storm Water	4,171,366	66,906	120,000	552,804	739,710	4,911,076
621 Permit Service Center	19,405,470	844,180		969,680	1,813,860	21,219,330
622 Unified Program (CUPA)	918,190	3,271			3,271	921,461
627 Off Street Parking	6,226,848	876,791	554,340	30,000	1,461,131	7,687,979
631 Parking Meter	9,401,361	429,753		144,627	574,380	9,975,741
636 Building Purchases and Management	3,205,142	92,461		4,146	96,607	3,301,749
671 Equipment Replacement	4,618,500	1,333,478		25,970	1,359,448	5,977,948
672 Equipment Maintenance	7,801,313	272,978		120,245	393,223	8,194,536
673 Building Maintenance Fund	4,460,082	79,687		134,456	214,143	4,674,225
674 Central Services	382,999	13,986			13,986	396,985
675 Computer Replacement Fund	-	-	114,000		114,000	114,000
676 Workers Compensation	6,534,671	3			3	6,534,674
678 Public Liability	1,995,642	78,853		1,200,000	1,278,853	3,274,495
680 Information Technology	12,965,336	346,881	1,547,193	1,233,827	3,127,901	16,093,237
762 Successor Agency - Savo DSF	56,960				-	56,960
774 Sustainable Energy Fin District	28,748				-	28,748
776 Thousand Oaks Underground	100,350				-	100,350
777 Measure H - School Tax	500,000	2			2	500,002
778 Measure Q - CFD#1 Dis. Fire Protect Bond	175,844	74,555		280,000	354,555	530,399
779 Spl Tax Bds. CFD#1 ML-ROOS	875,783				-	875,783
781 Berkeley Tourism BID	650,000				-	650,000
782 Elmwood Business Improvement District	30,000	1			1	30,001
783 Solano Ave BID	25,000				-	25,000
784 Telegraph Avenue Bus. Imp. District	515,637				-	515,637
785 North Shattuck BID	182,647				-	182,647
786 Downtown Berkeley Prop & Improv. District	1,281,760	118,404			118,404	1,400,164
801 Rent Board	5,334,943	162,706			162,706	5,497,649
GROSS EXPENDITURE:	525,856,809	64,586,258	36,555,859	35,588,807	136,730,924	662,587,733
Dual Appropriations	(26,171,544)	-	-	-	-	(26,171,544)
Revolving & Internal Service Funds	(39,539,172)	(2,139,506)	(1,609,776)	(2,714,498)	(6,463,780)	(46,002,952)

SUMMARY OF APPROPRIATIONS BY FUND

ERMA Fund #	Fund	1st AAO				FY 2020 Revised #1	
		FY 2020 Adopted	Encumbered Rollovers	Unencum. Carryovers	Other Adjustments		Total Amend.
	NET EXPENDITURE:	460,146,093	62,446,752	34,946,083	32,874,309	130,267,144	590,413,237

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
1	11	General Fund	City Auditor	\$30,000			ERMA HR/Payroll implementation		X		Use towards ERMA implementation. <b>Funds will be budgeted in Non-Departmental and transferred to the FUNDS Replacement Fund.</b>
2	11	General Fund	City Auditor	\$20,000			2 part-time interns/Fall & Spring			X	Interns to work on high-priority public informational reports.
3	11	General Fund	City Auditor	\$10,000			Training to fulfill required CPE for Performance auditors, including travel expenses			X	Training to obtain City Charter required continuing professional educations credits.
4	11	General Fund	City Auditor	\$15,000			Consultant services			X	Consultant services to assist with audits.
5	11	General Fund	City Auditor	\$4,000			Audit management software			X	Audit management software to provide the public with audit information in a way that provides the most meaning.
6	11	General Fund	City Auditor	\$10,000			Overtime due to FLSA work			X	Overtime resulting from FLSA and other work impacting Payroll staff's capacity.
7	11	General Fund	City Attorney		\$204,196		Add 1.0 FTE Deputy City Attorney		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
8	11	General Fund	City Attorney		\$150,000		Add 1.0 FTE Senior Legal Secretary		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
9	11	General Fund	City Attorney		\$25,000		Calendar Software		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
10	11	General Fund	City Clerk		\$20,000		Software costs for Lobbyist Registration System		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
11	11	General Fund	City Clerk	\$12,000		18-11166-C	Replace MS Access Commissioner Tracking Database			X	Approved Phase 1 Project in Digital Strategic Plan - Additional funds needed for maintenance and fixes for deployed software
12	11	General Fund	City Clerk	\$60,000			Purchase of redistricting module and licenses from GIS software vendor			X	Allocated funds for redistricting software in FY 19. Funds not expended, will purchase licenses in FY 20
13	11	General Fund	City Clerk	\$27,000			Konica Minolta Business Solutions, Inc Contract		X		Carryover funds for contract amendment - KMBS. Approved by Council on 9/10/19 through Resolution 69,062-N.S.
14	11	General Fund	City Clerk	\$159,977			Special Election March 2020			X	Carryover funds for Special California Primary Election March 2020
15	11	General Fund	City Manager		\$100,000		Citywide Risk Assessment		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
16	11	General Fund	City Manager		\$160,000		Add 1.0 FTE Community Services Specialist II		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
17	11	General Fund	City Manager		\$200,000		Berkeley Contracting Availability Study		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
18	11	General Fund	City Manager		\$50,000		Bay Area Book Festival		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
19	11	General Fund	City Manager	\$10,000			Graphic Design Services and program expenses				Carry over \$10,000 from FY 2019 that were previously set aside for graphic design services and other program expenses.
20	11	General Fund	City Manager	\$30,000			Program expenses			X	Carry over \$30,000, which would include: \$5,000 designated for graphic design services; \$15,000 designated for TNC supplemental operating expenses (tents, carts, and water); and \$10,000 for one-time special event purchases (e.g. a-frames)
21	11	General Fund	City Manager	\$81,185			Program expenses			X	Carry over \$81,185, which will be used to fund the Workload Analysis outlined in the Code Enforcement 2018 Audit, the purchase of licensing and support equipment for a new case management module which is anticipated to be included in the Planning Department's Digital Permitting Software.
22	11	General Fund	City Manager	\$35,000			Financial Model for Labor Negotiations			X	Funds to hire a consultant to prepare an easy to use financial model that will enable staff to estimate the savings and / or costs of labor proposals that may be generated by either the City or its unions, associations, or bargaining groups in upcoming labor negotiations.
23	11	General Fund	City Manager	\$75,000			Survey Registered Voters for Potential 2020 Ballot Initiatives			X	Survey registered voters to determine public opinion about revenue and other measures that may be considered for the November 2020 ballot
24	11	General Fund	City Manager	\$13,000			Outside Investigator contract			X	Contract with Karen Kramer to investigate a complaint filed by a Police Review Commission commissioner. Staff cannot do investigation due to a conflict.
25	11	General Fund	Finance	\$150,000			Software			X	New revenue-generating collection and audit management software to enhance our Short Term Rental, business license, and Measure U1 programs
26	11	General Fund	Finance	\$45,000			Customer Service Counter			X	Funds for the Customer Service Counter to make the work environment more ergonomic friendly.

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
27	11	General Fund	Fire		\$1,008,274		Wittman Enterprises LLC Contract		X		FY 2020 funds for Wittman Enterprises LLC contract to provide emergency response billing, fire inspection billing, and related hardware, software, and program oversight. Approved by Council on 12/11/18 through Resolution No. 68,707-N.S.
28	11	General Fund	Fire	\$74,522			Vegetation Management		X		Carryover unspent vegetation management funds from FY 2019. Funds were approved by Council on 11/27/18
29	11	General Fund	Fire		\$185,000		Ground Emergency Medical Transport Quality Assurance Fee	X			Funds to pay the State of California Department of Health Care Services the Ground Emergency Medical Transport Quality Assurance Fee for emergency medical transport services.
30	11	General Fund	Fire		\$39,714		Gurneys for Fire Department Ambulances		X		A sole source contract and any amendments with Stryker to finance the purchase of three additional gurneys and equip all seven ambulances with the power cot fastener system (power load system) for Fire Department ambulances which will allow transport of the sick and injured, increasing the amount by \$39,714 for a total not to exceed amount of \$74,000. Approved by Council on 10/15/19 through Resolution No. 69,128 - N.S.
31	11	General Fund	Fire		\$120,000		Vehicle Purchase			X	Funds to purchase two trucks for the fire stations
32	11	General Fund	Fire		\$16,237		Vehicle Outfitting Costs			X	Funds to outfit two trucks for the fire stations
33	11	General Fund	Fire		\$45,000		Vehicle Purchase			X	Funds to purchase a Prius for the Fire Prevention Division
34	11	General Fund	Health, Housing & Community Services		\$29,023		Senior Center Rental Revenues		X		10% of Revenues to be used exclusively for Maintenance at the Senior Centers. Approved by Council on 5/26/15 through Resolution #67,044-N.S.
35	11	General Fund	Health, Housing & Community Services	\$72,730			North Berkeley Senior Center Renovation			X	Funds for the North Berkeley Senior Center closure and relocation
36	11	General Fund	Health, Housing & Community Services		\$154,768		Sugar Sweetened Beverage Community Agency Allocations		X		Increase Sugar Sweetened Beverage Community Agency Allocations for Berkeley Unified School District and Sugar Sweetened Beverage Panel of Experts from \$1,745,232 to \$1,900,000. Approved by Council on Consent Calendar on 5/14/19
37	11	General Fund	Health, Housing & Community Services	\$40,000			UC Berkeley Sugar Sweetened Beverage Tax Evaluation contract		X		Contract with UC Berkeley to conduct to evaluate the impact of the sugar sweetened beverage tax. Approved by Council on 7/9/19 through Resolution No. 69,015 - N.S.
38	11	General Fund	Health, Housing & Community Services	\$49,999			Legal & Mental Health Support for Immigrant & Religious Communities		X		Carryover of funds for Council-designated project to FY 2019 budget. Funds approved by Council on 12/5/17. Contract with Multicultural Institute to perform work will expire on 11/30/19
39	11	General Fund	Health, Housing & Community Services	\$9,485			Resources for Community Development		X		The FY 2018 encumbrance in FUND# PO#115114 was not rolled into the ERMA PO#21900626. Vendor was late in submitting Quarter 4 of FY2018, not requested until April 2019. Once Quarter 4 requested for FY 2019 the ERMA PO was underfunded.
40	11	General Fund	Health, Housing & Community Services	\$5,940			Dorothy Day House		X		Resolution 68,916 - N.S. was passed on 5/14/2019. Once contract amendment was processed deadline to encumber FY19 funds had passed. Of the \$60,000 authorized only \$5,940.00 is needed.
41	11	General Fund	Health, Housing & Community Services	\$1,248			Bay Area Outreach & Recreation (BORP)			X	An invoice for Bay Area Community Land Trust, PO#115083, was mistakenly applied to Bay Area Outreach's PO#115089. BORP repaid this amount in October 2018. The returned funds were never added back into PO# 115089 and subsequently never added to the ERMA PO# 21900964. Quarter 4 FY2019 was then short \$1,248.00
42	11	General Fund	Health, Housing & Community Services		\$368,000		Measure U1 Funds - 2001 Ashby Avenue		X		Reserve \$368,000 in Measure U1 Funds for predevelopment costs to Resources for Community Development's proposed development of 2001 Ashby Avenue. Approved by Council on 4/23/19 through Resolution No. 68,824-N.S.
43	11	General Fund	Health, Housing & Community Services		\$10,260	HHHGHD2001	Transfer Tax Refund for 1638 Stuart Street			X	Transfer tax refund of an estimated \$10,260 to the Bay Area Community Land Trust (BACL T) refund in support of the renovation of 1638 Stuart Street and BACL T's operation of the property as affordable housing. Recommendation was approved by Housing Advisory Commission on 9/5/19 and is being sent to Council for approval on 12/3/19. Staff concurs with HAC recommendation

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
44	11	General Fund	Health, Housing & Community Services		\$1,750,000		Measure U1 - Housing Trust Fund Predevelopment Applications		X		Reserve General Funds received pursuant to Measure U1 in the following amounts: \$500,000 for Satellite Affordable Housing Associates' new construction development at 2527 San Pablo Avenue, \$1.2 million for Resources for Community Development's new construction development at 2001 Ashby Avenue, and \$50,000 for Northern California Land Trust's renovation of 2321-2323 10th Street. Approved by Council on 10/29/19.
45	11	General Fund	Health, Housing & Community Services	\$52,437			African American Holistic Center		X		Carry forward for work to develop African American Holistic Center. Funds approved by Council on 6/27/17 with FY 2018 & FY 2019 Biennial Budget Adoption.
46	11	General Fund	Health, Housing & Community Services	\$200,000		HHFFFF2001	Aquatic Park Water Quality Investigation			X	An contract with Wood Environment and Infrastructure for the Aquatic Park Water Quality Investigation.
47	11	General Fund	Health, Housing & Community Services		\$33,912		Sugar Sweetened Beverage Program Public Health Division		X		Revise Public Health Division Sugar Sweetened Beverage Program budget to match approved allocation of \$475,000. Approved by Council on 5/14/19 through Resolution No. 68,914-N.S.
48	11	General Fund	Health, Housing & Community Services	\$11,873			Public Health Program Expenses			X	To reimburse Public Works for PG&E and EBMUD charges paid for 1011 University in FY19. \$5,000 for relocation consultant for WBSC. Will AJ the funds to Public Works.
49	11	General Fund	Health, Housing & Community Services	\$24,750		HHHGFA2001- NONPERSO NN- GENERAL- MISCPROFS V	Office Move to 1st Floor			X	Due to new staff hires, the decision was made, with Public Works input, to move HCS staff into the 1st floor room. This room was previously for HHCS Employment Services but HHCS was directed to move out of the room for another purpose before being asked to move back in with the new hires.
50	11	General Fund	Health, Housing & Community Services	\$31,545		HHHYTH2001- PERSONNE L -YOUTH - SALARY	Youthworks Minimum Wage	X			Increase in Minimum Wage will require more resources in FY 2020.
51	11	General Fund	Health, Housing & Community Services	\$10,337		HHHYTH2001- NONPERSO NN- GENERAL- CMMNTYAG Y	BUSD Workplace Skills Training Contract		X		Contract with Berkeley Unified School District in an amount not to exceed \$26,694 from 6/12/19 to 8/31/22 for the purpose of workplace skills training for YouthWorks participants. Approved by Council on 6/11/19 through Resolution No. 68,946-N.S.
52	11	General Fund	Health, Housing & Community Services	\$28,200		HHHLS2001- NONPERSO NN- GENERAL- MISCPROFS V	2019 Point in Time			X	This cost should have been paid in FY 2019, but we didn't receive invoice til FY 2020.
53	11	General Fund	Health, Housing & Community Services	\$882		HHHLS2001- NONPERSO NN-GENERA MISCPROFS V	Fire Inspection at STAIR Center			X	This is an unexpected internal City cost that is not accounted for in the STAIR budget available to HCS.
54	11	General Fund	Health, Housing & Community Services		\$167,212		Measure O Staff Position	X			Funds for a Community Development Project Coordinator position to manage Measure O activities. Position will be funded through Measure U1 General Fund revenues.
55	11	General Fund	Human Resources		\$50,000		EEO Division Case Management Software		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
56	11	General Fund	Human Resources		\$50,000		Sexual Harassment Training	X			Funds for Sexual Harassment Training that must be completed for the entire organization by January 1, 2020 per SB 1343
57	11	General Fund	Human Resources	\$25,000			NeoGov Onboarding Software			X	Software to unify new employee onboarding experiences, support a paperless efforts, generate metrics easily, automated work flows for new employees and HR staff. Estimated cost-savings in terms of HR staff time to the City is at least \$35,000 annually.
58	11	General Fund	Human Resources	\$127,442			Class & Compensation Studies for Labor Negotiations			X	Fund classification projects per Union agreement also conduct a study to see ERMA's impact on classifications.
59	11	General Fund	Human Resources	\$70,000	\$450,000		Labor Negotiations			X	Funds to hire outside negotiators to assist with upcoming labor negotiations.
60	11	General Fund	Information Technology	\$469,700			Website Redesign		X		Carryover funding per Resolution No. 68,651- N.S. for contract: Rolling Orange for Website Redesign, Web Content Management System and Support

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
61	11	General Fund	Information Technology	\$395,931			Nutanix: Switches, Prof. Svcs., Maintenance		X		Purchase order with Carahsoft Technology Corporation for the purchase of server hardware, software, and related services for a data center upgrade and disaster recovery implementation, utilizing pricing established by the General Services Administration (GSA), for a total amount not to exceed \$1,678,953 for the period May 15, 2019 to June 1, 2024. Approved by Council on 5/14/19 through Resolution 68,868-N.S. <b>Funds will be budgeted in Non-Departmental and transferred to IT Cost Allocation Fund</b>
62	11	General Fund	Information Technology	\$192,570			IT Space Needs - Ongoing for 1947			X	Facilities fee for 1947 space. <b>Funds will be budgeted in Non-Departmental and transferred to IT Cost Allocation Fund.</b>
63	11	General Fund	Information Technology	\$45,000			VoIP Support and Maintenance RFP		X		Contract amendment with Communication Strategies for Consulting Services for Voice over IP (VoIP). Approved by Council on 7/23/19 through Resolution No. 69,044-N.S.
64	11	General Fund	Information Technology	\$71,000			Website License Maintenance - Atera Prime: City intranet		X		Amendment to Contract No. 10853A with Atera Prime, Inc. DBA Emgage Inc. for implementation services of Emgage's Sharepoint and Intranet implementation services, for an amount not-to-exceed \$72,000 and a total contract value not-to-exceed \$156,275 from March 28, 2018 to June 30, 2020. Approved by Council on 12/4/18 through Resolution 68,652-N.S.
65	11	General Fund	Information Technology	\$25,600			Peak Democracy's OpenGov Licenses for City Manager's Office			X	Software licenses for City Manager's Office
66	11	General Fund	Information Technology		\$550,000		Redundant Cooling System for Public Safety Data Center			X	Contract with Stanton Engineering for the Redundant Cooling System for the Public Safety Data Center.
67	11	General Fund	Information Technology		\$270,000		FY 2010 & FY 2020: Rent Board IT Cost Allocation Contributions			X	FY 2019 & FY 2020 Rent Stabilization Board contributions to be transferred into IT Cost Allocation. <b>Funds will be budgeted in Non-Departmental and transferred to IT Cost Allocation Fund.</b>
68	11	General Fund	Information Technology		\$350,000		Police Department FY 2020 Tyler/New World Licenses			X	CAD Licenses
69	11	General Fund	Information Technology		\$6,500		Fire FY 2019 RedNMX Licenses			X	Fire department records management software bills
70	11	General Fund	Information Technology		\$100,969		Facilities Fee from General Fund			X	Facilities fees for 2180 4th floor. <b>Funds will be - budgeted in Non-Departmental and moved to IT Cost Allocation Fund.</b>
71	11	General Fund	Mayor & Council	\$65,099			Council Office Budgets		X		Mayor & Council Office budgets FY 2019 carryover
72	11	General Fund	Non-Departmental	\$68,510			Bay Cities Joint Powers Insurance	X			Carryover funds from FY 2019 to pay for FY 2020 Bay Cities Joint Powers Insurance Authority bill
73	11	General Fund	Non-Departmental		\$605,000		FLSA Payments	X			Appropriation of funds for FLSA overtime payments to Fire and Police. Approved by Council on 7/16/19 in Closed Session
74	11	General Fund	Non-Departmental		\$35,000		Transfer to Phone System Replacement Fund			X	Revise transfer amount to Phone System Replacement Fund to match expenditure budget of <del>\$198,000</del> in FY 2020
75	11	General Fund	Non-Departmental		\$1,200,000		Transfer to Public Liability Fund			X	Increase transfer to Public Liability Fund to pay for outside counsel, court costs, and claims and judgements in FY 2020
76	11	General Fund	Non-Departmental		\$406,952		Transfer to Workers' Compensation Fund		X		Transfer of Excess Property Transfer Tax Revenue to Capital Improvement Fund and then transferred to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center).
77	11	General Fund	Non-Departmental		\$946,163		Transfer of Measure U1 Funds to Workers' Compensation Fund		X		Transfer of Measure U1 Revenues to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center).
78	11	General Fund	Non-Departmental		\$1,899,000		Transfer to FUNDS Replacement Fund			X	Transfer additional funds to FUNDS Replacement Fund above original \$15.1 million.
79	11	General Fund	OED		\$25,000		Bayer Development Agreement Update		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
80	11	General Fund	OED	\$4,998			Small Business Support Services		X		Funding will be used to implement the "Small Business Support" initiatives, including small business retention services and educational workshops. These are Council referred projects and are included in the CoB Strategic Plan for FYs 2020-21. For more information, see 1/16/18 and 2/5/19 "Small Business Support" council reports.
81	11	General Fund	OED	\$5,000			Berkeley Flea Market Support		X		This is to implement a Council referral from February 26, 2019 to provide assistance to support the capacity and sustainability of the Berkeley Flea Market.



Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
82	11	General Fund	OED	\$18,100			Discovered in Berkeley Marketing & Communications Campaign		X		The CoB Strategic Plan for FYs 2018-19 including a strategic objective to develop a campaign to market the City of Berkeley as a place to do business. That campaign, Discovered in Berkeley, launched in September 2019. It also relates to the "Small Business Support" initiatives referenced above. This carryover will support a slight expansion of the campaign.
83	11	General Fund	OED	\$3,000			Shattuck Reconfiguration small business mitigations			X	Funds to provide mitigations to small businesses affected by Shattuck Reconfiguration
84	11	General Fund	Parks, Recreation & Waterfront	\$7,886			Freitas Landscaping Work			X	Funds for vegetation management work done by Freitas Landscaping for 6 blocks of the Santa Fe Right of Way
85	11	General Fund	Parks, Recreation & Waterfront	\$59,709		PRWPK19002	Fire Fuel		X		Carryover funds from FY 2019 to complete fire fuel-related tree and vegetation removal.
86	11	General Fund	Parks, Recreation & Waterfront	\$30,000		PRWPK19002	Portable Toilets & Handwashing stations			X	Carryover funds from FY 2019 for portable toilets and handwashing stations
87	11	General Fund	Parks, Recreation & Waterfront	\$60,000			ADA Transition Plan		X		Carryover funds from FY 2019 to pay for Parks, Recreation & Waterfront's portion of the ADA Transition Plan contract with DAC Consulting. Approved by Council on 12/11/18 through Resolution 68,713-N.S.
88	11	General Fund	Parks, Recreation & Waterfront	\$16,000			Fence at Dwight Triangle			X	Funds to replace fence at the Dwight Triangle area/median that was destroyed recently with a more permanent fence
89	11	General Fund	Planning	\$50,000			Rincon Consultants, Inc. Contract		X		Contract with Rincon Consultants, Inc. to develop a Berkeley Pathways to Clean Energy Buildings Report. Funds were originally approved as part of the FY 2019 Budget Adoption on 6/26/18. Contract with Rincon Consultants, Inc. was approved by Council on 6/25/19 through Resolution 68,985-N.S.
90	11	General Fund	Planning	\$51,160			Short-Term Rental Planning Technician position		X		Funds for 2 Year Temporary Planning Technician to assist with implementation of the City's Short-Term Rental program charged 60% to Permit Service Center Fund and 40% to General Fund (\$51,160). Approved by Council on 6/26/18 with the Adoption of the FY 2019 Mid-Biennial Budget Update.
91	11	General Fund	Planning	\$117,738			2 Year Senior Planner for LRDP		X		Planning will hire a consultant due to the specialized nature of this work. Hence the request is to move carryforward in professional services. Funds approved by Council on 11/27/18
92	11	General Fund	Planning	\$250,000			EIR Southside Area		X		Carryover funds for Environmental Impact Report for Southside area land use changes (implementing the More Student Housing Now Resolution). Funds approved by Council on 11/27/18.
93	11	General Fund	Planning	\$106,849			Density Standards RFP		X		\$62,625 spent out of the \$169,484 allocated in FY18-19. Funds were approved by Council in FY 2018 as part of the Mayor's FY 2018 Mid-Year Budget Amendments.
94	11	General Fund	Planning	\$45,000			CEQA study for student housing		X		Carryover of funds approved by Council on 11/27/18.
95	11	General Fund	Police		\$60,000		Gun Buyback and Art of Peace Program		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
96	11	General Fund	Police		\$200,000		Increase Vehicle Replacement Budget due to higher costs from shift from Ford Crown Victoria Police Interceptor to Ford Explorer SUV Police Interceptor		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
97	11	General Fund	Public Works		\$150,000		Solano Avenue Revitalization Plan		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
98	11	General Fund	Public Works	\$200,000		Public WorksSUCW 1901	Fire Safety		X		Carryover of unspent Public Works funds for Fire Safety, Education, Prevention and Disaster Preparedness. Approved by Council on 11/27/18.
99	11	General Fund	Public Works		\$350,000		Sweeper			X	Appropriate funds for a new sweeper (\$300k, plus approx. \$50k/yr for replacement funds)
100	11	General Fund	Public Works	\$34,845			Cameras at San Pablo Park, 1-yr. data storage			X	Carryover funds for camera installation. Parks, PD and CMO leads; Public Works's role solely for installation of camera
101	11	General Fund	Public Works	\$160,000			Underground Utility District #48			X	Carryover funds for easement acquisitions
102	11	General Fund	Public Works		\$8,293		Reclass Warehouse Operations Specialist to Building Maintenance Mechanic		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
103	11	<b>Total</b>		\$4,177,247	\$12,549,473						

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
104	111	Fund Raising Activities	Health, Housing & Community Services		\$21,000	HHADNB2001	Senior Center Donations			X	Appropriate donation funds for kitchen supplies and regular supplies at the North Berkeley and South Berkeley Senior Centers, purchase outreach materials for Meals on Wheels clients and volunteer drivers, and supplies and materials for special fundraising and volunteer appreciation events
105	<b>111 Total</b>			\$0	\$21,000						
106	113	Gilman Sport Field	Parks, Recreation & Waterfront		\$20,000		Gilman/Harrison Fields			X	Appropriate funds for Gilman and Harrison Field operations for Gardener's Guild, Water/Sewer and Gas/Electricity
107	113	Gilman Sport Field	Parks, Recreation & Waterfront		\$10,000		Gilman Fields Re-Lamp			X	Funds to re-lamp the fixtures in Gilman Field
108	<b>113 Total</b>			\$0	\$30,000						
109	120	Affordable Housing Mitigation Fee	Health, Housing & Community	\$4,045,237			Housing Trust Fund			X	Carryover funds for Housing Trust Fund Projects in FY 2020
110	<b>120 Total</b>			\$4,045,237	\$0						
111	122	Inclusionary Housing Program	Health, Housing & Community	\$525,872			Housing Trust Fund			X	Carryover funds for Housing Trust Fund Projects in FY 2020
112	<b>122 Total</b>			\$525,872	\$0						
113	123	Condo Conversion	Health, Housing & Community	\$997,980			Housing Trust Fund			X	Carryover funds for Housing Trust Fund Projects in FY 2020
114	<b>123 Total</b>			\$997,980	\$0						
115	125	Playground Camp	Parks, Recreation & Waterfront		\$116,479	PRWCP08001	Berkeley Tuolumne Camp Project Permit Fees			X	Appropriate for payment of Project Permit Fees for Berkeley Tuolumne Camp - PRWCP08001
116	125	Playground Camp	Parks, Recreation & Waterfront		\$423,354	PRWEM14001	Tree Removal Contract for Berkeley Tuolumne Camp		X		Appropriate for payment of Tree Removal Contract with Leslie Heavy Haul, LLC at Berkeley Tuolumne Camp - PRWEM14001. Approved by Council on 7/23/19 through Resolution 69,047-N.S.
117	125	Playground Camp	Parks, Recreation & Waterfront	\$1,655,000		PRWCP19001	Construction Management for Berkeley Tuolumne Camp			X	Appropriate for Construction Management at Berkeley Tuolumne Camp - PRWCP19001
118	125	Playground Camp	Parks, Recreation & Waterfront	\$30,000			Echo Lake Bus			X	Appropriate \$30K from Camps Fund Reserve to fund Echo Lake Bus costs
119	125	Playground Camp	Parks, Recreation & Waterfront		\$228,735		Berkeley Tuolumne Camp Cabin Repairs		X		Contract with Don Fowler Construction for the Berkeley Tuolumne Camp Cabin Repairs. Approved by Council on 9/24/19 through Resolution No. 69,113-N.S.
120	<b>125 Total</b>			\$1,685,000	\$768,568						
121	127	State Transportation Tax	Public Works	\$190,049		18SD04	Hillview Woodside			X	Carryover funds from FY 2019 for construction phase of Hillview Woodside
122	127	State Transportation Tax	Public Works	\$300,000			Roadway & Streets			X	Carryover funds from FY 2019 for construction of Roadway and Streets
123	127	State Transportation Tax	Public Works	\$131,120		Public WorksENSG1801	Cratus Inc. Contract			X	Carryover funds from FY 2019 for the Cratus Inc contract #31900192.
124	127	State Transportation Tax	Public Works		\$24,302	Public WorksENSD1819	18SD19 Codornices Creek @ Kains				Appropriate funds to continue the project into the construction phase
125	127	State Transportation Tax	Public Works		\$22,704		Add 1.0 FTE Assistant Planner		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
126	127	State Transportation Tax	Public Works		\$35,503		Add 1.0 FTE Senior Management Analyst 20%		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
127	<b>127 Total</b>			\$621,169	\$82,508						
128	129	Rental Housing Safety Program	Planning		\$353,505		Inspector Positions		X		Funds for 2 FTE Inspector (Rental Housing Safety Program expansion). Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
129	<b>129 Total</b>			\$0	\$353,505						
130	130	Measure B	Public Works		\$80,000		Bobcat				Appropriate funds -100% 391-5506-431-7041 included in FY 2020 base
131	<b>130 Total</b>			\$0	\$80,000						
132	131	Measure B Bike & Pedestrian	Public Works	\$40,632		Public WorksTRBP1801	Alameda/Hopkins Intersection Improvement			X	Carryover funds from FY 2019 for improvement of the aesthetics and visibility of the traffic islands at Hopkins/Alameda Intersection

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
133	131	Measure B Bike & Pedestrian	Public Works		\$83,562	Public WorksTRPL1802	Best Plan Update & Vision Zero Action Plan		X		Appropriate funds for Planning Phase of Best Plan Update & Vision Zero Action Plan
134	<b>131 Total</b>			\$40,632	\$83,562						
135	133	Measure F ALA CT VRF ST & RD	Public Works	\$100,000		Public WorksENSW2002	Roadway & Streets			X	Carryover funds from FY 2019 for construction of Roadway and Streets
136	<b>133 Total</b>			\$100,000	\$0						
137	134	Measure BB - Local Streets & Road	Public Works	\$100,000			Roadway & Streets			X	Carryover funds from FY 2019 for construction of Roadway and Streets
138	134	Measure BB - Local Streets & Road	Public Works		\$50,000	Public WorksTRPL1802	Best Plan Update & Vision Zero Action Plan		X		Appropriate funds for Planning Phase of Best Plan Update & Vision Zero Action Plan
139	134	Measure BB - Local Streets & Road	Public Works		\$432,394	Public WorksTRCS1406	Shattuck Reconfiguration Project		X		Appropriate fund to continue the construction phase of the Shattuck Reconfiguration project.
140	<b>134 Total</b>			\$100,000	\$482,394						
141	136	Measure BB - Paratransit	Health, Housing & Community Services		\$60,000	HHAMB2001	Taxi Scrip and EDI Contract			X	Appropriate funds for Paratransit program printing costs (\$10,000) and for a contract with Easy Does It to wheel chair van paratransit and emergency transportation services \$50,000)
142	<b>136 Total</b>			\$0	\$60,000						
143	138	Parks Tax	Parks, Recreation & Waterfront		\$5,000		Cesar Chavez Solar Calendar Maintenance		X		Funds for Cesar Chavez Solar Calendar Maintenance. Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
144	138	Parks Tax	Parks, Recreation & Waterfront		\$16,000		ADA Transition Plan				Funds for PRW's portion of initial survey work for the ADA Transition Plan to be conducted by Disability Access Consultants. Approved by Council on 12/11/18 through Resolution 68,713 - N.S.
145	138	Parks Tax	Parks, Recreation & Waterfront	\$900,000			Rose Garden Pathways, Tennis and Pergola			X	Carryover funding for the Rose Garden Project.
146	138	Parks Tax	Parks, Recreation & Waterfront	\$131,068		PRWPK15002	James Kenney Park, Picnic and Play Project			X	Carryover funding for constructio of the James Kenney park, picnic, and play project.
147	138	Parks Tax	Parks, Recreation & Waterfront	\$371,584			John Hinkel Park			X	Contract with Ghilotti Construction Company for John Hinkel Park Improvement Project
148	138	Parks Tax	Parks, Recreation & Waterfront		\$600,000	Public WorksWT119005	Live Oak Park Community Center Seismic Upgrade		X		Funds for contract with Mar Con Builders for the Live Oak Community Center Seismic Upgrade project. Approved by Council on 9/24/19 through Resolution No. 69,112-N.S.
149	138	Parks Tax	Parks, Recreation & Waterfront	\$800		PRWPK19003	King School Park Renovation			X	Appropriate funds from Parks Tax Fund for the King School Park Renovation
150	138	Parks Tax	Parks, Recreation & Waterfront	\$56,104			John Hinkel			X	Appropriate funds for construction at John Hinkel Park Lower.
151	138	Parks Tax	Parks, Recreation & Waterfront	\$9,812			John Hinkel			X	Appropriate funds for Inspector/Labor Cost for the John Hinkel Park Project.
152	138	Parks Tax	PRW	\$1,950			John Hinkel			X	Appropriate funds for John Hinkel Printing and Binding costs
153	<b>138 Total</b>			\$1,471,318	\$621,000						
154	141	1st Response Advanced Life Support	Fire	\$55,144			Vehicle Purchase			X	Purchase new vehicle for Paramedic Supervisor I
155	<b>141 Total</b>			\$55,144	\$0						
156	142	Street Lighting	Public Works		\$8,876		Add 1.0 FTE Senior Management Analyst		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
157	142	Street Lighting	Public Works		\$17,313		Occupational Health & Safety Officer (.5 FTE addition) 10%			X	.5 FTE needs to be adopted-- .5 FTE has already been adopted and is budgeted with funding from Zero Waste Fund. The remaining .5 FTE is needed to make 1 FTE.
158	<b>142 Total</b>			\$0	\$26,189						
159	143	Business Economic Development	Economic Development		\$12,000		Nabolom Bakery & Pizzeria Loan		X		Additional funds for a \$150,000 loan to Nabolom Bakery & Pizzeria. Approved by Loan Administration Board on 11/29/18 through Resolution 18-02
160	<b>143 Total</b>			\$0	\$12,000						

## FY 2019 Departmental Carryover Requests and FY 2020 Adjustments

Attachment 2

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
161	146	Employee Training	Information Technology	\$37,583			ServiceNow Training for City Staff and IT Staff Training		X		Training city staff to use the ServiceNow ticketing and project management tool. To Council 19NOV19, budgeted in FY19.
162	146	Employee Training	Information Technology	\$25,000			IT Coaching		X		Coaching services for IT. 68,442-N.S. 15MAY18
163	<b>146 Total</b>			\$62,583	\$0						
164	148	Cultural Trust	Economic Development	\$141,144			Private Percent for Arts			X	Carryover funds for Private Percent for Arts projects
165	<b>148 Total</b>			\$141,144	\$0						
166	149	Private Party Sidewalks	Public Works	\$50,000			Roadway & Streets			X	Carryover funds from FY 2019 for construction of Roadway and Streets
167	149	Private Party Sidewalks	Public Works	\$49,973			Roadway & Streets Field Supplies			X	Carryover funds from FY 2019 for roadway & Streets Field Supplies
168	<b>149 Total</b>			\$99,973	\$0						
169	150	Public Art Fund	OED	\$10,516			Various public art projects			X	There are a number of pending Public Art projects to utilize this funding. Historically this funding is carried over from year to year, in accordance with the City's Public Art policy.
170	<b>150 Total</b>			\$10,516	\$0						
171	157	Tobacco Control	Health, Housing & Community	\$131,815						X	State Tobacco Carryforward from FY19 to FY20
172	<b>157 Total</b>			\$131,815	\$0						
173	158	Mental Health State Aid Realignment	Health, Housing & Community Services		\$50,000		Merrit Hawkins Contract		X		To pay for 50% for an expenditure contract with Merrit Hawkins: Recruitment Services for a Psychiatrist. Approved by Council on 7/23/19 through Resolution No. 69,034-N.S.
174	158	Mental Health State Aid Realignment	Public Works	\$362,595		Public WorksENCB 1405	Mental Health Services Center Renovation			X	Carryover from FY 2019 for Mental Health Center Renovation Project
175	<b>158 Total</b>			\$362,595	\$50,000						
176	159	City Optional Public Safety	Police		\$50,000		Citizens' Option for Public Safety			X	Increased funding for departmental contracts.
177	<b>159 Total</b>			\$0	\$50,000						
178	309	OTS DUI Enforcement Education Program	Police		\$200,000		FY 2020 Office of Traffic Safety Grant		X		New Grant from the Office of Traffic Safety to fund strategies to reduce the number injuries and deaths related to traffic collisions in the City of Berkeley. Approved by Council on 7/23/19 through Resolution #69,052 -N.S.
179	<b>309 Total</b>			\$0	\$200,000						
180	312	Health (General)	Health, Housing & Community		\$1,279	HHHPTB2001	Tuberculosis Grant			X	Revise budget for Tuberculosis Grant for FY 2020 based on additional allocation from State.
181	312	Health (General)	Health, Housing & Community		\$15,187	HHPMCA2001	Maternal Child and Adolescent Grant			X	Revise budget for Maternal Child and Adolescent Health Grant for FY 2020 based on additional allocation from State.
182	<b>312 Total</b>			\$0	\$16,466						
183	313	Target Case Mgmt/Linkages TCM Link	Information Technology	\$100,320			Persimmony International for Electronic Case Management System Implementation		X		Carryover funding per Reso 67,605 for contract: Persimmony International, Inc. for Electronic Case Management System Implementation
184	<b>313 Total</b>			\$100,320	\$0						
185	315	Mental Health Services Act	Mental Health		\$100,000		Funds for MHSA Expenditure Contracts for FY20: Primary Care Planning Project (\$100,000)			X	Appropriate to add Mental Health Services Act (MHSA) funds to Mental Health's FY 2020 budget to support MHSA plan
186	315	Mental Health Services Act	Mental Health		\$1,731,875		To Support Various MHSA-funded position and contracts			X	Appropriate funds to add Mental Health Services Act (MHSA) funds to Mental Health's FY20 budget to support MHSA plan
187	<b>315 Total</b>			\$0	\$1,831,875						
188	316	Health (Short/Doyle)	Mental Health		\$109,000		To procure evaluation services of the current mental health crisis in			X	Appropriate Medi-Cal funds to required to FY 2020 budget for mental health crisis evaluation

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
189	316	Health (Short/Doyle)	Mental Health		\$50,000		Merrit Hawkins Contract		X		To pay for 50% for an expenditure contract with Merrit Hawkins: Recruitment Services for a Psychiatrist. Approved by Council on 7/23/19 through Resolution No. 69,034-N.S.
190	<b>316 Total</b>			\$0	\$159,000						
191	318	Alcoholic Beverage Container OTS/UC	Police		\$15,000		FY 19-20 Alcoholic Beverage Control Grant		X		New Grant Award from California Department of Alcoholic Beverage Control for FY 2020 for the enforcement of alcohol related laws. Approved by Council on 7/23/19 through Resolution No. 69,053 - N.S.
192	<b>318 Total</b>			\$0	\$15,000						
193	320	Senior Nutrition (Title III)	Health, Housing & Community Services		\$9,673	HHAMOW2001	Senior Meals Program Grants			X	Revise Grant budgets for the Congregate Meal Program and Home Delivered Meal Program based on the funding awarded by Alameda County.
194	<b>320 Total</b>			\$0	\$9,673						
195	326	Alameda County Grants	Health, Housing & Community Services		\$12,038		School Linked Health Services			X	Revise Grant budget from Alameda County Public Health Nursing for School Linked Health Services.
196	326	Alameda County Grants	Health, Housing & Community Services		\$3,746	HHPTOB2001	MSA Tobacco Grant-Alameda County			X	To adjust budget to match FY2020 funds awarded by Alameda County
197	<b>326 Total</b>			\$0	\$15,784						
198	327	Senior Supportive Social Services	Health, Housing & Community Services		\$1,822	HHACON2001	Information & Assistance Grant			X	Revise Senior Information & Assistance Grant Budget based on funding awarded by Alameda County.
199	<b>327 Total</b>			\$0	\$1,822						
200	331	Housing Mitigation	Health, Housing & Community Services	\$1,051,751			Housing Trust Fund			X	Carryover funds for Housing Trust Fund Projects in FY 2020
201	<b>331 Total</b>			\$1,051,751	\$0						
202	336	One-Time Grant: No Cap Exp	Health, Housing & Community Services		\$2,816,827	HHHEAP1901	Homeless Emergency Aid Program Grant		X		Appropriate FY 2020 grant funds from Alameda County Housing & Community Development Department for the Californian Homeless Emergency Program. Adopted by Council on 3/12/19 through Resolution 68,779 N.S.
203	336	One-Time Grant: No Cap Exp	Health, Housing & Community Services		\$75,000	HHHNPL2001	No Place Like Home Grant		X		Appropriate funds from the California Department of Housing and Community Development for its No Place Like Home Program Technical Assistance grant. Approved by Council on 10/3/17 through Resolution 68,165-N.S.
204	336	One-Time Grant: No Cap Exp	Health, Housing & Community Services		\$150,000	HHHKS2001	Kaiser Permanente Grant		X		Grant from Kaiser Permanente to support the Pathways STAIR Center. Approved by Council on 2/26/19 through Resolution 68,767-N.S.
205	336	One-Time Grant: No Cap Exp	Health, Housing & Community Services		\$265,347		Homeless Mentally Ill and Treatment Team - MH-Adult Triage Grant			X	Appropriate unexpended FY2019 Mental Health grant funds awarded in FY 2019.
206	336	One-Time Grant: No Cap Exp	Mental Health		\$50,000		Fund New MH Grant-One Time Grant-Medication Assisted Treatment Grant (Sierra Foundation)-Contract #CA19MAT025		X		A \$50,000 grant from The Center at Sierra Health Foundation for expansion of Medication Assisted Treatment (MAT) services for individuals with Opioid Use Disorders at Berkeley Mental Health. Approved by Council on 10/15/19 through Resolution No. 69,126 - N.S.
207	336	One-Time Grant: No Cap Exp	Parks, Recreation & Waterfront		\$250,000	PRWT119007	Water Emergency Tmosp Authority (WETA) Funding		X		Appropriate FY 2020 grant funds from the Water Emergency Transportation Authority (WETA) for the Planning Phase for the Viability of a new WETA Ferry Service and Public Recreation Pier @ the Berkeley Marina Resolution 68,782 N.S.
208	336	One-Time Grant: No Cap Exp	Planning		\$7,000		San Francisco Foundation Grant		X		Grant from the San Francisco Foundation to receive technical assistance from SEEDs Collaborative to help develop a competitive Partnership for the Bay's Future Challenge Grant proposal. Approved by Council on 9/24/19 through Resolution No. 69,114-N.S.
209	336	One-Time Grant: No Cap Exp	Planning	\$9,959			11th Hour Grant		X		Grant from the Schmidt Family Foundation for the 11th Hour Project to support a City of Berkeley Curbside Electric Vehicle Charging Project. Approved by Council on 10/7/14 through Resolution 66,808-N.S.
210	336	One-Time Grant: No Cap Exp	Public Works		\$14,000		CARE California Carpet Stewardship Program - Carpet Recycling Grant			X	Appropriate unexpended FY 2019 Carpet Collection/Reuse Program Grant funds that need to be spent by November 1, 2019.
211	336	One-Time Grant: No Cap Exp	Parks, Recreation & Waterfront		\$25,000		B.U.R.P.'s ERA Construction			X	Appropriate funds for B.U.R.P.'s ERA construction costs.

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
212	336	One-Time Grant: No Cap Exp	Public Works	\$300,971		Public WorksENSD 1819	18SD19 Codornices Creek @ Kains			X	Carryover request to continue the project into the construction phase
213	<b>336 Total</b>			\$310,930	\$3,653,174						
214	340	FEMA	Public Works		\$22,650	18CB01	North Berkeley Senior Center			X	Appropriate remaining available budget for North Berkeley Senior Center project.
215	<b>340 Total</b>			\$0	\$22,650						
216	344	CALTRANS GRANT	Public Works	\$10,227		Public WorksTRCT1 803	NB Bart/Sacramento St Complete Streets			X	Carryover funds from FY 2019 to complete the design phase of North Berkeley BART/Sacramento St Complete Streets project.
217	<b>344 Total</b>			\$10,227	\$0						
218	345	Measure WW	Parks, Recreation & Waterfront	\$1,060,274			James Kenney Park, Picnic and Play Project			X	Carryover funding for construction of the James Kenney park, picnic, and play project.
219	345	Measure WW	Parks, Recreation & Waterfront	\$387,555			John Hinkel Park			X	Contract with Ghilotti Construction Company for John Hinkel Park Improvement Project
220	<b>345 Total</b>			\$1,447,829	\$0						
221	349	JAG Grant	Police		\$70,000		FFY2017 JAG			X	New Grant Changed to a Reimbursement Grant. Grant funding delayed due to Sanctuary City Lawsuit resolution.
222	<b>349 Total</b>			\$0	\$70,000						
223	501	Capital Improvement	Information Technology	\$544,357			Replacement of Backup System			X	Replacement of the existing Barracuda backup system. Funds will be transferred to IT Cost Allocation Fund.
224	501	Capital Improvement	Information Technology		\$500,000		IT Move			X	Move of IT Staff to 1947 Center Street and remodel of existing IT space at 2180 Milvia Street
225	501	Capital Improvement	Non-Departmental		\$406,952		Transfer to Workers' Compensation Fund		X		Transfer of Excess Property Transfer Tax Revenue from General Fund then transferred to Workers' Compensation Fund to repay loan to purchase Premier Cru (University Center).
226	501	Capital Improvement	Parks, Recreation & Waterfront	\$467,000			Echo Lake and Cazadero capital projects			X	Carryover funds from FY 2019 for Echo Lake and Cazadero capital projects that were scheduled for FY2019, but have been delayed to FY 2020.
227	501	Capital Improvement	Parks, Recreation & Waterfront		\$1,505,000		Waterfront Immediate Capital Needs		X		Appropriate funds for Waterfront Immediate Capital Needs from Excess Property Transfer Tax/Excess Equity. Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution
228	501	Capital Improvement	Public Works	\$127,078		Public WorksENCB 1507	Fire Station #2 Kitchen Remodel			X	Carryover funds from FY 2019 for Design-Closeout of Fire Station #2 Kitchen Remodel
229	501	Capital Improvement	Public Works	\$120,000		Public WorksENSD 1804	Hillview Woodside			X	Carryover funds from FY 2019 for construction phase of Hillview Woodside
230	501	Capital Improvement	Public Works		\$250,000		Relocate PEOs to Marina (University)		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
231	501	Capital Improvement	Public Works		\$120,000		Fleet, Zero Waste, Facilities Software Costs Above ERMA		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
232	501	Capital Improvement	Public Works		\$100,000		Reserved for Pedestrian/Bicycle Safety Improvements		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
233	501	Capital Improvement	Public Works		\$500,000		50/50 Sidewalk (backlog)		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
234	501	Capital Improvement	Public Works		\$600,000		EV charging stations at the corp yard and the University parking lot for alternative fuel vehicles		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
235	501	Capital Improvement	Public Works	\$195,000			Roadway & Streets			X	Carryover funds from FY 2019 for construction of Roadway and Streets
236	501	Capital Improvement	Public Works	\$237,980			Professional Misc Svcs & Field Supplies			X	Carryover funds from FY 2019 for miscellaneous professional services and field supplies
237	501	Capital Improvement	Public Works	\$597,950			Deferred Building Repairs			X	Carryover funds from FY 2019 for emergency and deferred building repairs.
238	501	Capital Improvement	Public Works	\$76,767		Public WorksTRCT1 803	NB Bart/Sacramento St Complete Streets			X	Carryover funds from FY 2019 to complete the design phase of North Berkeley BART/Sacramento St Complete Streets project.
239	501	Capital Improvement	Public Works	\$1,936,509		Public WorksENSG 1801	Cratus Inc. Contract			X	Carryover funds from FY 2019 for the Cratus Inc contract #31900192.
240	501	Capital Improvement	Public Works	\$32,620	\$12,380		7th/Anthony Traffic Signals Improvement			X	Carryforwad funds and appropriate new funds for the final design phase of the 7th/Anthony Traffic Signals Improvements.
241	501	Capital Improvement	Public Works		\$800,000		1951 Shattuck		X		Appropriate funds for the traffic signal at 1951 Shattuck. It needs to be in place prior to certificate of occupancy.
242	501	Capital Improvement	Public Works		\$143,802		Add 1.0 FTE Associate Civil Engineer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
243	501	Capital Improvement	Public Works		\$80,986		Add 1.0 FTE (Traffic) Engineering Inspector		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
244	501	Capital Improvement	Public Works		\$14,643		Convert Assistant Architect to Assistant Engineer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
245	501	Capital Improvement	Public Works		\$20,000		Convert existing Sr. Building Inspector to Senior Engineering Inspector		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
246	501	Capital Improvement	Public Works		\$35,503		Add 1.0 FTE Senior Management Analyst 20%		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
247	501	Capital Improvement	Public Works		\$42,000		Intern		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
248	501	Capital Improvement	Public Works		\$116,260		Converting existing temp. Associate Civil Engineer position to permanent FTE			X	This change is for .70 FTE of the position and will cost the fund \$116,260.
249	<b>501 Total</b>			\$4,335,261	\$5,247,525						
250	503	FUND\$ Replacement	Information Technology		\$649,000		FUND\$ Application Upgrade			X	Current FUND\$ Application Software Support ends DEC 2020
251	503	FUND\$ Replacement	Information Technology		\$1,250,000		New FUND\$ Replacement Project			X	Additional Funding Needs for FUND\$ Replacement Project
252	503	FUND\$ Replacement	Information Technology	\$7,492,060			Existing FUND\$ Replacement Project			X	FUND\$ Replacement Project
253	<b>503 Total</b>			\$7,492,060	\$1,899,000						
254	506	Measure M - ST and WTRSHD IMPRV	Public Works	\$1,000		18SG01/ Public WorksENSG 1801	Measure M LID FY18 Woolsey			X	Carryover funds from FY 2019 for Printing of LID FY18 Woolsey.
255	506	Measure M - ST and WTRSHD IMPRV	Public Works		\$440,748	Public WorksENSG 1801	Cratus Inc. Contract			X	Carryover funds from FY 2019 for the Cratus Inc contract #31900192.
256	<b>506 Total</b>			\$1,000	\$440,748						
257	511	Measure T1 Infrastructure & Facilities	OED	\$345,535			T1 Public Art Projects			X	Public art projects at North Berkeley Senior Center and San Pablo Park are in development.
258	511	Measure T1 Infrastructure & Facilities	Parks, Recreation & Waterfront	\$27,725		T1PK10	Citywide restroom assessments			X	Carryover funding appropriated in FY 2019 to complete the citywide restroom assessment.
259	511	Measure T1 Infrastructure & Facilities	Parks, Recreation & Waterfront	\$68,183			Aquatic Park Tide Tubes			X	Carryover funding appropriated in FY 2019 for the Aquatic Park Tide Tubes
260	511	Measure T1 Infrastructure & Facilities	Parks, Recreation & Waterfront	\$27,612		T1PK03	Frances Albrier Community Center			X	Carryover funds from FY 2019 to complete the design of the Frances Albrier Community Center.
261	511	Measure T1 Infrastructure & Facilities	Parks, Recreation & Waterfront	\$75,000		T1PK16	Willard Clubhouse			X	Carryover funds from FY 2019 to complete the design of Willard Clubhouse
262	511	Measure T1 Infrastructure & Facilities	Parks, Recreation & Waterfront		\$1,144,907	PRWT119005	Live Oak Park Community Center Seismic Upgrade		X		Funds for contract with Mar Con Builders for the Live Oak Community Center Seismic Upgrade project. Approved by Council on 9/24/19 through Resolution No. 69.112-N.S.
263	511	Measure T1 Infrastructure & Facilities	Parks, Recreation & Waterfront	\$71,766		PRWT119008	George Florence Park Playground Renovation Project			X	Carryover funds from FY 2019 to complete the renovation of the playground at George Florence Park
264	511	Measure T1 Infrastructure & Facilities	Parks, Recreation & Waterfront		\$26,978	PRWT119007	Add'l Funding for GHD Contract			X	Appropriate FY 2020 Measure T1 funds for GHD Contract.
265	511	Measure T1 Infrastructure & Facilities	Parks, Recreation & Waterfront	\$120,490	\$0	PRWT119010	Hyphae contract for Citywide Restroom Assessment			X	Carryover funds for Hyphae contract for the Citywide Restroom Assessment. Entered as a NTE instead of Encumbered contract.
266	511	Measure T1 Infrastructure & Facilities	Public Works		\$128,072	Public WorksT1PG1902	T1 Facilities/Equipment/Services/Supplies			X	Appropriate FY 2020 Measure T1 funds for facilities, equipment, supplies, and services costs.
267	511	Measure T1 Infrastructure & Facilities	Public Works	\$735,683		T1Public Works07 & T1Public Works08	Adeline & Hearst & Monterey & Ward			X	Carryover funding appropriated in FY 2019 to continue the street rehabilitation at various locations.
268	511	Measure T1 Infrastructure & Facilities	Public Works	\$376,430		Public WorksT1CB1902	Old City Hall/Vet's Bldg/Civic Center Park			X	Carryover funding appropriated in FY 2019 for consultant contract (T1Public Works02) to complete the Civic Center Vision Plan project.
269	511	Measure T1 Infrastructure & Facilities	Public Works	\$1,144,887		Public WorksT1CB1901 T1Public Works01	North Berkeley Senior Center			X	Carryover funding appropriated in FY 2019 for Seismic Upgrade and Renovation of North Berkeley Senior Center
270	511	Measure T1 Infrastructure & Facilities	Public Works	\$662,000		Public WorksT1G1906 T1Public Works06	T1 Green Infrastructure			X	Carryover funding appropriated in FY 2019 to Install Bio Swales, Rain Gardens & Pervious pavers for clean Storm water.
271	511	Measure T1 Infrastructure & Facilities	Public Works		\$287,290	Public WorksT1ST1907-511	T1 Streets: Adeline & Hearst			X	Appropriate funds for Adeline and Hearst Pavement Engineering Task Order.

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
272	<b>511 Total</b>			\$3,655,311	\$1,587,247						
273	601	Zero Waste Fund (Clean Cities Program)	Public Works		\$28,000		Pressure Washer			X	Appropriate funds for pressure washer
274	601	Zero Waste	Public Works		\$30,271		Add 1.0 FTE Assistant Planner		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
275	601	Zero Waste	Public Works		\$86,566		Occupational Health and Safety Officer shared (.50 FTE)			X	Establish budget; .5 FTE is approved from ZW (in the amount of \$86,566)
276	601	Zero Waste	Public Works		\$35,503		Add 1.0 FTE Senior Management Analyst 20%		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
277	<b>601 Total</b>			\$0	\$180,340						
278	606	MAR - Coastal Conservancy	Parks, Recreation & Waterfront	\$125,400		PRWWF17003	SouthCove ADA Accessible Ramp			X	Appropriate funds for the South Cove ADA Accessible Ramp.
279	<b>606 Total</b>			\$125,400	\$0						
280	608	Marina Fund	Parks, Recreation & Waterfront	\$95,000		PRWWF19004	Cover expenses for 199 Seawall Security and Janitorial Services			X	Appropriate from the Marina Fund Reserve to pay for 199 Seawall security and janitorial services.
281	608	Marina Fund	Parks, Recreation & Waterfront	\$435		PRWWF20003	Permit Fees for Hana Japan			X	Appropriate from the Marina Fund to pay for an outstanding invoice from the Building Permits department the Hana Japan Beam Repair
282	608	Marina Fund	Parks, Recreation & Waterfront	\$216,512		PRWWF17003	SouthCove ADA Accessible Ramp			X	Appropriate funds for the South Cove ADA Accessible Ramp.
283	608	Marina Fund	Parks, Recreation & Waterfront	\$109,873		PRWWF19005	South Cove Small Dock Replacements			X	Appropriate funds for the South Cove Small Dock Replacements
284	608	Marina Fund	Parks, Recreation & Waterfront	\$10,670			South Cover Small Dock Replacements - Accudock Use Tax 9.25%			X	Appropriate funds to cover the 9.25% use tax for Accudock for the South Cove Small Dock Replacements
285	<b>608 Total</b>			\$432,490	\$0						
286	611	Sanitary Sewer Operation	Public Works	\$629,522		Public WorksENSR 1904	Portland Avenue, Santa Fe, Kains, et. Al Construction			X	Carryforwad funds to complete construction of project at Portland Avenue, Santa Fe, Kains, et. Al
287	611	Sanitary Sewer Operation	Public Works		\$68,111		Add 1.0 FTE Assistant Planner		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
288	611	Sanitary Sewer Operation	Public Works		\$50,751		Add 1.0 FTE Administrative Assistant		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
289	611	Sanitary Sewer Operation	Public Works		\$23,328		Convert existing Architect position to Assistant Civil Engineer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
290	611	Sanitary Sewer Operation	Public Works		\$26,887		Convert existing Drafting Technician to a Junior Public Works Engineer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
291	611	Sanitary Sewer Operation	Public Works		\$35,503		Add 1.0 FTE Senior Management Analyst 20%		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
292	611	Sanitary Sewer Operation	Public Works		\$42,000		Intern		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
293	611	Sanitary Sewer Operation	Public Works		\$25,970		Occupational Health & Safety Officer (.5 FTE addition) 15%			X	.5 FTE needs to be adopted-- .5 FTE has already been adopted and is budgeted with funding from ZW, the remaining .5 FTE is needed to make 1 FTE
294	<b>611 Total</b>			\$629,522	\$272,549						
295	616	Clean Storm Water	Public Works	\$120,000		18SD04	Hillview Woodside			X	Carryover funds from FY 2019 for construction phase of Hillview Woodside
296	616	Clean Storm Water	Public Works		\$30,271		Add 1.0 FTE Assistant Planner		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
297	616	Clean Storm Water	Public Works		\$310,000		Skilled Laborer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
298	616	Clean Storm Water	Public Works		\$153,000		Laborer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
299	616	Clean Storm Water	Public Works		\$8,876		Add 1.0 FTE Senior Management Analyst		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
300	616	Clean Storm Water	Public Works		\$42,000		Intern		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
301	616	Clean Storm Water	Public Works		\$8,657		Occupational Health & Safety Officer (.5 FTE addition) 5%			X	.5 FTE needs to be adopted-- .5 FTE has already been adopted and is budgeted with funding from ZW, the remaining .5 FTE is needed to make 1 FTE.
302	<b>616 Total</b>			\$120,000	\$552,804						



Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
303	621	Permit Service Center	Information Technology		\$339,706		Contract Amendment No. 10036C for Truepoint Solutions, LLC for ACCELA		X		Amend Contract No. 10036C with TruePoint Solutions, LLC for professional services, increasing the amount by \$276,000, for a total not-to-exceed amount of \$617,200, and for the term beginning June 1, 2015 to June 30, 2021. Approved by Council on June 25, 2019 through Resolution 68,978-N.S.
304	621	Permit Service Center	Public Works		\$25,376		Add 1.0 FTE Administrative Assistant		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
305	621	Permit Service Center	Public Works		\$221,132		Add 1.0 FTE Associate Traffic Engineer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
306	621	Permit Service Center	Public Works		\$63,740		Add 1.0 FTE Associate Civil Engineer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
307	621	Permit Service Center	Public Works		\$80,986		Add 1.0 FTE (Traffic) Engineering Inspector		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
308	621	Permit Service Center Fund	Public Works		\$175,000		5 Priuses			X	Add expenditure budget to Public Works's Permit Service Center Fund allocation, supported by revenue
309	621	Permit Service Center Fund	Public Works		\$63,740		Converting existing temp. Associate Civil Engineer position to permanent FTE			X	Cost to Permit Service Center Fund is for .3 FTE (\$63,740)
310	<b>621 Total</b>			\$0	\$969,680						
311	627	Off Street Parking Fund	Public Works		\$30,000		New Vehicles			X	Appropriate funds for new vehicle for the garages daily operations.
312	627	Off Street Parking Fund	Public Works	\$554,340			Center Street Garage Project			X	Carryforward funds for Center Street Garage project to complete it
313	<b>627 Total</b>			\$554,340	\$30,000						
314	631	Parking Meter Fund	Public Works		\$85,000					X	Appropriate funds for new vehicle for meter revenue and overall operations.
315	631	Parking Meter Fund	Public Works		\$8,876		Add 1.0 FTE Senior Management Analyst		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
316	631	Parking Meter Fund	Public Works		\$50,751		Add 1.0 FTE Administrative Assistant		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
317	<b>631 Total</b>			\$0	\$144,627						
318	636	BLDG Purchases & MGMT	Public Works		\$4,146		Reclass Warehouse Operations Specialist to Building Maintenance Mechanic		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
319	<b>636 Total</b>			\$0	\$4,146						
320	671	Equipment Replacement	Public Works		\$25,970		Occupational Health & Safety Officer (.5 FTE addition) 15%			X	.5 FTE needs to be adopted-- .5 FTE has already been adopted and is budgeted with funding from ZW, the remaining .5 FTE is needed to make 1 FTE.
321	<b>671 Total</b>			\$0	\$25,970						
322	672	Equipment Maintenance	Public Works		\$120,245		Add 1.0 Office Specialist III		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
323	<b>672 Total</b>			\$0	\$120,245						
324	673	Building Maintenance	Public Works		\$83,257		Public Works Lease Payments @ 1947 Center Street			X	Appropriate funds for FY 2018, 2019 & 2020 Public Works Lease Payments for 1947 Center Street, 5th Floor Occupancy
325	673	Building Maintenance	Public Works		\$19,024		Reclass Warehouse Operations Specialist to Building Maintenance Mechanic		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
326	673	Building Maintenance	Public Works		\$14,643		Convert Assistant Architect to Assistant Engineer		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
327	673	Building Maintenance	Public Works		\$8,876		Add 1.0 FTE Senior Management Analyst		X		Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69,010-N.S.)
328	673	Building Maintenance	Public Works		\$8,657		Occupational Health & Safety Officer (.5 FTE addition) 5%			X	.5 FTE needs to be adopted-- .5 FTE has already been adopted and is budgeted with funding from ZW, the remaining .5 FTE is needed to make 1 FTE.
329	<b>673 Total</b>			\$0	\$134,456						
330	675	Computer Replacement Fund	Information Technology	\$114,000			Tech ISF: Network Devices			X	IT cost allocation replacement smoothing
331	<b>675 Total</b>			\$114,000	\$0						

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
332	678	Public Liability	City Attorney		\$1,200,000		City Attorney Outside Counsel, Court Costs, and Claims & Judgements			X	Additional funds to pay for outside counsel, court costs, and claims and judgements in FY 2020
333	<b>678 Total</b>			\$0	\$1,200,000						
334	680	IT Cost Allocation	Information Technology	\$322,000			TechISF: Servers and Storage			X	IT cost allocation replacement smoothing
335	680	IT Cost Allocation	Information Technology	\$149,139			TechISF: Network Devices			X	IT cost allocation replacement smoothing
336	680	IT Cost Allocation	Information Technology	\$28,260			TechISF: Wifi Replacement			X	IT cost allocation replacement smoothing
337	680	IT Cost Allocation	Information Technology	\$5,202			TechISF: UPS			X	IT cost allocation replacement smoothing
338	680	IT Cost Allocation	Information Technology	\$224,200			TechISF: Microsoft EA			X	IT cost allocation replacement smoothing
339	680	IT Cost Allocation	Information Technology	\$16,616			TechISF: PC Replacement			X	IT cost allocation replacement smoothing
340	680	IT Cost Allocation	Information Technology	\$171,876			GIS Master Plan: Master Address Database			X	Update address management system that feeds the FUNDS LX module and E911.
341	680	IT Cost Allocation	Information Technology	\$65,000			PRA tool: Implementation and Licenses			X	Digital Strategic Plan project no. 3.10
342	680	IT Cost Allocation	Information Technology	\$178,895			CRM Tool: Implementation and Licenses			X	RFP to be released December 2019
343	680	IT Cost Allocation	Information Technology	\$250,000			Data Architecture and Integrations			X	Data integration for FUNDS Replacement-Phase 2 projects into Munis
344	680	IT Cost Allocation	Information Technology	\$18,000			Security Intern			X	Program support for the cyber security program
345	680	IT Cost Allocation	Information Technology	\$12,000			SolarWinds Subscription			X	FY19 Close PO 21902811
346	680	IT Cost Allocation	Information Technology	\$51,305			Firewall Subscription			X	FY19 Close PO 21902886
347	680	IT Cost Allocation	Information Technology	\$54,700			Gartner Subscription			X	FY19 Close PO 21902888
348	680	IT Cost Allocation	Information Technology		\$395,931		Nutanix: Switches, Prof. Svcs., Maintenance			X	Data center upgrade and implementation of a disaster recovery system. 68,868-N.S. 14MAY19. Funds transferred from General Fund to IT Cost Allocation Fund.
349	680	IT Cost Allocation	Information Technology		\$192,570		IT Space Needs - Ongoing for 1947			X	Facilities fee for 1947 space. Funds transferred from General Fund to IT Cost Allocation Fund.
350	680	IT Cost Allocation	Information Technology		\$544,357		Replacement of Backup System			X	Replacement of the existing on-premise server backup solution. Moved from Capital Improvement Fund.
351	680	IT Cost Allocation	Information Technology		\$100,969		Facilities Fee from General Fund			X	Facilities fees for 2180 4th floor. Moved from General Fund to IT Cost Allocation Fund
352	<b>680 Total</b>			\$1,547,193	\$1,233,827						
353	778	CFD No. 1 Disaster Fire Protection Bond	Fire		\$280,000		Fire Captain Position		X		Funds for 1.0 FTE Fire Captain for Above Ground Water System. Approved by Council on 6/25/19 as part of the FY 2020 & FY 2021 Budget Adoption (Resolution 69.010-N.S.)
354	<b>778 Total</b>			\$0	\$280,000						
355	<b>Grand Total</b>			<b>\$36,555,858</b>	<b>\$35,588,807</b>						



Office of the City Manager

ACTION CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Phillip L. Harrington, Director, Public Works  
 Subject: goBerkeley Residential Shared Parking Pilot Project Update

RECOMMENDATION

Receive a presentation providing an update on the Residential Shared Parking Pilot project, and offer any comments to staff on the implementation of the project.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Residential Shared Parking Pilot (RSPP) is a grant-funded pilot project with goals of increasing parking availability, reducing greenhouse gas emissions, and improving travel and mobility in the Elmwood and Southside/Telegraph neighborhoods.<sup>1</sup> Inspired by feedback received during the initial goBerkeley pilot, the project is designed to support several groups of people currently sharing residential parking during the day, including residents, local employees, business owners, and visitors. While existing Residential Preferential Parking (RPP) restrictions may work well for residents, the two-hour time limits are challenging for people who need to stay longer, and some non-permitted users move their car every two hours to avoid a citation. This practice causes traffic congestion in neighborhoods, frustration and lost productivity for employees and their employers, and increased pollution from circling for parking, even in areas that have adequate parking availability.

The RSPP project is currently in its information gathering stage, with a consultant team supporting data collection, public outreach, and communication efforts.<sup>2</sup> As of September 2019, staff are convening a Technical Advisory Committee (TAC), which will provide feedback on the operational feasibility of pilot recommendations, and a Community Advisory Group (CAG), which will provide opportunities for local neighborhood groups and other representatives to help shape and evaluate the pilot

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<sup>1</sup> February 23, 2016 Council Meeting: <http://bit.ly/2me6EHN>

<sup>2</sup> July 24, 2018 Council Meeting: <http://bit.ly/2me7og3>

October 2, 2018 Council Meeting: <http://bit.ly/2lOz4bf>

project. Staff will also use a range of public outreach tools to ensure that all voices are heard so the pilot best responds to community needs.

Staff expect to finalize a summary of existing conditions by the end of 2019, and to develop recommendations for a pilot project that would go into effect in fall 2020.

The Residential Shared Parking Pilot project is a Strategic Plan Priority Project, advancing our goals to:

- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities;
- Foster a dynamic, sustainable, and locally-based economy;
- Be a global leader in addressing climate change, advancing environmental justice, and protecting the environment; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### BACKGROUND

In 2015, the City was awarded a \$950,000 grant from the Metropolitan Transportation Commission (MTC) for the goBerkeley Residential Shared Parking Pilot (Resolution No. 67,382–N.S.). The pilot will test policies to increase parking availability for residents, employees, and visitors; reduce circling for parking; and expand access to non-motorized means of transportation within Residential Preferential Parking (RPP) areas in the Southside and Elmwood neighborhoods.

### ENVIRONMENTAL SUSTAINABILITY

According to the State of California Legislative Analyst's Office, transportation was the largest source of greenhouse gas emissions in California in 2016, with 69% of these emissions generated by passenger vehicles.<sup>3</sup> Reducing greenhouse gas emissions produced by vehicular traffic is one of the City's 2009 Climate Action Plan goals. Parking management based on user demand should ultimately improve parking availability in commercial and residential areas, and lessen traffic congestion and vehicle emissions as drivers are anticipated to spend less time searching for available parking spaces.

### RATIONALE FOR RECOMMENDATION

The RSPD seeks to improve parking availability, air quality, and ease of travel for a variety of stakeholders in its two study areas. Moreover, Council has long supported the goals of the RSPD, authorizing staff to submit a grant application to the MTC (Resolution No. 67,216-N.S.) and subsequently accepting the grant funding to complete the project (Resolution No. 67,382-N.S.).

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<sup>3</sup> Legislative Analyst's Office Report, December 21, 2018 *Assessing California's Climate Policies—Transportation*: <http://bit.ly/2kKfcFN>

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, 981-7061

Danette Perry, Parking Services Manager, Public Works, 981-7057

Gordon Hansen, Senior Planner, Public Works, 981-7064





Homeless Services Panel of Experts

ACTION CALENDAR

October 29, 2019

To: Honorable Mayor and Members of the City Council  
 From: Homeless Services Panel of Experts  
 Submitted by: Katharine Gale, Chairperson  
 Subject: Recommendations for Allocation of FY19/20 Measure P Funds

RECOMMENDATION

Approve recommendations for the allocation of FY19/20 General Funds at least commensurate with resources accrued to date from the passage of Measure P. Refer to the City Manager to produce data regarding the percentage of those transported with County Emergency Mental Health Transport who are homeless, and other sources that could be used to cover this cost.

SUMMARY

The Homeless Services Panel of Experts recommends that the City allocate general funds to a variety of critical activities including permanent housing, shelter, supportive services and other program types to address the current crisis of homelessness in Berkeley. The recommended priority order, percentages, types of activities and subpopulation considerations are included as Attachment 1 to this report.

FISCAL IMPACTS OF RECOMMENDATION

Recommendations covered by this report allocate general fund resources for homeless housing and services in an undetermined amount to be at least commensurate with those raised to date under the transfer tax authorized under Measure P (minus those previously allocated by Council).

CURRENT SITUATION AND ITS EFFECTS

Homeless is increasing in the City of Berkeley and throughout the Bay Area. Between 2017 and 2019 homelessness in Berkeley at a point-in-time has risen by 13%, affecting more than 1,100 people on any given night. Recognizing the need for additional housing and services and for humane measures to address the impacts of homelessness, the Voters of Berkeley passed Measure P in November 2018 which collects a specified transfer tax with the intention to use these additional funds to address homelessness in the City of Berkeley.

Measure P established a Homeless Services Panel of Experts to advise the City Council. The Panel consists of nine members with a deep level of expertise in areas relevant to homelessness, including persons with extensive professional and/or lived

experience with homelessness. The Panel began meeting in May 2019. Katharine Gale and Yesica Prado are the elected chair and vice-chair of the Panel.

Addressing homelessness is a Strategic Plan Priority Project, advancing the City's goal to create affordable housing and supportive services for our most vulnerable community members.

### Process

This report provides the Panel's first recommendations for initial investments from General Funds to increase and improve housing and services to address homelessness in Berkeley. In order to develop these recommendations, the Panel first adopted a Purpose Statement (attached). The Panel reviewed all of the referrals made to us since the Measure's passage in light of our adopted statement. This included the funding requests and referrals included in the January 2019 Measure P Informational report to Council as well as additional referrals, formal and informal, sent to the Panel since that time. We also considered information we were presented by City staff regarding current City of Berkeley investments, local and regional strategies, the 2019 Point-in-Time Count, and the 1,000 Person Plan.

A Mission and Budget Subcommittee of the Panel meet and categorized the referrals we received by areas of investment (permanent housing, shelter, etc.) and proposed initial percentages to each area, as well as a process to determine the final recommendations. The full Panel reviewed the investment areas, added additional activities/program types to the areas, prioritized the program types within each area, and made recommended adjustments to the percentages, resulting in the recommended allocations attached to this report. Our recommendation regarding shelter and temporary accommodations includes the potential to use funds to support sanctioned encampments if approved by a Council policy and we encourage the City to give consideration to this approach.

The Panel also adopted subpopulation priorities within the key investment areas of permanent housing subsidies, and flexible housing subsidies. These include establishing a \$500,000 set-aside for permanent housing subsidies for homeless families with children. This also includes a recommended 20% set-aside for families and transition-age youth in flexible housing subsidies, using the McKinney-Vento (i.e. Berkeley Unified School Districts) definition of homelessness, though not limited to families with school-age children.

As stated above, the actual amount of funding to be allocated has yet to be determined. The agreed upon order of priority and percentages is included as Attachment 1. The Panels' priorities within each area are expressed in the order of activities. We recommend that higher ranked activities be given a greater priority for resources, but we recognize that some activities we have recommended may be funded using other resources at the City's disposal. Activities left out of our table, such as Public Works



street cleaning, and general street outreach, were not recommended for funding from Measure P at this time.

#### Objection to Full Funding for Emergency Mental Health Transport

The Panel notes that the amount available for us to allocate was reduced by nearly \$1.5 million in FY19/20 based on commitments recommended previously by the City Manager for City staff and for Mental Health Emergency Transport. We understand that FY19/20 funding is already committed but we wish to express our strong objection to the pre-allocation of \$2.4 million in FY20/21 Measure P-generated funding to fully cover these transportation costs. Measure P was passed by the voters of Berkeley to address the crisis of homelessness; while some people who experience homelessness may require emergency mental health transportation, this service is not limited to people who are homeless and was not budgeted with consideration that most people who will be transported will be people who are housed. In addition, this service does not result in greater housing or shelter for people who are homeless and we believe is not consistent with the purpose of Measure P. ***We recommend the Council refer to the City Manager to produce information regarding the percentage of those transported who are homeless and other potential sources to cover this expense.*** We hope to make recommendations for next year's investments with consideration to this.

#### Next Steps

The HSPE recognizes that it was established not only to make recommendations about investment amounts but also to advise on methods and practices. A companion letter will be sent to Council to accompany this report with additional recommendations and considerations for how to ensure Berkeley's programming is consistent with best practices.

Future work of the Panel will include developing an Action Plan for the coming year, and coordinating with Measure O to plan for future developments. Future work may include recommendations regarding establishing a goal of ending family homelessness or other City-wide goals.

#### BACKGROUND

Measure P was passed by the voters of Berkeley in 2018. The Homeless Services Panel of Experts began meeting in May of 2019. To guide our work, in August 2019 we have adopted a Statement of Purpose. This Statement is provided as Attachment 2 to this report and is a guide to the recommendations made in this Report.

At their September 4, 2019 regular meeting, the Homeless Services Panel of Experts took the following action regarding these recommendations:

**Action:** M/S/C Sutton/Trotz to adopt Budget A as amended:

- (i) Re-prioritize item #2 (Permanent Housing) as item #1 (and vice-versa), and within the Permanent Housing category:
  - a. Replace "permanent supportive housing" with "permanent housing";

- b. Strike the language under “Additional considerations”;
  - c. Add “establish a minimum set-aside of \$500,000 for homeless families in this category”; Note that Transition-Age Youth should be included in funding for adults.
- (ii) Remove the recommended dollar amounts in each funding category, replacing them with percentage allocations, and change the allocations to each category as follows:
- a. #1 – Permanent Housing: 30%
  - b. #2--Shelter and Temporary Accommodations: 30%
  - c. #3--Immediate Street Conditions and Hygiene: 14%
  - d. #4--Supportive Services: 14%
  - e. #5--Short/Medium Term Housing Subsidies: 10%
  - f. #6--Infrastructure: 2%.
- (iii) Within Category #2 (Shelter and Temporary Accommodations),
- a. Add “City should ensure there is a focus on families living on the street”;
  - b. Remove “Support sanctioned encampments” as a specific line-item, and instead add reference to sanctioned encampments as a possible modality in line-item #1 (Expand shelter capacity), with the language “if the City should adopt such a policy”;
  - c. Add language in the report to reflect that City should study the potential for sanctioned encampments as a form of shelter expansion and if it adopts such a policy these funds could be used to support that modality.
- (iv) Within Category #3 (Immediate Street Conditions and Hygiene):
- a. Add “storage units” to the “lockers” item;
  - b. Add “including for encampments” to the “Toilets and Hygiene Stations” item.
- (v) Within Category #5 (Short/Medium Term Housing Subsidies), remove the language on additional considerations and replace with:
- a. Establish a 20% set-aside for families and youth (including transition-aged youth).
  - b. Use the McKinney-Vento definition of “homelessness” as an eligibility criterion, without limiting to BUSD-enrolled households to ensure coverage of families with children under school age.

**Vote:** Ayes: Carrasco, cheema, Gale, Jordan, Metz, Patil, Prado, Sutton, Trotz.  
Noes: None. *Abstain:* None. *Absent:* None.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental costs or opportunities associated with these recommendations; the determination regarding how to invest in shelter expansion activities may require environmental consideration.

RATIONALE FOR RECOMMENDATION

The exact amount of funds that will be generated by Measure P are unknown at this time, and additional State and local funds may become available to the City to cover similar cost areas to address homelessness as those recommended by the Panel. Thus, the Panel is recommending key categories for investment, relative priorities expressed as percentages, and priorities within each of these areas. City staff and Council are encouraged to use these recommendations to determine the specific investments within each area.

ALTERNATIVE ACTIONS CONSIDERED

The HSPE considered various options for allocating resources to families and Transition Age Youth (TAY) including allocating resources based on each population's percentages in the Point in Time (PIT) count, establishing a specific priority for unsheltered families, and adopting a significant percentage of housing resources for families. The HSPE ultimately adopted and recommends a specific set-aside in the first allocation of at least \$500,000 of funding for permanent housing for families and a 20% percent set-aside in flexible subsidies for families and transition age youth.

CITY MANAGER

See Companion Report.

CONTACT PERSON

Peter Radu, Homeless Services Coordinator and Secretary to the Homeless Services Panel of Experts, HHCS, (510) 981-5435.

Attachments:

- 1: Recommendations for First Year Measure P Allocations - By Category and Activity
- 2: Homeless Services Panel of Experts Statement of Purpose

**ATTACHMENT 1:  
Recommendations for General Fund Allocations Associated with Measure P - By  
Category and Activity**

Because the total amount of funding available is unknown, recommendations are based on a percentage of funding to each category. Within investment areas, activities are listed in the order they were prioritized and we generally recommend higher priority be given to these activities over those that are listed further down in higher priority categories. Additional considerations and recommendations include subpopulation priorities and service types considered within each activity.

Investment Area and Sub-Category Activities listed in Priority Order	Percent	Additional Considerations/ Recommendations
<p><b>1. PERMANENT HOUSING</b></p> <p>Permanent Housing Subsidies and Services</p>	30%	Establish a minimum set-aside of \$500,000 for homeless families in this category. Transition-age youth should be included in funding for Adults.
<p><b>2. SHELTER &amp; TEMPORARY ACCOMMODATIONS</b></p> <p>1. Expand Shelter Capacity</p> <p>2. Invest in improving existing shelter capacity</p>	30%	<p>1. Adding new sheltering capacity may include the development of dedicated RV parking, use of tiny houses, or other means to increase shelter capacity. If the City should adopt a policy approving sanctioned encampments then this use would also be included. City should ensure there is a focus on meeting needs of any families living on the street.</p> <p>2. Increase services and housing connections in existing shelters so that they are able to function as Navigation Centers.</p>
<p><b>3. IMMEDIATE STREET CONDITIONS &amp; HYGIENE</b></p> <p>1. Toilets and Hygiene Stations, including for encampments</p> <p>2. Lockers and Storage Units</p>	14%	Note: These funds were not recommended for general clean-up and other Public Works functions and should be spent on activities that directly benefit homeless people.

Investment Area and Sub-Category Activities listed in Priority Order	Percent	Additional Considerations/ Recommendations
<p><b>4. SUPPORTIVE SERVICES</b></p> <p>1. Health Care services</p> <p>2. Employment and Income Development Activities</p> <p>3. Substance Use Treatment</p>	14%	<p>1. Health care services dedicated to people experiencing homelessness which may include street medicine.</p> <p>2. Activities may include job development and support as well as benefits advocacy and other services to improve incomes.</p> <p>3. Substance use treatment services dedicated for persons who are experiencing homelessness.</p>
<p><b>5. FLEXIBLE HOUSING SUBSIDIES</b></p> <p>Flexible housing subsidies may include prevention, diversion and/or rapid resolution support.</p>	10%	Establish a 20% set-aside for homeless families and transition-age youth, using the McKinney-Vento definition of homelessness.
<p><b>6. INFRASTRUCTURE</b></p> <p>1. Training ~80%</p> <p>2. Evaluation ~20%</p>	2%	<p>1. Use resources in this category for training for Berkeley community-based organizations working with people who are homeless.</p> <p>2. Use resources in this category to ensure that the experiences of service users are captured and considered in performance evaluation.</p>
<b>TOTAL</b>	<b>100%</b>	

**ATTACHMENT 2:  
Homeless Services Panel of Experts Mission/Purpose Statement  
(adopted August 14, 2019)**

The Voters of Berkeley passed Measure P to generate additional General Funds to use to address the crisis of homelessness. The Homeless Services Panel of Experts created by the Measure was established to “make recommendations on how and to what extent the City should establish and/or fund programs to end or prevent homelessness in Berkeley and provide humane services and support.”

We understand the current crisis of homelessness requires investments in prevention, health services and permanent housing which we know to be the solution to homelessness, as well as in shelters, supports and other temporary measures that get people immediately out of the elements. We will seek to strike a balance between these needs in our recommendations.

We will consider currently unmet needs, gaps and opportunities, best practices and currently available data on outcomes. We will make recommendations for increased local investment, including program types, target populations and geographic areas as appropriate. We will seek to consider the best use of these investments in the context of other available Federal, State and local funding. In general, we will not make recommendations on the specific agencies to receive funding, nor run our own proposal process, recognizing this as a role for staff and the Council. We will request updates on the performance of Measure P investments and the homeless service system overall, including the experience of service users, and use this information to inform future recommendations and provide oversight.

We recognize that homelessness is a regional issue and requires a regional approach, including recognizing that people from Berkeley may live in other places and remain connected to Berkeley services.

To ensure Measure P funding recommendations further efforts to create more housing for people experiencing homelessness in Berkeley, we will coordinate with the Measure O panel to ensure that very low cost housing is connected to services and operating support so that it can successfully targeted to people who are homeless.

We will meet as needed to fulfill this Mission, and to make recommendations to the City Council at least annually.



Office of the City Manager

ACTION CALENDAR  
November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing and Community Services

Subject: Companion Report: Recommendations for Allocation of FY19/20 Measure P Funds

RECOMMENDATION

The City Manager recommends that Council:

1. Approve the Homeless Services Panel of Experts' recommendation for the allocation of FY20 General Funds (Measure P) in the following investment areas:
  - a. Immediate Street conditions & Hygiene
  - b. Flexible Housing Subsidies; and
  - c. Infrastructure.

For any allocation of "Flexible Housing Subsidies" to families, limit eligibility to those who are imminently at-risk of homelessness, and allow the City Manager to sole-source contracts for the implementation of these subsidies.

2. Refer discussion of the recommendations pertaining to the following areas to the Council Budget & Finance Policy Committee:
  - a. Permanent Housing,
  - b. Shelter & Temporary Accommodations, and
  - c. Supportive Services.

The City Manager recommends that the Policy Committee consider the following pertaining to these funding areas:

- Allow the "permanent subsidies" allocation to fund tenancy sustaining services, and dedicate 10% of total funding to homeless families.
- Allow the "Shelter and temporary accommodations" allocation to fund the creation of new programs (including for new RV parking programs) or maintenance of existing shelter programs funded by HEAP, when that funding is exhausted.
- Authorize the City Manager to award any funding for shelter expansion and tenancy sustaining services to agencies that have already responded to the FY20-23 Community Agency Request for Proposals (RFP).
- Authorize the City Manager to release one or more RFPs for an RV parking program that would require a non-profit operator and for any supportive

services including street medicine, substance abuse treatment or mental health outreach.

#### FISCAL IMPACTS OF RECOMMENDATION

Approving the above recommendation would commit \$899,566 in General Fund revenues resulting from Measure P. The funds would be appropriated as part of the Second Amendment to the FY 2020 Annual Appropriations Ordinance and allocated to City departments as follows:

- To the City Manager Community Agencies Budget (011-51-507-506-5002-000-459-636110-):
  - 345,987 to short and medium term housing subsidies;
- To the FY2020 HHCS budget (011-51-504-535-5002-000-444-636120 - 011-51-504-535-5002-000-444-612990):
  - \$69,197 to training and evaluation.
- To the FY2020 budget of the Public Works Department(011-54-623-677-5002-000-444-612990) and/or PRW Department (011-52-541-598-5002-000-461-612990):
  - \$484,382 for immediate street conditions and hygiene.

#### CURRENT SITUATION AND ITS EFFECTS

The Homeless Services Panel of Experts (HSPE) convened its inaugural meeting on May 6, 2019 and on September 4, 2019 unanimously approved budget recommendations for the initial tranche of general fund revenues generated by the Measure P transfer tax increase. The City Manager commends the HSPE for this achievement and for the process by which it was accomplished. Over the course of two regular meetings and two subcommittee meetings, the Panel worked diligently with staff to ensure that all referrals to the Measure P process from Council, staff, and outside agencies to date were considered. The City Manager believes the final recommendations, in general, are an excellent reflection of City priorities and will help make a meaningful impact on homelessness in Berkeley.

The City Manager offers this companion report to complement, rather than contradict, the HSPE's recommendations. The goal is for Council to consider staff's perspectives on implementation processes and feasibility before making budget allocations.

While the City Manager supports these recommendations, she recommends referring investment areas that will require a significant ongoing investment (Permanent Housing, Shelter & Temporary Accommodations, and Supportive Services) to the Budget & Finance Committee for full vetting. The City Manager's Budget Office recommends monitoring revenues collected pursuant to Measure P to ensure that long-term commitments made now can be supported over time. The City Manager does, however, agree with immediate funding for investment areas that do not implicate future Measure P revenues. The City Manager further recommends that the Budget & Finance Policy



Committee consider the staff input outlined below for all recommended investment areas.

The HSPE's recommendations make categorical allocations to 6 focus areas. Staff's recommendations differ from the HSPE's in several areas, and we offer reasoning below:

1. **Permanent Housing:** as explained in the 1000 Person Plan,<sup>1</sup> staff have identified permanently subsidized housing as the single greatest need among people experiencing homelessness in Berkeley, and we are pleased that this need is reflected so prominently in the HSPE's proposed budget. We recommend that Council approve the HSPE's recommendation, with the following modifications and considerations:
  - a. First, we wish to clarify that the final amount of money allocated to permanent housing includes and authorizes funds for associated case management, or "tenancy sustaining services", to assist people in accessing and/or maintaining this housing. This is a critical component of Housing First, especially for populations with disabilities and/or substantial housing barriers. For ease and speed of implementation, we recommend allowing the City Manager to offer such funding to any agency that applied for tenancy sustaining case management in response to the FY2020-2023 Community Agency Funding Request for Proposals.
  - b. Second, we appreciate the HSPE's focus on families, but believe their proposed minimum set-aside of \$500,000 for families is disproportionate to the need actually reflected in the City's primary source of homeless data, the 2019 Point-in-Time Count,<sup>2</sup> which found that only 5% of Berkeley's homeless population lives in a household with minor children but 95% are single adults without minors.<sup>3</sup> Moreover, the 2019 Count found that more than one third of Berkeley's population is now chronically homeless—a designation far more likely to afflict single adults and highly amenable to permanent subsidies and supportive case management. Recent evidence suggests that local increases in targeted homeless family assistance actually *increases* family homelessness, as homeless

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<sup>1</sup> See: [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/02\\_Feb/Documents/2019-02-26\\_Item\\_20\\_Referral\\_Response\\_1000\\_Person\\_Plan.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-26_Item_20_Referral_Response_1000_Person_Plan.aspx)

<sup>2</sup> See: [http://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport\\_Berkeley\\_2019-Final.pdf](http://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf)

<sup>3</sup> For example, suppose Council allocates \$4.5M of Measure P to homeless efforts, and 30% of this allocation, as recommended by the Panel, to permanent subsidies. In that scenario, a \$500,000 set-aside results in 37% of all permanent subsidy funding going to families. If instead the overall Measure P allocation was \$8M—the upper bound of the expected annual proceeds from Measure P—a \$500,000 family set-aside results in 21% of all subsidies to families. As families represent 5% of the Point-in-Time population, both scenarios disproportionately favor families relative to chronically homeless and/or single adults, who remain the single largest (and growing) population of need in the City.

families relocate to jurisdictions with more generous funding; the same is not true for individual programs, which measurably reduce individual homelessness.<sup>4</sup> With this in mind, and given the disproportionality of individual homelessness in Berkeley, we recommend no minimum dollar set-aside for families, but rather setting 10% of any permanent housing allocation aside for families. In practice, this would mean that every tenth voucher that becomes available through this funding source would be set aside for a Berkeley family, with a preference for unsheltered families.

2. **Shelter and Temporary Accommodations:** staff agree with the high priority placed on this category and offers the following considerations for Council:
  - a. First, staff continue to believe that the best use of new shelter funding is to invest in existing shelter capacity so all programs in Berkeley are able to function as Navigation Centers. This would allow our shelters to serve and house a greater number of people not otherwise prioritized for intensive services and subsidies through Coordinated Entry, and would position the City strategically to leverage any new State funds intended for navigation centers. For ease and speed of implementation, we recommend allowing the City Manager to offer such funding to any agency that applied for emergency shelter funding in response to the FY2020-2023 Community Agency Funding Request for Proposals.
  - b. Second, staff recommend allowing any funding allocated to sub-category #1 (“Expand shelter capacity”), to be used to “expand or maintain” shelter capacity. Currently, staff are using California HEAP to fund FY20 operations of the STAIR Center and Dorothy Day House Shelter—two shelter projects that are not fully funded beyond June 30, 2020. In the absence of guidance from the State and County on forthcoming Homeless Housing, Assistance, and Prevention Program (HHAPP) funding, and the amount (if any) that will be formulaically allocated to Berkeley, the City may need to use existing General Fund revenues in FY21 to keep these priority projects afloat when current funding sources expire.
  - c. Third, if a new program is most desired by Council, we recommend prioritizing such funding for any RV parking program(s) and associated services established in response to the Council referrals from March 26<sup>5</sup> and July 23,<sup>6</sup> 2019. Such a proposed use is consistent with the HSPE’s

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<sup>4</sup> See: <https://siepr.stanford.edu/sites/default/files/publications/16-022.pdf>

<sup>5</sup> See: [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/03\\_Mar/Documents/2019-03-26\\_Supp\\_3\\_Reports\\_Item\\_21\\_Supp\\_Mayor\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/03_Mar/Documents/2019-03-26_Supp_3_Reports_Item_21_Supp_Mayor_pdf.aspx)

<sup>6</sup> See: [https://www.cityofberkeley.info/Clerk/City\\_Council/2019/07\\_Jul/Documents/2019-07-23\\_Supp\\_2\\_Reports\\_Item\\_39\\_Rev\\_Kesarwani\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/07_Jul/Documents/2019-07-23_Supp_2_Reports_Item_39_Rev_Kesarwani_pdf.aspx)

report, and full implementation of this Council priority is currently unfunded.

3. **Supportive Services:** staff agree with this recommended use of funding. To solicit the best possible uses of any funding allocated to this category, staff recommend widely circulating a new Request for Proposals that would include, but not be limited to, the following areas previously recommended by staff<sup>7</sup> or recommended by the Panel:
  - a. Street medicine or mental health services;
  - b. Substance abuse treatment for persons experiencing homelessness;
  - c. Employment services.
  
4. **Short/Medium-Term Housing Subsidies:** Staff is supportive of the spirit of this recommendation. However, while the HSPE recommends funding for any family meeting the McKinney-Vento homeless definition (which includes households that are couch surfing or doubled up), staff recommend limiting eligibility to families who meet the criteria in Category 2 of the Federal definition of homelessness<sup>8</sup>--i.e., families who will lose their residence or sleeping situation within 14 days, have no identified alternative, and lack the resources or support networks needed to obtain other housing. Staff's reasoning is simply that these limited funds be prioritized for those families who are most at-risk of entering a shelter or the streets. In the Bay Area's housing crisis, households of all economic means are frequently forced into shared housing situations; staff believe those who can remain stably housed in such an arrangement should not be prioritized for flexible homelessness funding of this sort, which could likely result in a different shared housing accommodation.

For ease and speed of implementation, we recommend:

- a. Allowing the City Manager to sole source any funding set-aside for transition-aged youth to the Coordinated Entry Services provider. The CES provider has experience in administering this type of program and is best placed to quickly provide funding for this population and report on the use of those funds to the City.

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<sup>7</sup> See:

<sup>8</sup> See: [https://www.usich.gov/resources/uploads/asset\\_library/Federal-Definitions-of-Youth-Homelessness.pdf](https://www.usich.gov/resources/uploads/asset_library/Federal-Definitions-of-Youth-Homelessness.pdf). The HUD definition of homelessness includes four categories. Households who are at imminent risk of homelessness are included in Category 2; families and households who are doubled-up or couch surfing but not otherwise literally or imminently at-risk of homelessness are included in Category 3. Generally, households who are not literally homeless but otherwise homeless under Category 3 are ineligible for HUD CoC or ESG-funded homeless resources.

- b. Allowing the City Manager to sole-source funding set-aside for families to an agency currently providing housing navigation services through the Family Front Door. Specifically, staff recommend circulating a Request for Information (RFI) asking agencies who are interested, and believe they are capable of executing a sole-sourced contract to serve families that meet the McKinney-Vento definition of homelessness, to respond with their credentials and budget proposal for doing so. This ensures North County families continue to access the system through the Family Front Door, but creates more referral options for Berkeley families through that process.

### BACKGROUND

In November of 2018, Berkeley voters passed Measure P, which raises transfer taxes on high-value real estate transactions by an estimated \$6-8M annually. As of June 30, 2019, \$3,459,868 in proceeds had been realized from this tax. With the adoption of the FY20-21 Biennial Budget, a portion of these funds have already been set aside for emergency mental health transport and for a new Community Services Specialist II position in HHCS.

While these are General Fund revenues, the ballot measure also created the Homeless Services Panel of Experts to advise the Council on best uses of this and other sources of funding for homeless services. The Panel of Experts convened for their inaugural meeting on May 6, 2019.

On September 4, 2019, the Homeless Services Panel of Experts took the following action with respect to any proceeds generated to date from Measure P:

**Action:** M/S/C Sutton/Trotz to adopt Budget A as amended:

- i. Re-prioritize item #2 (Permanent Housing) as item #1 (and vice-versa), and within the Permanent Housing category:
  - a. Replace “permanent supportive housing” with “permanent housing”;
  - b. Strike the language under “Additional considerations”;
  - c. Add “establish a minimum set-aside of \$500,000 for homeless families in this category”; Note that Transition-Age Youth should be included in funding for adults.
- ii. Remove the recommended dollar amounts in each funding category, replacing them with percentage allocations, and change the allocations to each category as follows:
  - a. #1 – Permanent Housing: 30%
  - b. #2--Shelter and Temporary Accommodations: 30%
  - c. #3--Immediate Street Conditions and Hygiene: 14%
  - d. #4--Supportive Services: 14%

- e. #5--Short/Medium Term Housing Subsidies: 10%
  - f. #6--Infrastructure: 2%.
- iii. Within Category #2 (Shelter and Temporary Accommodations),
    - a. Add “City should ensure there is a focus on families living on the street”;
    - b. Remove “Support sanctioned encampments” as a specific line-item, and instead add reference to sanctioned encampments as a possible modality in line-item #1 (Expand shelter capacity), with the language “if the City should adopt such a policy”;
    - c. Add language in the report to reflect that City should study the potential for sanctioned encampments as a form of shelter expansion and if it adopts such a policy these funds could be used to support that modality.
  - iv. Within Category #3 (Immediate Street Conditions and Hygiene):
    - a. Add “storage units” to the “lockers” item;
    - b. Add “including for encampments” to the “Toilets and Hygiene Stations” item.
  - v. Within Category #5 (Short/Medium Term Housing Subsidies), remove the language on additional considerations and replace with:
    - a. Establish a 20% set-aside for families and youth (including transition-aged youth).
    - b. Use the McKinney-Vento definition of “homelessness” as an eligibility criterion, without limiting to BUSD-enrolled households to ensure coverage of families with children under school age.

**Vote:** Ayes: Carrasco, cheema, Gale, Jordan, Metz, Patil, Prado, Sutton, Trotz.

*Noes:* None. *Abstain:* None. *Absent:* None.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### RATIONALE FOR RECOMMENDATION

The City Manager commends the recommendations made by the Homeless Services Panel of Experts as thoughtful and inclusive of numerous staff and Council priorities. The clarifications made in this companion report simply advise Council of important staff considerations, namely administrative flexibility and implementation feasibility.

#### ALTERNATIVE ACTIONS CONSIDERED

Any budget allocation made to Permanent Subsidies could:

- Also be allowed to support capitalized operating reserves and/or project-based subsidies. This flexibility would allow staff to permanently buy down affordability

on units, rather than tying those subsidies to particular tenants who would be subject to unit availability on the open market.

- Fund the subsidies as “extended” rather than permanent, which allows for housing subsidy longer and more intensively than rapid rehousing would, but does not obligate City General Funds indefinitely for this purpose.

CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS (510) 981-5435.



Office of the City Manager

INFORMATION CALENDAR

November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Mark Numainville, City Clerk

Subject: City Council Short Term Referral Process – Monthly Update

INTRODUCTION

This report is a monthly update on the status of short term (90-day) and other date-certain Council referrals.

CURRENT SITUATION AND ITS EFFECTS

In this context, tracking refers to a manually updated chart (Attachment 1). The May 15, 2018 Council referral establishing the monthly update includes both “short term” and “date-certain” referrals. Short term referrals are referrals that staff determines they will be able to complete in approximately three months. Date-certain referrals are those which contain a specified date of completion at the time they are approved by the City Council. Currently, the City only tracks short term referrals in an Excel spreadsheet.

Providing a monthly update on all short term and date-certain referrals will allow Council and the public to see the status of these referrals and any circumstances which lead to delays.

BACKGROUND

In 2016, the City Council adopted a system of Re-Weighted Range Voting (RRV) to prioritize the outstanding City Council referrals to staff. The RRV system enables City Council to provide direction to staff on which referrals are highest priority to the City Council. However, that process does not provide information on the status of short term or date-certain referrals. While many short term or date-certain referrals were “updated” through being completed and presented to Council as consent or information items, there was no comprehensive overview of this subset of referrals.

ENVIRONMENTAL SUSTAINABILITY

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

POSSIBLE FUTURE ACTION

The City Council may wish to direct staff to evaluate this process after it has been in place six months.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No direct fiscal impact. Greater efficiencies in staff resources due to prioritization of work and alignment with budget and strategic plan goals.

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1: Short Term and Date-Certain Referrals



# Short Term Referrals [FINAL]

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-04-03	18	Supplemental Paid Family Leave	2) refer to the City Manager to draft an ordinance regarding retaliation against employees using state family leave, including a private right of action provision.	Commission				2018-09-28 17:00:00	City Attorney	Pending	2018-09-28 17:00:00		<b>2019-09-17 11:24:26 - Christopher Jensen (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=CJensen)</b> City Attorney's Office to coordinate with Human Resources
2019-09-10	48	Request for Information Regarding Current Status and Progress on Traffic Mitigations at Dwight Way and California Street	Refer to the City Manager a request for information regarding the current status and progress on traffic mitigations and pedestrian safety improvements at the intersection of Dwight Way and California Street.	Council member		Ben Bartlett		2019-09-16 17:00:00	Public Works	Not Started	2019-09-16 17:00:00		
2019-09-10	55	Game Day Parking - Minor Update to include RPP area K	Refer to the City Manager the modification of parking restrictions in specified RPP Zones on UC Berkeley home football game days as follows: establish "Enhanced Fine Areas" to prohibit parking without a valid RPP permit to include RPP Zone K; and install new RPP signs in zone K to clearly indicate UC Berkeley home football game day parking prohibitions.	Council member		Lori Droste, Jesse Arreguin		2019-09-16 17:00:00	Public Works	Not Started	2019-09-16 17:00:00		
2019-09-10	53	Voluntary Time Off on Statewide Election Days for City Employees	Refer to the City Manager to designate Statewide Election Days as VTO days, and refer to the 2x2 Committee to discuss coordinating City and District policy on holidays, in particular Election Day.	Council member		Rigel Robinson, Cheryl Davila, Sophie Hahn, Lori Droste		2019-09-16 17:00:00	Human Resources	Not Started	2019-09-16 17:00:00		
2019-09-10	30	Referral Response: Proposed New BMC Ordinance Adding Chapter 9.26 Live Animal Sales – Disclosure Requirements	In lieu of approving the ordinance, encourage Berkeley live animal retailers to provide purchasers with information regarding the sourcing of their animals by utilizing one or two of the following designations describing the sourcing of the particular animal: 'captive bred;' 'hobby breeder' or 'licensed breeder;' 'rescue;' 'wild caught;' or 'imported.'	Commission			Animal Care Commission	2019-12-16 17:00:00	CITY MANAGER'S OFFICE	Not Started	2019-12-16 17:00:00		<b>2019-10-15 14:28:21 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</b> Staff developed a set of standard terms and sent a letter to all animal retailers on 10/3/2019, encouraging them to use the designations. Staff has prepared and submitted a referral response via off-agenda memo.
													<b>2019-09-24 11:03:09 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</b> Still waiting for the Flea Market's strategic plan, expected end of calendar year.
2019-03-26	15	Ensuring the Sustainability of the Berkeley Flea Market	Short-term referral to the City Manager to provide material and strategic assistance to the Berkeley Flea Market, to sustain and enhance its ability to serve both merchant participants and the community at large.	Council member		Ben Bartlett, Sophie Hahn, Cheryl Davila		2019-05-27 17:00:00	Office of Economic Development	Work in Progress	2019-07-30 11:38:31		<b>2019-06-06 10:40:44 - Jordan Klein (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=JKlein)</b> OED's small business retention consultant, Uptima Business Bootcamp, is working closely with the Flea Market on the development of a new strategic plan. Expected completion is July 2019. At that point, OED will submit an information report to City Council with an update and summary, with strategic plan attached. Expected for the 9/10/19 City Council regular meeting.

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2019-07-16	14	Opportunity Zone Project Guidelines for the City Manager	Refer to the City Manager the priorities listed below for investment in Berkeley's Opportunity Zones for proactive outreach and marketing to investors or Opportunity Funds, and to guide any discussions or negotiations regarding development projects in Opportunity Zones. The priorities are: Construction of new Affordable Housing units or acquisition and preservation of affordable housing; Preservation of historic buildings; Cultural Institutions and Performing Arts Venues; Civic Uses (Government Offices, Libraries, Schools, Public Safety); Public Open Space and Recreation Facilities; Health Care Services; Transportation Demand Management features; and Job training or employment opportunities. The City Manager should further incorporate these guidelines into any relevant formal document relating to projects in Opportunity Zones. That City staff, working with non-profit organizations OR seeking technical assistance, develop a prospectus marketing community development projects in Berkeley's Opportunity Zones using the guidelines mentioned above, or any other tools to attract equitable investment in Opportunity Zones.	Councilmembers		Ben Bartlett, Kate Harrison, Jesse Arreguin, Cheryl Davila		2019-07-22 17:00:00	Office of Economic Development	Work in Progress	2019-09-25 11:01:10		<a href="#">2019-09-24 07:59:59 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Expect to send an info report/referral response to Council by Oct/Nov.
2019-05-28	29	Referral to the Public Works Department and the City Manager: Finishing the installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St.	Refer to the City Manager a request to finish the installation of sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer to the Public Works Department for its installation.	Councilmembers		Ben Bartlett, Kate Harrison, Cheryl Davila, Jesse Arreguin		2019-06-13 17:00:00	Public Works	Work in Progress	2019-10-01 17:00:00		
2019-09-10	35	1281 University Avenue Request for Proposals	Refer to the City Manager to issue a Request for Proposals (RFP) for residential development at the City-owned site at 1281 University Avenue with a requirement that 100% of the on-site units to be restricted to 80% AMI or below households with at least 10% at 50% AMI, with consideration given to accommodations that serve unhouseed or homeless households, including nontraditional living arrangements such as tiny homes and that Council consider interim use for the site for housing purposes.	Commission			Housing Advisory Commission	2019-11-29 17:00:00	Health, Housing and Community Services	Work in Progress	2019-11-29 17:00:00		
2019-07-16	9	Referral to the City Manager to Consider Amending the Language of the City's Wireless Telecommunications Ordinance and Aesthetic Guidelines	Request that the City Manager consider amending the language of the City's Wireless Telecommunications Ordinance (BMC 23C.17) and Aesthetic Guidelines (BMC 16.10 & Aesthetic Guidelines for PROW permits) and return to City Council for adoption as soon as possible.	Councilmembers		Susan Wengraf, Jesse Arreguin, Ben Bartlett, Kate Harrison		2019-07-22 17:00:00	City Attorney	Work in Progress	2019-11-29 17:00:00		<a href="#">2019-09-17 11:03:27 - Christopher Jensen (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=CJensen)</a> The City Manager's Office and City Attorney's Office are coordinating with other departments to update guidelines and procedures for wireless application submittals.
2019-09-24	36	Companion Report: Health Study to be Conducted by the Public Health Division to Gather Data on Health Conditions, Health Disparities and Mortality Rates of Berkeley's homeless	Send a letter to Alameda County requesting data on deaths of identified homeless individuals. Contact Alameda County request that they explore the feasibility of recording homelessness as a data point in death records and/or making investments to begin tracking this information locally.	Councilmembers				2019-10-31 17:00:00	Health, Housing and Community Services	Work in Progress	2019-11-29 17:00:00		

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2019-03-26	15	Dynamex Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance	That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903.	Councilmembers		Ben Bartlett		2019-11-29 17:00:00	City Attorney	Work in Progress	2019-11-29 17:00:00		<a href="#">2019-09-17 10:59:00 - Christopher Jensen (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=CJensen)</a> Additional comments A draft opinion is under review in the City Attorney's office.
2019-02-19	16	Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program	That the Council provides requested direction to the Planning Department on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report; with the following specifications: Recommendation of creating 1 new dispensary license for equity applicants. It is envisioned as new licenses are created, such as, delivery, manufacturing, and micro-business, permits will be reserved for equity applicants for each new category.	Councilmembers		Ben Bartlett, Kriss Worthington, Cheryl Davila		2019-05-17 17:00:00	PLANNING & DEVELOPMENT	Work in Progress	2019-12-10 12:00:00		<a href="#">2019-06-18 08:04:27 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments The City Attorney's Office is drafting a City Attorney opinion analyzing the holding in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4Cal.5th 903 with respect to the City's MWO and PSLO. The completed memo will be referred to the City Manager and the Labor Commission for review by June 24, 2019 and for any related action, including amending ordinances as necessary.
2019-04-02	18	Companion Report: Effective Enforcement of Safe Lead-Paint Practices - Update on Amendments	Based on the intent of the recommendation from the Community Environmental Advisory Commission (CEAC) for the City to expand enforcement of unsafe lead paint practices, refer to the City Manager to: - Coordinate with the Alameda County Healthy Homes Program to clearly identify roles and responsibilities for expanding enforcement of unsafe lead practices, and to explore options for sharing resources that can support expanded local enforcement; - Identify what resources, staff capacity, and program structure would be required to expand City enforcement of unsafe lead practices; - Continue current work to educate building permit applicants and contractors about safe lead paint practices; train and certify all City of Berkeley Building and Housing Inspectors in lead paint safety; respond to, investigate, and enforce safe lead paint practices as needed; and administer the Public Health Division's Childhood Lead Poisoning Prevention Program; and - Provide an update to City Council within one-year that identifies progress and next steps for expanding enforcement of unsafe lead practices. AMENDMENTS: Request that the City Manager return to Council as soon as possible with recommendations on staffing for robust enforcement and internal restructuring for inspections. Options for noticing and distributing disclosure information. Enforcement by the City or the County, if feasible.	Councilmembers				2019-06-28 17:00:00	CITY MANAGER'S OFFICE	Work in Progress	2020-04-28 15:28:36		<a href="#">2019-04-12 16:03:50 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments This will be included with the next set of Cannabis Ordinance changes, expected in summer 2019.
2019-10-03													<a href="#">2019-10-03 13:55:00 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments Completed matrix
2019-09-12													<a href="#">2019-09-12 08:32:23 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments Convened all City divisions which touch issue (Public Health, Environmental Health, Toxics, Building & Safety, 311). Mapped existing processes. Preparing draft consolidation plan.
2019-08-07													<a href="#">2019-08-07 15:33:54 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments In progress, drafting matrix of capacity across multiple city departments, next steps to develop an improved response framework and explore County funding options. Planned report back to Council in spring 2020.
2014-04-29	35	35. City Manager Referral: Policy for Companies Such as Airbnb to Pay Transient Occupancy Tax, as Currently Paid by Other Small Local Businesses	Refer to the City Manager creation of a policy for companies such as Airbnb to pay the Transient Occupancy Tax, as currently paid by other small local businesses.	Council member	City Council District 7	Kriss Worthington		2014-10-24 17:00:00	PLANNING & DEVELOPMENT	Completed	2014-10-27 08:00:00	2016-09-07 00:00:00	
2014-12-16	25	Reconcile the West Berkeley Plan and the Zoning Code as it Pertains to Medical Uses	Refer to the Planning Commission the task of revising the current zoning ordinance so that it reflects the West Berkeley Plan's goals of encouraging medical uses in West Berkeley.	Council member	City Council District 2			2015-06-12 17:00:00	PLANNING & DEVELOPMENT	Completed	2015-06-15 08:00:00	2017-01-24 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2015-09-15	43	Prohibit Sales of Tobacco Products to Persons Under the Age of 21	Direct the City Manager and Community Health Commission to draft an ordinance amending Berkeley Municipal Code Chapter 9.80 "Tobacco Retailers" to prohibit the sales of tobacco products and smoking paraphernalia to persons under the age of 21.	Council member		Jesse Arreguin		2016-03-11 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2016-03-11 17:00:00		
2015-09-15	55	Referral to the Community Environmental Advisory Commission to Install 1.8 GPM Showerheads in All New Housing Projects or Any Renovation Over \$50,000	Refer to the Community Environmental Advisory Commission to explore requiring a maximum of 1.8 GPM low flow showerheads in new housing projects and all housing renovations exceeding \$50,000 throughout Berkeley.	Council member		Kriss Worthington		2016-03-11 17:00:00	PLANNING & DEVELOPMENT	Completed	2016-03-14 08:00:00	2016-07-19 00:00:00	
2015-11-10	1	Proposed Amendments to the Minimum Wage Ordinance; Amending Berkeley Municipal Code Chapter 13.99 (Continued from September 15, 2015)	Review and consider information regarding the activities and costs associated with implementing and enforcing the Commission on Labor's proposed amendments to the Minimum Wage Ordinance (MWO), including the potential impact of the proposed amendments on the City's minimum wage employees, employers, non-profit organizations and community-based organizations, on-call workers and youth training program workers, and either: 1. Adopt first reading of an Ordinance amending Berkeley Municipal Code Chapter 13.99, which includes staff-recommended revisions to the Commission's proposed Ordinance; -OR- 2. Refer the MWO back to the City Manager for further analysis and revisions.					2016-05-06 17:00:00	CITY MANAGER'S OFFICE	Completed	2016-05-09 08:00:00	2016-09-01 00:00:00	
2015-11-17	30	Fourth Ambulance Pilot Project 6-Month Update	No recommendation noted. Action: Moved to Consent Calendar and held over to January 19, 2016. Fire to report back in May 2016 for permanent program.					2016-05-13 17:00:00	FIRE & EMERGENCY SERVICES	Completed	2016-05-16 08:00:00	2018-07-01 00:00:00	
2015-12-01	22	City Manager Referral: Pilot Program to Implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley	Refer to the City Manager to adopt a Pilot Program to implement Solar Trash Compactors on Telegraph Avenue and Downtown Berkeley.	Council member		Kriss Worthington, Linda Maio, Susan Wengraf, Lori Droste		2016-05-27 17:00:00	Public Works	Completed	2016-05-30 08:00:00	2018-07-24 00:00:00	<b>2019-02-05 16:44:20 - Melissa McDonough (sys_user.do?sysparm_view=tit&amp;sysparm_query=user_name=MMcDonough)</b> 6/2018 RFPs received; 2 solar compactors to be issued contracts.
2015-12-01	33	City Manager and Planning Commission's Referral: Enable Implementation of Council Approved Floor Area Ratio in the Telegraph Commercial District between Dwight and Bancroft by Amending the Zoning Ordinance	Refer to the City Manager and Planning Commission an immediate implementation strategy to bring the City Zoning Ordinance in compliance with the policy adopted by City Council to increase Floor Area Ratio (FAR) in the Telegraph Commercial District between Dwight and Bancroft	Council member	City Council District 7	Kriss Worthington		2016-05-27 17:00:00	PLANNING & DEVELOPMENT	Completed	2016-05-30 08:00:00	2016-06-28 00:00:00	
		Google Translate Bar							Information Technology	Completed	2016-06-01 00:00:00	2016-06-01 00:00:00	
2015-12-15	35	Amending Open Government Ordinance to Allow Submission of Revised/Supplemental Items	Refer to the City Manager and City Attorney to draft an ordinance amending Berkeley Municipal Code Section 2.06.070.E (Open Government Ordinance) to allow the submission of revised or supplemental agenda material for the Supplemental Communications Packet 2. The revised or supplemental material must be submitted no later than 12 noon the day of the City Council meeting at which the item is to be considered. The online version of the City Council agenda shall also contain a link to such items. If revised agenda material is submitted by this deadline, it would not require a two-thirds vote of the Council to accept the material.	Council member		Jesse Arreguin, Susan Wengraf, Lori Droste		2016-06-10 17:00:00	City Clerk	Completed	2016-06-10 17:00:00		

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2015-12-15	54	Referral to City Manager: Establishment of Affordable Housing Small Sites Program Revised Version	Refer to the City Manager to: 1. Look into the feasibility of creating a Small Sites Program to allow non-profits to purchase small multi-family buildings (5-25 units) to create and preserve affordable housing, with an emphasis on properties with a high potential for conversion to cooperative homeownership. 2. Develop an inventory of City-owned land and other land owned by public agencies in the City of Berkeley which could potentially be used to create below-market rate housing.	Council member		Jesse Arreguin		2016-06-10 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2016-06-13 08:00:00	2016-12-13 00:00:00	<a href="#">2019-02-05 16:47:39 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments 2 is completed. 1 was later prioritized long term as top priority of Council's housing action plan. Plan outline complete and will bring before HAC in July 2018.
2015-12-15	30	Provide Cost Estimates to Restore the Berkeley Pier	Refer to the City Manager to determine the cost to make the appropriate repairs so that it will be safe for public use.	Council member	City Council District 2			2016-06-10 17:00:00	CITY MANAGER'S OFFICE	Completed	2016-06-13 08:00:00	2017-03-14 00:00:00	
2016-01-19	24	Tenant Buyout Agreement Ordinance	Refer to the City Manager and the Rent Stabilization Board to draft an ordinance regulating situations where a tenant agrees to vacate a rent-controlled unit in exchange for a sum of money, known as a buyout.	Council member		Jesse Arreguin		2016-07-15 17:00:00	CITY MANAGER'S OFFICE	Completed	2016-07-18 08:00:00	2016-03-31 00:00:00	
2016-02-09	15	Budget Referral: Including BigBelly Solar Compactor Bins Allocation in the 2016 Mid-Year Budget Process	Refer to the 2016 Mid-year budget process the purchasing of BigBelly Solar Compactor Bins in order to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.	Council member		Kriss Worthington, Lori Droste		2016-08-05 17:00:00	Public Works	Completed	2016-08-08 08:00:00	2018-07-24 00:00:00	<a href="#">2019-02-05 16:51:37 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments 6/2018 RFPs received; 2 solar compactors to be issued contracts.
2016-02-09	26	Develop a Provision for the Landmarks Preservation Ordinance to Allow for the De-designation of a Landmark Designation for a Building that has been Legally Demolished (Continued from January 12, 2016)	Refer to the City Manager to develop a provision for the Landmarks Preservation Ordinance (LPO) that would allow a landmark designation to be de-designated for a building that has been previously landmarked but subsequently has been legally demolished.	Council member				2016-08-05 17:00:00	CITY MANAGER'S OFFICE	Completed	2016-08-08 08:00:00	2016-05-10 00:00:00	
2016-03-15	6	Prioritize Installation of Bicycle Lane on Fulton Street	Direct the City Manager and Transportation staff to prioritize and expedite the installation of a bicycle lane on Fulton Street between Bancroft Way and Channing Way.	Council member		Jesse Arreguin		2016-09-09 17:00:00	Public Works	Completed	2016-09-12 08:00:00	2016-05-10 00:00:00	
2016-04-05	10	Modify the Proposed Early Mitigation Fee Discount and Preserve Revenue Towards Units At Or Below 50% AMI and Add Sunset Clause (Continued from February 23, 2016)	That the City of Berkeley amend Council Item 10a to remove the option of paying a substantially-reduced mitigation fee at the issuance of a permit, and to preserve revenue from the mitigation fees to maintain or increase the funds designated towards units for incomes at or below 50% AMI, and add a sunset clause.	Council member		Kriss Worthington		2016-09-30 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2016-10-03 08:00:00	2016-07-19 00:00:00	
2016-04-26	31	Creation of 311 Mobile Application	Refer to the City Manager to create a mobile application for the 311 system and improve the 311 Online Service Center.	Council member		Jesse Arreguin		2016-10-24 08:00:00	Information Technology	Completed	2016-10-24 08:00:00	2016-11-15 00:00:00	
2016-05-10	21	Resolutions Consenting to Inclusion of the City of Berkeley Properties in the California Home Finance Authority PACE Programs and Associate Membership in California Home Finance Authority	ABAG has a new report and the City Council has voted twice in favor; thus, the City of Berkeley should approve and sign an agreement for collaborative services for Property Assessed Clean Energy Financing (PACE) marketplace. Also, that the City of Berkeley approve and sign acknowledgement addendum of RCSA, as executed between ABAG and RPPs.	Council member		Kriss Worthington		2016-11-04 17:00:00	City Attorney	Completed	2016-11-07 08:00:00	2016-09-20 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2016-05-31	22	City Manager Referral: Consider Adding Energy Efficient Equity as an Additional Property Assessed Clean Energy Program	Refer to the City Manager to consider adding Energy Efficient Equity as an additional property assessed clean energy program.	Council member		Kriss Worthington		2016-11-25 17:00:00	PLANNING & DEVELOPMENT	Completed	2016-11-28 08:00:00	2016-09-20 00:00:00	
2016-05-31	20	Requesting a Comprehensive Report on the State of Homeless Services within the City of Berkeley	Request the City Manager direct staff to prepare a report outlining the details of City funded homeless services. The purpose of this report is to help Council and the community understand the various factors related to the allocation of resources to address homelessness within the City. Once the report is complete, it is requested that city staff schedule a worksession to go over the findings.	Council member	City Council District 5			2016-11-25 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2016-11-28 08:00:00	2016-11-01 00:00:00	
2016-06-28	47	City Manager Referral: Feasibility of Acquiring a High-Capacity Scanner for Multiple City Departments	Refer to the City Manager to consider investing in a high-capacity scanner to digitize City records for the Council and multiple City departments.	Council member		Kriss Worthington		2016-12-26 08:00:00	Information Technology	Completed	2016-12-26 08:00:00	2017-12-12 00:00:00	
2016-07-12	27	Refer to City Manager to Consider Applying for \$100,000 from the Better Together Resilient Communities Grant Program	That the City Manager consider applying for the \$100,000 grant that PG&E's Better Together Resilient Communities grant program will offer in the beginning of 2017.	Council member		Kriss Worthington		2017-01-06 17:00:00	PLANNING & DEVELOPMENT	Completed	2017-01-09 08:00:00	2016-12-31 00:00:00	
2016-07-19	41	Companion Report: Amend Berkeley Municipal Code Creating Community Health Commission	Refer to staff to write an ordinance based on the Community Health Commission (CHC) recommendation with the changes suggested by staff.				MAYOR AND COUNCIL	2017-01-13 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2017-01-16 08:00:00	2016-11-29 00:00:00	
2016-09-20	32	City Manager Referral: Implementing BigBelly Solar Compactor Bins	Refer to the City Manager to examine the feasibility of procuring BigBelly Solar Compactor Bins to save money, meet zero waste goals, and reduce Berkeley's greenhouse gas emissions.	Council member		Kriss Worthington, Lori Droste		2017-03-17 17:00:00	Public Works	Completed	2017-03-20 08:00:00	2018-07-24 00:00:00	2019-02-05 17:04:44 - Melissa McDonough (sys_user.do?sysparm_view=ftl&sysparm_query=user_name=MMcDonough) Additional comments 6/2018 RFPs received; 2 solar compactors to be issued contracts.
2016-09-20	22	Amending Council Rules Regarding Removal of Commissioners	Direct staff to return with a policy recommendation consistent with the recommendations in this report, i.e., noting that as a matter of courtesy and respect, Councilmembers are expected to set the date a commissioner is to be replaced on a commission and communicate that date to the commissioner not less than two weeks from the official date of replacement.	Council member			Commission	2017-03-17 17:00:00	City Clerk	Completed	2017-03-20 08:00:00	2018-06-12 00:00:00	2019-02-05 17:02:37 - Melissa McDonough (sys_user.do?sysparm_view=ftl&sysparm_query=user_name=MMcDonough) Additional comments Incorporating changes from City Council.
2016-09-20	21	City Manager Referral: Consider the Four Recommendations Contained in the Alameda County Grand Jury Report (Continued from July 19, 2016)	Refer to the City Manager to consider the four recommendations in response to the Alameda County Grand Jury Report recommendations.	Council member		Kriss Worthington		2017-03-20 08:00:00	Information Technology	Completed	2017-03-20 08:00:00	2016-10-20 00:00:00	
2016-10-18	25	Improved Emergency Notification System Amendments to BMC 23C.23.050 to Allow a Third Option to Satisfy the Private Percent for Art Requirements	Request the City Manager draft an ordinance for Council adoption to revise BMC 23C.23.050, the One-Percent for Public Art on Private Projects Ordinance, to do the following: 1. Have 5% of the 1% requirement go directly to administration of the Public Art in Private Development program regardless of how the developer decides to satisfy the requirement;	Council member				2017-04-14 17:00:00	Office of Economic Development	Completed	2017-04-17 08:00:00	2017-06-05 00:00:00 2017-01-24 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2016-10-18	41	City Plan for Emergency Shelter During Winter Season	Refer the following actions to the City Manager to consider in developing a plan for emergency shelter/services during the upcoming winter season. These actions will help implement Resolution No. 67,357-N.S. "Declaring a Homeless Shelter Crisis in Berkeley": 1. Allow full use of the Multi-Agency Service Center (MASC) at 1931 Center Street as a Warming Center. Direct the City Manager to study the feasibility of using the West Berkeley Senior Center as a day-time Warming Center or evening shelter. Engage in discussions with Dorothy Day House about a day-time respite center. 2. Direct staff to develop a winter shelter services program for Fall 2016-Spring 2017 with funding to increase warming centers and emergency shelter. 3. Direct staff to work with service providers and faith-based organizations who have capacity, to add shelter beds during the year. 4. Direct that all bathrooms in City-owned buildings be available to homeless people for use at the City Manager's discretion. 5. Prioritize people on the street for Housing First funds who are in frail health, disabled, or with special needs and have a source of income. Direct the City Manager to create a list of city-owned properties that could be used for a Tiny House development for the homeless, a successful and growing model for dense urban regions.	Council member		Jesse Arreguin		2017-04-14 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2017-04-17 08:00:00	2017-06-27 00:00:00	
2016-10-18	26	Revisions to the Public Art in Private Development Program	Request the City Manager draft a resolution to revise the Public Art in Private Development Program Guide to provide the Civic Arts Commission guidance and more flexibility in the use of the Cultural Trust Fund with the language suggested in the report.	Council member				2017-04-14 17:00:00	Office of Economic Development	Completed	2017-04-17 08:00:00	2016-12-13 00:00:00	
2016-11-01	15	City Manager Referral: Increasing Transparency in City Public Record Act Responses	Approved revised recommendation to request a report from the City Manager on how the City is using the permitted exemptions in compliance with the Public Records Act.	Council member		Kriss Worthington		2017-04-28 17:00:00	City Attorney	Completed	2017-05-01 08:00:00	2016-12-13 00:00:00	
2016-12-13	29	Ordinance for Standards for Testing and Certification of DAS Antennas	Request that the City Manager draft ordinance language to amend Section 16.10.100 of the Berkeley Municipal Code to include Standards for Testing and Certification of DAS Antennas and return to the City Council within 60 days.	Council member		Susan Wengraf		2017-06-09 17:00:00	City Attorney	Completed	2017-06-12 08:00:00	2017-03-28 00:00:00	
2017-01-24	38	Berkeley Mothers Initiative	Request that the City Manager ensure that all City buildings provide and maintain at least one private place reasonably close to an employee's workspace for breastfeeding mothers to pump.	Councilmembers		Lori Droste		2017-07-21 17:00:00	CITY MANAGER'S OFFICE	Completed	2017-07-24 08:00:00	2017-07-01 00:00:00	
2017-01-24	37	Berkeley BABIES Initiative	Request that the City Manager create a provision and enforcement mechanism to ensure that all publically-accessible City buildings install and maintain at least one baby diaper-changing accommodation that is accessible in both men and women's restrooms or a single diaper-changing accommodation that is accessible to all genders. In addition, request that the City Manager provide recommendations to mandate all businesses to provide changing stations in either women's and men's restrooms or gender-neutral restrooms.	Councilmembers				2017-07-24 08:00:00	CITY MANAGER'S OFFICE	Completed	2017-07-24 08:00:00	2017-07-01 00:00:00	
2017-01-31	10	Medical Cannabis Ordinance Revisions and Cultivation Application Process	Request that the City Manager provide Council with analysis of the questions presented by Councilmember Sophie Hahn.	Council member				2017-07-28 17:00:00	PLANNING & DEVELOPMENT	Completed	2017-07-31 08:00:00	2017-11-07 00:00:00	
2017-02-14	11	Updated Information Report on Measure M	Request that the City Manager return to the City Council in April with an Information Report on Measure M implementation, expenditures, projected expenses and plans.	Council member				2017-08-11 17:00:00	Public Works	Completed	2017-08-14 08:00:00	2017-05-02 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2017-03-28	33	Referral Response: Cigarette Butt Pollution Prevention	REFER to the City Manager to enact a pilot program in downtown Berkeley with the goal of greatly reducing cigarette butt litter that accumulates on sidewalks and curbsides, in a central location. This pilot program would: a) Place a total of four receptacles for cigarette butt disposal in front of three adult schools and a bus stop where smoking behavior continues despite its prohibition. The receptacles are to be placed in front of: i. Berkeley City College, 2050 Center Street; ii. Language Studies International on 2015 Center Street; iii. Kaplan International, Berkeley, 150 Berkeley Square; and iv. a selected major bus stop in the vicinity of an entrance to the Downtown Berkeley BART station; and b) Exhibit graphics on the receptacles to remind and inform the public that tobacco litter is hazardous to the health of the Bay; and c) Enter into a partnering agreement with the Downtown Berkeley Association (DBA) for upkeep of the receptacles for the duration of the one-year pilot program, including sending collected butts to the company for recycling; and d) TerraCycle® will track the weight of butts received, and share the data with the City of Berkeley and CEAC commissioners to help track and assess the success of the pilot program; and e) Identify funding sources to expand the pilot program if successful at the end of the one year trial.	Commission			Community Environmental Advisory Commission	2017-09-22 17:00:00	Office of Economic Development	Completed	2017-09-25 08:00:00	2017-05-30 00:00:00	
2017-03-28	22	Security Camera Database	Request that the City Manager return to Council with an update on the referral to create a voluntary database of security cameras in Berkeley. With an increase in crime, residents are anxious to help the Berkeley Police Department solve cases and arrest the perpetrators - amended to include direction that guidelines protect privacy and prevent misuse of camera footage.	Council member				2017-09-25 08:00:00	Police	Completed	2017-09-25 08:00:00	2018-08-15 00:00:00	
2017-07-25	40	Expediting Elements of Previous Council Referral to Study Possible Scenarios of the Loss of Federal Funds	Direct the City Manager to expedite the compilation and delivery of a list of federal funds that the City of Berkeley receives and the programs and facilities supported by such funds.	Council member		Sophie Hahn, Jesse Arreguin, Cheryl Davila, Kate Harrison		2018-01-19 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2017-10-23 00:00:00	2018-12-11 12:22:40	<a href="#">2019-02-05 17:14:03 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> HHCS is updating with the latest single audit findings. Additional comments
2017-05-30	53	Eliminate the Required Affidavits of Residency for Commissioners	Eliminate the requirement for Commissioners to submit Affidavits of Residency when they are appointed, and annually thereafter, in pursuit of saving time and money for the City of Berkeley. Revised Materials - <a href="http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx">http://www.cityofberkeley.info/Clerk/City_Council/2017/05_May/Documents/2017-05-30_Item_53_Eliminate_the_Required_-_Rev.aspx</a>	Council member				2017-11-24 17:00:00	City Clerk	Completed	2017-11-27 08:00:00	2017-09-12 00:00:00	
2017-06-27	32	Housing Inspection and Community Services Manager	Request the City Manager to create and fill the position of Housing Inspection and Community Services Manager.	Council member				2017-12-22 17:00:00	PLANNING & DEVELOPMENT	Completed	2017-12-25 08:00:00	2018-09-13 00:00:00	<a href="#">2019-02-05 17:13:07 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> New position approved by Personnel Board. Will bring to Council for adoption by November which will complete referral. Additional comments
2017-10-03	7	Request for Information Regarding Grant Writing Services from Specialized Grant Writing Firms	Refer to the City Manager to issue a request for information to explore grant writing services from specialized municipal grant-writing firms, and report back to Council.	Council member		Sophie Hahn, Kate Harrison, Cheryl Davila, Ben Bartlett		2018-01-01 17:00:00	Finance	Completed	2018-01-01 17:00:00	2019-09-24 12:41:03	<a href="#">2019-04-12 15:07:44 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Issued #18-11201 Feb. 5, 2018 as an RFI (Request for information); closed March 1, 2018. Received 13 information responses for review. Next Steps: use responses to inform scope of work, then release as RFP. Additional comments
2017-07-25	51	Commercial Cannabis Regulations and Licensing	Refer to the City Manager and Cannabis Commission the proposed local ordinances to establish a licensing process for Commercial Cannabis operations, as permitted under Proposition 64, Adult Use of Marijuana Act. The Council requests that the City Manager and Cannabis Commission report to the City Council on its recommendations on regulations and licensing for commercial cannabis businesses before the end of 2017.	Council member				2018-01-19 17:00:00	PLANNING & DEVELOPMENT	Completed	2018-01-22 08:00:00	2018-09-13 00:00:00	<a href="#">2019-02-05 17:15:33 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Lengthy process involving 3 Commissions and many City departments. Some Ordinance changes will be at Council 9/13/18. But more will be needed. Council Worksession scheduled for 10/9/18, then adoption of more Ordinance changes expected by end of year, which will close this referral. Additional comments



Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2017-09-12	33	Voter Registration Forms in All City Buildings on Their Main Floors	Direct the City Manager to provide voter registration forms on the main floor of all designated city buildings that are open to the public and in all Community based organizations within the city limits. Community based organizations that are funded by the City of Berkeley will be required to pick up the voter registration forms from the City Clerk's Office and that should be clearly stated in their respective contracts.	Council member		Cheryl Davila, Kate Harrison, Sophie Hahn		2018-03-09 17:00:00	City Clerk	Completed	2018-03-12 08:00:00	2017-11-08 00:00:00	
2017-10-03	21	Referral to the City Manager to Provide a Public Master List of the Legislation on which the City Council Has Taken a Position	Request that the City Manager work with the City's lobbyist to create and maintain a master list of the legislation on which the City Council has taken a formal position of support or opposition through passage of an item.	Council member		Kate Harrison, Sophie Hahn, Cheryl Davila		2018-03-30 17:00:00	City Clerk	Completed	2018-04-02 08:00:00	2018-01-23 00:00:00	
2017-10-03	24	Parallel Permitting Process	Request that the City Manager in coordination with the Director of Planning and the Chief Building Official work to establish a voluntary parallel permitting process for applications to construct housing in the City of Berkeley.	Council member		Susan Wengraf, Linda Maio, Lori Droste, Jesse Arreguin		2018-03-30 17:00:00	PLANNING & DEVELOPMENT	Completed	2018-04-02 08:00:00	2017-11-01 00:00:00	<a href="#">2019-02-05 17:23:50 - Melissa McDonough (sys_user.do?sysparm_view=tit&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments This voluntary parallel permitting option already exists. Following October 2017 referral we advised Building staff to be sure to make option known to interested applicants.
2018-01-23	27	Open the West Campus Pool All Year Round and Start the Shower Program at the West Campus Pool	Short Term Referral to City Manager to assess the feasibility to keep the West Campus Pool open all year round and to start COB Shower Program at the West Campus Pool. Keeping the West Campus Pool open all year round will provide equitable swimming options in both North Berkeley and in South/West Berkeley and provide another location available for our community to shower.	Council member		Cheryl Davila, Ben Bartlett		2018-07-20 17:00:00	Parks, Recreation & Waterfront	Completed	2018-04-23 00:00:00	2018-10-16 10:14:13	<a href="#">2019-02-05 17:38:54 - Melissa McDonough (sys_user.do?sysparm_view=tit&amp;sysparm_query=user_name=MMcDonough)</a> Additional comments a) On June 12, 2018, Council received an Off Agenda Memo that identifies the cost to establish a shower program at West Campus Pool. B) In mid-September 2018, Council will receive an Off Agenda Memo that describes the feasibility of keeping West Campus pool open year-round.
2017-10-31	30	Short-Term Referral to the City Manager, a Process for Relocation of a Permitted Cannabis Dispensary	Refer to the City Manager to approve a process for the relocation of Apothecarium, a cannabis dispensary with valid permits.	Council member				2018-04-27 17:00:00	PLANNING & DEVELOPMENT	Completed	2018-04-30 08:00:00	2018-01-23 00:00:00	
2017-12-05	18	City Manager Referral: Prioritizing New Business Before Old Business at City Council Meetings	Prioritize new business before old business at City Council Meetings by: 1. Altering the Council rules of procedure as adopted May 24, 2016 so that new business comes before old business. The reformatted section will read "The agenda for the regular business meetings shall include the following: Ceremonial; Comments from the City Manager; Comments from the Public; Consent Calendar; Action Calendar (Appeals, Public Hearings, Continued Business, New Business, Old Business); Information Reports; and Communication from the Public"; and 2. Granting explicit authorization to Agenda Committee to move new business backwards or forwards at their discretion by amending section III E of the Rules of Procedure.	Council member				2018-06-01 17:00:00	City Clerk	Completed	2018-06-04 08:00:00	2018-01-30 00:00:00	
2018-02-13	17	Referral to the City Manager to Submit a Filing to the CPUC Recommending Adjusting Electric Rule 20 to Better Serve the City of Berkeley and Other Communities with Very High Fire Hazard Severity Zones	A referral to the City Manager to submit a filing with the California Public Utilities Commission (CPUC) concerning the CPUC's current review of Electric Rule 20. The CPUC is considering, among other things, how the existing program is administered by the various utility companies operating in California and the definition of what projects are to be included in the public interest.	Council member		Susan Wengraf, Sophie Hahn, Jesse Arreguin, Lori Droste		2018-08-10 17:00:00	Public Works	Completed	2018-08-10 17:00:00		

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-02-13	26	Referral to the City Manager on Gender Options of the General Application for City Boards and Commissions	Refer to the City Manager to add a nonbinary gender option on the General Application for appointment to Berkeley boards and commissions.	Council member		Lori Droste, Linda Maio, Susan Wengraf, Worthington		2018-08-10 17:00:00	City Clerk	Completed	2018-08-13 08:00:00	2018-03-01 00:00:00	
2018-02-27	22	Wildland Urban Interface Fire Safety and Fire Safety Education	Commission Referral #5 revised to read: 5. Refer to the Planning Commission to consider Accessory Dwelling Units (ADUs) in the Very High Hazard Fire Zone to review public safety issues especially relevant to the risk of WUI fires. Amend Section 23D.10 to incorporate greater public safety considerations to be met before issuing an Administrative Use Permit (AUP);		City Council and Mayor			2018-08-24 17:00:00	FIRE & EMERGENCY SERVICES	Completed	2018-08-24 17:00:00		
2018-03-13	17	Referral to the Arts Commission and the City Manager: Cost Estimate and Plan for Installation of Sculpture Lighting into Adjacent Street Lights for the William Byron Rumford Statue on Sacramento and Julia St	Refer to the City Manager a request to develop a cost estimate and an installation plan for installing sculpture lighting into adjacent street lights for the William Byron Rumford statue on Sacramento and Julia Street. Refer the cost estimate and plan to the Arts Commission.	Council member				2018-09-07 17:00:00	Public Works	Completed	2018-09-07 17:00:00		
2018-01-30	14	Direction and Referral to the City Manager Regarding "Premier Cru" Property	3. The Berkeley Way Affordable Housing Project is the City's top affordable housing priority. Premier Cru, as a City property, to be developed for affordable housing falls under the "High Priority" on the list of housing initiatives passed by Council on November 28, 2017. In light of the above, refer to the City Manager to take the following actions to move Premier Cru forward as a High Priority initiative: a. Based on recommendations from Health, Housing and Community Services and other Departments, the Housing Advisory Commission, and on consultation with local affordable housing providers, and taking into consideration requirements and restrictions associated with potential funding sources, create a recommendation or recommendations to Council regarding levels of affordability, unit sizes, on-site services and other features to be included in the proposed project or projects. b. Based on the above analyses and recommendations, and on Council direction, develop and issue an RFQ or RFP to affordable housing developers for proposals to develop affordable housing at the site.	Council member		Sophie Hahn, Jesse Arreguin, Linda Maio, Kate Harrison		2018-09-07 17:00:00	PLANNING & DEVELOPMENT	Completed	2018-09-10 08:00:00	2018-05-29 00:00:00	
2017-12-19	41	Companion Report: Public Works Commission Recommendation for the Five-Year Paving Plan	Adopt a Resolution updating the City's Five-Year Street Rehabilitation Plan for FY 2018 to FY 2022. The City Council may consider the information put forth by the Public Works Commission relevant to adoption of the recommended plan.					2018-09-21 17:00:00	Public Works	Completed	2018-09-24 08:00:00	2018-07-24 00:00:00	
2017-12-05	24	Ordinance Amending the Berkeley Municipal Code to Establish Ability to Pay Provisions Regarding Parking Fines and Fees in Accordance with Guidelines Established in Assembly Bill 503	to refer the item as written in Supplemental Reports Packet #2 to the City Manager to conduct an analysis of the item, including a review of current indigency procedures and coordination with similar efforts in the City of Oakland, and report back to the Council in 90 days.	Council member			Transportation Commission	2018-09-28 17:00:00	Finance	Completed	2018-09-28 17:00:00	2018-07-02 00:00:00	
2018-04-24	17	Refer the Housing Advisory Commissions Questions on the Smoke-Free Residential Housing Ordinance to Staff and Berkeley Considers	The Housing Advisory Commission respectfully requests that the Council direct the City Manager to assist the HAC in its review of the Smoke-Free Residential Housing Ordinance, a regulation of tobacco use, as follows: 1. By responding to the HAC's questions enumerated in the report with any readily available responsive information. 2. By facilitating the conduct of a "Berkeley Considers" questionnaire about the Smoke-Free Residential Housing Ordinance, questions for which are proposed in the report.	Commission				2018-10-19 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2018-10-19 17:00:00	2019-03-17 14:41:36	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2017-07-25	10	Authorizing City Manager Approval for Community Development Block Grant (CDBG) Community Facility Improvement Contracts Under \$200,000; Amending BMC Chapter 7.18	Adopt first reading of an Ordinance, by two-thirds vote of the Council, amending Chapter 7.18 of the Berkeley Municipal Code to authorize the City Manager to enter into and amend contracts of up to \$200,000 with applicants recommended for funding by staff and the Housing Advisory Commission under the City's Community Development Block Grant (CDBG) program for community facility improvements.					2018-10-19 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2018-10-22 08:00:00	2018-04-24 00:00:00	
2018-07-31	10	Direction to the City Manager Regarding the Community Service In Lieu of Parking Penalties Program	Direct the City Manager to amend the eligibility requirements of the Community Service In Lieu of Parking Penalties Program in order to allow all indigent individuals to be eligible to participate in the program (regardless of the registration status of a potential participant's vehicle).	Council member		Ben Bartlett, Cheryl Davila, Kate Harrison, Sophie Hahn		2018-10-29 17:00:00	Public Works	Completed	2018-10-29 17:00:00	2019-01-19 15:21:35	<p><a href="#">2019-08-27 15:23:33 - Nancy Melendez (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=nmelendez)</a></p> <p>FJ/DP: Aside from the fact that Public Works is not actually involved in citations or citation payment plans or alternatives, this program exists and the FAQ at the link below was updated January 2019.  <a href="https://www.cityofberkeley.info/uploadedFiles/City_Manager/Level_3_-_General/COMMUNITY%20SERVICE.pdf">https://www.cityofberkeley.info/uploadedFiles/City_Manager/Level_3_-_General/COMMUNITY%20SERVICE.pdf</a></p>
2018-05-15	23	Transgender Health Access Training at City of Berkeley Clinics	Adopt a Resolution providing \$2,400 from the General Fund to support a half-day Transgender Health Access Training for City of Berkeley Public Health staff in June 2018.	Commission				2018-11-09 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2018-11-10 17:00:00	2019-02-04 10:22:57	<p><a href="#">2019-02-05 15:38:44 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a></p> <p>Because this is a multidepartmental task assigned to Public Works, involving Finance and City Attorney, and administered by the City of Oakland, the completion date is unclear.</p>
2018-05-29	14	Budget Referral: Increasing Safety at San Pablo Park  Implementation of Secure Storage Program	Request the City Manager perform traffic assessments to gather data and refer any needed improvements to the FY 2020 – FY 2021 budget process.  1. Direct the City Manager to expedite implementation of two publicly available, secure storage facilities to accommodate as many individuals as possible, based on the parameters set in staff's March 2, 2018 RFI: Downtown Homeless Storage Pilot - Staffing and Operations and on additional parameters outlined in Program Details, below. 2. Direct the City Manager to publicize the locations, hours, and rules applicable to new storage facilities through normal outreach channels (website, press release, etc.) and through direct outreach to homeless individuals by the City, community organizations (CBOs) and other partners such as the Downtown Berkeley Association and Telegraph Avenue BID. 3. Refer \$100,000 to the budget process; an added \$25,000 for the downtown storage location and \$75,000 for storage in West Berkeley.	Councilmembers		Cheryl Davila		2018-11-13 17:00:00	Public Works	Completed	2018-11-13 17:00:00	2019-05-16 00:00:00	
2018-05-29	14	Implementation of Secure Storage Program	Request the City Manager perform traffic assessments to gather data and refer any needed improvements to the FY 2020 – FY 2021 budget process.  1. Direct the City Manager to expedite implementation of two publicly available, secure storage facilities to accommodate as many individuals as possible, based on the parameters set in staff's March 2, 2018 RFI: Downtown Homeless Storage Pilot - Staffing and Operations and on additional parameters outlined in Program Details, below. 2. Direct the City Manager to publicize the locations, hours, and rules applicable to new storage facilities through normal outreach channels (website, press release, etc.) and through direct outreach to homeless individuals by the City, community organizations (CBOs) and other partners such as the Downtown Berkeley Association and Telegraph Avenue BID. 3. Refer \$100,000 to the budget process; an added \$25,000 for the downtown storage location and \$75,000 for storage in West Berkeley.	Council member				2018-11-23 17:00:00	HEALTH, HSG & COMMUNITY SVC	Completed	2018-11-26 08:00:00	2018-07-24 00:00:00	<p><a href="#">2019-04-15 10:25:13 - Laura Schroeder (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=LSchroeder)</a></p> <p>On February 4, 2019 staff from public health and mental health attended a training on Transgender Access to Public Health</p>

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-12-11	23	Short-term referral to City Attorney and Health Housing and Community Service to amend Berkeley Municipal Code 7,441-N.S. to expand the control of flavored tobacco across the City of Berkeley toward preventing youth and young adult tobacco use	Short-term referral to City Manager to amend Berkeley Municipal Code 7,441-N.S. according to the changes made in the attached amended ordinance to prohibit the sale of flavored tobacco products and require a minimum package size for cigars and little cigars across the City of Berkeley. The primary purpose of the amendment to the ordinance is to do more to prevent youth and young adult tobacco use.	Councilmembers		Cheryl Davila		2018-12-11 17:00:00	City Attorney	Completed	2018-12-11 17:00:00	2019-09-10 13:15:43	
2018-09-13	31	Short-Term Referral to City Manager re: Emergency Standby Officers Qualifications	Referral to the City Manager to consider the following suggestions for requirements and qualifications for Emergency Standby Officers and return to Council within 90 days with recommendations. Possible requirements may include: -Trainings in roles and responsibilities to serve as a standby officer possibly including: ethics and workplace harassment. -City government experience. -Council District residency. -Require standby officers to meet the same qualifications, including restrictions on conflict of interest, as required in the City Charter for City Councilmembers. -In addition, consider requiring Councilmembers to nominate three people in a single action.	Council member		Susan Wengraf, Jesse Arreguin, Sophie Hahn		2018-12-11 17:00:00	City Clerk	Completed	2018-12-11 17:00:00	2019-05-02 12:02:38	<b>2019-02-05 15:21:26 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</b> Ongoing discussion with City Attorney regarding potential criteria
2018-07-10	17	Referral to City Manager to Consolidate all City Commission Workplans in One Place for Easy Access for Staff, the Public, and Elected Officials	Make a referral to the City Manager to consolidate all City Commission Workplans in one place for easy (electronic) access for staff, the public, and elected officials.	Council member				2019-01-04 17:00:00	City Clerk	Completed	2019-01-07 08:00:00	2018-09-13 00:00:00	
2018-10-30	20	Proposed Portland Loo Installations in Telegraph Commercial District	Short-Term Referral to the City Manager to identify costs for the installation of a "Portland Loo" type of bathroom facility in Telegraph Commercial District. Costs should be comprehensive and include, but not be limited to: the facility, infrastructure, design, construction, oversight and any contingencies.	Councilmembers		Jesse Arreguin, Sophie Hahn		2019-01-31 17:00:00	Public Works	Completed	2019-01-31 17:00:00	2019-02-27 00:00:00	
2018-11-13	23	Clarifying Jurisdiction of Ohlone Greenway	Refer to the City Manager to review the recommendation to place the Ohlone Greenway under park rules and policies with the intent of revising the BMC to include the Ohlone Greenway as open space and enforce park-like rules.	Councilmembers		Linda Maio, Sophie Hahn, Kate Harrison		2019-02-13 17:00:00	City Attorney	Completed	2019-02-13 17:00:00	2019-09-17 10:57:38	<b>2019-09-17 10:57:27 - Christopher Jensen (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=CJensen)</b> Referral response complete; Public Works is providing assistance on right-of-way issues.
2017-05-02	27	Berkeley Bicycle Plan 2018	Adopt a Resolution approving the Berkeley Bicycle Plan 2017, and directing the City Manager to pursue implementation of the Plan as funding and staffing permit.  4. Develop, implement and coordinate drills for active shooter and other emergency protocol at San Pablo Park: Create protocol with input from community partners, then orient licensed daycare providers, coaches, trainers and program staff who operate out of the park, and conduct drills with City staff operating the Center and providers in order to prepare for emergencies and how to use the Center as a shelter during or following them.					2019-02-15 17:00:00	Public Works	Completed	2019-02-15 17:00:00		
2018-11-13	24	Budget Referral: Increasing Safety at San Pablo Park	Refer to the City Manager consideration of applying for CPUC interconnection applications.	Councilmembers		Cheryl Davila		2019-03-01 17:00:00	Police	Completed	2019-03-01 17:00:00	2019-03-30 15:34:27	<b>2019-04-24 15:35:06 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</b> Training class conducted March 30
2017-12-05	17	City Manager Referral: Consider CPUC Interconnection Applications	Refer to the City Manager consideration of applying for CPUC interconnection applications.	Council member				2019-03-04 16:00:00	Public Works	Completed	2019-03-04 16:00:00	2018-04-04 00:00:00	368

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-09-13	18	Adopt a Resolution in Support of Appropriate City Enforcement Measures to Mitigate Damages Resulting from the Removal of Trees at 1698 University Avenue	Amended to be a referral to the City Manager regarding enforcement of measures to mitigate damage to the general welfare of the City and neighborhood resulting from the damage and subsequently-required removal of trees at 1698 University Avenue.	Council member		Kate Harrison		2019-03-11 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-03-11 16:00:00	2018-10-01 15:56:16	
2018-09-25	22	Safe storage of firearms - Revised materials (Supp 2)	Refer to the City Manager to review draft Safe Storage of Firearms ordinance, identify and resolve issues, and return to Council within 90 days.	Council member		Susan Wengraf, Sophie Hahn		2019-03-22 17:00:00	City Attorney	Completed	2019-03-23 16:00:00	2018-12-24 16:21:16	
2018-10-02		Lobbyists Registration and Regulation Ordinance; Amendments to Existing Revolving Door Ordinance	Request an analysis from the City Manager before the November budget discussion on the administrative impacts and cost to implement the lobbyist ordinance.	Council member		MAYOR AND COUNCIL		2019-03-29 17:00:00	City Attorney	Completed	2019-03-30 16:00:00	2019-01-22 12:32:26	
2018-10-02	9	Amend BMC Chapters 6.24 and 14.52 to Authorize Paid Parking on Shattuck Avenue between Carleton Street and Ward Street and add the Northside (Euclid/Hearst) Metered Parking Area to the goBerkeley Program; and Authorize Paid Parking at the City-Owned Adeline/Alcatraz Parking Lot	Request staff to perform an analysis of the parking in the Northside area during the academic year to be completed within six months.	Council member		MAYOR AND COUNCIL		2019-04-02 17:00:00	Public Works	Completed	2019-04-02 17:00:00	2019-08-01 15:29:17	<a href="#">2019-08-27 15:29:52 - Nancy Melendez (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=NMelendez)</a> GH: Staff conducted an analysis of the parking in the Northside area in spring 2019, roughly six months after goBerkeley price and time limits went into effect on November 1, 2018. As summarized in the June 25, 2019 Information Report submitted to Council, the data showed that goBerkeley changes are working as intended to increase parking availability in the area. Two minor adjustments to prices and time limits in "Value" zones went into effect August 1, 2019
2018-10-30	35	City Manager referral: Initiate a franchise agreement with FlixBus	That the Council refer to the City Manager initiation of a franchise agreement with FlixBus, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, and providing a procedure for the assessment and collection of administrative penalties for permit violations.	Councilmembers		Kriss Worthington		2018-10-30 17:00:00	Public Works	Completed	2019-05-01 11:39:27	2019-05-23 00:00:00	<a href="#">2019-04-23 11:49:56 - Mark Numainville (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MNumainville)</a> Resolution of Intent adopted on 3/26/19; Public Hearing set for 4/30/19
2018-10-16	25	Welcome to Berkeley Signage	Refer to the City Manager on a short term basis to replace all the Welcome to Berkeley signs with the Option B design per the Transportation Commission recommendation, including "Ohlone Territory" but not a second motto. Also, leave space on the sign to add a policy message and consult with Ohlone leaders on the use of the word "territory."	Councilmembers	City Council District 2	Cheryl Davila		2018-10-16 17:00:00	Public Works	Completed	2019-05-03 12:00:00	2019-02-07 00:00:00	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2019-02-19	21	Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation	1) Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019. 2) Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report. 3) Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12. 4) The Planning Commission is to consider the following language from the item submitted at the meeting: It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.	Councilmembers			2019-05-21 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-05-21 17:00:00	2019-06-11 09:40:07	<p>2019-04-15 09:44:51 - <a href="#">James Bondi (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=JBondi)</a> Scheduled for Council 4/30/19.</p> <p>2019-04-12 16:04:35 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> May be done at Council 4/30/19, pending recommendation from Planning Commission (special Public Hearing 4/3/19).</p>
2019-02-19	9	Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue	Short-Term Referral to the City Manager to develop ordinance amendments permitting up to three cannabis events per year in the first year in the City of Berkeley and designating Cesar Chavez Park as the sole approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1. reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2. specify procedures for such events that replicate similar alcohol related event protocols. The City Council will revisit the provisions of the ordinance following the first year of implementation.	Councilmembers			2019-05-21 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-05-22 00:00:00	2019-04-15 09:54:32	<p>2019-04-15 09:54:26 - <a href="#">James Bondi (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=JBondi)</a> Council considered and opted not to adopt policy, 4/2/19.</p> <p>2019-04-12 16:02:31 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Pending Council adoption of Cannabis Ordinance revisions scheduled for April 2 (second reading April 23).</p>
2017-07-25	37	Reviewing the GIG Car Share Pilot Program	Refer to the City Manager and Transportation Department a review of the concerns, emerging regarding some features of the recently implemented GIG Car Share pilot program, request adjustments before the two-year pilot program from staff.	Council member			2019-05-28 17:00:00	Public Works	Completed	2019-05-28 17:00:00	2019-05-28 11:39:27	<p>2019-02-05 15:16:47 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> The program evaluation will be conducted in early 2019 and an action report prepared for Council to continue, modify, or discontinue the pilot.</p>
2019-03-26	23	Referral to City Manager to Scope Process and Estimate Cost of New General Plan	Referral to the City Manager to return to City Council with an outline of the process for creating a new City of Berkeley General Plan. The cost for the first two years of work will be included in the report for consideration during the upcoming 2020-2021 Budget Process.	Councilmembers			2019-06-21 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-06-21 17:00:00	2019-06-12 09:41:11	<p>2019-04-15 09:53:31 - <a href="#">James Bondi (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=JBondi)</a> Scoping has begun. Off-Agenda Memo will provide answers (date TBD)</p>
2018-12-11	26	Referral to the City Manager and Planning Commission to Update the Housing Pipeline Report to Address Timeline between Planning Entitlements and Submission of Building Permit Applications and Consider Reasons for Delay	Referral to the City Manager to include in the Housing Pipeline Report an analysis of the time between planning entitlements and building permit requests for all projects of five units or greater over the past five years. On an ongoing basis, refer to the City Manager and Planning Commission to propose changes to current Planning approval process to address the causes of delays between entitlements and building permits for construction or substantial rehabilitation of five or more dwelling units.	Councilmembers			2018-12-11 17:00:00	PLANNING & DEVELOPMENT	Completed	2019-07-16 16:43:23	2019-07-23 11:40:57	

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-11-13	18	Short-Term Referral to City Manager to Complete Steps Necessary to Establish Lava Mae Services in Berkeley	Short-term referral to the City Manager to coordinate with Fire, Planning and Public Works Department Heads to provide permits, identify locations and allow access to water and disposal hook-ups necessary to bring Lava Mae shower services to Berkeley's homeless populations within 90 days for a 6-8 week pilot. This includes: -Determining locations to set up portable shower; and -Identifying water source for hook ups designated to dispense water for showers, either fire hydrants (preferred) or garden hose spigots; and -Parking permits for shower trailer; and -Identifying sewage manholes designated to pump out/dump gray and black water (H2O) into the sewer system; and -Calendaring a Fire Department inspection to inspect the propane to heat up the H2O on the first day of operation or through a dry run. Starting January 2019, Lava Mae is prepared to bring shower service two days a week to two consistent locations (one day per a location) at no charge to the City of Berkeley or the users of the services. The proposal is to start with an 8-week pilot in two locations to test sites.	Councilmembers		Cheryl Davila, Sophie Hahn		2019-09-10 17:00:00	CITY MANAGER'S OFFICE	Completed	2019-09-10 17:00:00	2019-09-12 08:29:03	<p><a href="#">2019-09-12 08:30:15 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Report on Council agenda. Additional comments</p> <p><a href="#">2019-08-07 15:07:11 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Sites and hook-ups have been established. Additional comments</p>
2017-10-31	17	Expanded Criteria for the Installation of Stop Signs	1. Refer to the Transportation Commission consideration of additional or supplemental stop sign criteria which addresses the needs of vulnerable populations, the presence of bicycle boulevards, and the difficulty of crossing particular intersections. 2. Direct that staff consult with the Bicycle Subcommittee of the Transportation Commission when making decisions impacting bicycle boulevards, whenever possible. 3. Request that the City Manager provide an informational report on the particular state and federal warrants and local policies that prevent stop signs being used as traffic calming measures.	Council member		Kate Harrison, Ben Bartlett, Lori Droste	Transportation Commission	2018-01-29 17:00:00	Public Works	Past Due	2018-01-29 17:00:00		<p><a href="#">2019-09-25 08:55:09 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Commission Recommendation and City Manager Companion report are under review and tentatively scheduled for council approval in Nov 2019 Additional comments</p> <p><a href="#">2019-02-05 16:27:28 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Transportation Commission formed a subcommittee and held first meeting 6/11/18, additional meetings to be planned by subcommittee. Additional comments</p>
2017-07-25		Public Toilet Policy	Refer to the City Manager to develop the following "Neighborhood Public Toilet Policy": Develop a process in which residents can obtain a permit for a neighborhood public toilet via an official petition; Residents should contact the City via 311 to obtain an official petition form to apply for a permit; In order to obtain the permit, the petition should be signed by at least 51% of residential addresses and business owners within the nearest two block radius of the proposed public toilet site; The City shall not fund or contribute to the financing of the public toilets or their maintenance.	Council member				2018-06-29 17:00:00	CITY MANAGER'S OFFICE	Past Due	2018-06-29 17:00:00		<p><a href="#">2019-08-05 09:47:54 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Staff have prepared a memo which will be submitted to Council in Fall 2019. Additional comments</p> <p><a href="#">2019-04-24 15:13:54 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Still on hold as staff attention is on RV, TNC. Additional comments</p> <p><a href="#">2019-04-12 15:41:24 - Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a> Staff transition and priority put on TNC, RV policy, and Safe Clean Streets Additional comments</p>

Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2018-07-10	20	Refer to City Manager to look into adopting an ordinance requiring a permit process for scooter sharing companies to operate on public streets	Refer to the City manager to look into adopting an ordinance establishing a pilot Powered Scooter Share Permit Program for 24 months, requiring a permit issued by the Director of Public Works, establishing a fee for the issuance of the permit, establishing administrative penalties for failure to obtain a permit or violation of permit requirements, providing a procedure for the assessment and collection of administrative penalties for permit violations or parking or leaving standing an unpermitted powered scooter subject to the pilot Powered Scooter Share Permit Program on a sidewalk, street, or other public right-of-way.	Council member		Kriss Worthington, Sophie Hahn	Transportation Commission	2018-11-27 17:00:00	Public Works	Past Due	2018-11-27 17:00:00		<p><b>2019-08-07 11:03:01 - Nancy Melendez (sys_user.do?sysparm_view=tl&amp;sysparm_query=user_name=nmelendez)</b></p> <p>City issued an RFP for Franchise applications due back by 1/25/19. A panel consisting of staff reps from Public Works, Police, 311, Economic Development and UC Berkeley scored the applications. A draft Council report was prepared to recommend the top 3 scorers when staff learned that the City of San Diego was being sued by Disability Rights California over accessibility impacts of permitted scooter sharing operations. City of Berkeley staff is reevaluating the scooter applications with an eye toward requirements informed by the lawsuit. The approval of 3 Scooter Franchises is expected to go to Council in Oct 2019.</p>
2017-12-19	22	Develop Ordinance Prohibiting Companies Participating in the Construction of a Border Wall from Contracting with the City of Berkeley	Direct the City Manager to develop an ordinance prohibiting companies involved in the construction of a border wall from contracting with the City of Berkeley. Return to Council with the proposed ordinance within 90 days.	Council member		Ben Bartlett, Sophie Hahn, Cheryl Davila		2018-07-20 17:00:00	Finance	Pending Not On Schedule	2018-07-20 17:00:00		<p><b>2019-02-05 15:22:21 - Melissa McDonough (sys_user.do?sysparm_view=tl&amp;sysparm_query=user_name=MMcDonough)</b></p> <p>Council adopted tentative terms for franchise agreements on December 4, 2018 based on input from the Transportation Commission and multiple other Commissions and agencies. Transportation staff has solicited proposals from various scooter sharing companies and will return to Council with recommendations for up to 3 service providers and adoption of franchise agreements for each.</p>



Meeting Date	Agenda Item Number	Project Name	Recommendations	Referral by	Referral District	Referral Sponsor	Referral Commission	Original end date	Lead City Department	State	Planned end date	Actual end date	Additional comments
2015-11-17	28	Improve Conditions on Our Community Sidewalks; Amending Berkeley Municipal Code Chapters 13.36 and 14.48	Discuss and refer the following services and ordinances to the City Manager for implementation, and adopt first reading of three Ordinaces: 1. Adding Section 13.36.085 to the Berkeley Municipal Code prohibiting urination and defecation in public places. 2. Amending Sections 14.48.020 and 14.48.170 of the Berkeley Municipal Code regulating use of sidewalks. 3. Adding Section 13.36.040 to the Berkeley Municipal Code prohibiting obstruction of City-owned planters and trees. Additional Services: 1. Create a secure storage facility for personal belongings; bins must be of adequate size, of reasonable number (estimate of 50 – 100 at the outset) and ensure reasonable access, with posted hours. 2. Provide additional bathrooms in the Downtown and Telegraph areas. 3. Provide mobile showers and bathrooms for public use.	Council member		Linda Maio, Lori Droste		2019-02-28 16:00:00	CITY MANAGER'S OFFICE	Pending On Schedule	2019-02-28 16:00:00		<p><b>2019-10-15 14:27:16 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a></b>                      Additional comments                      Staff has prepared an overview of the outcomes from the pilot implementation of the Shared Sidewalk Policy , and anticipates presenting its findings to Council in Fall 2019. The ongoing program is currently in place.</p> <p><b>2019-08-07 14:46:28 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a></b>                      Additional comments                      Storage is done as is mobile showers and expansion of bathrooms, 14.48 re: sidewalks is done.</p> <p><b>2019-04-24 15:08:11 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a></b>                      Additional comments                      Outreach information disseminated to people on streets; another round of personal notification starts 4/16/19 and 3 person team starts 4/23/19.</p> <p><b>2019-04-12 14:20:27 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a></b>                      Additional comments                      Ordinances and AR 10.2 have been updated. Homeless storage program created in October 2018. Enforcement of 10.2 has been launched as of 2/28.</p> <p><b>2019-10-11 11:49:18 - <a href="#">Nancy Melendez (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=nmelendez)</a></b>                      Additional comments                      Status remains the same</p>
2017-03-14	24	Referral to Consider Caregiver Parking in Residential Shared Parking Pilot	Refer to the City Manager and Transportation Commission to consider a pilot program for caregiver parking permits in RPP zones in the goBerkeley Residential Shared Parking Pilot.	Council member				2020-06-12 17:00:00	Public Works	Pending On Schedule	2020-06-12 17:00:00		<p><b>2019-09-25 09:09:40 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a></b>                      Additional comments                      This fall, City staff, with vendor support, will be collecting "existing conditions" data in the Southside and Elmwood pilot areas, including soliciting public input from a range of stakeholders who are parking in these areas. As part of this process, we will assess the need/demand for caregiver parking in the pilot areas.</p> <p><b>2019-04-12 14:22:07 - <a href="#">Melissa McDonough (sys_user.do?sysparm_view=ftl&amp;sysparm_query=user_name=MMcDonough)</a></b>                      Additional comments                      Ongoing, part of 3-year pilot project (Spring 2018); staff will work with consultants to collect data to determine the various needs and constraints of all residential parking users, including those with childcare needs; subsequent policy proposals will balance these needs.Contract for outreach consultant has been executed and work is starting in 2019.</p>





Office of the City Manager

INFORMATION CALENDAR

November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Public Works

Subject: goBerkeley Program Update – Fall 2019

INTRODUCTION

goBerkeley is a baseline program comprising parking management strategies and projects that support economic vitality and reduce greenhouse gas emissions in the City of Berkeley. This report provides an update on current and future goBerkeley activities and initiatives.

CURRENT SITUATION AND ITS EFFECTS

Operationally, goBerkeley's primary tool is demand-responsive parking pricing. Staff periodically analyze parking activity to verify that there are at least 1-2 open spaces (or 65-85% occupied) on most block faces<sup>1</sup> in an area. If this target is reached, then no price adjustments are needed. If blocks are too full, then prices need to be increased; if blocks are too empty, then prices need to be lowered. As a secondary tool, time limits are used to reinforce turnover in some areas or entice a shift of demand to areas with longer time limits.

As of fall 2019, goBerkeley activities include continuing to evaluate the need for adjustments in current Program areas, expanding the demand-responsive parking program to other commercial districts, and evaluating evening and special event pricing to address high parking demand after 6 p.m.

**Managing goBerkeley in Existing Areas**

goBerkeley currently manages public parking resources in the Downtown Berkeley, Southside/Telegraph, Northside (Euclid/Hearst), and Elmwood commercial districts, including three City-owned parking garages and two off-street parking lots. The expansion to Northside in fall 2018 was the first since the program's inception in 2013.

Staff collected parking occupancy data in the four existing goBerkeley areas in fall 2019 and have developed recommendations for price and time limit adjustments for the December 10, 2019 Council Meeting. These adjustments would go into effect February 1, 2020.

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<sup>1</sup> Block face - one side of one block, e.g., the north side of Center Street between Milvia Street and Shattuck Avenue.

**Expanding Demand-Responsive Parking Management**

As of September 2019, staff are working on two expansions of goBerkeley. The first is to the North Shattuck area, planned for December 1, 2019. A pair of Council Reports to authorize this expansion is scheduled for the October 29, 2019 meeting. The second, to Fourth Street and the University/San Pablo commercial areas, is planned for spring 2020. Each expansion effort includes an analysis of parking occupancy rates to determine where price adjustments may be needed, coupled with in-depth outreach to the local business community to ensure that goBerkeley policies reflect the unique needs of each district. Ultimately, staff are prepared to expand goBerkeley to all metered commercial districts in the City where merchants express interest in better parking demand management.

**Evaluating Parking Management for Evenings and Special Events**

On-street parking meters in both goBerkeley and non-goBerkeley areas operate from 9 a.m. to 6 p.m., Monday through Saturday. Parking occupancy studies for recent goBerkeley program adjustments have consistently shown that demand in Downtown Berkeley, Southside/Telegraph, and Elmwood is very high after 6 p.m., particularly on Saturdays, as restaurants, event venues, and other attractions continue to generate demand well after meters are no longer enforced. With off-street parking facilities continuing to charge for parking until midnight or later, drivers are incentivized to circle to find free parking on-street. This is the opposite of the goBerkeley model, which strategically prices public parking garages and lots lower than on-street rates to reduce circling for a spot. Recognizing the need for parking management in the evening, other cities in the Bay Area charge for on-street parking after 6 p.m., including Santa Cruz, Santa Rosa, and Walnut Creek (until 8 p.m.); and certain areas of Sacramento and San Francisco (until 10 p.m.).

Likewise, during evening special events such as UC Berkeley football games, parking in localized areas near the stadium becomes difficult to find and may also lead to circling for a spot, which increases greenhouse gas emissions. Several cities in the region have instituted special event pricing at on-street parking meters, including Sacramento, San Francisco, and San Jose.

In 2014, staff conducted a survey to better understand evening parking needs in goBerkeley areas, and concluded that in some cases, employees were parking in front of businesses after 6 p.m. This information was shared with merchants, which generated interest in an evening metering pilot in Downtown Berkeley and the Elmwood but a pilot was not pursued at that time. However, the demand for parking after 6 p.m. in certain areas remains. Staff will continue to evaluate the need for and merchant interest in evening and special event pricing at on-street meters and expect to bring a proposal to Council in 2020.

Finally, expanding the goBerkeley Program is a Strategic Plan Priority Project, advancing our goals to:

- Provide state-of-the-art, well-maintained infrastructure, amenities, and facilities;
- Foster a dynamic, sustainable, and locally-based economy;
- Be a global leader in addressing climate change, advancing environmental justice, and protecting the environment; and
- Be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

### BACKGROUND

The goBerkeley program comprises a suite of strategies and initiatives designed to improve economic vitality and reduce greenhouse gas emissions. goBerkeley features improved parking availability that in turn improves pedestrian and bicyclist safety by reducing the likelihood of incidents of distracted driving as drivers search for parking. Clearer signage and longer on-street parking time limits also provide better customer service.

### ENVIRONMENTAL SUSTAINABILITY

According to the State of California Legislative Analyst's Office, transportation was the largest source of greenhouse gas emissions in California in 2016, with 69% of these emissions generated by passenger vehicles.<sup>2</sup> Reducing greenhouse gas emissions produced by vehicular traffic is one of the City's 2009 Climate Action Plan goals. Parking management based on user demand should ultimately improve parking availability in commercial and residential areas, and lessen traffic congestion and vehicle emissions as drivers are anticipated to spend less time searching for available parking spaces.

### POSSIBLE FUTURE ACTION

Staff will manage the goBerkeley Program as described above and will return to Council for input, updates, and/or approval of new programs and initiatives as needed.

### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Precise fiscal impacts depend on the nature and scope of future goBerkeley expansions and/or new programs. In most cases, these actions will require their own Council Reports to implement, and fiscal impacts will be presented to Council as part of these efforts. In general, however, fiscal impacts are difficult to forecast as demand-responsive parking pricing may result in increased or decreased parking rates in different areas, and parking behaviors resulting from these price adjustments may vary.

### CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, 981-7061  
Danette Perry, Parking Services Manager, Public Works, 981-7057  
Gordon Hansen, Senior Planner, Public Works, 981-7064

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<sup>2</sup> Legislative Analyst's Office Report, December 21, 2018 *Assessing California's Climate Policies—Transportation*: <http://bit.ly/2kKfcFN>





Civic Arts Commission

INFORMATION CALENDAR

November 19, 2019

To: Honorable Mayor and Members of the City Council

From: Civic Arts Commission

Submitted by: Lisa Bullwinkel, Chairperson, Civic Arts Commission

Subject: Short Term Rental Revenue Allocations for Civic Arts and the Affordable Housing Trust Fund

INTRODUCTION

Resolution No. 68 278-N.S. established the City of Berkeley's priority to distribute Short Term Rental (STR) revenues collected in the following manner:

1. Two thirds (66.7%) to the Affordable Housing Trust Fund
2. One third (33.3%) to the Civic Arts Grant Fund.

The Resolution also designated 2% of monthly enforcement fees and penalties to administrative costs of the STR program with any administrative costs above that amount to come out of the STR taxes as approved by Council.

At the regular meeting on September 22, 2019, the Civic Arts Commission unanimously approved a recommendation to send an Information Report to Council:

M/S/C: (Anno/Slattery) to send an Information Report to Council requesting that the original intention of Resolution No. 68 278-N.S. be honored by allocating the STR Revenues in the General Fund budget as indicated in that resolution: Two thirds to the Affordable Housing Trust Fund and one third to the Civic Arts Grants Fund. Ayes—Anno, Blecher, Bullwinkel, Covarrubias, Ozol, Passmore, Ross, Slattery, Tamano; Noes—none; Abstain—none; Absent—none.

CURRENT SITUATION AND ITS EFFECTS

During the first year of collection of the STR Taxes, \$800,000 was spent on inaugurating the program, an amount well above the 2% allotment.

Also, there is language in Resolution No. 68 278-N S that is inappropriate to the topic of said Resolution. It needs to be deleted as it does not concern this topic at all, but has to do with the Private Developers Percent for Art Program. It was probably a clerical error. That language to be removed is as follows:

“WHEREAS in accordance with BMC Section 23C 23 050 developers must either include On Site Publicly Accessible Art valued at 1.75% of the Construction Cost or Pay an in lieu fee of 0.80% of the Construction Cost to the City and”

BACKGROUND

Since one of the main the economic drivers for STR taxes is the arts, which are bringing people into Berkeley for events, it was felt by the Council, that a portion of the STR should go directly to the arts. In addition, since STRs take some affordable housing units off the market, it was deemed that the rest of the funding should go to the Affordable Housing Fund as an offset.

Taking more fees for administration than are necessary, over and above the 2%, was not the intent of Council's distribution of the taxes.

As you've heard from our report on the Cultural Plan, the Art Commission has a huge vision for what can be done to create an even more amazing City. In order to accomplish all of these wonderful goals, we need the funding from the STR taxes, to create more wonder.

ENVIRONMENTAL SUSTAINABILITY

There are no known environmental impacts associated with this item.

POSSIBLE FUTURE ACTION

The Civic Arts Commission thinks that \$800,000 is an unreasonable amount for administering an on-going program. We think 2% plus fines collected is adequate to maintain this program.

We would also like to see the Resolution re-written into an Ordinance so that there is transparency for the public in this matter.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The \$800,000 funding should be distributed as noted above to the Affordable Housing Trust Fund and the Civic Arts Grant Fund for any years past year one of the initial program administration costs.

CONTACT PERSON

Jennifer Lovvorn, Secretary to the Civic Arts Commission, 981-7533

Attachments:

1: Resolution No. 68 278-N.S.



RESOLUTION NO 68 278–N S

ESTABLISHING BUDGET PRIORITIES FOR EXPENDITURE OF SHORT TERM RENTAL TAXES COLLECTED BY THE CITY PURSUANT TO BERKELEY MUNICIPAL CODE SECTIONS 7 36 AND 23C 22

WHEREAS through the adoption of Ordinance No 7 521 N S on February 28 2017 the City Council clarified that short term rentals are subject to the Transient Occupancy Tax and

WHEREAS the purpose of the Ordinance was to allow hosts to benefit from available space in their homes while among other things preventing long term rental units from being replaced with short term rentals protect affordable housing units from conversion and generate City revenue to share City infrastructure cost and other public expenditures and

WHEREAS the proliferation of short term rentals reduces the supply of housing in the City and

WHEREAS fees charged by short term rental units can easily eclipse the rate charged by a standard rental unit incentivizing the owners of short term rental units to theoretically keep units empty and

WHEREAS Ordinance No 7 521 N S does not specify the programs to which the revenue generated from the Transient Occupancy Tax ought to be allocated and

WHEREAS the City's Housing Trust Fund helps to develop and preserve long term below market rate housing for low very low and extremely low income households and receives funding from development fees and various other sources and

WHEREAS in accordance with BMC Section 23C 23 050 developers must either Include On Site Publicly Accessible Art valued at 1 75% of the Construction Cost or Pay an in lieu fee of 0 80% of the Construction Cost to the City and

WHEREAS the city will generate revenue to support administrative costs through the 2% monthly enforcement fee and from penalties imposed on violators of the provisions set forth in BMC 23C 22

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City Manager shall allocate the 2% monthly enforcement fee and revenue generated from any associated penalties to staff costs

BE IT FURTHER RESOLVED that starting in FY 2019 staff costs as approved by the City Council that exceed the above enforcement fees and penalties shall be appropriated from the short term rental taxes collected pursuant to BMC Section 23C 22 050 Section H with primary allocation of the rental tax to the purposes listed below

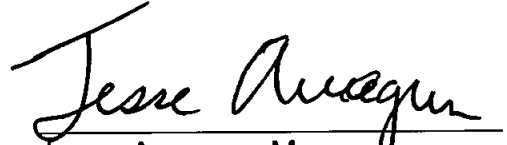
- 1 Two thirds (66 7%) allocated to the Affordable Housing TrustFund
- 2 One third (33 3%) allocated to the Civic Arts GrantFund

The foregoing Resolution was adopted by the Berkeley City Council on December 19 2017 by the following vote

Ayes Bartlett Davila Droste Harrison Maio Wengraf Worthington and Arreguin

Noes None

Absent Hahn

  
Jesse Arreguin Mayor

Attest   
Mark Numainville City Clerk

INFORMATION CALENDAR

November 19, 2019

**To:** Honorable Mayor and Members of the City Council  
**From:** Jenny Wong, City Auditor *JW*  
**Subject:** Alignment of Processes with Modernized Contract Registration Workflow

INTRODUCTION

After conducting an assessment of our office's workflow with the city's contract process, I am updating the process to realign with auditing best practices. Auditing standards spell out the importance of using public resources effectively and efficiently. To ensure the most appropriate use of City resources, current technological and operational updates will now replace my office's role and workflow in contract registration. This will provide the following benefits: allow my office to more effectively audit contracts in a way that reflects community expectations and reduce administrative obstacles to processing contracts in a timely manner.

With the implementation of the City's new financial system, numbering and registering of contracts now takes place in Finance. While the Charter and the Code state that my office numbers, registers, and countersigns City contracts my office's only role for me is to sign as registrant. This no longer makes sense because the City's new system automatically numbers and records contracts to the City's system of record. When the Charter was written in 1895, and the Code updated in 2006, those functions were performed by staff using now antiquated, paper-based systems. Recent technological changes have made those processes ineffective and redundant. Our work is now an unnecessary extra step that takes up more time, thus slowing the workflow for completing the contract process.

In order to make City operations more efficient and to reflect the current process, I have designated the responsibility to countersign contracts as registrant to the Finance Department to better reflect that numbering and registering currently taking place in Finance. In my role as the City Auditor, I am authorized to delegate this function. Currently, my Deputy City Auditor for Payroll Management and Audit Manager are also authorized to countersign contracts as registrant. Similarly, the Budget Manager and the City Manager have delegated their authorization to specific staff members, in some cases to streamline workflow processes and execute contracts. Over the next year, I will be working with the City Council to update both the City Charter and Code to better reflect current City practices in this area.

### FISCAL IMPLICATIONS

The City will save approximately \$11,000 a year by our restructuring of our workflow to remove work already done by Finance Department personnel. My office spends approximately 167 in staff hours each year performing contract registration activities, for a fully burdened cost of over \$14,000. There will be a minimal transfer of work to the Finance Department who will now countersign contracts by taking the Enterprise Risk Management Application (ERMA) system generated contract number, recording it on the legal document, and verifying those steps with the executed stamp, which has also been signed to confirm registration took place in Finance. My office estimates that this will take approximately 17 work hours per year for an estimated cost of \$3,000.

By realigning contracting processes into their proper workflow, the City Auditor's Office can shift its resources into conducting additional performance audits, including audits of City contracts and the contracting process, helping to ensure public funds are spent appropriately.

### CURRENT SITUATION AND ITS EFFECTS

Currently, my office is stated as the contract registrant. However, we no longer do that due to Berkeley's new financial system, Enterprise Risk Management Application (ERMA), which automatically numbers all contracts and, thus, serves as the City's official system of record. Additionally, prior to contracts reaching my office, the Finance Department and Budget Office have already performed their work verifying that contracts include required documentation and that there is budgeted funding for the project. Further, the City Manager has already executed the contract before it reaches my office. Keeping the City Auditor as the contract registrant is inconsistent with current practice and an inefficient use of resources. It results in a "rubber stamp" process and lack of transparency.

The Finance Director agrees with my office's assessment that the contract registrant process is in alignment with Finance staff's work and their management of ERMA, the City's system of record for contracts. The Finance Department will take the responsibility of countersigning all contracts as designated by me as registrant. We have met on this issue several times since I took office in December 2018 and I am confident that this will help both of our departments streamline the contracting process by removing unnecessary steps in finalizing contracts.

It is essential with the implementation of new technology to align workflows with automated processes. This includes removing obsolete processes. Because the City's contracting process has not been aligned to reflect the ERMA implementation, my staff must log contracts in a standalone spreadsheet for the sole purpose of tracking that contracts were sent to my office. This represents a redundancy that does not add value yet results in frequent and irregular interruptions to workflows across the City.

Using resources to audit contracts, for example, will be one way to better increase accountability and transparency rather than continuing with an outdated redundant practice. Each year, my team and I publish an audit plan with the goal of maximizing taxpayer dollars and delivering top-quality services. We select audit topics based on a number of risk factors including financial loss, safety/health, reputation, compliance, and misinformation. My fiscal year [2020 audit plan](#) will begin to audit some component of contract controls currently in place to evaluate and ensure performance, compliance, and proper City oversight.<sup>1</sup> This will provide City staff, elected officials, and the public with an independent analysis of the contracting process and other contract risks, as well as recommendations for increased controls and accountability.

### BACKGROUND

The Office of the City Auditor was created with the adoption of the first City Charter in 1895. Until the late 1970s, the office primarily acted in the role of comptroller, performing and supervising accounting practices and financial reporting. This included examining bills, claims, and demands against the City, issuing checks for payment, and ensuring that the correct budget appropriation had been made as well as numbering and registering contracts for the entire City.

In 1977, the City transferred the accounting division to the Finance Department so that routine daily financial activities would be under the direction of the Finance Director. This came as a result of multiple professional studies that each concluded that the *“accounting function is one that should be performed by persons other than those who are responsible for auditing (inspecting) the accounting function.”* The transfer recognized that the role of the City Auditor has more depth than processing daily accounting transactions and that by moving that work to the Finance Department, the City Auditor’s Office could more effectively use its resources to *“serve as a check on the managerial effectiveness of city programs.”* In 2006, the then City Auditor revised Berkeley Municipal Code Section 2.24.050 to reflect the transfer that took place in 1977. That code states that, *“Responsibility for performing municipal accounting and non-payroll payment functions have been delegated to the Finance Department.”*

In November 2018, the City began using a new system for accounts payable transactions called ERMA. ERMA automatically assigns a unique registration number to contracts when Finance personnel approve the request for budgeted contract funding. Due to that process, ERMA now acts as the City’s official system of record for contracts. This removes the need for my office to *“number and register”* contracts as stated in Section 65 of the City Charter. This also results in a need to designate the Finance Department as the responsible department that countersigns by taking the ERMA system generated contract number, recording it on the legal document, and verifying those steps with the executed stamp, which has also been signed because the

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<sup>1</sup> City Auditor’s Fiscal Year 2020 Audit Plan: <http://bit.ly/2VBJwDQ>

numbering and registering process takes place in the Finance Department. Keeping the City Auditor as registrant countersigner for contract registration is inconsistent with actual processes.

ENVIRONMENTAL SUSTAINABILITY

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

CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750



# Communications

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